	सीमा शुल्क आयुक्त का कार्यालय, एनएस-III OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-III केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, **न्हावा शेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -**400 707 NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707

File No: S/10-117/2024-25/Commr./Gr.III/NS-III/CAC/JNCH Date : 25.08.2025
SCN No: 1147/2024-25/Commr./Gr.-III/NS-III/JNCH dated 27.09.2024

DIN	:	20250878NX000000DD9D
		आदेश की तिथि : 24.08.2025 Date of Order जारी किए जाने की तिथि : 25.08.2025 Date of Issue
आदेश सं. Order No.	:	176 /2025-26/आयुक्त/एनएस-III/ सीएसी/जेएनसीएच 176/2025-26 /Commr./NS-III /CAC/JNCH
पारितकर्ता Passed by	:	श्री विजय रिशी SH. VIJAY RISI आयुक्त, सीमाशुल्क (एनएस-3), जेएनसीएच, न्हावा शेवा Commissioner of Customs (NS-III), JNCH, Nhava Sheva
पक्षकार (पार्टी)/ नोटिसी का नाम Name of Party/ Noticee	:	मेसर्स आरएम रिबन्स M/s. RM Ribbons

<u>मूलआदेश</u>

<u>ORDER-IN-ORIGINAL</u>

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्तिको जारी की जाती है, उसके उपयोग के लिए नि:शुल्क दी जाती है।

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

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम १९६२ की धारा १२९(ए (के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच(, ३४, पी .डी .मेलोरोड, मस्जिद (पूर्व(, मुंबई– ४०० ००९ को अपील कर सकता है, जो उक्तअधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

   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.

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

   Main points in relation to filing an appeal:-

फार्म **Form**	:	फार्म न .सीए ३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कमसे कम एक प्रति प्रमाणित होनी चाहिए)

		Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy)
समय सीमा **Time Limit**	:	इस आदेश की सूचना की तारीख से ३ महीने के भीतर Within 3 months from the date of communication of this order.
फीस **Fee**	:	(क) एक हजार रुपये–जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५ लाख रुपये या उस से कम है। (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less. (ख) पाँच हजार रुपये– जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५ लाख रुपये से अधिक परंतु ५० लाख रुपये 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 (ग) दस हजार रुपये–जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५० लाख रुपये से अधिक है। (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
भुगतान की रीति **Mode of Payment**	:	क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सी ई एस टी ए टी, मुंबई के पक्षमें जारी किया गया हो तथा मुंबई में देय हो। A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.
सामान्य **General**	:	विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९९२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए। 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.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उस में माँगे गये शुल्क अथवा उद्गृहीत शास्ति का ७.५ % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, १९६२ की धारा १२८ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

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 129 of the Customs Act 1962.

Brief Facts

An Intelligence was developed by the officers of the Directorate of Revenue Intelligence, Chennai Zonal Unit (hereinafter referred to as "the DRI") on the basis of which **Show Cause Notice no. 1147/2024-25/Commr./Gr.-III/NS-III/JNCH dated 27.09.2024** was issued to **M/s. RM Ribbons**, holder of IEC: AAWFR1796C having registered office at Door No 2, Hunters Road, 1st Floor, Choolai, Chennai, Tamil Nadu, 600084 & business premises at No. 67, Narayana Mudali Street, 2nd Floor Sowcarpet, Chennai, Tamil Nadu- 600001. They imported plain strips of narrow woven fabrics of different size from China and Nail Clippers from Republic of Korea. Shri Pannalal Ranka & Shri Vishal Ranka are the partners of the said firm. Shri Pannalal Ranka is also authorized person for the import of plain strips of narrow woven fabrics by M/s. Osyan Trading Enterprise Pvt. Limited, Chennai which is one of the related firms of M/s. RM Ribbons. Shri Vinod Ranka is authorized person for import of Nail Clippers by M/s. R.M Ribbons.

2. Intelligence gathered by the officers of DRI Chennai Zone indicated that M/s. RM Ribbons, Chennai & M/s. Osyan Trading Enterprise Pvt. Limited, Chennai have been importing plain strips of narrow woven fabrics by declaring it as "White Strips Label Tape" under CTH 58071020/58071090/580719090 and paying BCD @10%, after availing benefit of Serial No.147 of Notification No.82/2017 dated 27.10.2017. The intelligence indicated that these goods were misclassified under CTH 58.07 instead of correct classification under CTH 58.06, even though the said textile strips/material imported does not contain any printing/inscription. Further, information received by the officers, indicated that M/s. RM Ribbons, Chennai were indulged in importing Nail Clippers from Supplier M/s. Bell Metal Ind. Co. Ltd, Republic of Korea by way of mis-declaring the value of subject goods at the time of filing bill of entry and thereby evading payment of applicable basic customs duty, SWS and IGST. Therefore, detailed investigation was initiated against M/s. R.M. Ribbons, Chennai & M/s. Osyan Trading Enterprise Pvt. Limited, Chennai.

Search of the business premises:

3. On 03.10.2022, the business premises of **M/s. RM Ribbons & M/s. Osyan Trading Enterprise Pvt. Limited**, at Rajendra Complex, No. 67, Narayana Mudali Street, 2nd Floor Sowcarpet, Chennai, Tamil Nadu- 600001 were searched by the officers of DRI vide mahazar dated 03.10.2022. During the search proceedings, certain incriminating email communications related to the import of nail clippers were recovered from the said premises. In addition to the said email communications, import documents, two computers & two mobile phones belonging to the importer were resumed for further investigation.

4. In the course of search, it was also ascertained that the importer had stored the goods imported in the name of M/s. RM Ribbons along with the goods imported in the name of their related firm M/s. Osyan Trading Enterprises Pvt. Limited at Warehouse No.10, Massey's Enterprises Pvt Ltd, No.17, North Railway Terminus Road, Royapuram, Chennai-13. The said warehouse was searched under Mahazar proceedings dated 03.10.2022. On physical verification of the stock of goods available at the warehouse, it was ascertained that they have not maintained separate stock register either Bill of Entry wise or Firm wise; that there were Plain Rolls of textile strips of various sizes in the said godown and that these Plain Rolls did not contain any inscription/print or markings like labels; that they were not able to segregate the goods imported in the name of M/s. RM Ribbons & M/s. Osyan Trading Enterprises Pvt. Limited. However, on perusal of the stock summary (for the period April-20 to Mar-21) retrieved from the computers during search, it was noticed that out of imported goods valued at Rs. 4.91 crores stored at the said godown, "Plain Rolls of textile strips" valued at Rs. 1,63,892/- imported in the name of

M/s. R.M Ribbons were also available. The same were seized under Mahazar dated 03.10.2022 on the reasonable belief that these goods are wrongly classified to evade payment of customs duty and liable for confiscation under Section 111 of the Customs Act, 1962. As the said plain Rolls were neither imprinted/embossed nor had any indication of Markings, Trade Name, Brand Name etc., the same could not be considered as 'labels.' Three representative samples (in duplicate) of these goods were drawn from the said warehouse vide mahazar proceedings dated 03.10.2022 for the purpose of testing the same.

5. Thereafter, on being questioned whether the imported textile strips which were classified under CTH 5807 by M/s. RM Ribbons contains any printing or inscriptions on them, Shri Pannalal Ranka, the authorized person of M/s. RM Ribbons stated that the said textile strips do not contain any printing or inscriptions; that they could not identify the imported goods based on bill of entry data; that they do not maintain separate data for pre-printed and plain labels; On preliminary observation of the import documents, it appeared that the subject imported goods were wrongly classified under CTH 5807 instead of CTH 5806.

6. Further, during the said Mahazar proceedings, while inquiring about incriminating email communications retrieved during search proceedings as discussed above, one Shri Vinod Ranka, authorized person for import of nail clippers, admitted that a nail clippers consignment arrived in container no. TEMU50812580 was imported vide bill of entry No. 2640453 dated 28.09.2022 (INNSA1) by undervaluation; that the actual invoice (i.e., *Proforma Invoice P/I NBR: BM22-021 dated 03.08.2022*) showing the higher value & recovered during the search was not submitted to the customs; that to reduce the sale value and to sustain in the market competition, he has undervalued the nail clippers from Korea and declared the lesser value to customs.

7. On being pointed out about the undervaluation, the importer voluntarily furnished Demand Draft No. 517307 of Rs. 50,00,000/- against the differential duty for the subject goods imported in Container No. TEMU50812580 vide B.E No. 2640453 dated 28.09.2022 (INNSA1).

8. The investigation into import of narrow woven fabrics plain strips through misclassification by related firm M/s. Osyan Trading Enterprise Pvt. Ltd was separately dealt in F.No. DRI/CZU/VIII/48/ENQ-1/INT-46/2022 and investigation report dated 23.06.2024 in this regard was forwarded to The Commissioner of Customs (NS-III), Jawaharlal Nehru Custom House, Nhava Sheva, Tal-Uran, Raigad-400707 for issuance of Show Cause Notice under Section 28(4) of the Customs Act. This case is restricted to customs duty evaded by M/s. R.M. Ribbons by misclassification of imported plain strips of narrow woven fabrics & undervaluation of imported nail clippers.

9. Investigation into import consignments of "Nail Clippers" by undervaluation:

9.1. Statement of Shri Pannalal Ranka, partner of M/s. RM Ribbons: Statement of Shri Pannalal Ranka, one of the Partners of **M/s. RM Ribbons**, Chennai was recorded under Section 108 of Customs Act, 1962, on 03.10.2022, wherein inter-alia he stated that:
-

- His niece Shri Vinod Ranka was taking care of imports under M/s. . R. M. Ribbons; that Shri Vinod Ranka communicated with the Korean supplier M/s. Bell Metal Ind. Co. Ltd with respect to the subject consignment imported vide bill of entry No. 2640453 dated 28.09.2022 (INNSA1).
- He accepted the contents of the Mahazar dated 03.10.2022 drawn at business premises of M/s. R.M. Ribbons, at Rajendra Complex, No. 67, Narayana Mudali Street, 2nd Floor Sowcarpet, Chennai, Tamil Nadu- 600001

- On being shown the email communications recovered during the said Mahazar, he stated that he did not have knowledge about the said email communications.

9.2. Statement of Shri Vinod Ranka, Authorized Person of M/s. RM Ribbons: A statement of Shri Vinod Ranka, Authorized Person of M/s. **RM Ribbons**, Chennai was recorded under Section 108 of Customs Act, 1962, on 03.10.2022 wherein inter-alia he stated that: -

- *He handled the nail clippers consignment arrived in container TEMU5081280, Bill of Entry No. 2640453 dated 28.09.2022 was filed by CHA M/s. Ascent Logistics, Mumbai at Nhava Sheva Mumbai. The invoice number is BM-22-021 dated 31.08.2022. The supplier of the said nail clippers is M/s. Bell Metal India Co. Ltd, Republic of Korea.*
- *On being shown the invoice no. BM-22-021 dated 31.08.2022 submitted at the time of filing the Bill of Entry No. 2640453 dated 28.09.2022 & another invoice number no. BM-22-021 dated 03.08.2022 (marked as No.16) recovered vide Mahazar dated 03.10.2022 drawn in his presence at 67, Narayana Mudali Street, Sowcarpet, Chennai-600001, he stated that the invoice no. BM-22-021 dated 31.08.2022 was commercial invoice submitted at the time of filing of Bill of Entry No. 2640453 dated 28.09.2022; that another Invoice number no. BM-22-021 dated 03.08.2022 (marked as No.16) recovered vide Mahazar dated 03.10.2022 is a proforma invoice.*
- *On being asked about the undervaluation of the consignment arrived in TEMU5081280 vide Bill of Entry No. 2640453 dated 28.09.2022, he admitted that he undervalued the said consignment arrived in TEMU5081280 vide Bill of Entry No. 2640453 dated 28.09.2022 to reduce the sale value and to sustain in competitive market.*
- *On being asked about the payment made to the Korean supplier M/s. Bell Metal Ind. Co. Ltd with respect to the import of nail clippers by undervaluation, he stated that the said consignment belongs to his friend Shri Rakesh of Dubai; that he invested in the said consignment and entrusted him with the sale of consignment of nail clippers in container no. TEMU5081280; that after the price was negotiated with the supplier M/s. Bell Metal India Co. Ltd, Republic of Korea, the proforma invoice was received in the email clair_md@outlook.com to verify the details mentioned in invoice; that the price to be declared to the Customs was decided by Shri Rakesh.*
- *The difference between the actual price shown in the proforma invoice and undervalued commercial invoice was transferred by Teletransfer by Shri Rakesh from Dubai; that the payment of USD 16890 (as per undervalued commercial invoice) was made by M/s. R. M. Ribbons from the account no. 603105265302 maintained at ICICI Bank The payment details of the Teletransfer for the differential amount is shared to the supplier via clair_md@outlook.com. For commission basis, he accepted to undervalue the same on the instructions of Shri Rakesh.*
- *On being shown the email dated 16.09.2022 (time 13:43) marked as No.2 in the documents resumed in mahazar dated 03.10.2022, he stated that the said email dated 16.09.2022 (time 13:43) was received from his supplier M/s. Bell Metal Ind. Co. Ltd; that in the said email, the payment particulars sent through Teletransfer for the consignment viz. Bill of Entry No. 2640453 dated 28.09.2022 was acknowledged by the supplier.*
- *On being asked about the past imports of nail clippers from M/s. Bell Metal Ind. Co. Ltd, he stated that they have imported total of two consignments from M/s. Bell Metal Ind. Co. Ltd. However, the current consignment viz. Bill of Entry No. 2640453 dated 28.09.2022 was only undervalued. The first consignment viz. BE*

No. 8888769 dated 30.05.2022 from M/s. Bell Metal Ind. Co. Ltd was second quality product. M/s. Bell Metal Ind. Co. Ltd manufactures both first quality and second quality products.

- *The high-quality product usually costs under USD 5-6 per dozen which is equivalent to Rs. 400- Rs. 500; that the landing cost of one nail cutter after payment of duty and other charges is Rs. 45/-; that the nail cutters sold in India are sold between Rs. 10-20/-; that the nail cutters business is not at all profitable in India as the suppliers across the globe were suffering from the shortage of steel material supply; that only second quality product with low steel content are sold in India.*
- *They have imported one such second quality product in their earlier consignment under BE No. 8888769 dated 30.05.2022; that with respect to the current consignment, Shri Rakesh in the month of August, 2022, called him in WeChat application and informed that he has premium clients in Mumbai who is willing to purchase first quality product and showed his willingness to invest in the said consignment and requested him to declare the low value; that he accepted the same for commission purpose.*
- *On being shown the email dated 10.05.2022 (time 14:13) about the payment in 22-006 wherein it is mentioned order amount is USD 190,355, he did not offer any comments and stated that he has not undervalued the said consignment*
- *On being shown the email dated 31.08.2022 (time 06:39) where the price list of imported nail clippers is shared by his supplier, he stated that the said price list was shared by the supplier for the first quality product; that they have never showed interest in the said prices; that the said price quoted by M/s. Bell Metal Ind. Co. Ltd is too high and no buyer in India would be willing to purchase the said product at high price.*
- *The said products imported under consignment viz. BE No. 8888769 dated 30.05.2022 were sold at Rs. 40 per dozen i.e., Rs. 4 approx per nail clipper and can be verified from their GST Data.*

9.3. Examination of Live Consignment: The live consignment covered under the Bill of Entry No. 2640453 Dated 28.09.2022 in Container No. TEMU5081280 imported by M/s. RM Ribbons was subjected to open examination at M/s. Gateway Distripark Ltd (GDL) CFS, Navi Mumbai vide Pachamama dated 11.10.2022 and found "Bell" brand Nail Clippers as per declaration. The findings of the examination are tabulated below:

S.No.	Declaration as per Bill of Entry				Result of Examination			
	Model No. & Descriptio n	**No of Carton s**	**No of Small Boxes per Carto N**	**Quantit y in Dozens**	**Model No. & Descriptio n**	**No of Carton s**	**No of Dozen s per Carto n**	**Quantit y in Dozens**
1.	N-129 Bell Nail Clipper with Chain	640	50	32000	N-129 Bell Nail Clipper with Chain	640	50	32000
2.	N-211 Bell Brand Toe Nail Clipper	80	50	4000	N-211 Bell Brand Toe Nail Clipper	80	50	4000

3.	N-309 Bell Nail Clipper with Keychain	60	100	6000	N-309 Bell Nail Clipper with Keychain	60	100	6000
Total		**780**	**-**	**42,000**		**780**	**-**	**42,000**

9.4. The declared value of the said goods was USD 16,940 i.e., Rs.13,61,976/-. On a reasonable belief that the actual value of the subject imported goods (USD 1,90,670 i.e., Rs. 1,57,20,742/-) was mis-declared at the time of filing the Bill of Entry No. 2640453 dated 28.09.2022 (INNSA1), the said goods valued at Rs. 1,57,20,742/- were seized under the provisions of Section 110 of the Customs Act, 1962. Accordingly, seizure memorandum dated 11.10.2022 was issued to the importer.

9.5. Provisional Release of the Seized goods:

i. M/s. RM Ribbons vide letter dated 26.10.2022 had sought provisional release of the seized goods, in terms of Section 110A of the Customs Act, 1962. The request of the importer was considered and the goods (Nail Clippers) valued at Rs. 1,57,20,742/- seized vide Panchanama dated 11.10.2022, were ordered for provisional release by the Deputy Commissioner of Customs, Appraising Group-IV/IV A, NS-III, JNCH vide Provisional Release order CBIC DIN – 20221178NV000000D060 dated 29.11.2022**,** on execution of Bond for an amount of Rs.1,53,29,900/- and Bank Guarantee No. 6031NDDG00001123 dated 24.11.2022 for an amount of Rs.27,50,565/- as per CBIC Circular No. 35/2017-Customs dated 16.08.2017.

ii. Further, M/s. Osyan Trading Enterprise Private Limited vide letter dated 26.10.2022 had sought provisional release of the goods which were seized under Mahazar dated 03.10.2022, in terms of Section 110A of the Customs Act, 1962. On consideration of the request of the importer, the goods valued at Rs.4.91 Cr approximately (which includes the imported goods valued at Rs. 1,63,892/- available in warehouse/godown & seized under Mahazar dated 03.10.2022) were ordered for provisional release by the Assistant Commissioner of Customs, Appraising Group-III, NS-III, JNCH vide Provisional Release order CBIC DIN – 20221178NV00000DD8D dated 22.11.2022, on execution of Bond for an amount of Rs.5,31,00,689/- and Bank Guarantee for an amount of Rs.1,20,00,000/- as per CBIC Circular No. 35/2017-Customs dated 16.08.2017.

10. Investigation into import consignments of "plain strips of narrow woven fabrics" by misclassification:

10.1. Examination of Live Consignment: On perusal of the import data, it was noticed that M/s. RM Ribbons imported "White Strips Label Tape" mostly from Supplier M/s. Five Element Industry Limited, China. During the Mahazar proceedings dated 03.10.2022, Shri Pannalal Ranka stated that he is responsible for import of such identical consignments of "White Strips Label Tape" from China by M/s. RM Ribbons and its related firm M/s. Osyan Trading Enterprise Pvt. Ltd. Shri Pannalal Ranka also informed about a live consignment imported in the name of M/s. Osyan Trading Enterprise Pvt. Ltd, Chennai vide Bill of Entry No. 2623872 dated 27/09/2022 in Container FCIU5240107, at Nhava Sheva Sea Port (INNSA1), declaring the goods as detailed below:

Sl. No.	Item Description	Qty in kgs	HS Code	Value in INR
1	WHITE STRIPS LABEL TAPE 13 MM X 183 M 13824 ROLLS MAN MADEFIBERS	4134	58071020	996970.6
2	WHITE STRIPS LABEL TAPE 15 MM X 183 M 1200 ROLLS			

	MAN MADEFIBERS	324.9	58071020	78341.77
3	WHITE STRIPS LABEL TAPE 20 MM X 183 M 300 ROLLS MAN MADE FIBERS	113.8	58071020	27448.56
4	WHITE STRIPS LABEL TAPE 25.4 MM X 183 M 6816 ROLLS MAN MADE FIBERS	3780.84	58071020	911882.4
5	WHITE STRIPS LABEL TAPE 30 MM X 183 M 2200 ROLLS MAN MADEFIBERS	1498.85	58071020	361365.8
6	WHITE STRIPS LABEL TAPE 32 MM X 183 M 400 ROLLS MAN MADE FIBERS	243	58071020	58595.52
7	WHITE STRIPS LABEL TAPE 35 MM X 200 M 1600 ROLLS MAN MADEFIBERS	2414	58071020	582224.6
8	WHITE STRIPS LABEL TAPE 40 MM X 183 M 2400 ROLLS MAN MADEFIBERS	2261.25	58071020	545305
9	WHITE STRIPS LABEL TAPE 44 MM X 183 M 420 ROLLS MAN MADE FIBERS	333.75	58071020	80469.13
10	WHITE STRIPS LABEL TAPE 15 MM X 200 M 680 ROLLS MAN MADE FIBERS	438.8	58071020	105790.3
11	WHITE STRIPS LABEL TAPE 20 MM X 200 M 1200 ROLLS MAN MADE FIBERS	1046	58071020	252295.2
	Total			**4000689**

10.2. In order to ascertain the nature of the goods, the said live consignment imported vide Bill of Entry No. 2623872 dtd 27/09/2022 was subjected to open examination at M/s. Gateway Distripark Ltd (GDL) CFS, Navi Mumbai vide Panchanama dated 11.10.2022. During the course of open examination, it was found that the items which were declared in the Bill of Entry as 'labels' appeared to be a plain textile strips, as none of the items carry any printing/embossing or any other insignia to indicate that the said items were 'labels'. During the open examination proceedings, 11 representative samples (in duplicate) of the imported goods, were drawn for the purpose of testing.

10.3. Test report of the Samples drawn: Eleven representative samples of the goods pertaining to said Bill of Entry No. 2623872 dated 27/09/2022 drawn from the live import consignment during the course of open examination vide Panchanama dated 11.10.2022 & three representative samples drawn from the stock of M/s. RM Ribbons & M/s. Osyan Trading Enterprise Pvt. Ltd stored at warehouse vide Mahazar dated 03.10.2022 were sent for testing to the Textiles Committee, North Wing, 1st Floor, NSC Board Complex, R.K. Mutt Road, Mylapore, Chennai-04 vide letter F.No.DRI/CZU/VIII/48/ENQ-01/INT-46/2022 dated 21.10.2022 with Test Memos 1 to 2. The test report in respect of all the 14 samples have been received vide reports dated 26.10.2022 from the Quality Assurance Officer, Textiles Committee, Chennai.

10.4. Analysis of the Test Report: The results of the Test report in respect of the 11 samples sent for testing is as below:

Sl. No.	**Test Memo**	**Sample Name**	**Test Result**						
			Inscrip t ion /	**Embroid e red**	**Whet her**	**Compositio**	**Wa rp &**	**Sel v- edg**	**Wid th**

	No.		Prin tin g		wove n	n	We f t	es	
1	Test Memo-1	A1	No	No	yes	Nylon & Polyester	Yes	Yes	25mm
2	Test Memo-1	B1	No	No	yes	Polyester	Yes	Yes	44mm
3	Test Memo-1	C1	No	No	yes	Polyester	Yes	Yes	20mm
4	Test Memo-2	13MMX200Y	No	No	yes	Polyester	Yes	Yes	14mm
5	Test Memo-2	15MMX200Y	No	No	yes	Polyester	Yes	Yes	15mm
6	Test Memo-2	20MMX183M	No	No	yes	Polyester	Yes	Yes	20mm
7	Test Memo-2	25MMX200Y	No	No	yes	Polyester	Yes	Yes	25mm
8	Test Memo-2	30MMX200Y	No	No	yes	Polyester	Yes	Yes	30mm
9	Test Memo-2	32MMX183M	No	No	yes	Polyester	Yes	Yes	32mm
10	Test Memo-2	35MMX200M	No	No	yes	Polyester	Yes	Yes	35mm
11	Test Memo-2	40MMX200Y	No	No	yes	Polyester	Yes	Yes	40mm
12	Test Memo-2	44MMX200Y	No	No	yes	Polyester	Yes	Yes	44mm
13	Test Memo-2	15MMX200M	No	No	yes	Polyester	Yes	Yes	15mm
14	Test Memo-2	20MMX200M	No	No	yes	Polyester	Yes	Yes	20mm

10.5. From the above, it is noticed that none of the 14 samples had any inscription or painting or embroidery. All these samples were Narrow woven fabric, contains warp & weft and had selvedge's. All these samples are made of man-made fibers and are not exceeding the width of 30 cm.

10.6. Statement of one of Partners of M/s. R.M. Ribbons: A statement of Shri Pannalal Ranka, Authorised Person & Partner of M/s. RM Ribbons, Chennai was recorded under Section 108 of Customs Act, 1962, on 04.07.2024 wherein he inter-alia stated that:

- *In respect of the goods imported in Container No. TEMU50812580 vide B.E No. 2640453 dated 28.09.2022 (INNSA1) filed by M/s. Osyan Trading Enterprise Limited, they classified the said goods under CTH 5807. However, the same were seized by DRI Chennai after examination based on the allegations that they were misclassified. The goods imported in B.E No. 2640453 dated 28.09.2022 were provisionally released by Mumbai Customs Authorities after securing bond and bank guarantee.*
- *On being shown the test reports furnished by Textiles Committee, Chennai with respect to the samples drawn during the Panchanama dated 11.10.2022 at M/s. Gateway Distripark Ltd CFS, Uran Taluk, Raigad- District, Navi Mumbai- 400707 pertaining to goods imported vide B.E No. 2640453 dated 28.09.2022 (INNSA1) filed by M/s. Osyan Trading Enterprise Limited, he stated that said products imported vide B.E No. 2640453 dated 28.09.2022 filed by M/s. Osyan Trading Enterprise Limited does not have any pre-printed instructions available.*
- *On being asked whether the subject goods imported by M/s. RM Ribbons are identical goods as B.E No. 2640453 dated 28.09.2022 filed by M/s. Osyan Trading Enterprise Limited where the pre-printed instructions were not available, he stated that he was not able to identify the printed labels consignments from import data; that they did not give importance to classification as the said imported products whether printed or non- printed, they are used only in labels industries.*
- *They have supplied their imported goods to their customers M/s. J. G. Impex Pvt. Ltd, M/s. Pragati Sales, M/s. H. V. Enterprises.*
- *They have never submitted any test report to the Customs at the time of assessment.*
- *They used to receive orders from their customers through Courier and over phone calls; that he do not have such courier details.*
- *They do not maintain separate data for printed and plain textile strips they have imported from China as they did not give importance to classification.*
- *On being asked whether the said goods are classifiable under CTH 58063200 instead of CTH 58071020/58071090/58079090, he denied to offer any comments.*

10.7. Statement of Authorized Person of M/s. Pragathi Sales, New Delhi, Domestic Customer of M/s. RM Ribbons:
A statement of Shri Suresh Kumar Jain, Authorized Person of M/s. Pragathi Sales, New Delhi (one of the domestic buyers of M/s. RM Ribbons) under Section 108 of Customs Act, 1962, on 04.07.2024 wherein he inter- alia stated that:

- They have purchased White Strips Label tape & few consignments of Tape Ribbons Strips from M/s. RM Ribbons.
- On being asked to produce the email communication of the purchase order (of White Strips Label Tape) sent to M/s. RM Ribbons, he stated that they send purchase order by courier or by hand; that since the thickness, design & type of material must be specific, they give sample material to M/s. RM Ribbons.
- On being asked whether the word "Printed Labels" is mentioned anywhere in the description of purchase invoice, tax invoice, eway bill, proforma invoice, purchase order or any other purchase documents for the goods purchased from M/s. RM Ribbons, he replied in negative.
- On being asked to provide courier details of the print instructions sent to M/s. RM Ribbons, he stated that he stated that he do not have such details with him.

10.8. Statement of Authorized Person of M/s. JG Impex Private Limited, Domestic Customer of M/s. RM Ribbons:

A statement of Shri Kamalesh Kumar, Authorized Person of M/s. JG Impex Private Limited, New Delhi (one of the domestic buyers of M/s. RM Ribbons) was recorded under Section 108 of Customs Act, 1962, on 09.07.2024 wherein he inter-alia stated that:

- They have purchased White Strips Label tape & Narrow Woven Fabric Rolls from M/s. RM Ribbons.
- Tape Ribbon Strips are termed as Narrow Woven Fabrics, which are classified under CTH 58063200 and attract 5% GST.
- Labels of white colour are termed as White Strips Label Tape in trade parlance, which are classified under CTH 58071020; White Strips Label Tape contains pre-printed information and attract 12% GST
- On being asked whether the word “Printed Labels” is mentioned anywhere in the description of purchase invoice, tax invoice, eway bill, proforma invoice, purchase order or any other purchase documents for the goods purchased from M/s. RM Ribbons, he replied in negative.
- On being asked to provide courier details of the purchase order sent to M/s. RM Ribbons, he stated that they do not have such details with them.

11. Forensic data extraction of the computers resumed under Mahazar dated 03.10.2022 drawn at the business premises of M/s. RM Ribbons was analysed and found incriminating email communications related to undervaluation of the nail clippers in one container TEMU50812580. Examination of the said two computers revealed that M/s. RM Ribbons has neither received any mails from their domestic customers nor sent any mails to their Chinese Suppliers with respect to the print instructions, which were supposed to be printed on the imported textile fabric strips; that no details of the courier were also found. On analysis of mobile phones belonging to the importer, no incriminating documents/communications/evidences related to the subject imports were identified. No details with respect to Shri Rakesh of Dubai could be found.

12. <u>Discussion and Analysis of Undervaluation of Nail Clippers:</u>

12.1. <u>Undervaluation of Live Consignment of Nail Clippers:</u>

From the investigation conducted, the documents evidencing mis-declaration of values, with an intention to evade payment of applicable duties, were unearthed in respect of the one consignment viz. Bill of Entry No. 2640453 dated 28.09.2022 filed at Nhava Sheva Port as detailed below:

a. The importer M/s. R.M. Ribbons imported "Nail Clippers" vide Bill of Entry No. 2640453 dated 28.09.2022. Perusal of the subject bill of entry and import documents revealed that the declared invoice value of the consignment is USD 16,940 (CIF), the declared assessable value is Rs.13,61,976/- and the duty payable as per declaration is Rs.4,21,941/-. During the course of investigation, statement was recorded from Shri. Vinod Ranka, Authorised person of the firm M/s. R.M. Ribbons on 03.10.2022 under the provisions of Section 108 of the Customs Act, 1962, wherein he inter-alia admitted that the proforma invoice having higher value is the actual purchase invoice of the goods and the commercial invoice showing lower value is the undervalued invoice used for submission before the Customs Authorities at the time of filing Bill of Entry for clearance of the goods; that he undervalued the same to reduce the sale value and to sustain in competitive market. The commercial invoice No. BM-22-021 dated 31.08.2022 submitted to the customs is reproduced below for reference:

COMMERCIAL INVOICE

Shipper / Exporter BELL METAL IND. CO., LTD 27, 2 GONGDAN 7-GIL, SEOBUK-GU, CHEONAN-SI, CHUNGCHEONGNAM-DO, REP. of KOREA	No. & date of Invoice BM-22-021 AUG. 31, 2022 No. & date of L/C
For Account & Risk of Messrs. R M RIBBONS NO 2, HUNTERS ROAD, 1st FLOOR, CHOOLAI, CHENNAI, TAMILNADU 600112- INDIA Notify party SAME AS CONSIGNEE	L/C Issuing bank Remarks :
Port of loading: BUSAN, KOREA Final destination: NHAVASHEVA, INDIA	
Carrier: SHANGHAI VOYAGER 2208W Sailing on or about: SEPT. 09, 2022	

Marks & NO.s of pkg	Description of Goods	Quantity	Unit price	Amount
	780 CTNS NAIL CLIPPER & SCISSORS *************			CIF NHAVASHEVA, INDIA **************
FRONT: OSYAN	N-129 BELL NAIL CLIPPER WITH CHAIN, BULK	32,000 DOZ	USD 0.42	USD 13,440.00
BACK: ITEM NO.:	N-211 BELL BRAND TONAIL CLIPPER, BULK	4,000 DOZ	USD 0.35	USD 1,400.00
C/T NO.:	N-309 BELL NAIL CLIPPER WITH KEYCHAIN, BULK	6,000 DOZ	USD 0.35	USD 2,100.00
	TOTAL *******	42,000 DOZ **********		USD 16,940.00 ***************

b. The Proforma invoice No. BM-22-021 showing the actual value USD 190,670 was recovered from one of the computers belonging to M/s. RM Ribbons during the mahazar dated 03.10.2022. The actual invoice No. BM-22-021 is reproduced below for the ease of reference:

PROFORMA INVOICE

(P/I NBR : BM22-021)

DEAR SIR

WE ARE PLEASED TO CONFIRM OUR SALES TO YOU THE FOLLOWING GOODS ON THE TERMS AND CONDITIONS SET FORTH BELOWS.

SHIPMENT DATE : around 10th September 2022 ORIGIN : Republic of Korea
PRICE OF TERMS : CIF NHAVASHEVA, MUMBAI INDIA PACKING : Export standard packing
PAYMENT : 50% after order confirmation & 50% before the shipment
PORT OF LOADING : Busan, Korea
VALIDITY : Date from issued date
OUR BANK : BENEFICIARY: BELL METAL. IND. CO., LTD
BANK NAME: INDUSTRIAL BANK OF KOREA
SWIFT CODE NO.: IBKOKRSEXXX
BANK ADDRESS: 50, ULCHIRO 2-GA, CHUNG-GU, SEOUL, SOUTH KOREA
ACCOUNT NO.: 462-000684-56-00014

ITEM NO.	DESCRIPTION	Q'TY	USD $	AMOUNT
N-129	Bell brand nail clipper w/ chain, bulk	30,000 /DOZ	$4.96 /DOZ	$148,800.00
N-211	Bell brand Toenail clipper, bulk	4,000 /DOZ	$4.65 /DOZ	$18,600.00
N-309	Bell brand nail clipper with keychain, bulk	6,000 /DOZ	$3.42 /DOZ	$20,520.00
	FREIGHT FEE			$2,750.00
	No commercial value			
N-129	Bell brand nail clipper w/ chain, bulk	2,000 /DOZ	$0.00 /DOZ	$0.00
TOTAL	ITEMS	42,000 DOZ		$190,670.00

The said actual invoice showing a total value of USD 196,670 for 42000 dozen of nail clippers and item numbers (N-129, N-211, N-309) of the imported goods are tallied with the actual quantity and description of goods as imported vide the Bill of Entry No. 2640453 dated 28.09.2022. The same was also corroborated during the examination of the container No. TEMU50812580 of the subject bill of entry under the Panchanama proceedings dated 11.10.2022 at M/s. Gateway Distripark Ltd (GDL) CFS, Navi Mumbai.

c. On perusal of evidences/documents retrieved from the computers under Mahazar dated 03.10.2022 and upon enquiry, Shri Vinod Ranka admitted that the value (USD 16940) mentioned in the commercial invoice No. BM-22-021 dated 31.08.2022 (undervalued invoice) was submitted to Customs at the time of filing Bill of Entry No. 2640453 dated 28.09.2022; that the said payment of USD 16890 was made by M/s. R. M. Ribbons from the account no. 603105265302 maintained at ICICI Bank. The said transaction was verified with the foreign advice of ICICI Bank dated 30.08.2022 and found that the payment of USD 16890 made to the supplier M/s. Bell Metal Ind Co. Ltd vide Bill No. 6031NMDC0026923 dated 30.08.2022 reflecting and the same is reproduced below for the ease of reference.

d. Further, during the voluntary statement dated 03.10.2022, Shri Vinod Ranka

30 Aug. 2022

Foreign Advice

To.	From:
R M RIBBONS DOOR NO 2,1ST FLOOR,HUNTERS ROAD,CHOOLAI CHENNAI, TAMIL NADU - 600112 GSTIN : 33AAWFR1796C1ZV	ICICI BANK LIMITED Chennai-Sowcarpet 84,N S C BOSE ROAD, SOWCARPET,CHENNAI CHENNAI , Tamil Nadu - GSTIN : 33AAACI1195H1ZT

Category of service	: Foreign exchange services
HSN No	: 997157
SAC No	: 99711919
Registration No	: MIV/ST/Bank & Finc / 4

Dear Customer,

Your Customer ID : 568153690

Customer Reference Number :

We advise having debited your account as per the following details towards .

Drawer : BELL METAL IND CO LTD

TOL Ref No : OR43713622

Our Bill No.	6031NMDC0026923	Event Type	Realised
Bill Amount	USD 16,890.00	Event Date	30-08-2022
GSTIN Invoice No	3797DH2230001965	Value of Supply for FC conversion	5,843.43

admitted that the difference between the actual price shown in the proforma invoice and undervalued commercial invoice was transferred by Teletransfer. On perusal of the incriminating email correspondences recovered during the Mahazar proceedings dated 03.10.2022, it is noticed that Shri Vinod Ranka from his email clair_md@outlook.com was communicating with Mr. Sunny Jeon (sunny@bellmetal.com), Manager of M/s. Bell Metal Ind. Co. Ltd & supplier of the nail clippers to M/s. RM Ribbons; that Mr. Sunny Jeon vide email dated 16.09.2022 confirmed the part payments of invoice no. 22-021 received through Teletransfer (TT) on various dates. The relevant portion of the email communication dated 16.09.2022 confirming the payments received by M/s. Bell Metal Ind. Co. Ltd corroborating the statement of Shri Vinod Ranka dated 03.10.2022 in this regard is reproduced below for the ease of reference:

RE: PAYMENT #BM22-021

Sunny Jeon (전선혜) <sunny@bellmetal.com>
Fri 16/09/2022 13:43
To: VINOD RANKA <clair_md@outlook.com>
DEAR MR. VINOD.

WE RECEIVED TT PYAMENT $42,000 (COMISSION $80)
REFER BALANCE AMOUNT AS BELOW. WE HOPE TO RECEIVE BY NEXT ORDER!

PAYMENT	22-021
TOTAL ORDER AMOUNT	$190,670.00
Balance order BM22-006	$558.00
RECEIVED TT (8/31)	$16,890.00
RECEIVED TT (9/5)	$31,869.00
RECEIVED TT (9/7)	$100,000.00
RECEIVED TT (9/16)	$42,000.00
TOTAL BALANCE	**$469.00**

WE REQUESTED BL TO FORWARDING COMPANY.
WE WILL SEND YOU AS SOON AS WE GET THEM.

HAVE A NICE WEEKEND

Thank you & Best Regards,
Ms. Sunny Jeon/ Manager (전선혜 과장)

BELL Since 1954 Professional Quality BELLMETAL
BELL METAL IND. CO., LTD

It appeared from the contents of the said email dated 16.09.2022 received from Mr. Sunny Jeon (sunny@bellmetal.com), Manager of M/s. Bell Metal Ind. Co. Ltd by Shri Vinod Ranka, Authorized person of M/s. R.M. Ribbons that the total amount for the ordered quantity was USD 190,670 & this amount was paid in installments through TeleTransfer on different dates (USD 16,890 on 31.08.2022, USD 31,869 on 05.09.2022, USD 100,000 on 07.09.2022 & USD 42,000 on 16.09.2022) and the balance payable was mentioned as USD 469.

e. From the discussion supra, it appeared that M/s. RM Ribbons undervalued the import consignment of nail clippers arrived in container no. TEMU5081280 under Bill of Entry No. 2640453 dated 28.09.2022; that they declared the invoice value as USD 16940 to the customs instead of actual invoice value USD 190,670 and transferred the differential invoice value to the supplier by Teletransfer.

12.2 **<u>Undervaluation of Past Consignment of Nail Clippers</u>:**

a. It appeared from the statement dated 03.10.2022 of Shri Vinod Ranka, authorized person of M/s. R.M. Ribbons that they had earlier imported one more consignment of Nail Clippers *vide BE No. 8888769 dated 30.05.2022 from M/s. Bell Metal Ind. Co. Ltd apart from the live consignment imported under* Bill of Entry No. 2640453 dated 28.09.2022. *On verification of the import data of* M/s. R.M. Ribbons, it is noticed that they had imported nail clippers from the same supplier i.e *M/s. Bell Metal Ind. Co. Ltd, Republic of Korea under BE No. 8888769 dated 30.05.2022. The invoice no. BM-22-006 dated 29.04.2022 submitted to the customs at the time of filing the said Bill* of Entry is reproduced below for ease of reference:

COMMERCIAL INVOICE

Shipper / Exporter BELL METAL IND. CO., LTD 27, 2 GONGDAN 7-GIL, SEOBUK-GU, CHEONAN-SI, CHUNGCHEONGNAM-DO, REP. of KOREA	No. & date of Invoice BM-22-006 APR. 29, 2022
	No. & date of L/C
For Account & Risk of Messrs. R M RIBBONS NO 2, HUNTERS ROAD, 1st FLOOR, CHOOLAI, CHENNAI, TAMILNADU 600112- INDIA	L/C issuing bank
Notify party SAME AS CONSIGNEE	Remarks :
Port of loading: BUSAN, KOREA / Final destination: NHAVASHEVA, INDIA	
Carrier: KMTC NINGBO 2204S / Sailing on or about: MAY. 04, 2022	

Marks & NO.s of pkg	Description of Goods		Quantity	Unit price	Amount
	780 CTNS	NAIL CLIPPER & SCISSORS			CIF NHAVASHEVA, INDIA
FRONT:		**************			**************
OSYAN	N-129	BELL NAIL CLIPPER WITH CHAIN, BULK	32,000 DOZ	USD 0.42	USD 13,440.00
BACK:	N-211	BELL BRAND TONAIL CLIPPER, BULK	4,000 DOZ	USD 0.35	USD 1,400.00
ITEM NO.:	N-309	BELL NAIL CLIPPER WITH KEYCHAIN, BULK	5,000 DOZ	USD 0.35	USD 1,750.00
C/T NO.:	N-211D	BELL BRAND NAIL CLIPPER WITH CATCHER, BULK	500 DOZ	USD 0.60	USD 300.00
	TOTAL *******		41,500 DOZ **********		USD 16,890.00 ***************

a) *In connection with the said consignment, an email dated 10.05.2022 is recovered vide Mahazar dated 03.10.2022. The said email is reproduced below for ease of reference:*

RE: ORDER #BM22-006

22

Sunny Jeon (전선혜) <sunny@bellmetal.com>
Tue 10/05/2022 14:13
To: 'VINOD RANKA' <clair_md@outlook.com>
Dear Mr. Vinod

Please send us TT balance asap.
ETA is 5/18.
Hope to receive before 5/18 as we cannot send you final BL documents before receiving balance TT.

PAYMENT	22-006
TOTAL ORDER AMOUNT	$190,355.00
Balance order BM21-029	$523.00
RECEIVED TT (3/18)	$50,000.00
TOTAL BALANCE	**$140,878.00**

b) It appeared from the above email dated 10.05.2022 that the Order Number BM 22-006 mentioned in the aforesaid mail tallied with the Invoice No. BM 22-006 dated 29.04.2022 submitted at the time of filing Bill of Entry No. 8888769 dated 30.05.2022. Further, it appeared from the email communication of supplier dated 10.05.2022 that for the invoice no. BM 22-006, the order amount (actual invoice amount) was USD 190,355 and not USD 16890 as shown in the 'Commercial Invoice' filed to the Customs during the time of filing bill of entry. The email also refers to balance payment through TeleTransfer. It is pertinent to note that balance payment (undervalued) appeared to have been paid through TeleTransfer like in the case of live consignment seized. On being asked about the same, Shri Vinod Ranka did not deny the aforesaid facts.

c) *The purchase of two consignments from the supplier M/s. Bell Metal Ind. Co. Ltd was confirmed by them in another email dated 14.09.2022 which was recovered vide Mahazar dated 03.10.2022. The said email is reproduced below for ease of* *reference:*

(4)

RE: PRICE 2022
Sunny Jeon (전선혜) <sunny@bellmetal.com>
Wed 14/09/2022 11:33
To: 'VINOD RANKA' <clair_md@outlook.com>

Dear Mr. Vinod

As explained via Whatsapp and email, all other buyers progressed order with new price from 2022.
And we already gave you with old price with 2 orders recently.

We cannot give you with old price.
is huge loss for us that we prefer not to progress them.

We hope to read carefully below email and understand our situation aswell.

W1: Praveen- 3/10/22

Thank you & Best Regards,
Ms. Sunny Jeon/ Manager (전선혜 과장)

BELL Since 1954 Professional Quality BELLMETAL
BELL METAL IND. CO., LTD

W2- 03/10/22

d) *In order to ascertain the identical nature of the imported goods, the Commercial Invoice no. BM-22-006 (B.E No. 8888469 dated 30.05.2022) was perused and compared with the Commercial invoice no. BM-22-021 submitted to the customs at the time of filing the Bill of Entry No. 2640453 dated 28.09.2022 (live consignment) and it is noticed that out of four items totally imported in the said Bill of Entry, three line items (N-129,N-211,N-309) matched with the item description, unit price with that in the said invoice no. BM-22-021.*

The import data of the past consignment & live consignment are compared and tabulated below for ease of reference:

S.No.	Supplier Name	Bill of Entry No. & Date	Invoic e No.	Item Descriptio n of Bell Nail Clipper	Unit Price in USD
1.	*M/s. Bell Metal Ind. Co. Ltd*	2640453 dated 28.09.2022 (live consignment)	*BM-22-021*	**N-129 N-211 N-309**	**0.42** **0.35** **0.35**
2.	*M/s. Bell Metal Ind. Co. Ltd*	*8888769* *dated 30.05.2022 (past consignment)*	*BM-22-006*	**N-129 N-211 N-309 N-211D**	**0.42** **0.35** **0.35** **0.60**

From the discussion supra, it is clear that M/s. RM Ribbons imported identical nail clippers in the past consignment vide Bill of Entry No. No. 8888769 dated 30.05.2022 and undervalued the same in the similar fashion of live consignment 2640453 dated 28.09.2022 with a malafide intention to evade the customs duty.

13. REJECTION OF DECLARED VALUE AND RE- DETERMINATION OF VALUE AND DUTY QUANTIFICATION:

13.1. Bill of Entry No. 2640453 dated 28.09.2022:

From the evidences recovered from the premises as corroborated with the voluntary statement given by Shri Vinod Ranka during the course of investigation wherein, he has admitted to mis-declaration of value, it appeared that the value declared in the

Commercial Invoice which were submitted to Customs at the time of filing the **live consignment 2640453 dated 28.09.2022** were not true transaction value. Since the value declared by M/s R.M. Ribbons, Chennai appeared to be not the true transactional value as detailed in paragraphs above, the same appeared to be not acceptable as transaction value under Rule 3 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and therefore appeared to be liable for rejection under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with explanation (1)(iii)(f) the said Rule 12. As a logical and legal corollary to the proposed rejection of declared value as transaction value, it is required to be re- determined as per Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. As brought out in Para 12.1(b) above, for all the 03 items (N-129, N-211, N-309), actual invoice is available i.e., Proforma Invoice No. BM-22-021. In view of the same, it appeared proper to adopt the values in the said Proforma Invoice No. BM-22-021 to be the true transaction values in terms of Section 14 of the Customs Act, 1962 read with Rule 4 of CVRs, 2007. The proposed re-determined assessable value, the duty payable and the differential duty for the BE No. **2640453 dated 28.09.2022** is as provided in the table below:

BE No.	**Declared Assessable Value in Rupees**	**Duty Assessed @BCD10 % @SWS 10% @IGST 18%**	**Re- determined Assessable value as per proforma invoice BM-22-021**	**Re- determined Duty @BCD10 % @SWS 10% @IGST 18%**	**Duty Paid at the time of assessment**	**Differential Duty Payable**
2640453 dated 28.09.2022	USD 16940*80.4 (Ex. Rate) Rs. 1361977	Rs.421941	USD 190670*80.4 (Ex. Rate) Rs. 1,53,29,868	47,49,193	Rs.421941	Rs.43,27,25 2

13.2. Bill of Entry No. 8888769 dated 30.05.2022:

Since the values declared in the Bill of Entry No. 8888769 dated 30.05.2022 by M/s RM Ribbons, Chennai appeared to be not the true transactional values as detailed in paragraphs above, the same appeared to be not acceptable as transaction value under Rule 3 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and therefore appeared to be liable for rejection under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with explanation (1)(iii)(f) the said Rule 12. As a logical and legal corollary to the proposed rejection of declared value as transaction value, it is required to be re-determined as per Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Therefore, the value of goods imported vide Bill of Entry No. 8888769 dated 30.05.2022 has to be determined proceeding sequentially from Rule 4 to Rule 9 in accordance with CVRs, 2007. As brought out in Para12.2(b) above, for 03 items (N-129, N-211, N-309), actual parallel invoice i.e., Proforma Invoice No. BM-22-021 is available. Hence, the value of the said items can be determined in terms of Rule 4 of the CVRs, 2007. Further, with respect to item "N-129", it appeared that from the email communication dated 31.08.2022, M/s. RM Ribbons had agreement with the M/s. Bell Metal Ind. Co. Ltd to the effect that 2000 dozens of nail clippers would be given Free of Cost (FOC) if the order value of the said item is above USD 150,000. The relevant portion of the said email is reproduced for ease of reference:

re: PRICE 2022 ⑧

Sunny Jeon (전선혜) <sunny@bellmetal.com>
Wed 31/08/2022 06:39
To: VINOD RANKA <clair_md@outlook.com>
Dear Mr. Vinod

*N129 -2,000doz Free carton will be maintained under condition of total order amount USD 150,000
*Freight cost- when is over $2200, additional amount must be charged from your side. (for now, the price is around $4,950 so we charged you $2,750).

In view of the above, it appeared proper to adopt the same values mentioned in the said Proforma Invoice No. BM-22-021 & email dated 31.08.2022 to be the true transaction values for the said 03 items (N-129, N-211, N-309) in terms of Section 14 of the Customs Act, 1962 read with Rule 4 of CVRs, 2007. Accordingly, the invoice value for the items N-129, N-211, N-309 is redetermined below as per the Proforma Invoice BM-22-021 recovered during the Mahazar dated 03.10.2022 & supplier's email dated 31.08.2022 and tabulated below:

S.NO	Item Desc.	Quantity Imported (in Dozens)	Unit Price/Doz (as per invoice submitted at the time of filing Bill of Entry)	Invoice Value submitted at the time of filing Bill of Entry	Actual Unit Price (as per Proforma Invoice BM-22-021)	Invoice Value in USD (as per actual unit price)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	N-129	30000	0.42	13,440	4.96	1,48,800
	N-129	2000	0.42		FOC	
2	N-211	4000	0.35	1,400	4.65	18,600
3	N-309	5000	0.35	1,750	3.42	17,100
Total						**1,84,500**

In the case of fourth item i.e., N-211D, actual parallel invoice is not available. Therefore, the value of item "N-211D" has to be determined proceeding sequentially from Rule 4 to Rule 9 in accordance with CVRs, 2007. In the instant case, the invoice no. in the absence of parallel invoice reflecting the actual value, the value of item "N-211D" cannot be determined in terms of Rule 4 / Rule 5 of the CVRs, 2007. Further, in the absence of reliable, verifiable and quantifiable data, value of such goods cannot be determined in accordance with Rule 7 and 8 of CVRs, 2007. Therefore, the value has to be determined in accordance with Rule 9 (residual method).

13.3 From the email dated 10.05.2022, it appeared that that the consignment supplied under invoice no. BM 22-006 is valued at USD 190,355. The redetermined invoice value of items N-129, N-211, N-309 is **USD 184500 and remaining amount is USD 5,855**. After deduction of freight cost of USD 2750 as per email dated 31.08.2022, the balance invoice value is USD 3,105. Accordingly, the invoice value of item no. N-211D is

redetermined below as per supplier's email dated 10.05.2022 **and tabulated below:**

S. No	Item Desc.	Quantity Imported (in Dozens)	Unit Price/Doz (as per invoice submitted at the time of filing Bill of Entry)	Invoice Value submitted at the time of filing Bill of Entry	Actual Unit Price (Remaining amount/no. of dozens)	Invoice Value in USD (as per actual unit price)
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**
4	N-211D	500	0.60	300	(3105/500) =6.21	3105

Accordingly, the proposed re-determined assessable value, the duty payable and the differential duty for the BE No. **No. 8888769 dated 30.05.2022** is as provided in the table below:

BE No.	Declared Assessable Value in Rupees	Duty Assessed @BCD10 % @SWS 10% @IGST 18%	Re- determined Assessable value	Re-determine d Duty @BCD10 % @SWS 10% @IGST 18%	Duty Paid at the time of assessme nt	Differential Duty Payable
8888769 dated 30.05.2022	USD 16890*78.6 (Ex. Rate) Rs. 13,27,555	Rs. 411276	USD 190,355*78.6 (Ex. Rate) Rs. 1,49,61,903	46,35,198	Rs. 411276	Rs. 42,23,922

14. Discussion and Analysis of Misclassification of Plain Strips of Narrow Woven Fabrics:

The classification of the subject imported goods is discussed below:

CHAPTER 58 in SECTION-XI of the First Schedule to the Customs Tariff Act deals with "Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery".

14.1. Heading 58.07 of Customs Tariff Act, 1975 is as under: -

5807		LABELS, BADGES AND SIMILAR ARTICLES OF TEXTILE MATERIALS, IN THE PIECE, IN STRIPS OR CUT TO SHAPE OR SIZE, NOT EMBROIDERED			
5807 10	-	*Woven :*			
5807 10 10	---	Of cotton	kg.	25%	-
5807 10 20	---	Of man-made fibre	kg.	25%	-
5807 10 90	---	Other	kg.	25%	-
5807 90	-	*Other :*			
5807 90 10	---	Felt or non-woven	kg.	25%	-
5807 90 90	---	Other	kg.	25%	-

14.2. The product under consideration are the textile fabrics in roll form having different widths. The importer in his statement dated 04.07.2024 stated that since the imported goods are used in Label industry, they have declared the subject imported items are Labels. However, the Customs classification of the goods is to be decided based on the nature of the goods as presented to the Customs & end use of the goods is not the sole criteria for deciding the classification of the goods. Even though the word "Label" is not defined in the Customs Tariff, 1975, in the explanatory Notes it is clearly stated that what constitutes a 'Label' for classification under CTH 5807. The relevant portion of the HSN Explanatory Notes for the CTH Sub Heading 5807 (Page No. XI- 5807-1) is reproduced below for ease of reference:

14.3. On plain reading of above, it is evident that Labels falling under CTH 5807 can be made of any textile material but they (labels) should be bearing individual inscription or motifs. Further, from condition number 1, it is evident that inscription or motifs on the articles falling under CTH 5807 are produced by weaving or printing and it shall not be produced by way of embroidery.

58.07 - Labels, badges and similar articles of textile materials, in the piece, in strips or cut to shape or size, not embroidered.

5807.10 - Woven

5807.90 - Other

Subject to the conditions specified below this heading covers :

(A) **Labels of any textile material** (including knitted). These include labels of a kind used for marking wearing apparel, household linen, mattresses, tents, soft toys, or other goods. They are utilitarian labels bearing individual inscriptions or motifs. Such labels include, *inter alia*, commercial labels bearing the trade name or trade mark of the manufacturer or the nature of the constituent textile (" silk ", " viscose rayon ", etc.) and labels used by private individuals (boarding school pupils, soldiers, etc.) to identify their personal property; the latter variety sometimes bear initials or figures or comprise sometimes a framed space to take a hand-written inscription.

(B) **Badges and similar articles of any textile material** (including knitted). This category includes badges, emblems, " flashes ", etc., of a kind normally sewn to the outer part of wearing apparel (sporting, military, local or national badges, etc., badges bearing the names of youth associations, sailors' cap badges with the name of a ship, etc.).

The above articles are classified in this heading **only** if they fulfil the following conditions :

(1) They must not be embroidery. The inscriptions or motifs on the articles classified here are generally produced by weaving (usually broché work) or by printing.

(2) They must be in the piece, in strips (as is usually the case) or in separate units obtained by cutting to size or shape but must not be otherwise made up.

This heading **does not include** labels, badges and similar articles, which have been embroidered (**heading 58.10**) or made up otherwise than by cutting to shape or size (**heading 61.17, 62.17** or **63.07**).

15. During the course of investigation, from visual inspection & examination of the live consignment of identical goods imported by their related firm M/s. Osyan Trading Enterprise Pvt Ltd vide Bill of Entry No. 2623872 dated 27/09/2022 at M/s. Gateway Distripark Ltd (GDL) CFS, Navi Mumbai and from the test reports of samples drawn from the said live consignment and stock of M/s. RM Ribbons & M/s. Osyan Trading Enterprise Pvt. Ltd stored at warehouse, it has been brought out that the subject goods imported & declared as 'Labels' and classified under Chapter Sub-Heading 5807 did not contain any inscription or motif on them either by weaving or printing. This fact has been accepted by Shri Pannalal Ranka, in his statement dated 04.07.2024. In other words, the subject imported goods do not fulfil the mandatory condition required for classification under CH.58.07. It was also ascertained that they have not maintained separate stock register either under Bill of Entry wise or Firm wise; that they were not able to segregate the goods imported in the name of M/s. RM Ribbons & M/s. Osyan Trading Enterprises Pvt. Limited. On being asked whether the subject imports of M/s. RM Ribbons are identical to the goods imported vide B.E No. 2640453 dated 28.09.2022 filed by their related firm, he denied to offer any comments. However, he admitted that they could not identify the imported goods based on bill of entry data; that they do not maintain separate data for pre-printed and plain labels. Therefore, it appeared that M/s. RM Ribbons have misdeclared the description of the imported goods and also have misclassified them. Similarly, the test reports (in respect of the samples drawn from the stock of M/s. RM Ribbons & M/s. Osyan Trading Enterprise Pvt. Ltd stored at warehouse) received from the Quality Assurance Officer, Textiles Committee, Chennai also confirmed that the samples do not contain embroidery/adhesive/inscription or motif either by weaving or printing.

For example, the Lab report in respect of Test Memo No.1, for Sample C1 states as under:

> *"The sample is 100% Polyester Narrow woven Fabric (man-made fiber) on both warp & weft. It has selvedges. It does not contain embroidery/adhesive/inscription or motif either by weaving or printing."*

From the above, it appeared that the goods imported by M/s. RM Ribbons cannot be classifiable under CTH 58071020/580171090/58079090; that on physical verification of the stock of goods available at the warehouse & from the test reports of the samples drawn thereof, it is evident that the goods imported in the earlier consignments also does not contain any inscription or printing. On being asked to identify the imported goods which have pre-printed labels but are declared as "White Strips Label Tape -Man Made Fibers" at the time of filing the bill of entry, the importer stated that they do not maintain separate records for pre-printed and plain labels. Neither the importer nor their domestic customers produced any details of the purchase order for the pre-printed labels till date. Therefore, the said goods imported in the earlier consignments were also appeared to be mis-declared as 'Labels' & the classification adopted by them for the subject goods imported under CTH 58071020 or 580171090 or 58079090 is incorrect and requires reclassification.

16. In this regard, it is relevant to refer to Chapter Note 5 to Chapter 58, which states as under: – *"For the purposes of heading 5806, the expression —narrow woven fabrics means:*

(a) woven fabrics of a width not exceeding 30 cm, whether woven as such or cut from wider pieces, provided with selvedges (woven, gummed or otherwise made) on both edges;

(b) .....

(c) "

17. Heading 58.06 of Customs Tariff Act, 1975 is as under: -

SECTION-XI **CHAPTER-58**

(1)	(2)	(3)	(4)	(5)
5806	NARROW WOVEN FABRICS OTHER THAN GOODS OF HEADING 5807; NARROW FABRICS CONSISTING OF WARP WITHOUT WEFT ASSEMBLED BY MEANS OF AN ADHESIVE (BOLDUCS)			
5806 10 00	- Woven pile fabrics (including terry toweling and similar terry fabrics) andchenille fabrics	kg.	25%	-
5806 20 00	- Other woven fabrics, containing by weight 5% or more of elastomeric yarnor rubber thread	kg.	25%	-
	- *Other woven fabrics :*			
5806 31	-- *Of cotton :*			
5806 31 10	--- Typewriter ribbon cloth	kg.	25%	-
5806 31 20	--- Newar cotton	kg.	25%	-
5806 31 90	--- Other	kg.	25%	-
5806 32 00	-- Of man-made fibres	kg.	25%	-
5806 39	-- *Of other textile materials :*			
5806 39 10	--- Goat hair puttis tape	kg.	25%	-
5806 39 20	--- Jute webbing	kg.	25%	-
5806 39 30	--- Other narrow fabrics of jute	kg.	25%	-
5806 39 90	--- Other	kg.	25%	-
5806 40 00	- Fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)	kg.	25%	-

The HSN explanatory notes state the goods which are excluded under the heading. The relevant portion of the same is reproduced for ready reference:

This heading **excludes** :

(a) Bandages, medicated or put up in forms or packings for retail sale (**heading 30.05**).

(b) Narrow woven fabrics with woven fringes, braided galloons and braids (**heading 58.08**).

(c) Narrow woven fabrics more specifically covered by other headings, e.g., those having the character of :

(1) Woven labels, badges and similar articles, in strips (**heading 58.07** or **58.10**).

(2) Wicks for lamps, stoves, lighters, candles or the like (**heading 59.08**).

(3) Textile hosepiping or similar tubing (**heading 59.09**).

(4) Transmission or conveyor belts or belting of **heading 59.10**.

From a combined reading of the above, narrow woven fabrics more specifically covered by other headings like woven labels, badges and similar articles, in strips falling under CTH 5807 are excluded from CTH 5806.

18. As discussed supra, it is already established as to why the subject goods imported by M/s. RM Ribbons are not labels and would not fall under CTH 5807. Secondly, as per chapter note 5 supra, narrow woven fabrics are woven fabrics of a width not exceeding 30cm, whether woven as such or cut from wider pieces, provided with selvedges *(woven, gummed or otherwise made on both edges).* From the test reports of samples drawn from the live consignment of identical goods imported under Bill of Entry No. 2623872 dated 27.09.2022 by their related firm, it is revealed that the goods imported are narrow woven fabric of polyester; that these textile strips are not exceeding 30cm and contains Warp, Weft & Selv- edges. Hence, the subject imported goods are to be considered as "Narrow woven fabrics" of man-made fibre. Further, examination conducted at the warehouse of No.10, Massey's Enterprises Pvt Ltd, No.17, North Railway Terminus Road, Royapuram, Chennai-13 on 03.10.2022, under Mahazar proceedings 03.10.2022 also revealed that the stock of the imported goods available at the said warehouse (belonging to M/s. RM Ribbons & M/s. Osyan Trading Enterprises) were imported over the period, and did not contain any inscription or motif on them. These facts were also not disputed either by M/s. RM Ribbons or authorized person of the company. M/s. RM Ribbons did not adduce any documentary evidence to prove that the subject imported goods were printed with any inscription or motif. Despite the reasonable time given to the domestic customers of M/s. RM Ribbons, they failed to provide any courier/email/pre-print request details with respect to the purchase order sent to M/s. RM Ribbons. Further, in none of the import documents, they mentioned the word "Printed Labels" as the description. Therefore, the textile strips imported by M/s. RM Ribbons, and which have of a width not exceeding 30 cm appear to be rightly classifiable under **CTH 58063200** as "***narrow woven fabrics of manmade fibers***".

Applicable Legal Provisions:

19. Section 14 of the Customs Act, 1962

As per Section 14 of the Customs Act, 1962 " the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

> *Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the*

manner specified in the rules made in this behalf:"

20. Further as per Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

Rule 3. Determination of the method of valuation-

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

Rule 4. Transaction value of identical goods -

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

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

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

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

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

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

"**9. Residual method. -**

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

Concept of self-assessment

i) The Finance Act, 2011 (Act No.08 of 2011) dated 08.04.2011 has introduced the concept "Self-Assessment" of Customs duty with effect from 08.04.2011. The Central Board of Excise and Customs has issued Circular No.17/2011- Customs dated 08.04.2011 regarding implementation of Self-assessment in Customs. The relevant portions of the said circular are given below:

"The Finance Bill, 2011 stipulates 'Self-Assessment' of Customs duty in respect of imported and export goods by the importer or exporter, as

the case may be. This means that while the responsibility for assessment would be shifted to the importer / exporter, the Customs officers would have the power to verify such assessments and make re-assessment, where warranted. " "New Section 17 of the Customs Act, 1962 provides for self- assessment of duty on imported and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill, as the case may be, in the electronic form (new Section 46 or 50). The importer or exporter at the time of self-assessment will ensure that he declares the correct classification, applicable rate of duty, value, and benefit of exemption notifications claimed, if any, in respect of the imported / export goods while presenting Bill of Entry or Shipping Bill…."

Rule 12. Rejection of declared value –

(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 of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation- (1) For the removal of doubts, it is hereby declared that:-

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.

(iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include –

(a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;

(b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;

(c) the sale involves special discounts limited to exclusive agents;

(d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;

(e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value;

(f) the fraudulent or manipulated documents.

CONFISCATION OF GOODS – LEGAL PROVISIONS:

21. As per Section **111 (d)** of the Customs Act, 1962
"111.
…

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

As per Section **111(m)**

"111.

…

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;"
Shall be liable to confiscation. As
per Section **111(l)**
"111.

…

(l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;"
shall be liable to confiscation.

22. Legally, as per **Section 46 (4)** of the Customs Act 1962 any importer is required to make truthful declaration of imported goods with reference to the description, quantity, value etc. With effect from 8th April 2011, as per Section 17 of the said Act, it is the responsibility of the importer to declare the correct description, value, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

23. **Foreign Trade (Development and Regulation) Act, 1992**: **Section 3** of the Foreign Trade (Development and Regulation) Act, 1992 reads as
3. Powers to make provisions relating to imports and exports. - (1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.
(2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.
(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

24. **Section 11 of the Foreign Trade (Development and Regulation) Act, 1992** reads as under: 11. Contravention of provisions of this Act, rules, orders and export and import policy.

No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the export and import policy for the time being in force.

25. **Foreign Trade (Regulation) Rules, 1993**: In terms of Rule 11 of the Foreign Trade (Regulation) Rules, 1993,

> "11. Declaration as to value and quality of imported goods. -
>
> On the importation into, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the bill of entry or any other documents prescribed under the Customs Act 1962, state the value, quality and description of such goods to the best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot of such bill of entry or any other documents."

26. **In terms of Rule 14 of the Foreign Trade (Regulation) Rules, 1993**,

> "14. Prohibition regarding making, signing of any declaration, statement or documents. -
>
> No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a licence or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular".

<u>INVOCATION OF EXTENDED PERIOD</u>

<u>Legal provisions</u>:

27. **Section 2(2) of The Customs Act, 1962**: "assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to - *[Substituted by Finance Act, 2018 (Act No. 13 of 2018), dated 29.3.2018.]*

a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;

b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;

c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;

d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;

e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;

f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;

28. **Section 2(14) of The Customs Act, 1962:** "dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;

29. **Section 2(16) of The Customs Act, 1962:** "entry", in relation to goods, means an entry made in a bill of entry, shipping bill or bill of export and the entry made under the regulations made under section 84;

30. **Section 11A(a) of The Customs Act, 1962:** "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;

31. **Section 17 of The Customs Act, 1962:**

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

(2) The proper officer may verify the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary. Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

(3) For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

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

32. **Section 28(4) of the Customs Act** reads as follows:

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 willful 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 4[so levied or not paid] old [so levied] 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.

(b) 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 thereunder, 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.

PENALTY - LEGAL PROVISIONS:

33. **Section 112 of the Customs Act, 1962** provides as follows: "SECTION 112. Penalty for improper importation of goods, etc.- Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or
(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable, -
(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;
(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;"

34. **Section 114A of the Customs Act, 1962** provides as follows: "SECTION 114A. Penalty for short-levy or non-levy of duty in certain cases. –

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub- section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:
Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:
Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:
Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as

reduced or increased, as the case may be, shall be taken into account:
Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA, and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect : Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.
Explanation. - For the removal of doubts, it is hereby declared that -

the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;
(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person."

35. **Section 114AA of the Customs Act** provides as follows: "SECTION 114AA. Penalty for use of false and incorrect material.
- If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."

Suppression of Facts and invocation of extended period:

36. As elaborated in the foregoing paragraphs with respect to Nail Clippers, Shri. Vinod Ranka, Authorised person of the firm M/s. R.M. Ribbons, in his statement dated 03.10.2022 admitted that they had undervalued the nail clippers consignment under BE No. 2623872 dated 27.09.2022 to reduce the sale value and to sustain in competitive market; that he submitted commercial invoice showing lower value before the Customs Authorities at the time of filing Bill of Entry instead of the proforma invoice having higher value which is the actual purchase invoice of the goods.

37. From the documentary evidences, it emerges that the importer appeared to have deliberately suppressed the actual transaction value and mis declared the value in respect of Nail Clippers imported under BE No. 2623872 dated 27.09.2022. Shri. Vinod Ranka has admitted that he had undervalued the subject products and transferred the payment for the differential amount to his supplier through Teletransfer with the help of his friend Shri Rakesh of Dubai.

38. Shri Vinod Ranka in his statement dated 03.10.2022 stated that they have not undervalued the past consignment imported under BE No. 8888769 dated 30.05.2022. However, as brought out in Para 12.2(a) to 12.2(d), it appeared that M/s. RM Ribbons also undervalued the said consignment BE No. 8888769 dated 30.05.2022. Further, it appeared that Shri Vinod Ranka has given mis- statement in this regard and undervalued the subject import consignment under BE No. 8888769 dated 30.05.2022 with a malafide intention to evade the customs duty.

39. Shri. Pannalal Ranka, Authorised person of M/s. RM Ribbons and incharge for import of 'plain fabric strips', in his statement dated 04.07.2024 stated that "*the goods imported by* their related firm (M/s. Osyan Trading Enterprise Limited) vide BE No. 2623872 dated 27.09.2022 ***are plain rolls of textile material, used for Garment industry to make labels and the said goods do not contain any inscription or printing".*** On being asked whether the subject imports of M/s. RM Ribbons are identical to the goods imported vide B.E No. 2640453 dated 28.09.2022 filed by their related firm, he denied to offer any comments. However, he admitted that they will not be able to identify the imported goods available in the common warehouse based on bill of entry wise or firm wise and that they do not maintain separate data for pre-printed and plain labels.

40. In terms of Notification No.82/2017-Cus dated 27.10.2017, the goods falling under CTH 58063200 attract 20% of BCD, whereas the goods falling under CTH 58071020/58071090/58079090 attract 10% of BCD. Therefore, it appeared that M/s. RM Ribbons, Chennai were willfully mis-declaring plain strips of narrow woven fabrics imported by them as "Labels" at the time of import and misclassifying them under CTH 58071020/58071090/580719090 with the intention to wrongly avail the benefit of Notification No.82/2017-Cus dated 27.10.2017 and thereby to evade payment of appropriate Customs Duties.

41. On physical verification of the stock of goods, imported over the period (14.05.2018 to 27.09.2022), available at the warehouse No.10, Massey's Enterprises Pvt Ltd, No.17, North Railway Terminus Road, Royapuram, Chennai-13 under Mahazar proceedings dated 03.10.2022, it is revealed that out of imported goods valued at Rs. 4.91 crores stored at the said godown which included "Plain Rolls of textile strips" valued at Rs. 1,63,892/- imported by M/s. R.M Ribbons; that on physical inspection of the aforesaid stock, none of the imported goods i.e., Narrow woven fabrics contain any inscription or printing and the same was recorded in the Mahazar dated 03.10.2022 which was signed by authorized person of the company. From the test reports of samples drawn from live consignment of identical goods imported by their related firm (M/s. Osyan Trading Enterprise Pvt. Ltd) and stock of M/s. RM Ribbons & M/s. Osyan Trading Enterprise Pvt. Ltd stored at warehouse, it was confirmed by the Quality Assurance Officer, Textiles that the samples do not contain embroidery/adhesive/inscription or motif either by weaving or printing. Therefore, it is evident that the subject goods imported by M/s. RM Ribbons were Plain Rolls of textile strips of various sizes and that these Plain Rolls did not contain any inscription/print or markings. Therefore, the subject goods imported by M/s. RM Ribbons were appeared to be mis-declared in terms of description at the time of imports, resulting in wrong availment of benefits of notification thereby contravening the provisions of the Customs Act, 1962.

42. M/s. RM Ribbons has majorly imported the subject goods from Chinese supplier M/s. Five Element Industry Limited. The description, unit price, supplier details declared in the consignments imported by M/s. RM Ribbons is identical to that of the live consignment viz. BE No. 2623872 dated 27.09.2022 filed by their related firm. Some of the bill of entries of the of earlier consignments are compared with the live consignment and reproduced below for reference:

BE No. & Date	Supplier Name	Description	UQC	Unit Price in USD
2623872 dated 27.09.2022 **(Live consignment of related firm)**	M/s. Five Element Industry Limited	WHITE STRIPS LABEL TAPE 680 ROLLS MAN MADEFIBERS	KGS	2.998633
5133377 dated 21-08-2021 **(Past**	M/s. Five Element Industry	WHITE STRIPS LABEL TAPE (TOTAL: 1530	KGS	2.998787

Consignment of M/s. RM Ribbons)	Limited	ROLLS) 15 MM X 200 M		
5133376 dated 21-08-2021 **(Past Consignment of M/s. RM Ribbons)**	M/s. Five Element Industry Limited	WHITE STRIPS LABEL TAPE (TOTAL: 1890 ROLLS) 15 MM X 200 M	KGS	2.99908
6189555 dated 11-10-2021 **(Past Consignment of M/s. RM Ribbons)**	M/s. Five Element Industry Limited	WHITE STRIPS LABEL TAPE (TOTAL: 2578 ROLLS) 15 MM X 200 M	KGS	2.998715

It appeared from the above table that there is no significant difference between the unit price of the subject imported goods of the live consignment imported by M/s. Osyan Trading Enterprise Pvt Ltd & consignments imported by M/s. RM Ribbons. Usually, the printed labels would be on higher side compared to the plain labels. However, from the import data, it is noticed that unit price of the majority of the subject imported products are within the unit price range of the subject live consignment. Further, it appeared that the goods imported by M/s. RM Ribbons were identical to that of the live consignment imported vide BE No. 2623872 dated 27.09.2022 filed by their related firm; that the said subject goods are plain textile strips which does not contain any printing or inscriptions; that they were mis-declared by mentioning as “white strips label tape” instead of “plain textile strips-narrow woven fabrics” & misclassified under CTH 58071020/58071090/580719090 instead of CTH 58063200.

43. On being asked about the purchase order placed by their domestic customers M/s. J. G. Impex Pvt. Ltd, M/s. Pragati Sales, M/s. H. V. Enterprises, to whom the alleged printed labels were sold to, the importer stated that he received the design of wash care instructions by courier. Even though their domestic customers M/s. J. G. Impex Pvt. Ltd & M/s. Pragati Sales in their respective statements stated that they sent purchase order with pre-printed information through courier to M/s. RM Ribbons, neither the importer nor their domestic customers produced the courier details of the said purchase order till date in support of their claims. It also appeared from the forensic analysis of two Computers, which were used to maintain all the records related to purchase of imported goods of M/s. RM Ribbons & M/s. Osyan Trading Enterprise Pvt Ltd were recovered from the business premises vide Mahazar dated 03.10.2022 that M/s. RM Ribbons has neither received any mails from their domestic customers nor sent any mails to their Chinese Suppliers with respect to the print instructions that were supposed to be printed on the textile fabric strips; that no details of the courier were also found. From the above, it appeared that the M/s. RM Ribbons has imported only plain strips of narrow woven fabrics in the guise of printed labels.

44. Shri Pannalal Ranka in his statement dated 04.07.2024 stated that they majorly imported printed labels and supplied them to their domestic customers. However, it appeared from the statement of the domestic customers of M/s. RM Ribbons that there is no mention of the word “Printed Labels” anywhere in the description of purchase invoice, tax invoice, e-way bill, proforma invoice, purchase order or any other purchase documents for the goods purchased from M/s. RM Ribbons.

45. On being asked to identify the imported goods which have pre-printed labels but are declared as "White Strips Label Tape -Man Made Fibers" at the time of filing the bill of entry, Shri Pannalal Ranka stated that they do not maintain separate records for pre-printed and plain labels. Till date Shri Pannalal Ranka has not produced any documentary evidences to establish that the goods imported by them are pre-printed labels not plain textile strips.

46. In the self-assessment era, the onus of assessing the goods by following correct classification under appropriate CTH lies absolutely on the importer. The importer shall ensure the accuracy and correctness of the information given therein, which among others include classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting Bill of Entry. Investigation conducted revealed that the importer has mis-declared the description & classified under wrong CTH by suppressing and misstating the true nature of the imported goods, solely with an intention to avail the benefits of lower duty structure applicable to the goods falling under CTH 58071090/58071020/58079090.

In view of the wilful suppression of actual description of the "narrow woven textile strips" resulting in misclassification & wilful suppression of actual value of "nail clippers" and misstatement resulting in undervaluation, which ultimately resulted in evasion of payment of appropriate Customs duty, the provisions relating to extended period are liable to be invoked in the instant case in terms of Section 28 (4) of the Customs Act, 1962, to raise demand of duty evaded during the period August-2018 to October-2022.

47. Quantification of Duty liability:

47.1 <u>Nail Clippers on account of under-valuation:</u>

On perusal of the import data gathered and downloaded from ISS and ICES data, they have imported the subject nail clippers vide 02 Bills of Entry through Nhava Sheva Port, during the period August-2018 to October-2022. Accordingly, the differential duty payable in respect of imported nail clippers has been computed **[Annexure-B]** and abstract of the same is given below:

	BE No. 8888769 dated 30.05.2022	**BE No. 2640453 dated 28.09.2022**	**Total**
Description	**Value (in Rs.)**	**Value (in Rs.)**	
Declared CIF Value	13,27,555	13,61,977	26,89,532
Redetermined CIF Value	1,49,61,903	1,53,29,868	3,02,91,771
Duty paid at the time of assessment	4,11,276	4,21,941	8,33,217
BCD Payable	14,96,190	15,32,987	30,29,177
SWS Payable	1,49,619	1,53,299	3,02,918
IGST Payable	29,89,388	30,62,908	60,52,296
Duty Payable	46,35,198	47,49,193	93,84,391
Diff BCD Payable	13,63,435	13,96,789	27,60,224
Diff SWS Payable	1,36,343	1,39,679	2,76,022
Diff IGST Payable	27,24,143	27,90,785	55,14,927
Total Diff Duty Payable	**42,23,921**	**43,27,253**	**85,51,174**

The total duty paid & payable for the subject nail clippers vide 02 Bills of Entry through Nhava Sheva Port, during the period August-2018 to October- 2022 is tabulated below:

Declared CIF Value (In Rs.)	Redetermined CIF Value (In Rs.)	Duty Paid	Duty Payable	Diff Duty Payable
26,89,532	3,02,91,771	8,33,217	93,84,391	**85,51,174**

ANNEXURE B

Annexure - B

	CUSTOMHOUSECODE	BENUMBER	BEDATE	NAMEOFTHEIMPORTER	NAMEOFTHEIMPORTERADDRESS	BEIECCODE	COUNTRYOFORIGIN	CHACODE	SUPPLIERNAME	INVOICECUR	ITEMDESCRIPTION	CTH	QUANTITY	UQC	UNITPRICE	ITEMWISEASSVALUE	BCD	SWS	IGST	Duty
1	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 2400 ROLLS) (32 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	3229.5	KGS	2.99935	728417.34	72841.734	7284.1734		80125.9074
2	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 840 ROLLS) (12 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	423.6	KGS	2.9983	95510.01	9551.001	955.1001		10506.1011
3	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1530 ROLLS) (15 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	964.8	KGS	2.998787	217570.87	21757.087	2175.7087		23932.7957
4	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 3000 ROLLS) (25 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	3150	KGS	3	710640	71064	7106.4		78170.4
5	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 600 ROLLS) (28 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	709.2	KGS	3	159995.52	15999.552	1599.9552		17599.5072
6	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 3800 ROLLS) (32 MM X 183 M)(UNBRANDED/UNPOPULAR)	58071090	2538.4	KGS	3	572663.04	57266.304	5726.6304		62992.9344
7	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 560 ROLLS) (40 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	945.6	KGS	2.999577	213297.28	21329.728	2132.9728		23462.7008
8	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 128 ROLLS) (16 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	86.12	KGS	2.999303	19424.16	1942.416	194.2416		2136.6576
9	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 924 ROLLS) (12 MM X 183 M) (UNBRANDED/UNPOPULAR)	58071090	465.96	KGS	2.998305	105061.18	10506.118	1050.6118		11556.7298
10	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 2160 ROLLS) (20 MM X 183 M)(UNBRANDED/UNPOPULAR)	58071090	1049.4	KGS	2.998971	236663.44	23666.344	2366.6344		26032.9784
11	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 2256 ROLLS) (25.4 MM X 183 M) (UNBRANDED/UNPOPULAR)	58071090	1025.07	KGS	2.999727	231234.75	23123.475	2312.3475		25435.8225
12	INMAA1	5133377	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1920 ROLLS) (38 MM X 183 M)(UNBRANDED/UNPOPULAR)	58071090	1305	KGS	2.999908	294398.97	29439.897	2943.9897		32383.8867
13	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 540 ROLLS) (18 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	402.96	KGS	2.999107	90880.72	9088.072	908.8072		9996.8792
14	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 400 ROLLS) (32 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	530.4	KGS	3	119658.24	11965.824	1196.5824		13162.4064
15	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1560 ROLLS) (12 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	717.55	KGS	2.998035	161773.25	16177.325	1617.7325		17795.0575

16	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1890 ROLLS) (15 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	1174.05	KGS		2.99908	264784.45	26478.445	2647.8445		29126.2895
17	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1800 ROLLS) (38 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	2841.2	KGS		2.999789	640929.64	64092.964	6409.2964		70502.2604
18	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 2816 ROLLS) (20 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	2333.76	KGS		2.9997	526443.61	52644.361	5264.4361		57908.7971
19	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 780 ROLLS) (25 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	808.5	KGS		2.999406	182361.49	18236.149	1823.6149		20059.7639
20	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 360 ROLLS) (28 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	418.44	KGS		3	94400.06	9440.006	944.0006		10384.0066
21	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1320 ROLLS) (30 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	1642.8	KGS		2.999489	370552.55	37055.255	3705.5255		40760.7805
22	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 3960 ROLLS) (35 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	5739.8	KGS		2.99977	1294799.61	129479.961	12947.9961		142427.9571
23	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 320 ROLLS) (40 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	530.4	KGS		2.999698	119646.19	11964.619	1196.4619		13161.0809
24	INMAA1	5133376	21/08/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 70 ROLLS) (50 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	145.5	KGS		2.999656	32821.04	3282.104	328.2104		3610.3144
25	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 200 ROLLS) (55 MM X 250 YDS)(UNBRANDED/UNPOPULAR)	58071090	163	KGS		3	36772.8	3677.28	367.728		4045.008
26	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 4800 ROLLS) (50 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	3500	KGS		2.999314	789419.44	78941.944	7894.1944		86836.1384
27	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 3360 ROLLS) (44 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	580/1090	2196	KGS		2.998907	495237.1	49523.71	4952.371		54476.081
28	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 200 ROLLS) (178 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	512.5	KGS		2.999805	115612.48	11561.248	1156.1248		12717.3728
29	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 360 ROLLS) (229 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	1233	KGS		3	278164.8	27816.48	2781.648		30598.128
30	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1000 ROLLS) (57 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	855	KGS		3	192888	19288.8	1928.88		21217.68

31	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 160 ROLLS) (70 MM X 250 YDS)(UNBRANDED/UNPOPULAR)	58071090	167	KGS	2.99976	37672.19	3767.219	376.7219		4143.9409
32	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1200 ROLLS) (15 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	265.5	KGS	2.99661	59829.12	5982.912	598.2912		6581.2032
33	INMAA1	5664931	1/10/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1350 ROLLS) (35 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	1956.75	KGS	2.99977	436713.12	43671.312	4367.1312		48038.4432
34	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 800 ROLLS) (30 MM X 250 YDS)(UNBRANDED/UNPOPULAR)	58071090	350	KGS	2.998857	78929.92	7892.992	789.2992		8682.2912
35	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 660 ROLLS) (300 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	2920.5	KGS	3	658864.8	65886.48	6588.648		72475.128
36	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 7200 ROLLS) (25.4 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	2625	KGS	2.997943	591793.95	59179.395	5917.9395		65097.3345
37	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 7200 ROLLS) (32 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	3294	KGS	2.998907	742855.65	74285.565	7428.5565		81714.1215
38	INMAA1	5269508	1/9/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 6400 ROLLS) (38 MM X 250 YDS) (UNBRANDED/UNPOPULAR)	58071090	3500	KGS	2.998857	789299.16	78929.916	7892.9916		86822.9076
39	INMAA1	5664931	1/10/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1660 ROLLS) (32 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	2201.16	KGS	3	491298.91	49129.891	4912.9891		54042.8801
40	INMAA1	5664931	1/10/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 900 ROLLS) (18 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	671.6	KGS	2.999107	149856.5	14985.65	1498.565		16484.215
41	INMAA1	5664931	1/10/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 6880 ROLLS) (20 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	5701.8	KGS	2.999698	1272513.65	127251.365	12725.1365		139976.5015
42	INMAA1	5664931	1/10/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 4862 ROLLS) (25 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	5039.65	KGS	2.999407	1124627.54	112462.754	11246.2754		123709.0294
43	INMAA1	5664931	1/10/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 560 ROLLS) (40 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	928.2	KGS	2.999698	207153.38	20715.338	2071.5338		22786.8718
44	INMAA1	5664931	1/10/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 420 ROLLS) (50 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	789	KGS	2.99962	176082.49	17608.249	1760.8249		19369.0739
45	INMAA1	6189555	10/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 15640 ROLLS) (32 MM X 183 M)(UNBRANDED/UNPOPULAR)	58071020	11102	KGS	2.999253	2515630.42	251563.042	25156.3042		276719.3462

46	INMAA1	6189555	10/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 720 ROLLS) (20 MM X 183 M) (UNBRANDED/UNPOPULAR)	58071020	359.28	KGS	3	81430.81	8143.081	814.3081		8957.3891
47	INMAA1	6189555	10/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 3024 ROLLS) (25.4 MM X 183 M) (UNBRANDED/UNPOPULAR)	58071020	1917.72	KGS	2.999213	434537.21	43453.721	4345.3721		47799.0931
48	INMAA1	6189555	10/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 2578 ROLLS) (15 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071020	1672.98	KGS	2.998715	379018.5	37901.85	3790.185		41692.035
49	INMAA1	6189555	10/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1080 ROLLS) (35 MM X 183 M)(UNBRANDED/UNPOPULAR)	58071020	944.4	KGS	2.999619	214021.08	21402.108	2140.2108		23542.3188
50	INMAA1	6189555	10/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 960 ROLLS) (40 MM X 183 M) (UNBRANDED/UNPOPULAR)	58071020	959.7	KGS	2.999937	217511.44	21751.144	2175.1144		23926.2584
51	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1740 ROLLS) (22 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	1496.96	KGS	2.998878	337138.95	33713.895	3371.3895		37085.2845
52	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1300 ROLLS) (12 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	619.96	KGS	2.998581	139610.92	13961.092	1396.1092		15357.2012
53	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1974 ROLLS) (15 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	1139.29	KGS	2.999228	256615.98	25661.598	2566.1598		28227.7578
54	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 3264 ROLLS) (20 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	2646.16	KGS	2.999838	596147.65	59614.765	5961.4765		65576.2415
55	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1400 ROLLS) (45 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	2377.16	KGS	2.999462	535478.1	53547.81	5354.781		58902.591
56	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 3354 ROLLS) (25 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	3321.07	KGS	2.999449	748099.64	74809.964	7480.9964		82290.9604
57	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 836 ROLLS) (30 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	1000.97	KGS	2.999171	225456.22	22545.622	2254.5622		24800.1842
58	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 1960 ROLLS) (32 MM X 200 M)(UNBRANDED/UNPOPULAR)	58071090	2442.93	KGS	2.999857	550365.89	55036.589	5503.6589		60540.2479
59	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 540 ROLLS) (38 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	852.36	KGS	2.999789	192023.2	19202.32	1920.232		21122.552
60	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 80 ROLLS) (40 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	132.6	KGS	2.999698	29871.77	2987.177	298.7177		3285.8947
61	INMAA1	6433030	27/11/2021	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	CN	ACGFS1398MCH001	FIVE ELEMENT INDUSTRY LIMITED	USD	WHITE STRIPS LABEL TAPE (TOTAL: 238 ROLLS) (50 MM X 200 M) (UNBRANDED/UNPOPULAR)	58071090	494.7	KGS	2.999656	111443.13	11144.313	1114.4313		12258.7443

																23773913.32	2377391.332	237739.1332		2615130.465
										NAIL CLIPPERS										
62	INNSA1	8888769	5/30/2022	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	KR		Bell Metal Ind Co. Ltd		N-129 N-211 N-309	82142010				14961903	1,363,435	136343	2724143	4223921
63	INNSA1	2640453	9/28/2022	R M RIBBONS	DOOR NO 2 HUNTERS ROAD	AAWFR1796C	KR		Bell Metal Ind. Co. Ltd		N-129 N-211 N-309 N-2110	82142010				15329868	1,396,789	139679	2790785	4327253
																54,065,684	5,137,615	513761.1332	5514928	11166304.47

42.1. Narrow Woven Fabrics (plain strips) on account of mis-classification:

The effective rate of BCD on goods falling under Chapters 50 to 63 have been notified vide Notification No. 82/2017-Cus., dated 27.10.2017 and the said notification was in effect till 30.04.2022. From 01.05.2022, the tariff rate of duty as per Customs Tariff Act, 1975 is applicable. In terms of the said notification & Customs Tariff Act, 1975, the applicable rate of duty for goods covered under CH 58.06 is as under: -

S. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description	BCD Rate of Duty	IGST	Remarks
(1)	(2)	(3)	(4)	(5)	
1.	5807 (58071020, 58071090 & 58079090)	All goods	10%	12%	Effective BCD as per S.No. 147 of the said Notification
2.	5806 32 00	All goods	20%	5%	BCD-Tariff Rate

Therefore, the goods falling under CTH 5806 3200 attract 20% BCD and IGST at 5%. Consequent to redetermination of the classification of the goods under the appropriate heading as discussed above, the differential duty has been calculated for the period from 21.08.2021 (first bill of entry) to 27.11.2021 (last bill of entry). On perusal of the import data gathered and downloaded from ISS and ICES data for the period from 21.08.2021 to 28.09.2022, it is noticed that for various bills of entry, the importer has availed MEIS Scrips for the payment of BCD. The said MEIS scrips were randomly verified and arrived at the diffrential BCD & SWS required to be paid by M/s. RM Ribbons on port-wise. They have imported the subject items vide 06 Bills of Entry through Nhava Sheva Port & Chennai Sea Port, during the period from 21.08.2021 to 28.09.2022. Accordingly, the differential duty of BCD & SWS payable in respect of imported "Narrow Woven Fabrics (plain strips)" port-wise has been computed **[Annexure-B]** and abstract of the same is given below:

Port Code	**CIF Value**	**BCD Paid @10%**	**BCD Payable @ 20%**	**Diff BCD Payable**	**SWS Paid**	**SWS Payable**	**Diff SWS Payable**
INMAA 1	23773913	2377391	4754782	2377391	237739	475478	237739
INSAA1	NIL	NIL	NIL	NIL	NIL	NIL	NIL
Grand Total	23773913	2377391	4754782	2377391	237739	475478	237739

48. Total Duty Quantification:

The total differential duty payable in respect of imported nail clippers & Narrow Woven Fabrics (plain strips) during the period from 21.08.2021 to 28.09.2022 is calculated port-wise and summarized in below table:

Port Code	**CIF Value**	**BCD Payabl e**	**SWS Payabl e**	**IGST Payabl e**	**Diff BCD Payabl e**	**Dif f SW S Payab le**	**Diff IGS T Payable**	**Duty Paya ble**	**Diff Duty Payable**
INMAA1	2,37,73,9 13	47,54,7 82	4,75,4 78	nil	23,77,3 91	2,37,7 39	nil	52,30,26 0	26,15,130
INSAA1	3,02,91,7 71	30,29,1 77	3,02,9 18	60,52,2 95	27,60,2 24	2,76,0 23	55,14,9 27	93,84,39 1	85,51,174
Grand Total	5,40,65,6 84	77,83,9 59	7,78,3 96	60,52,2 95	51,37,6 15	5,13,7 62	55,14,9 27	1,46,14, 651	1,11,66,3 04

49. Duty payment under protest:

During the course of investigation, M/s. R.M. Ribbons paid Rs. **50,00,000/-under protest vide TR6 Challan No.** HC72, HCM 581, HCM 582 all dated 09.11.2022 as detailed below:

S. No	**D.D No & Date**	**DD amount**	**Port Name**	**TR-6Challan Number and Date**
(1)	**(2)**	**(3)**	**(6)**	**(7)**
1	517307 dt: 03.10.2022	50,00,000	Nhava Sheva	HC72, HCM 581, HCM 582 all dated 09.11.2022
Total		**Rs.50,00,000/-**		

Confiscation:

50. M/s. RM Ribbons appear to have imported the nail clippers by mis- declaring the value of the goods & imported Narrow Woven Fabrics (plain strips) by mis-declaring them as 'Labels' and misclassifying them under CTH 58071020/ 58071090/ 580719090 instead of correct CTH 58063200 at the time of import by way of giving in-sufficient details. M/s. RM Ribbons deliberately and intentionally undervalued the nail clippers & suppressed the actual value of the imported goods with the intention to evade the customs duty by suppression of facts and mis-statement. M/s. RM Ribbons deliberately and intentionally mis- declared the actual nature of imported goods, with the intention of availing the benefits of lower duty structure applicable to the goods falling under CTH 58071090/58071020/58079090 by supressing the facts in their Bills of Entry, thereby contravened the provisions of Section 46 (4) & 46(4A) of the Customs Act, 1962 and Notification No. 82/2017-Cus., dated 27.10.2017 as discussed in foregoing paras. Hence, it appeared that the subject goods imported earlier during the period from 21.08.2021 to 28.09.2022 valued at Rs. 5,40,65,684/- (**as detailed in Annexure-B, which includes the imported goods valued at Rs. 1,63,892/- available in warehouse/godown & seized under Mahazar dated 03.10.2022)** are to be held liable for confiscation under the provisions of section 111(m) of the Customs Act, 1962 and M/s. RM Ribbons is liable for penal action under Section 112, 114A & 114AA of the Customs Act,1962.

51. Penalty:

46.1. As brought out in the findings, M/s. RM Ribbons appeared to have deliberately undervalued the nail clippers with an intention to evade of appropriate customs duty payable on such imported goods. They also appear to have not provided the true description of the Narrow-Woven Fabrics (plain strips), with the sole intention to avoid detection of incorrect classification adopted by them and to evade payment of appropriate Customs Duty. M/s. RM Ribbons appeared to have deliberately classified the subject imported goods under CTH Nos.58071020, 58071090 &58079090 instead of CTH No. 58063200 with an intention to evade of appropriate payment BCD, SWS payable on such imported goods. The investigation had also brought out documents showing the undervaluation of nail clippers, mis-classification and mis-declaration of the "Narrow Woven Fabrics (plain strips)" and also misusing the benefits given under Notification No. 82/2017-Cus., dated 27.10.2017 for evading the payment of applicable customs duty. Inasmuch as the liability to pay differential duty along with interest has arisen due to short levy by wilful misstatement & suppression of facts, M/s. RM Ribbons appear to have rendered themselves liable to penalty under the provisions of Section 112 & 114A of the Customs Act, 1962.

46.2. Shri.Vinod Ranka, Authorised person of M/s.RM Ribbons had the knowledge of the actual value of product being imported, but failed to declare the same correctly before the Customs at the time of importing the goods. As the person responsible for declaring the proper description of the goods for clearance, he appeared to have failed to discharge his responsibility as per law and thus leading to loss of revenue to the exchequer. He has also knowingly and intentionally given false statement during the recording of his statement dated 03.10.2022. For these acts of omission and commission, Shri. Vinod Ranka, Authorized person of M/s.RM Ribbons appear to have rendered himself liable for penal action in terms of Section 112 and 114AA of the Customs Act, 1962.

52. Jurisdiction:

Attention is drawn to the amendments made by Finance Act 2022 in the Customs Act 1962. Finance Act 2022, enacted on 30/03/2022, inserted Section 110AA in the Customs Act 1962 and the same is reproduced below:

"110AA. Where in pursuance of any proceeding, in accordance with Chapter XIIA or this Chapter, if an officer of customs has reasons to believe that—

(a) any duty has been short-levied, not levied, short-paid or not paid in a case where assessment has already been made;(b) any duty has been erroneously refunded;(c) any drawback has been erroneously allowed; or(d) any interest has been short-levied, not

levied, short-paid or not paid, or erroneously refunded, then such officer of customs shall, after causing inquiry, investigation, or as the case may be, audit, transfer the relevant documents, along with a report in writing—
(i) to the proper officer having jurisdiction, as assigned under section 5 in respect of assessment of such duty, or to the officer who allowed such refund or drawback; or (ii) in case of multiple jurisdictions, to an officer of customs to whom such matter is assigned by the Board, in exercise of the powers conferred under section 5, and thereupon, power exercisable under sections 28, 28AAA or Chapter X, shall be exercised by such proper officer or by an officer to whom the proper officer is subordinate in accordance with sub-section (2) of section 5."

As there is duty demand under Section 28, the subject case is covered under the ambit of Section 110AA of the Customs Act 1962. Subsequent to enactment of Finance Act 2022, the CBIC issued notification no. 28/2022 Customs (N.T.) dated 31/03/2022 assigning the proper officer for the purpose of Section 110AA. In terms of S.No. 1 of said notification no. 28/2022 Customs (N.T.), in case where there are multiple jurisdictions. As per these, the jurisdiction having highest amount of duty, or refund, at the stage of transfer, is assigned as proper officer for the said case. The importer has imported the subject goods through Nhava Sheva Port (INNSA1) & Chennai Sea Port (INMAA1) during the material time as detailed below:

Port Code	**CIF Value**	**BCD Payable**	**SWS Payable**	**IGST Payable**	**Diff BCD Payable**	**Diff SWS Payable**	**Diff IGST Payable**	**Duty Payable**	**Diff Duty Payable**
INMAA1	2,37,73,913	47,54,782	4,75,478	nil	23,77,391	2,37,739	nil	52,30,260	26,15,130
INSAA1	3,02,91,771	30,29,177	3,02,918	60,52,295	27,60,224	2,76,023	55,14,927	93,84,391	85,51,174
Grand Total	5,40,65,684	77,83,959	7,78,396	60,52,295	51,37,615	5,13,762	55,14,927	1,46,14,651	1,11,66,304

From the above, the highest duty implication under Section 28 is under Nhava Sheva Sea Port (INNSA1) which falls under the jurisdiction of The Commissioner of Customs (NS-III), Jawaharlal Nehru Custom House, Nhava Sheva, Tal-Uran, Raigad-400707. Further, as the duty implication is more than Rs 50 Lakh, the common SCN issuing and adjudicating authority would be the Commissioner of Customs (NS-III), Jawaharlal Nehru Custom House, Nhava Sheva, Tal-Uran, Raigad-400707. Accordingly, this investigation report has to be forwarded to the office of the Commissioner of Customs (NS-III), Jawaharlal Nehru Custom House, Nhava Sheva, Tal-Uran, Raigad-400707, for further necessary action under Section 28 read with Section 110AA of the Customs Act 1962.

53. From the foregoing discussions, facts, and the provisions of law, it appeared that M/s. RM Ribbons have deliberately mis-declared the value of nail clippers imported vide 01 past Bill of Entry & 01 Live Bill of Entry and deliberately declared the incomplete description, mis-classified "Narrow Woven Fabrics (plain strips)" vide 06 Past Bills of Entry during the period from 21.08.2021 to 28.09.2022 totally valued at Rs. 5,40,65,684/- as detailed in **Annexure -B** to this report. The BCD, SWS & IGST to be demanded due to mis-classification & mis-declaration works out to Rs. 1,11,66,304/- (One Crore Eleven Lakhs Sixty-Six Thousand Three Hundred and Four rupees only).

54. Now, therefore, M/s. RM Ribbons (IEC No. AAWFR1796C) with registered office at Door No 2, Hunters Road, 1st Floor, Choolai, Chennai, Tamil Nadu, 600084, in respect of Bills of entry covered in Annexure -B, were called upon to show cause in writing to the **Adjudicating Authority**, i.e., the Commissioner of Customs, NS-III, Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Distt- Raigad, Maharashtra-400707, within 30 (Thirty) days from the receipt of this notice, as to why:

a) The value of nail clippers imported vide 01 Live Bill of Entry No. 2640453 dated 28.09.2022 & 01 Past Bill of Entry No. 8888769 dated 30.05.2022 by mis-declaration of value should not be rejected and redetermined.

b) The "Narrow Woven Fabrics (plain strips)" imported vide 06 Past Bills of Entry filed during the period from 21.08.2021 to 28.09.2022 and classified under CTH 58071020, 58071090 &58079090 should not be reassessed to correct classification of CTH 58063200.

c) The subject imported goods "nail clippers" & "Narrow Woven Fabrics (plain strips)" valued Rs. 5,40,65,684/- (Five Crores Forty Lakhs Sixty-Five thousand Six hundred eighty-four rupees only) imported vide 01 Live Bill of Entry & 07 Past Bills of Entry from 21.08.2021 to 28.09.2022 (which includes the imported goods valued a t R s. 1,63,892/- available in warehouse/godown & seized under Mahazar dated 03.10.2022) should not be held liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

d) The differential BCD of Rs. 51,37,615/- (Fifty-One Lakh Thirty-Seven Thousand Six Hundred Fifteen Rupees only), differential SWS of Rs. 5,13,762/- (Five Lakhs Thirteen Thousand Seven Hundred and Sixty-Two Rupees only) & differential IGST of Rs. 55,14,927/- (Fifty-Five Lakhs Fourteen Thousand Nine Hundred and Twenty-Seven Rupees only) in respect of 01 Live Bill of Entry & 07 Past Bills of Entry from 21.08.2021 to 28.09.2022, which was not levied by reason of willful mis-statement and suppression of facts should not be demanded from them, in terms of the provisions of Section 28 (4) of the Customs Act, 1962.

e) The applicable interest should not be recovered from them in terms of the provisions of Section 28 (4) of the Customs Act, 1962 read with section 28(10) & 28AA of the Customs Act, 1962.

f) M/s. RM Ribbons should not be held liable for penalty under the provisions of Sections 112 (a), 112(b) & 114A of the Customs Act, 1962.

g) Shri Vinod Ranka, authorized person of M/s. RM Ribbons should not be held liable for penalty under the provisions of Sections 112(a), 112(b) & 114AA of the Customs Act, 1962.

h) An amount of Rs. 50,00,000/- paid by M/s. RM Ribbons towards differential duties (BCD, SWS & IGST) paid under protest should not be treated as voluntary duty payment and should not be appropriated against the differential duty payable by them as demanded in sub-para (d) above.

i) The bank guarantee No. 6031NDDG00001123 dated 24.11.2022 for an amount of Rs.27,50,565/- furnished by M/s. RM Ribbons at the time of provisional release of seized goods, should not be encashed & appropriated against the demand proposed in sub-paras (e), (f) & (g) above.

WRITTEN SUBMISISON

55. The written submission dated 10.07.2025 of the Noticee is as follows:-

55.1 M/s R M Ribbons (the importer), submit that the SCN under reference is ill conceived and not sustainable on limitation and merits, being based on erroneous facts and law. We submit that the proposals in the SCN need to be dropped on the following amongst other grounds which are without prejudice to each other:

55.2 No duty liability in respect of six bills of entry of white strips label tape classified under CTH 5807:

The demand of differential duty amounting to Rs 26,15,130 in respect of the six consignments of printed labels is based on:

- examination of the live consignment imported by M/s Osyan Trading Enterprises Pvt. Ltd. under Bill of Entry No. 2623872 dated 27 September 2022. Refer Para 15 of the SCN.
- In warehouse No. 10, Massey Enterprises Pvt. Ltd., Royapuram, Chennai, 'plain rolls of textile strips' valued at Rs 4.91 crores were seized under Mazhar dated 03/10/2022.
- The SCN suggests that the stock in warehouse No. 10 included goods valued at Rs 1,63,892 imported by M/s R. M. Ribbons, Refer Para 41 of the SCN.
- The SCN in Para 15 makes an averment that there was no separate stock register maintained with details recorded Bill of Entry - wise or firm- wise and the goods imported in the name of M/s R. M. Ribbons and M/s Osyan Trading Enterprises could not be segregated.

55.3 Demand not sustainable on the basis of investigations related to M/s Osyan Trading Enterprises

At the outset, we submit that the demand for differential duty cannot be fastened on M/s R. M. Ribbons on the basis of investigations related to M/s Osyan Trading Enterprises even if the two entities were considered as associate enterprises. There cannot be a presumption that the consignments imported and cleared in the six subject Bills of Entry were mis-declared only because misdeclaration was noticed in the live consignment of M/s Osyan Trading Enterprises.

55.4 Presumption that the stock of plain strips seized in warehouse No. 10 included the goods belonging to M/s R. M. Ribbons:

The averment in Para 51 of the SCN is without any basis in as much as it suggests that the stock valued at Rs 4.91 crores stored in warehouse No. 10 included 'plain rolls of textile strips' valued at Rs 1,63,892 imported by M/s R.M. Ribbons. In this context, it is relevant that the SCN in Para 15 acknowledges that no stock register was maintained either Bill of Entry wise or firm wise. In the circumstances, there is no evidence to suggest that the stock seized in warehouse No. 10 included any stock imported by or belonging to M/s R. M. Ribbons.

55.5 Submissions by M/s Osyan Trading Enterprises.

We understand that M/s Osyan Trading Enterprises have explained that the stock of 'plain strips' found in warehouse No. 10 was imported by them correctly classifying it under heading 5806.

We crave leave to refer to and rely upon the submissions of M/s Osyan Trading Enterprises in as much as-

- there was no evidence that the goods stored in warehouse No. 10 were imported goods with classification under heading 5807.

- The stock of plain strips found in warehouse No. 10 was imported with correct classification under heading 5806.
- The subject goods not being notified under section 123, the onus was on the department to establish that the stock of goods in warehouse No. 10 was imported with any kind of irregularity.
- It is a hypothetical premise that the goods imported by M/s R. M. Ribbons, with description identical to the description in the live consignment of M/s Osyan Trading Enterprises, were also 'plain strips' and, therefore. misdeclared.

55.6 Demand barred by limitation, extended period not invokable.

The subject SCN dated 27 September 2024 has demanded duty in respect of six bills of entry filed during the period 21st August 2021 to 27th November 2021. We submit that the SCN issued after the normal period of two years under section 28(1) of the Customs Act, 1962 is barred by the prescribed limitation. We humbly submit that the extended period of limitation under section 28(4) of the Customs Act, 1962 cannot be invoked on the basis of a bald and unfounded allegation of misdeclaration.

55.7 Valuation of nail clippers imported under Bill of Entry No. 2640453 dated 28th September 2022 (the live consignment) and Bill of Entry No. 8888769 dated 30th May 2022.

The SCN has proposed to reject the declared values of nail clippers and to redetermine and the same on the basis of proforma invoices recovered from the email communication by Mr. Vinod Ranka with the supplier M/s Bell Metal Ind. Co., Ltd. along with the payment details for the differential value. (Refer RUD A-4 and A-21). Apparently, Mr. Vinod Ranka, the Authorized Representative of the importer has admitted the under valuation in reference to the email communication and parallel set of proforma invoices.

55.8 Provisions of section 138C (2) of the Customs Act 1962 not followed in respect of email communication.

We humbly submit that the charge of under-valuation cannot be sustained on the basis of email communication relied upon in the SCN, apparently retrieved without following the conditions stipulated under section 138C (2) of the Customs Act, 1962. The provisions are para materia with the provisions of section 65B of the Indian Evidence Act, 1872.

In this context, attention is invited to the decision of Hon'ble Supreme Court in case of Anvar P V versus P K Bashir, 2017 (352) ELT 416 (S.C.) followed by CESTAT, Delhi in case of S N Agrotech Vs CC, New Delhi reported in 2018 (361) ELT 761 (Tri. - Delhi).
It is relevant that the SCN does not refer to any compliance to the provisions of section 138C(2) of the Customs Act, 1962 while retrieving the email communication and the proforma invoices relied upon in the SCN. The Panchanama dated 3rd October 2022 marked as RUD A1 notes about furnishing a certificate related under section 65B of the Indian Evidence Act, 1872 in reference to the mobile phones of Mr. Vinod Ranka and Mr. Pannalal Ranka (RUD A-1 internal page 6). The said certificate related to the mobile phones is not made available as part of the RUDs. Even otherwise, the Panchanama in RUD A-1 does not make any reference to any certification for the computers (from which the e-mail communication / proforma invoices were retrieved) in reference to section 65B of the Indian Evidence Act, 1872 or section 138C(2) of the Customs Act, 1962.Therefore, the email communication and the proforma invoices said to be retrieved from the computer in possession of the noticee has no evidential value.

55.9 Statement recorded under duress

We humbly submit that the deposition of Mr. Vinod Ranka dated 3rd October 2022 has been recorded under threat of arrest. Such a statement not being voluntarily recorded, cannot be relied upon to sustain the charge of undervaluation.

55.10 No admission of undervaluation for the past consignment.
The SCN has relied on the deposition of Mr. Vinod Ranka admitting undervaluation in case of the Live Bill of Entry No. 2640453 dated 28th September 2022. However, the SCN conveniently overlooks the fact that Mr. Vinod Ranka has categorically denied any undervaluation in respect of the past Bill of Entry No. 8888769 dated 30th May 2022. He has clarified that the earlier consignment consisted of second quality products. We humbly submit that the statement recorded under section 108, even if considered as recorded voluntarily, cannot be relied in a selective manner only when it suits the revenue. Coupled with the fact that there is no digital evidence to the contrary sustainable under law, we submit that the demand for differential duty in respect of the past consignment of nail clippers is not sustainable.

55.11 Interest not payable:

Interest is an accessory to the principal. Therefore, the Noticee Importer is not liable for payment of any interest as demanded in the SCN if the demand in the SCN is set aside, being not sustainable under law on merits as also on limitation.

55.12 Liability to confiscation and penalty.

We crave leave to refer to and rely upon the submissions of M/s Osyan Trading Enterprises Pvt. Ltd. in respect of the liability of the subject goods to confiscation and various penalties proposed in the SCN.
We submit that there should not be any liability to confiscation or penalty if it is held that the differential duty demand is not sustainable on the ground of merit or limitation or lack of conclusive evidence. We submit that no redemption fine is impossible in respect of goods which are not available for confiscation even if held liable for confiscation as held by jurisdictional High Court of Bombay n case of Finesse Creations INC reported in 2009 (248) ELT 122 (Bom) upheld by the Hon'ble Supreme Court and followed by Hon'ble Bombay High Court in the case of Commissioner of Customs, NS1 Vs Frigorifico Allana Pvt. Ltd. reported in 2024 (12) TMI (101) Bom and CESTAT Mumbai in the case of Shashidhawal Hydraulics Vs CC (I) Mumbai reported in 2019 (370) ELT 999.

<u>PERSONAL HEARING</u>

56. Authorized Representative Shri Prashant Patankar appeared before me on 14.07.2025 on behalf of the Noticee and reiterated his written submission dated 10.07.2025 on behalf of the Noticee.

<u>DISCUSSION & FINDINGS:</u>

57. I have carefully gone through the Show Cause Notice (SCN) and its Relied Upon Documents (RUDs), Defence submissions, material on record and facts of the case. Before going into the merits of the case, I would like to discuss whether the case has reached finality for adjudication.

Principles of natural justice

58. Before going into the merits of the case, I observe that in the instant case, in compliance of the provisions of Section 28(8) the Customs Act, 1962 and in terms of the principle of natural justice, personal hearing opportunity was granted to the Noticee and Personal Hearing was attended by the authorized representative of the Noticee on 14.07.2025. The Authorized Representatives of Noticee reiterated their written submissions and confirmed that nothing more they want to add to their submissions. I thus find that the principle of natural justice has been followed and I can proceed ahead with the adjudication process. I also refer to the following case laws on this aspect-

- Sumit Wool Processors Vs. CC, Nhava Sheva [2014 (312) E.L.T. 401 (Tri. - Mumbai)]
- Modipon Ltd. Vs. CCE, Meerut [reported in 2002 (144) ELT 267 (All.)]

59. Framing of issues

Pursuant to a meticulous examination of the Show Cause Notice and a thorough review of the case records, the following pivotal issues have been identified as requisite for determination and adjudication:

a) As to whether the value of nail clippers imported vide 01 Live Bill of Entry No. 2640453 dated 28.09.2022 & 01 Past Bill of Entry No. 8888769 dated 30.05.2022 by mis-declaration of value should be rejected and redetermined.

b) As to whether the "Narrow Woven Fabrics (plain strips)" imported vide 06 Past Bills of Entry filed during the period from 21.08.2021 to 28.09.2022 and classified under CTH 58071020, 58071090 &58079090 should be reassessed to correct classification of CTH 58063200.

c) As to whether the subject imported goods "nail clippers" & "Narrow Woven Fabrics (plain strips)" valued Rs. 5,40,65,684/- (Five Crores Forty Lakhs Sixty-Five Thousand Six hundred eighty-four rupees only) imported vide 01 live bill of entry of nail clippers, 01 past bills of entry of nail clippers and 06 bill of entry of white strips labels tape from 21.08.2021 to 28.09.2022, (which includes the imported goods valued a t R s. 1,63,892/- available in warehouse/godown & seized under Mahazar dated 03.10.2022) should be held liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

d) As to whether the total differential duty of Rs. 1,11,66,304/- (one crore eleven lakhs sixty six thousand three hundred and four only) in respect of 01 live bill of entry of nail clippers, 01 past bills of entry of nail clippers and 06 bill of entry of white strips labels tape from 21.08.2021 to 28.09.2022, which was not levied by reason of willful mis-statement and suppression of facts should be demanded from them, in terms of the provisions of section 28 (4) of the customs act, 1962 along with the applicable interest under the provisions of section 28(10) & 28aa of the customs act, 1962.

e) As to whether M/s. RM Ribbons should be held liable for penalty under the provisions of Sections 112 (a), 112(b) & 114A of the Customs Act, 1962.

f) As to whether shri Vinod Ranka, authorized person of M/s. RM Ribbons should not be held liable for penalty under the provisions of Sections 112(a), 112(b) & 114AA of the Customs Act, 1962.

g) As to whether an amount of Rs. 50,00,000/- paid by M/s. RM Ribbons towards differential duties (BCD, SWS & IGST) paid under protest should not be treated as voluntary duty payment and bank guarantee No. 6031NDDG00001123 dated 24.11.2022 for an amount of Rs.27,50,565/- furnished by M/s. RM Ribbons at the time of provisional release of seized goods, should be encashed & appropriated against the demand proposed.

a. <u>NOW I TAKE UP THE FIRST QUESTION AS TO WHETHER THE VALUE OF NAIL CLIPPERS IMPORTED VIDE 01 LIVE BILL OF ENTRY NO. 2640453 DATED 28.09.2022 & 01 PAST BILL OF ENTRY NO. 8888769 DATED 30.05.2022 BY MIS-DECLARATION OF VALUE SHOULD BE REJECTED AND REDETERMINED.</u>

60.1 I observe that the Noticee, M/s. R.M. Ribbons, imported a consignment of nail clippers under Bill of Entry No. 2640453 dated 28.09.2022. The said consignment was subjected to an open examination at M/s. Gateway Distripark Ltd. (GDL), Container Freight Station (CFS), Navi Mumbai, vide panchnama dated 11.10.2022. Upon examination, the goods were found to be "Bell" brand Nail Clippers, as declared in the BE. The summary of live Bill of Entry regarding description, model, quantity declared &

found at the time of examination and other relevant details of the live Bill of Entry along with relevant details of past Bill of Entry of nail clippers are reproduced below as TABLE X: -

Bill of Entry No. and Date	Item no. and quantity in Dozen	Unit Value as Commercial Invoice (in USD) per Dozen	Amount as per Commercial Invoice (in USD)	Unit Price as per Performa Invoice (in USD) per Dozen	Legal Provision for Valuation	Amount as per Performa Invoice (in USD)	Duty Paid (in Rs.)	Re-determined Duty (in Rs.)	Differential Duty Payable (in Rs.)
2640453 dt 28.09.2022 (Live)	N-129 (30,000)	0.42	12,600	4.96	Section 14	1,48,800	4,21,941/-	47,49,193	43,27,253/-
	N-211 (4,000)	0.35	1,400	4.65	Section 14	18,600			
	N-309(6,000)	0.35	2,100	3.42	Section 14	20,520			
	N-129(2,000)	0.42	840	NCV		0			
	Freight					2,750			
	Total (in USD)		16,940			**1,90,670/-**			
	Total Value in INR(USD = 80.4)		13,61,976/-			**1,53,29,868/-**			
8888769 dt 30.05.2022 (Past)	N-129(30,000)	0.42	12,600	4.96	Section 14	1,48,800	4,03,971	45,59,591.25	41,55,619.25
	N-129(2,000)	Free of Cost	840			0			
	N211(4,000)	0.35	1,400	4.65	Section 14	18,600			
	N-309(5,000)	0.35	1,750	3.42	Section 14	17,100			
	Freight					2,750			
			16,590			**1,87,250/-**			
8888769 dt 30.05.2022 (Past)	N.211D(500)	.60	300	6.21	Rule 9 of the CVR	**3105**	**7305**	**75606.75**	**68,301.75/-**
	Total (in USD)		16,890			**1,90,355**	4,11,276/-	46,35,198	42,23,921/-
	Total Value in INR(USD = 78.6)		13,27,555/-			**1,49,61,903/-**	**8,33,217/-**	**93,84,391/-**	**85,51,174/-**

Total Re-determined Value in INR – 1,53,29,868 + 1,49,61,903 = 3,02,91,771/-
Total Differential Duty – 85,51,174/-

60.2 I observe that Noticee imported three models of Bell nail clippers namely N-129, N-211 and N-309 vide live Bill of entry no. 2640453 dt 28.09.2022 as mentioned in table no. X . They had already imported all three said models under a past Bill of Entry no. 8888769 dt 30.05.2022. However, under the said past Bill of entry they also imported a fourth Model namely N- 211 D. It is also observed that incase of the three common models imported vide both the Bills of entry, the importer declared identical model number, description, unit price, etc.. In case of the fourth model namely N- 211D also, the same is identical to model no. N-211 with a difference that N-211 D has an addition in the form of a "Catcher" i.e. a small container or attachment designed to collect nail clippings as they are cut.

LIVE BILL OF ENTRY

Findings on the basis of Provisions of Section 14 of the Customs Act, 1962 in the light of evidence available on the record: -

60.3 In this context, during the search at the place of the related party (M/s Osyan Trading), certain evidences in the form of parallel performa manufacturer invoice issued by M/s Bellmetals, Korea certain emails confirming financial flowback etc. were recovered in relation to the live Bill of entry no. 2640453 dt 28.09.2022. In this regard, the department case is based on the fact that valuation has to be determined on the basis of the actual transactional value instead of mis-declared lower value declared at the time of filing of the said Bill of entry. The department case is based on the following evidences: -

RELIED UPON DOCUMENTS	
ANNEXURE-A	
A1	Search Proceedings drawn at Rajendra Complex, No. 67, Narayana Mudali Street, 2nd Floor Sowcarpet, Chennai, Tamil Nadu- 600001
A2	Search Proceedings vide mahazar dated 03.10.2022 drawn at Warehouse No.10, Massey's Enterprises Pvt Ltd, No.17, North Railway Terminus Road, Royapuram, Chennai-13
A3	Stock summary (for the period April-20 to Mar-21) stored at the said godown, "Plain Rolls of textile strips" valued at Rs. 1,63,892/- which were imported in the name of M/s. R.M Ribbons
A4	Email communications retrieved during search proceedings at Rajendra Complex, No. 67, Narayana Mudali Street, 2nd Floor Sowcarpet, Chennai, Tamil Nadu- 600001 vide mahazar dated 03.10.2022
A5	Investigation report dated 23.06.2024 of M/s. Osyan Trading Enterprise Pvt. Ltd in F.No. DRI/CZU/VIII/48/ENQ-1/INT-46/2022 forwarded to The Commissioner of Customs (NS-III), Jawaharlal Nehru Custom House, Nhava Sheva, Tal-Uran, Raigad-400707
A6	Statement of Shri Pannalal Ranka, Authorised Person of M/s. Osyan Trading Enterprise Private Limited, Chennai recorded under Section 108 of Customs Act, 1962, on 03.10.2022
A7	Statement of Shri Vinod Ranka, one of the Directors of M/s. Osyan Trading Enterprise Private Limited, Chennai recorded under Section 108 of Customs Act, 1962, on 03.10.2022

A8	Examination of goods imported vide Bill of Entry No. 2640453 Dated 28.09.2022 at M/s. Gateway Distripark Ltd (GDL) CFS, Navi Mumbai vide Panchanama dated 11.10.2022
A9	Seizure Memorandum dated 11.10.2022
A10	The importer vide letter dated 26.10.2022 seeking provisional release of the seized goods
A11	Provisional release order issued by the Assistant Commissioner of Customs, JNCH vide Provisional Release order CBIC DIN – 20221178NV000000D060 dated 24.11.2022 on execution of Bond for an amount of Rs.1,53,29,900/- and Bank Guarantee No. 6031NDDG00001123 dated 24.11.2022 for an amount of Rs.27,50,565/-
A12	The importer vide letter dated 26.10.2022 seeking provisional release of the goods seized from godown
A13	Provisional Release order issued by the Assistant Commissioner of Customs, JNCH vide Provisional Release order CBIC DIN – 20221178NV00000DD8D dated 22.11.2022 on execution of Bond for an amount of Rs.5,31,00,689/- and Bank Guarantee for an amount of Rs.1,20,00,000/-
A14	Examination of goods imported vide Bill of Entry No. 2623872 dated 27/09/2022 at M/s. Gateway Distripark Ltd (GDL) CFS, Navi Mumbai vide Panchanama dated 11.10.2022
A15	Import documents of Bill of Entry No. 2623872 dtd 27/09/2022
A16	letter F.No. DRI/CZU/VIII/48/ENQ-01/INT-46/2022 dated 21.10.2022 addressed to Textiles Committee, North Wing, 1st Floor, NSC Board Complex, R.K. Mutt Road, Mylapore, Chennai-04 for testing of 14 samples
A17	The test report dated 26.10.2022 in respect of all the 14 samples received from the Quality Assurance Officer, Textiles Committee, Chennai
A18	Statement of Shri Pannalal Ranka, Authorised Person & Partner of M/s. RM Ribbons, Chennai recorded under Section 108 of Customs Act, 1962, on 04.07.2024
A19	Statement of Shri Suresh Kumar Jain, Authorised Person of M/s. Pragathi Sales, New Delhi (one of the domestic buyers of M/s. RM Ribbons) recorded under Section 108 of Customs Act, 1962, on 04.07.2024
A20	Statement of Shri Kamalesh Kumar, Authorised Person of M/s. JG Impex Private Limited, New Delhi (one of the domestic buyers of M/s. RM Ribbons) recorded under Section 108 of Customs Act, 1962, on 09.07.2024
A21	Email communications retrieved during search proceedings at Rajendra Complex, No. 67, Narayana Mudali Street, 2nd Floor Sowcarpet, Chennai, Tamil Nadu- 600001 vide mahazar dated 03.10.2022
A22	TR6 Challan No. HC72, HCM 581, HCM 582 all dated 09.11.2022 for payment of Rs. 50,00,000/-

Documentary Evidence about parallel invoice

I observe that during the course of investigation, statement of Shri. Vinod Ranka, Authorised person of the firm M/s. R.M. Ribbons on 03.10.2022 under the provisions of Section 108 of the Customs Act, 1962, wherein he inter-alia admitted that the proforma invoice having higher value is the actual purchase invoice of the goods and the commercial invoice showing lower value is the undervalued invoice used for submission before the Customs Authorities at the time of filing Bill of Entry for clearance of the goods; that he undervalued the same to reduce the sale value and to sustain in competitive market. The commercial invoice No. BM-22-021 dated 31.08.2022 submitted to the customs is reproduced below:

COMMERCIAL INVOICE

Shipper / Exporter BELL METAL IND. CO., LTD 27, 2 GONGDAN 7-GIL, SEOBUK-GU, CHEONAN-SI, CHUNGCHEONGNAM-DO, REP. of KOREA	No. & date of Invoice BM-22-021 AUG. 31, 2022 No. & date of L/C
For Account & Risk of Messrs. R M RIBBONS NO 2, HUNTERS ROAD, 1st FLOOR, CHOOLAI, CHENNAI, TAMILNADU 600112- INDIA	L/C Issuing bank
Notify party SAME AS CONSIGNEE	Remarks :
Port of loading BUSAN, KOREA	Final destination NHAVASHEVA, INDIA
Carrier SHANGHAI VOYAGER 2208W	Sailing on or about SEPT. 09, 2022

Marks & NO.s of pkg	Description of Goods		Quantity	Unit price	Amount
	780 CTNS	NAIL CLIPPER & SCISSORS *************			CIF NHAVASHEVA, INDIA **************
FRONT: OSYAN	N-129	BELL NAIL CLIPPER WITH CHAIN, BULK	32,000 DOZ	USD 0.42	USD 13,440.00
BACK: ITEM NO.:	N-211	BELL BRAND TONAIL CLIPPER, BULK	4,000 DOZ	USD 0.35	USD 1,400.00
C/T NO.:	N-309	BELL NAIL CLIPPER WITH KEYCHAIN, BULK	6,000 DOZ	USD 0.35	USD 2,100.00
	TOTAL *******		42,000 DOZ **********		USD 16,940.00 ***************

60.4 The Proforma invoice No. BM-22-021 showing the actual value USD 190,670 was recovered from one of the computers belonging to M/s. RM Ribbons during the mahazar dated 03.10.2022. The actual invoice No. BM-22-021 is reproduced below for the ease of reference:

PROFORMA INVOICE
(P/I NBR : BM22-021)

DEAR SIR

WE ARE PLEASED TO CONFIRM OUR SALES TO YOU THE FOLLOWING GOODS ON THE TERMS AND CONDITIONS SET FORTH BELOWS.

SHIPMENT DATE : around 10th September 2022 ORIGIN : Republic of Korea
PRICE OF TERMS : CIF NHAVASHEVA, MUMBAI INDIA PACKING : Export standard packing
PAYMENT : 50% after order confirmation & 50% before the shipment
PORT OF LOADING : Busan, Korea
VALIDITY : Date from issued date
OUR BANK : BENEFICIARY: BELL METAL. IND. CO., LTD
BANK NAME: INDUSTRIAL BANK OF KOREA
SWIFT CODE NO.: IBKOKRSEXXX
BANK ADDRESS: 50, ULCHIRO 2-GA, CHUNG-GU, SEOUL, SOUTH KOREA
ACCOUNT NO.: 462-000684-56-00014

ITEM NO.	DESCRIPTION	Q'TY	USD $	AMOUNT
N-129	Bell brand nail clipper w/ chain, bulk	30,000 /DOZ	$4.96 /DOZ	$148,800.00
N-211	Bell brand Toenail clipper, bulk	4,000 /DOZ	$4.65 /DOZ	$18,600.00
N-309	Bell brand nail clipper with keychain, bulk	6,000 /DOZ	$3.42 /DOZ	$20,520.00
	FREIGHT FEE			$2,750.00
	No commercial value			
N-129	Bell brand nail clipper w/ chain, bulk	2,000 /DOZ	$0.00 /DOZ	$0.00
TOTAL	ITEMS	42,000 DOZ		$190,670.00

60.5 I observe that the actual Invoice No. BM-22-021showing a total value of USD 196,670 for 42000 dozen of nail clippers and item numbers (N-129, N-211, N-309) of the imported goods are tallied with the actual quantity and description of goods as imported vide the Bill of Entry No. 2640453 dated 28.09.2022. The same was also corroborated during the examination of the container No. TEMU50812580 of the subject bill of entry under the Panchanama proceedings dated 11.10.2022 at M/s. Gateway Distripark Ltd (GDL) CFS, Navi Mumbai. In view of the above, I find that the actual value as per the manufacturer invoice is much more than the declared by the importer in the Bill of Entry, the value has to be determined as per the actual transaction value on which transaction took place in terms of section 14 of the Customs Act, 1962.

60.6 In view of the above, the Show Cause Notice has proposed to re-determine the assessable value as per the Actual transaction value on the basis of available evidence and this is not a case where the show cause notice has proposed to redetermine the assessable value on presumptive principles as enshrined in the Customs Valuation rules, 2007. I observe that correct Transaction Value of the goods imported for the purpose of Section 14(1) of the Customs Act, 1962 read with provisions of the Customs Valuation Rules, 2007 appears to be the value indicated / mentioned in the original invoices and contracts issued by overseas suppliers recovered from the seized records and imaged data of electronic devices withdrawn under panchanama dated 03.10.2022, total price of which was paid by the importer through his bank and by TeleTransfer etc.. Details of re-determined transaction value and the duty payable on the differential value on account of undervaluation are as per Table X above.

60.7 Oral evidence

I further observe that statement of Shri Vinod Ranka, Authorised Person of M/s. RM Ribbons, Chennai was recorded under Section 108 of Customs Act, 1962, on 03.10.2022 wherein inter-alia he stated that: -

- *He handled the nail clippers consignment arrived in container TEMU5081280,* *Bill of Entry No. 2640453 dated 28.09.2022 was filed by CHA M/s. Ascent Logistics, Mumbai at Nhava Sheva Mumbai. The invoice number is BM-22-021 dated 31.08.2022. The supplier of the said nail clippers is M/s. Bell Metal India Co. Ltd, Republic of Korea.*

- ***On being shown the invoice no. BM-22-021 dated 31.08.2022 submitted at the time of filing the Bill of Entry No. 2640453 dated 28.09.2022 & another invoice number no. BM-22-021 dated 03.08.2022 (marked as No.16) recovered vide Mahazar dated 03.10.2022 drawn in his presence at 67, Narayana Mudali Street, Sowcarpet, Chennai-600001, he stated that the invoice no. BM-22-021 dated 31.08.2022 was commercial invoice submitted at the time of filing of Bill of Entry No. 2640453 dated 28.09.2022; that another Invoice number no. BM-22-021 dated 03.08.2022 (marked as No.16) recovered vide Mahazar dated 03.10.2022 is a proforma invoice.***
- ***On being asked about the undervaluation of the consignment arrived in TEMU5081280 vide Bill of Entry No. 2640453 dated 28.09.2022, he admitted that he undervalued the said consignment arrived in TEMU5081280 vide Bill of Entry No. 2640453 dated 28.09.2022 to reduce the sale value and to sustain in competitive market.***
- ***On being asked about the payment made to the Korean supplier M/s. Bell Metal Ind. Co. Ltd with respect to the import of nail clippers by undervaluation, he stated that the said consignment belongs to his friend Shri Rakesh of Dubai; that he invested in the said consignment and entrusted him with the sale of consignment of nail clippers in container no. TEMU5081280; that after the price was negotiated with the supplier M/s. Bell Metal India Co. Ltd, Republic of Korea, the proforma invoice was received in the email clair_md@outlook.com to verify the details mentioned in invoice; that the price to be declared to the Customs was decided by Shri Rakesh.***
- ***The difference between the actual price shown in the proforma invoice and undervalued commercial invoice was transferred by Teletransfer by Shri Rakesh from Dubai; that the payment of USD 16890 (as per undervalued commercial invoice) was made by M/s. R. M. Ribbons from the account no. 603105265302 maintained at ICICI Bank The payment details of the Teletransfer for the differential amount is shared to the supplier via clair_md@outlook.com. For commission basis, he accepted to undervalue the same on the instructions of Shri Rakesh.***
- ***On being shown the email dated 16.09.2022 (time 13:43) marked as No.2 in the documents resumed in mahazar dated 03.10.2022, he stated that the said email dated 16.09.2022 (time 13:43) was received from his supplier M/s. Bell Metal Ind. Co. Ltd; that in the said email, the payment particulars sent through Teletransfer for the consignment viz. Bill of Entry No. 2640453 dated 28.09.2022 was acknowledged by the supplier.***
- *On being asked about the past imports of nail clippers from M/s. Bell Metal Ind. Co. Ltd, he stated that they have imported total of two consignments from M/s. Bell Metal Ind. Co. Ltd. However, the current consignment viz. Bill of Entry No. 2640453 dated 28.09.2022 was only undervalued. The first consignment viz. BE No. 8888769 dated 30.05.2022 from M/s. Bell Metal Ind. Co. Ltd was second quality product. M/s. Bell Metal Ind. Co. Ltd manufactures both first quality and second quality products.*
- *The high-quality product usually costs under USD 5-6 per dozen which is equivalent to Rs. 400- Rs. 500; that the landing cost of one nail cutter after payment of duty and other charges is Rs. 45/-; that the nail cutters sold in India are sold between Rs. 10-20/-; that the nail cutters business is not at all profitable in India as the suppliers across the globe were suffering from the shortage of steel material supply; that only second quality product with low steel content are sold in*

India.

- *They have imported one such second quality product in their earlier consignment under BE No. 8888769 dated 30.05.2022; that with respect to the current consignment, Shri Rakesh in the month of August, 2022, called him in WeChat application and informed that he has premium clients in Mumbai who is willing to purchase first quality product and showed his willingness to invest in the said consignment and requested him to declare the low value; that he accepted the same for commission purpose.*
- *On being shown the email dated 10.05.2022 (time 14:13) about the payment in 22-006 wherein it is mentioned order amount is USD 190,355, he did not offer any comments and stated that he has not undervalued the said consignment*
- *On being shown the email dated 31.08.2022 (time 06:39) where the price list of imported nail clippers is shared by his supplier, he stated that the said price list was shared by the supplier for the first quality product; that they have never showed interest in the said prices; that the said price quoted by M/s. Bell Metal Ind. Co. Ltd is too high and no buyer in India would be willing to purchase the said product at high price.*
- *The said products imported under consignment viz. BE No. 8888769 dated 30.05.2022 were sold at Rs. 40 per dozen i.e., Rs. 4 approx per nail clipper and can be verified from their GST Data.*

60.8 In view of the above statement, I find that the authorized representative of the importer has clearly and unambiguously corroborated with the following facts :-

- The Performa invoice no. BM-22-021 dated 03.08.2022 recovered during the mahazar proceedings dated 03.10.2022 is actual manufacturer invoice.
- Accepted the under valuation as alleged in the Show Cause Notice.
- They have sent the differential duty to the supplier through TeleTrasnfer.

60.9 I further observe that the Legal position about the importance and validity of statements rendered under Section 108 of the Customs Act, 1962 is well settled. It has been held by various judicial fora that Section 108 is an enabling act and an effective tool in the hands of Customs to collect evidences in the form of voluntary statements. The Hon'ble Courts in various judicial pronouncements, have further strengthened the validity of this enabling provision. It has been affirmed that the statement given before the Customs officers is a material piece of evidence and certainly can be used as substantive evidence, among others, as held in the following cases:

i. *Asst. Collector of Central Excise, Rajamundry* v. M*/s. Duncan Agro India Ltd.* reported in 2000 (120) E.L.T. 280 (S.C.) : Statement recorded by a Customs Officer under Section 108 is a valid evidence

ii. In 1996 (83) E.L.T. 258 (S.C.) in the case of *Shri Naresh J. Sukawani* v. *Union of India*: *"4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act."*

iii. It was held that statement recorded by the Customs officials can certainly be used against a co-noticee when a person giving a statement is also tarnishing his image by making admission of guilt. Similar view was taken in the case of In *Gulam Hussain Shaikh Chougule* v. *S. Reynolds* (2002) 1 SCC 155 = 2001 (134) E.L.T. 3 (S.C.)

iv. State (NCT) Delhi Vs Navjot Sandhu @ Afsan Guru, 2005 (122) DLT 194 (SC): Confessions are considered highly reliable because no rational person would make admission against his interest unless prompted by his conscience to tell the truth. "Deliberate and voluntary confessions of guilt, if clearly proved are among the most effectual proofs in law." (Vide Taylors's Treatise on the Law of Evidence, VI. I).

v. There is no law which forbids acceptance of voluntary and true admissional statement if the same is later retracted on bald assertion of threat and coercion as held by Hon'ble Supreme Court in the case of K.I. Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin, (1997) 3 SCC 721.

vi. Hon'ble Supreme Court in the case of Kanhailal Vs. UOI, 2008 (1) Scale 165 observed: *"The law involved in deciding this appeal has been considered by this court from as far back as in 1963 in Pyare Lal Bhargava's case (1963) Supp. 1 SCR 689. The consistent view which has been taken with regard to confessions made under provisions of section 67 of the NDPS Act and other criminal enactments, such as the Customs Act, 1962, has been that such statements may be treated as confessions for the purpose of Section 27 of the Indian Evidence Act.*

vii. Hon'ble High Court of Mumbai in FERA Appeal No 44 OF 2007 in the case of KANTILAL M JHALA Vs UNION OF INDIA vide judgment dated: October 5, 2007 (reported in 2007-TIOL-613-HC-MUM-FEMA) held that "***Confessional statement corroborated by the seized documents, admissible even if retracted".***

viii. The Apex Court in the case Hazari Singh V/s. Union of India reported in 110 E.L.T. 406, and case of Surjeet Singh Chhabra V/s. Union of India & Others reported in 1997 (1) S.C.C. 508 has held that the confessional statement made before the Customs Officer even though retracted, is an admission and binding on the person.-*"*

ix. The Hon'ble Supreme Court in the case of Badaku Joti Savant Vs. State of Mysore [1966 AIR 1746 = 1978 (2) ELT J 323 (SC 5 member bench)] laid down that statement to a Customs officer is not hit by section 25 of Indian Evidence Act, 1872 and would be admissible in evidence and in conviction based on it is correct.

x. In the case of Bhana Khalpa Bhai Patel Vs. Asstt. Collr. of Customs, Bulsar [1997 (96) E.L.T. 211 (SC)], the Hon'ble Apex Court at Para 7 of the judgment held that :-" *It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide Romesh Chandra v. State of West Bengal, AIR 1970 S.C. 940 and K.I. Pavunny v. Assistant Collector (H.Q.), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C.) = (1997) 3 S.C.C. 721."*

xi. In the case of Raj Kumar Karwal Vs. UOI & Others (1990) 2 SCC 409, the Court held that *officers of the Department of Revenue Intelligence who have been vested with the powers of an Officer-in-Charge of a police station under Section 53 of the NDPS Act, 1985, are not police officers within the meaning of Section 25 of the Evidence Act. Therefore, a confessional statement recorded by such officer in the course of investigation of a person accused of an offence under the Act is admissible in evidence against him.*

xii. Hon. Supreme Court's decisions in the case of Romesh Chandra Mehta Vs. the State of West Bengal (1969) 2 S.C.R. 461, A.I.R. 1970 S.C. 940. The provisions of Section 108 are judicial provisions within statement has been read, correctly recorded and has been made without force or coercion. In these circumstances there is not an iota of doubt that the statement is voluntary and truthful. The provisions of Section 108 also enjoin that the statement has to be recorded by a Gazetted Officer of Customs and this has been done in the present case. The statement is thus made before a responsible officer and it has to be accepted as a piece of valid evidence

xiii. Jagjit Singh vs State of Punjab And Another**,** Hon'ble Punjab and Haryana High Court in Crl. Appeal No.S-2482-SB of 2009 Date of Decision: October 03, 2013 held that: *The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the Hon'ble Supreme Court in Ram Singh vs. Central Bureau of Narcotics, 2011 (2) RCR (Criminal) 850.*

60.10 In view of the above referred consistent judicial pronouncements, the importance of statements rendered under Section 108 of the Customs Act, 1962 during the case is quite imperative**. I find that the statements made in the case were voluntary and are very much valid in Law and can be relied upon as having full evidentiary value.**

60.11 I also find that the Noticee has contended that the statement was recorded **under duress** and the same is unreliable for the purpose of proceedings envisaged under the impugned show cause notice. However, I find no merit in the contention because of the following reason: -

- There are corroborative evidences available like soft copy of the actual manufacturer invoice and email confirming the payment through banking channel and Teletransfer clearly showing involvement of the Noticee in the conspiracy of duty evasion by means of under valuation.
- The statement was recorded during the interim period of investigation. From the date of recording the statement till the conclusion of the adjudication process the statements was not retracted by the Noticee.
- Noticee has given a general statement that statement was recorded under threat of arrest, in genuine case a person will tell by whom he was threatened, which clearly indicates the same to be an afterthought.
- The investigation has brought out Noticee’s involvement without any contradiction about his role in the entire conspiracy of duty evasion.

From the above, it is evident that the noticee's contention that the statement was recorded under duress is an afterthought

<u>Digital and Documentary Evidence about the financial flowback</u>

60.12 I observe that evidences/documents retrieved from the computers under Mahazar dated 03.10.2022 and upon enquiry, Shri Vinod Ranka admitted that the value (USD 16940) mentioned in the commercial invoice No. BM-22-021 dated 31.08.2022 (undervalued invoice) was submitted to Customs at the t ime of filing Bill of Entry No. 2640453 dated 28.09.2022; that the said payment of USD 16890 was made by M/s. R. M. Ribbons from the account no. 603105265302 maintained at ICICI Bank. The said transaction was verified with the foreign advice of ICICI Bank dated 30.08.2022 and found that the payment of USD 16890 made to the supplier M/s. Bell Metal Ind Co. Ltd vide Bill No. 6031NMDC0026923 dated 30.08.2022 reflecting and the same is reproduced below

30 Aug. 2022

Foreign Advice

To.	From:
R M RIBBONS DOOR NO 2,1ST FLOOR,HUNTERS ROAD,CHOOLAI CHENNAI, TAMIL NADU - 600112 GSTIN : 33AAWFR1796C1ZV	ICICI BANK LIMITED Chennai-Sowcarpet 84,N S C BOSE ROAD, SOWCARPET,CHENNAI CHENNAI , Tamil Nadu - GSTIN : 33AAACI1195H1ZT

Category of service	: Foreign exchange services
HSN No	: 997157
SAC No	: 99711919
Registration No	: MIV/ST/Bank & Finc / 4

Dear Customer,

Your Customer ID : 568153690

Customer Reference Number :

We advise having debited your account as per the following details towards .

Drawer : BELL METAL IND CO LTD

TOL Ref No : OR43713622

Our Bill No.	6031NMDC0026923	Event Type	Realised
Bill Amount	USD 16,890.00	Event Date	30-08-2022
GSTIN Invoice No	3797DH2230001965	Value of Supply for FC conversion	5,843.43

60.12 From the above statement of Shri Vinod Ranka it can inferred that the difference between the actual price shown in the proforma invoice and undervalued commercial invoice was transferred by Teletransfer. On perusal of the email correspondences recovered during the Mahazar proceedings dated 03.10.2022, it is observed that Shri Vinod Ranka from his email <u>clair_md@outlook.com</u> was communicating with Mr. Sunny Jeon (sunny@bellmetal.com), Manager of M/s. Bell Metal Ind. Co. Ltd & supplier of the nail clippers to M/s. RM Ribbons; that Mr. Sunny Jeon vide email dated 16.09.2022 confirmed the part payments of invoice no. 22-021 received through Teletransfer (TT) on various dates. The relevant portion of the email communication dated 16.09.2022 confirming the payments received by M/s. Bell Metal Ind. Co. Ltd corroborating the statement of Shri Vinod Ranka dated 03.10.2022 in this regard is reproduced below:

RE: PAYMENT #BM22-021

Sunny Jeon (전선혜) <sunny@bellmetal.com>
Fri 16/09/2022 13:43
To: VINOD RANKA <clair_md@outlook.com>
DEAR MR. VINOD.

WE RECEIVED TT PYAMENT $42,000 (COMISSION $80)
REFER BALANCE AMOUNT AS BELOW. WE HOPE TO RECEIVE BY NEXT ORDER!

PAYMENT	22-021
TOTAL ORDER AMOUNT	$190,670.00
Balance order BM22-006	$558.00
RECEIVED TT (8/31)	$16,890.00
RECEIVED TT (9/5)	$31,869.00
RECEIVED TT (9/7)	$100,000.00
RECEIVED TT (9/16)	$42,000.00
TOTAL BALANCE	**$469.00**

WE REQUESTED BL TO FORWARDING COMPANY.
WE WILL SEND YOU AS SOON AS WE GET THEM.

HAVE A NICE WEEKEND

Thank you & Best Regards,
Ms. Sunny Jeon/ Manager (전선혜 과장)

BELL Since 1954 Professional Quality BELLMETAL

BELL METAL IND. CO., LTD

60.13 It is evident from the contents of the said email dated 16.09.2022 received from Mr. Sunny Jeon (sunny@bellmetal.com), Manager of M/s. Bell Metal Ind. Co. Ltd by Shri Vinod Ranka, Authorized person of M/s. R.M. Ribbons that the total amount for the ordered quantity was USD 190,670 & this amount was paid in installments through TeleTransfer on different dates (USD 16,890 on 31.08.2022, USD 31,869 on 05.09.2022, USD 100,000 on 07.09.2022 & USD 42,000 on 16.09.2022) and the balance payable was mentioned as USD 469.

60.14 In view of the above, I find that importer has undervalued the imports and sent the difference amount through Teletransfer.

Compliance with the requirement of the Section 138C (2) by the DRI.

60.15 I further observe that certain evidences/documents were retrieved from the computers located at the premises covered under the mahazar dated 03.10.2022. **The said data was retrieved by Shri M. Deva Indiran, Digital Forensic Expert from M/s. Pinaca Labs Pvt. Ltd.** Upon successful retrieval, printouts of the relevant documents were taken using the printer available at the premises. In the presence of Shri M.Deva Indiran, the printouts were duly signed by Shri Vinod Ranka and Shri Pannalal Ranka, as well as the independent pancha's present at the time, thereby attesting to the authenticity and admissibility of the retrieved documents.

60.15.1 In view of the above, it is evident that:-

- The documents were retrieved in the presence of an export.
- The said documents were retrieved and signed as true in the presence of an expert.
- The importer has not contended the facts of the information retrieved.

60.15.2 In this context, the provisions of section 138 C(2) prescribes that the subject computer from which information/document was retrieved should be i) Such computer in which information was regularly stored and ii) information was retrieved from such regularly used computers. In this regard I observe the following: -

- The subject computers from which the information/documents were retrieved were found to be available at the place of related firm of the importing firm.
- There was no other computer or manual records found at the subject place or any other place.
- The Documents were retrieved in the presence of importer and an expert.
- The authorized representative of importer Shri Vinod Ranka in his statement dated 03.10.2022, has accepted that the retrieved documents pertains to the subject import.
- The Importer has no where during the course of investigation has contested that the said computers were not fulfilling the requirements of Section 138C(2) of the Customs Act,1962.

Therefore, I find that no basis to question the veracity of the evidence produced by the DRI in this regard.

60.16 Therefore it is an undisputed fact that M/s. RM Ribbons undervalued the import consignment of nail clippers arrived in container no. TEMU5081280 under Bill of Entry No. 2640453 dated 28.09.2022 by declaring the value as USD 16940 instead of actual invoice value USD 190,670.

Section 14 of the Customs Act, 1962

As per Section 14 of the Customs Act, 1962 " the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:
Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:"

Therefore, in view of the above evidence, specially the actual manufacturer invoice, there is no doubt in the instant case that the importer suppressed the value at the time of import by filling a parallel fake invoice in order to evade the duty. The DRI has also placed on record sufficient digital, documentary oral and financial evidence to establish the charge of undervaluation. Once the actual value of import is established, the provisions of Section 14 in that case requires that duty should be paid on the basis of actual transaction value, actual invoice and actual payment made to foreign supplier and not on the basis of some fake invoice and suppressed value. Therefore, I find that the importer is liable to pay the differential duty along with interest and penalty as per Section 28(4), 28AA read with Section 114A.

PAST BILL OF ENTRY (First 3 items of the past Bill of Entry namely N-129, N-211and N-309 which are identical to the items of Live Bill of Entry)

<u>Findings on the basis of Provisions of Section 14 of the Customs Act, 1962 read with Rule 4 of the Customs Valuation Rules,2007 in the light of evidence available on the record: -</u>

60.17 I observe that in order to ascertain the identical nature of the imported goods, the Commercial Invoice no. BM-22-006 (B.E No. 8888469 dated 30.05.2022) was perused and compared with the Commercial invoice no. BM-22-021 submitted to the customs at the time of filing the Bill of Entry No. 2640453 dated 28.09.2022 (live consignment) and it is noticed that out of four items totally imported in the said Bill of Entry, three line items (N-129,N-211,N-309) matched with the item description, unit price with that in the said invoice no. BM-22-021.

<u>The import data of the past consignment & live consignment are compared and tabulated below for ease of reference:</u>

S.No.	Supplier Name	Bill of Entry No. & Date	Invoic e No.	Item Descriptio n of Bell Nail Clipper	Unit Price in USD
1.	*M/s. Bell Metal Ind. Co. Ltd*	2640453 dated 28.09.2022 (live consignment)	*BM-22-021*	N-129 N-211 N-309	0.42 0.35 0.35

2.	*M/s. Bell Metal Ind. Co. Ltd*	*8888769* *dated 30.05.2022 (past consignment)*	*BM-22-006*	N-129 N-211 N-309 N-211D	0.42 0.35 0.35 0.60

From the above, it is evident that M/s. RM Ribbons had imported identical nail clippers in the past consignment vide Bill of Entry No. No. 8888769 dated 30.05.2022. In order to redetermine the value of the past Bill of Entry, the provisions of Rule 4 of the Customs Valuation Rule,2007 and section 14 of the Customs Act are reproduced below. In view of the above, the Show Cause Notice has proposed to re-determine the assessable value as per the Identical items value on the basis of available evidence as enshrined in the Customs Valuation rules, 2007. I observe that the importer has imported BE no 2640453 dt 28.09.2022 within the time span of 4 months, having 3 out 4 item as identical item. In order to redetermine the true transaction Value of the goods imported valuation needs to be done as per for the provisions of Section 14of the Customs Act, 1962 read with rule 4 of the Customs Valuation Rules, 2007.

Rule 4 of the CVR, 2007 and section 14 of the Customs Act, 1962 are reproduced below: -

Rule 4. Transaction value of identical goods . -

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

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

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

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

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

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

Section 14 of the Customs Act, 1962

As per Section 14 of the Customs Act, 1962 " the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the *sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:*

> *Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:"*

60.18 I observe that since three items namely N-129, N-211and N-309 in the past Bill of Entry are identical with the items of Live Bill of Entry for which actual proforma invoice has be retrieved, the findings regarding Live Bill of Entry in this regard *mutatis mutandis* apply to the clearance of the past Bill of Entry. I further find that investigation has brought out additional evidences regarding undervaluation in the past bill of entry no. 8888769 dt. 30.05.2022.

60.19 Oral evidence

I further observe that statement of Shri Vinod Ranka, Authorised Person of M/s. RM Ribbons, Chennai was recorded under Section 108 of Customs Act, 1962, on 03.10.2022 wherein inter-alia he stated that: -

- ***The high-quality product usually costs under USD 5-6 per dozen which is equivalent to Rs. 400- Rs. 500; that the landing cost of one nail cutter after payment of duty and other charges is Rs. 45/-; that the nail cutters sold in India are sold between Rs. 10-20/-; that the nail cutters business is not at all profitable in India as the suppliers across the globe were suffering from the shortage of steel material supply; that only second quality product with low steel content are sold in India.***
- ***They have imported one such second quality product in their earlier consignment under BE No. 8888769 dated 30.05.2022; that with respect to the current consignment, Shri Rakesh in the month of August, 2022, called him in WeChat application and informed that he has premium clients in Mumbai who is willing to purchase first quality product and showed his willingness to invest in the said consignment and requested him to declare the low value; that he accepted the same for commission purpose.***
- ***On being shown the email dated 10.05.2022 (time 14:13) about the payment in 22-006 wherein it is mentioned order amount is USD 190,355, he did not offer any comments and stated that he has not undervalued the said consignment***
- ***On being shown the email dated 31.08.2022 (time 06:39) where the price list of imported nail clippers is shared by his supplier, he stated that the said price list was shared by the supplier for the first quality product; that they have never showed interest in the said prices; that the said price quoted by M/s. Bell Metal Ind. Co. Ltd is too high and no buyer in India would be willing to purchase the said product at high price.***
- ***The said products imported under consignment viz. BE No. 8888769 dated 30.05.2022 were sold at Rs. 40 per dozen i.e., Rs. 4 approx per nail clipper and can be verified from their GST Data.***

60.20 in view of the above, I find that Shri Vinod Ranka authorized representative M/s RM Ribbons in his statement dated 03.10.2022 was not able to give any clarification or justification regarding payment of USD190,335 to the supplier M/s Bell Metals, Korea. I find that the investigation has revealed that the said payment is regarding the past Bill of entry.

60.21 I further observe that the Legal position about the importance and validity of statements rendered under Section 108 of the Customs Act, 1962 is well settled. It has been held by various judicial fora that Section 108 is an enabling act and an effective tool in the hands of Customs to collect evidences in the form of voluntary statements. The Hon'ble Courts in various judicial pronouncements, have further strengthened the validity of this enabling provision. It has been affirmed that the statement given before the Customs officers is a material piece of evidence and certainly can be used as substantive evidence, among others, as held in the following cases:

i. *Asst. Collector of Central Excise, Rajamundry* v. M*/s. Duncan Agro India Ltd.* reported in 2000 (120) E.L.T. 280 (S.C.) : Statement recorded by a Customs Officer under Section 108 is a valid evidence

ii. In 1996 (83) E.L.T. 258 (S.C.) in the case of *Shri Naresh J. Sukawani* v. *Union of India*: *"4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act."*

iii. It was held that statement recorded by the Customs officials can certainly be used against a co-noticee when a person giving a statement is also tarnishing his image by making admission of guilt. Similar view was taken in the case of In *Gulam Hussain Shaikh Chougule* v. *S. Reynolds* (2002) 1 SCC 155 = 2001 (134) E.L.T. 3 (S.C.)

iv. State (NCT) Delhi Vs Navjot Sandhu @ Afsan Guru, 2005 (122) DLT 194 (SC): Confessions are considered highly reliable because no rational person would make admission against his interest unless prompted by his conscience to tell the truth. "Deliberate and voluntary confessions of guilt, if clearly proved are among the most effectual proofs in law." (Vide Taylors's Treatise on the Law of Evidence, VI. I).

v. There is no law which forbids acceptance of voluntary and true admissional statement if the same is later retracted on bald assertion of threat and coercion as held by Hon'ble Supreme Court in the case of K.I. Pavunny Vs. Assistant Collector (HQ), Central Excise Cochin, (1997) 3 SCC 721.

vi. Hon'ble Supreme Court in the case of Kanhailal Vs. UOI, 2008 (1) Scale 165 observed: *"The law involved in deciding this appeal has been considered by this court from as far back as in 1963 in Pyare Lal Bhargava's case (1963) Supp. 1 SCR 689. The consistent view which has been taken with regard to confessions made under provisions of section 67 of the NDPS Act and other criminal enactments, such as the Customs Act, 1962, has been that such statements may be treated as confessions for the purpose of Section 27 of the Indian Evidence Act*.

vii. Hon'ble High Court of Mumbai in FERA Appeal No 44 OF 2007 in the case of KANTILAL M JHALA Vs UNION OF INDIA vide judgment dated: October 5, 2007 (reported in 2007-TIOL-613-HC-MUM-FEMA) held that "***Confessional statement corroborated by the seized documents, admissible even if retracted".***

viii. The Apex Court in the case Hazari Singh V/s. Union of India reported in 110 E.L.T. 406, and case of Surjeet Singh Chhabra V/s. Union of India & Others reported in 1997 (1) S.C.C. 508 has held that the confessional statement made before the Customs Officer even though retracted, is an admission and binding on the person.-*"*

ix. The Hon'ble Supreme Court in the case of Badaku Joti Savant Vs. State of Mysore [1966 AIR 1746 = 1978 (2) ELT J 323 (SC 5 member bench)] laid down that statement to a Customs officer is not hit by section 25 of Indian Evidence Act, 1872 and would be admissible in evidence and in conviction based on it is correct.

x. In the case of Bhana Khalpa Bhai Patel Vs. Asstt. Collr. of Customs, Bulsar [1997 (96) E.L.T. 211 (SC)], the Hon'ble Apex Court at Para 7 of the judgment held that :-" *It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide Romesh Chandra v. State of West Bengal, AIR 1970 S.C. 940 and K.I. Pavunny v. Assistant Collector (H.Q.), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C.) = (1997) 3 S.C.C. 721."*

xi. In the case of Raj Kumar Karwal Vs. UOI & Others (1990) 2 SCC 409, the Court held that *officers of the Department of Revenue Intelligence who have been vested* *with the powers of an Officer-in-Charge of a police station under Section 53 of the NDPS Act, 1985, are not police officers within the meaning of Section 25 of the Evidence Act. Therefore, a confessional statement recorded by such officer in the course of investigation of a person accused of an offence under the Act is admissible in evidence against him.*

xii. Hon. Supreme Court's decisions in the case of Romesh Chandra Mehta Vs. the State of West Bengal (1969) 2 S.C.R. 461, A.I.R. 1970 S.C. 940. The provisions of Section 108 are judicial provisions within statement has been read, correctly recorded and has been made without force or coercion. In these circumstances there is not an iota of doubt that the statement is voluntary and truthful. The provisions of Section 108 also enjoin that the statement has to be recorded by a Gazetted Officer of Customs and this has been done in the present case. The statement is thus made before a responsible officer and it has to be accepted as a piece of valid evidence

xiii. Jagjit Singh vs State of Punjab And Another**,** Hon'ble Punjab and Haryana High Court in Crl. Appeal No.S-2482-SB of 2009 Date of Decision: October 03, 2013 held that: *The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the Hon'ble Supreme Court in Ram Singh vs. Central Bureau of Narcotics, 2011 (2) RCR (Criminal) 850.*

60.22 In view of the above referred consistent judicial pronouncements, the importance of statements rendered under Section 108 of the Customs Act, 1962 during the case is quite imperative**. I find that the statements made in the case were voluntary and are very much valid in Law and can be relied upon as having full evidentiary value.**

60.23 I also find that the Noticee has contended that the statement was recorded **under duress** and the same is unreliable for the purpose of proceedings envisaged under the impugned show cause notice. However, I find no merit in the contention because of the following reason: -

- There are corroborative evidences available like soft copy of the actual manufacturer invoice and email confirming the payment through banking channel and Teletransfer clearly showing involvement of the Noticee in the conspiracy of duty evasion by means of under valuation.
- The statement was recorded during the interim period of investigation. From the date of recording the statement till the conclusion of the adjudication process the statements was not retracted by the Noticee.
- Noticee has given a general statement that statement was recorded under threat of arrest, in genuine case a person will tell by whom he was threatened, which clearly indicates the same to be an afterthought.
- The investigation has brought out Noticee's involvement without any contradiction about his role in the entire conspiracy of duty evasion.

From the above, it is evident that the noticee's contention that the statement was recorded under duress is an afterthought.

Documentary, Digital and Financial Flowback Evidence

60.24 I further observe that from the statement dated 03.10.2022 of Shri Vinod Ranka, authorized person of M/s. R.M. Ribbons that they had imported One more consignment of Nail Clippers vide BE No. 8888769 dated 30.05.2022 from M/s. Bell Metal Ind. Co. Ltd apart from the live consignment imported under Bill of Entry No. 2640453 dated 28.09.2022. I further observe that on verification of the import data of M/s. R.M. Ribbons, it was observed that the noticee had imported nail clippers from the same supplier i.e M/s. Bell Metal Ind. Co. Ltd, Republic of Korea under BE No. 8888769 dated 30.05.2022. The invoice no. BM-22-006 dated 29.04.2022 submitted to the customs at the time of filing the said Bill of Entry is reproduced below:

COMMERCIAL INVOICE

Shipper / Exporter BELL METAL IND. CO., LTD 27, 2 GONGDAN 7-GIL, SEOBUK-GU, CHEONAN-SI, CHUNGCHEONGNAM-DO, REP. of KOREA	No. & date of Invoice BM-22-006 APR. 29, 2022
For Account & Risk of Messrs. R M RIBBONS NO 2, HUNTERS ROAD, 1st FLOOR, CHOOLAI, CHENNAI, TAMILNADU 600112- INDIA	No. & date of L/C
Notify party SAME AS CONSIGNEE	L/C issuing bank
Port of loading: BUSAN, KOREA / Final destination: NHAVASHEVA, INDIA	Remarks :
Carrier: KMTC NINGBO 2204S / Sailing on or about: MAY. 04, 2022	

Marks & NO.s of pkg	Description of Goods		Quantity	Unit price	Amount
	780 CTNS	NAIL CLIPPER & SCISSORS			CIF NHAVASHEVA, INDIA
FRONT:		*************			**************
OSYAN	N-129	BELL NAIL CLIPPER WITH CHAIN, BULK	32,000 DOZ	USD 0.42	USD 13,440.00
BACK:	N-211	BELL BRAND TONAIL CLIPPER, BULK	4,000 DOZ	USD 0.35	USD 1,400.00
ITEM NO.:					
C/T NO.:	N-309	BELL NAIL CLIPPER WITH KEYCHAIN, BULK	5,000 DOZ	USD 0.35	USD 1,750.00
	N-211D	BELL BRAND NAIL CLIPPER WITH CATCHER, BULK	500 DOZ	USD 0.60	USD 300.00
	TOTAL		41,500 DOZ		USD 16,890.00
	*******		**********		***************

60.25 I observe that in connection with the said consignment, an email dated 10.05.2022 was recovered vide Mahazar dated 03.10.2022. The said email is reproduced below:

RE: ORDER #BM22-006

(22)

Sunny Jeon (전선혜) <sunny@bellmetal.com>
Tue 10/05/2022 14:13
To: 'VINOD RANKA' <clair_md@outlook.com>
Dear Mr. Vinod

Please send us TT balance asap.
ETA is 5/18.
Hope to receive before 5/18 as we cannot send you final BL documents before receiving balance TT.

PAYMENT	22-006
TOTAL ORDER AMOUNT	$190,355.00
Balance order BM21-029	$523.00
RECEIVED TT (3/18)	$50,000.00
TOTAL BALANCE	**$140,878.00**

60.26 Therefore, it is evident from the email dated 10.05.2022 that the Order Number BM 22-006 mentioned therein corresponds to Invoice No. BM 22-006 dated 29.04.2022, which was submitted at the time of filing Bill of Entry No. 8888769 dated 30.05.2022 by the Noticee. Further, it is observed that as per the said email communication from the overseas supplier, the actual invoice value of Invoice No. BM 22-006 was USD 190,355**,** whereas the value declared in the Commercial Invoice submitted to Customs at the time of import was only USD 16,890. This indicates a significant undervaluation of the goods at the time of importation. Moreover, the email explicitly refers to the remittance of the balance amount through TeleTransfer (TT), suggesting that the differential amount was paid separately through TeleTransfer (TT), thereby corroborating the deliberate under-invoicing and evasion of customs duty.

60.27 The purchase of two consignments from the supplier M/s. Bell Metal Ind. Co. Ltd was confirmed by them in another email dated 14.09.2022 which was recovered vide Mahazar dated 03.10.2022. The said email is reproduced below for ease of reference:

RE: PRICE 2022 (4)
Sunny Jeon (전선혜) <sunny@bellmetal.com>
Wed 14/09/2022 11:33
To: 'VINOD RANKA' <clair_md@outlook.com>
Dear Mr. Vinod

As explained via Whatsapp and email, all other buyers progressed order with new price from 2022.
And we already gave you with old price with 2 orders recently.

We cannot give you with old price.
is huge loss for us that we prefer not to progress them.

We hope to read carefully below email and understand our situation aswell.

W1: Praveen- 3/10/22

Thank you & Best Regards,
Ms. Sunny Jeon/ Manager (전선혜 과장)

BELL Since 1954 Professional Quality BELLMETAL
BELL METAL IND. CO., LTD

W2 03/10/22

60.28 I observe that on comparison of the past Bill of Entry with the Live Bill of Entry 03 out 04 were identical in terms of model number, description, same manufacturer. Therefore, the value of the identical items can be determined on the basis of parallel manufacturer invoices found in case of the live bill of entry mentioned above.

60.29 Since in this case there is evidence in the form of actual invoices, details of remittances which confirm the willful undervaluation in the imports by the importer, therefore the declared value at the port of import is liable to be rejected as the same is not the true and actual transaction value of the goods.

60.30 I further observe that, there is gap of only 4 months between the 2 Bills of entry, therefore the spirit of law enshrined in Section 14 of the Customs Act, 1962 the actual performa invoice issued by M/s BellMetal, Koreea may be applied to resent the past consignment covered vide BE no 8888769 dt 30.05.2022. However strictly speaking the case of the past Bill of entry more specifically covered by the provisions of Rule 4 of the CVR,2007. I observe that, in this case evidence in the form of soft copies of actual manufacturer invoice is retrieved from the computers revealing actual amount paid for the imported goods covered under past Bill of Entry no. 8888769 dt 30.05.2022. Thus, the declared value appeared to be liable to be rejected and as per show cause notice the same has to be re-determined at the actual transaction value in terms of Section 14(1) of the Customs Act, 1962 read with Rule 4 of the Customs Valuation Rules,2007. I further observe that the Show Cause Notice has not invoked the Rule 4 of the Customs Act, 1962. The Hon'ble Supreme Court in Collector of Central Excise, Calcutta v. Pradyumna Steel Ltd. [1996 (82) E.L.T. 441 (S.C.)] is relevant. This decision holds that mere non mention or wrong mention of provision of law does not vitiate the SCN.

Further I rely on the following judgements wherein it is held that non or wrong quotation of Rule or Section does not appreciate the Show Cause Notice.

- *Five Judge Bench of the Supreme Court in the case of Union of India v. Tulsiram Patel, (1985) 3 SCC 398, in the decision dated 11.07.1985, which held that, "Further, even the mention of a wrong provision or the omission to mention the provision which contains the source of power will not invalidate an order/notice where source of such power exists."*
- *Hon'ble CESTAT, Principle Bench Delhi, in case of M/s. Jagson International Ltd Vs Commr. of Customs, reported in 2006 (199) E.L.T.553 (Tri. - Del.) held that, "Non-mention of statutory provision when not fatal - Confiscation - When sufficient averment in Show Cause Notice so as to bring in penal provision, which was not mentioned in the Show Cause Notice, and specific allegations of clearance without payment of duty and contraventions of provisions made out, and*

requisite ingredients of provision set out in Show Cause Notice, then non-mention of relevant provision not fatal - Confiscation upheld - Section 111 of Customs Act, 1962. [para 10.3]". The decision of Hon'ble CESTAT has been upheld by Hon'ble Supreme Court in the same case reported in 2015 (323) E.L.T. 243 (S.C.)

- *Hon'ble High Court of Delhi in case of M/s. Supercom India Ltd. Vs D.G.F.T., Ministry of Commerce reported in 2003 (160) E.L.T. 69 (Del.) held that, "Non-mentioning of a provision or mention of a wrong provision not fatal to Show Cause Notice and cannot render the same otiose."*
- *Hon'ble Supreme Court in case of M/s. Fortune Impex Vs Commissioner of Customs Kolkata reported in 2004 (167) E.L.T. A134 (S.C.) held that, "Non-mention of the particular section of Customs Act, 1962 would not vitiate the proceedings particularly when allegation and charges against all the appellants were mentioned in clear terms in the Show Cause Notice"*

PAST BILL OF ENTRY (First 1 item N-211D of the past Bill of Entry which is not identical to the items of Live Bill of Entry)

60.31 I further observe that, value of 1 item i.e. model no. N-211D has not been determined as per Section 14(1) of the Customs Act, 1962 read with Rule 4 of the Customs Valuation Rules,2007. Therefore, the value of item "N-211D" has to be determined proceeding sequentially from Rule 4 to Rule 9 in accordance with CVRs, 2007. In the absence of parallel invoice reflecting the actual value, the value of item "N-211D" cannot be re-determined in terms of Rule 4 / Rule 5 of the CVRs, 2007. I further observe that, during the course of investigation no reliable, verifiable and quantifiable data was found on the basis of which value of imported goods can be re-determined in accordance with Rule 7 and 8 of CVRs, 2007. Therefore, the value has to be determined in accordance with Rule 9.

Rule 9 of the CVR is reproduced below:-

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

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

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

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

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

(iii) the price of the goods on the domestic market of the country of exportation;

(iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

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

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

60.32 I further observe that, in email the manufacturer has confirmed that the value of goods supplied under invoice no. BM 22-066 is USD 190,335. On redetermination of value of 3 identical items i.e. N-129, N-211, N-309 as per section 14 of the Customs Act, 1962 read with rule 4 of the CVR,2007 is USD 184500. The remaining amount is USD 5,855. As per the email, the freight of the said consignment is USD 2750, after deduction of freight cost of USD 2750, the balance invoice value left is USD 3,105. Accordingly, the invoice value of item no. N-211D is redetermined**.** Total 500 Dozen of item model no. N-211D was imported, therefore cost per dozen comes out to be **USD 6.21.**

6.34 I further observe that certain evidences/documents were retrieved from the computers located at the premises covered under the mahazar dated 03.10.2022. **The said data was retrieved by Shri M. Deva Indiran, Digital Forensic Expert from M/s. Pinaca Labs Pvt. Ltd.** Upon successful retrieval, printouts of the relevant documents were taken using the printer available at the premises. In the presence of Shri M.Deva Indiran, the printouts were duly signed by Shri Vinod Ranka and Shri Pannalal Ranka, as well as the independent pancha's present at the time, thereby attesting to the authenticity and admissibility of the retrieved documents.

60.35.1 In view of the above, it is evident that:-

- The documents were retrieved in the presence of an export.
- The said documents were retrieved and signed as true in the presence of an expert.
- The importer has not contended the facts of the information retrieved.

60.35.2 In this context, the provisions of section 138 C(2) prescribes that the subject computer from which information/document was retrieved should be i) Such computer in which information was regularly stored and ii) information was retrieved from such regularly used computers. In this regard I observe the following: -

- The subject computers from which the information/documents were retrieved were found to be available at the place of related firm of the importing firm.
- There was no other computer or manual records for the documents retrieved was found at the subject place or any other place.
- The Documents were retrieved in the presence of importer and an expert.
- The authorized representative of importer Shri Vinod Ranka in his statement dated 03.10.2022, has accepted that the retrieved documents pertains to the subject import.
- The Importer has no where during the course of investigation has contested that the said computers were not fulfilling the requirements of Section 138C(2) of the Customs Act,1962.

Therefore, I find that no basis to question the veracity of the evidence produced by the DRI in this regard.

60.36 I observe that the Noticee also acknowledges that the under valuation of the goods covered under live Bill of Entry No. 2640453 dated 28.09.2022 and 01 past Bill of Entry no. 8888769 dated 30.05.2022 is not disputed. The value had been redetermined on the basis of parallel invoices and email recovered from the Computer installed in the premises of the noticee.

60.37 From the above, it was established that the importer has undervalued the goods i.e. Nail Clippers imported vide live Bill of Entry no. 2640453 dated 28.09.2022 and in past Bill of Entry no.8888769 dated 30.05.2022. Therefore, the liable to be rejected and redetermined as detailed at para 63.1 below as proposed in the SCN in terms of Section 14 read with Rule 9 and Section 28(4) along with interest and penalty under Section 28AA read with Section 114A.

b. **NOW I TAKE UP THE NEXT QUESTION AS TO WHETHER THE "NARROW WOVEN FABRICS (PLAIN STRIPS)" IMPORTED VIDE 06 PAST BILLS OF ENTRY FILED DURING THE PERIOD FROM 21.08.2021 TO 28.09.2022 AND CLASSIFIED UNDER CTH 58071020, 58071090 &58079090 SHOULD BE REASSESSED TO CORRECT CLASSIFICATION OF CTH 58063200.**

TABLE Y

Sr.NO	Past Bill of Entry No.	Date	Item	Assessable Value	Duty Paid	Redetermined Duty	Differential Duty
1	5133377	21.08.2021	White Strip Labels Tape	3584876.56	394336.4216	788672.8432	394336.4216
2	5133376	21.08.2021		3899050.85	428895.5935	857791.187	428895.5935
3	5269508	01.09.2021		5304052.53	583445.7783	1166891.557	583445.7783
4	5664931	01.10.2021		3421532.43	376368.5673	752737.1346	376368.5673
5	6189555	10.11.2021		3842148.83	422636.3713	845272.7426	422636.3713
6	6433030	27.11.2021		3722251.45	409447.	818895.319	409447.6595

					6595		
				23773913	**2615130.392**	**5230260.783**	**2615130.392**
The goods valued at Rs. 1,63,892/- seized from warehouse no.10, Massey's Enterprises Pvt Ltd., No.17, North Railway Terminus Road, Royapuram, Chennai – 13 under mahazar dated 03.10.2022 are also included in the above mentioned assessable value.							

<u>Absence of Label establishes non applicability of CTH 5807.</u>

61.1 I notice that there is no dispute about the fact that goods seized from the Chennai godown as per the above table are neither in the form of the Labels nor the same contain any label or print of label inscribed on them. Further, the said goods seized goods at Chennai godowns are identical in all respect regarding description, CTH Classification etc as declared by the importer at the time of filling the above mentioned past Bills of Entry. The said seized goods of importer are also identical in all respects with the goods of their related firm M/s Osyan Trading Enterprises Pvt Ltd. **as seized at Chennai godown and past and live Bills of Entry of the said related firm.** I observe that the classification of the subject imported goods is the core question in the entire case of the department. I observe that the Noticee has imported the goods under CTH 58071020, 58071090 & 58079090. The classification under CTH 58.07 is discussed below: -

CHAPTER 58 in SECTION-XI of the First Schedule to the Customs Tariff Act deals with "Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery".

Heading 58.07 of Customs Tariff Act, 1975 is as under: -

5807		LABELS, BADGES AND SIMILAR ARTICLES OF TEXTILE MATERIALS, IN THE PIECE, IN STRIPS OR CUT TO SHAPE OR SIZE, NOT EMBROIDERED			
5807 10	-	*Woven :*			
5807 10 10	---	Of cotton	kg.	25%	-
5807 10 20	---	Of man-made fibre	kg.	25%	-
5807 10 90	---	Other	kg.	25%	-
5807 90	-	*Other :*			
5807 90 10	---	Felt or non-woven	kg.	25%	-
5807 90 90	---	Other	kg.	25%	-

61.2 The product under consideration are the textile fabrics in roll form having different widths. The Importer in his statement under section 108 of the Customs Act, 1962 dated 04.07.2024 has admitted that they have declared the subject imported goods as Labels. Even though the word

"Label" is not defined in the Customs Tariff, 1975, in the Explanatory Notes it is clearly stated that what constitutes a 'Label' for classification under CTH 5807. The relevant portion of the HSN Explanatory Notes for the CTH Sub Heading 5807 (Page No. XI- 5807-1) is reproduced below:

58.07 - Labels, badges and similar articles of textile materials, in the piece, in strips or cut to shape or size, not embroidered.

5807.10 - Woven

5807.90 - Other

Subject to the conditions specified below this heading covers :

(A) **Labels of any textile material** (including knitted). These include labels of a kind used for marking wearing apparel, household linen, mattresses, tents, soft toys, or other goods. They are utilitarian labels bearing individual inscriptions or motifs. Such labels include, *inter alia*, commercial labels bearing the trade name or trade mark of the manufacturer or the nature of the constituent textile (" silk ", " viscose rayon ", etc.) and labels used by private individuals (boarding school pupils, soldiers, etc.) to identify their personal property; the latter variety sometimes bear initials or figures or comprise sometimes a framed space to take a hand-written inscription.

(B) **Badges and similar articles of any textile material** (including knitted). This category includes badges, emblems, " flashes ", etc., of a kind normally sewn to the outer part of wearing apparel (sporting, military, local or national badges, etc., badges bearing the names of youth associations, sailors' cap badges with the name of a ship, etc.).

The above articles are classified in this heading **only** if they fulfil the following conditions :

(1) They must not be embroidery. The inscriptions or motifs on the articles classified here are generally produced by weaving (usually broché work) or by printing.

(2) They must be in the piece, in strips (as is usually the case) or in separate units obtained by cutting to size or shape but must not be otherwise made up.

This heading **does not include** labels, badges and similar articles, which have been embroidered (**heading 58.10**) or made up otherwise than by cutting to shape or size (**heading 61.17, 62.17** or **63.07**).

61.3 On plain reading of above, it is evident that Labels falling under CTH 5807 can be made of any textile material but **should be bearing individual inscription or motifs**. Further, it is observed that from condition number 1, it is evident that inscription or motifs on the articles falling under CTH 5807 are **produced by weaving or printing and it shall not be produced by way of embroidery**.

61.4 I further observe that Shri Pannalal Ranka during mahazar proceedings dated 03.10.2022 has stated that he is responsible for import identical consignments of "White Strips Label Tape" from China by M/s RM Ribbons and its related firm M/s Osyan Trading Enterprises Pvt Ltd. Further I observe that during the examination of the live consignment filed by M/s Osyan Trading Enterprises Ltd which is related to M/s R.M Ribbons imported vide Bill of Entry No. 2623872 dt.27/09/2022 at M/s. Gateway Districtpark Ltd (GDL) CFS, Navi Mumbai and test reports of samples drawn thereof, it has been established that the subject imported goods are declared as 'Labels' and classified under Chapter Sub-Heading 5807 which does not contain any inscription or motif on them either by weaving or printing**. I observe that CTH 5807 is only for labels, badges and similar articles for serving the purpose of at a glance information to the user about the products on which labels or badges are placed. Since there is no dispute about the fact in the instant case that imported goods does not contain any label or badge or visual cues about any prospective products, the imported goods do not qualify as a product or articles of CTH 5807**. It is evident that the subject imported goods do not fulfil the mandatory condition required for classification under CH.58.07.

61.5 I observe that CTH 58063200 is for narrow woven fabrics of manmade fiber as Eleven representative samples of the goods pertaining to Bill of Entry No. 2623872 dated 27/09/2022 were drawn from the live import consignment during the course of examination vide Panchanama dated 11.10.2022 & three representative samples drawn from the stock of goods which were seized at warehouse vide Mahazar dated 03.10.2022 were sent for testing to the Textiles Committee, North Wing, 1st Floor, NSC Board Complex, R.K. Mutt Road, Mylapore, Chennai-04 vide letter F.No.DRI/CZU/VIII/48/ENQ-01/INT- 46/2022 dated 21.10.2022 with Test Memos 1 to 2. The test report in respect of all the 14 samples have been received vide reports dated 26.10.2022 from the Quality Assurance Officer, Textiles Committee, Chennai.

61.6 Analysis of the Test Report: The results of the Test report in respect of the 14 samples sent for testing are as below:

		Sample	Test Result	

Sl. No.	Test Memo No.	Name	Inscription/ Printing	Embroi dered	Whether woven	Compo sition	Warp & Weft	Selve dges	Width	Place of Sample Drawn
1	Test Memo- 1	A1	No	No	yes	Nylon & Polyest er	Yes	Yes	25mm	Samples Drawn from the Gowdow n
2	Test Memo- 1	B1	No	No	yes	Polyest er	Yes	Yes	44mm	Samples Drawn from the Gowdow n
3	Test Memo- 1	C1	No	No	yes	Polyest er	Yes	Yes	20mm	Samples Drawn from the Gowdow n
4	Test Memo-2	13MM X20 0Y	No	No	yes	Polyest er	Yes	Yes	14mm	Samples Drawn from the live Bill of Entry of Related Firm
5	Test Memo-2	15MM X20 0Y	No	No	yes	Polyest er	Yes	Yes	15mm	Samples Drawn from the live Bill of Entry of Related Firm
6	Test Memo-2	20MM X18 3M	No	No	yes	Polyest er	Yes	Yes	20mm	Samples Drawn from the live Bill of Entry of Related Firm
7	Test Memo-2	25MM X20 0Y	No	No	yes	Polyest er	Yes	Yes	25mm	Samples Drawn from the live Bill of Entry of Related Firm
8	Test Memo-2	30MM X20 0Y	No	No	yes	Polyest er	Yes	Yes	30mm	Samples Drawn from the live Bill of Entry of Related Firm
9	Test Memo-2	32MM X18 3M	No	No	yes	Polyest er	Yes	Yes	32mm	Samples Drawn from the live Bill of Entry of Related Firm
10	Test Memo-2	35MM X20 0M	No	No	yes	Polyest er	Yes	Yes	35mm	Samples Drawn from the live Bill of Entry

										of Related Firm
11	Test Memo-2	40MM X20 0Y	No	No	yes	Polyest er	Yes	Yes	40mm	Samples Drawn from the live Bill of Entry of Related Firm
12	Test Memo-2	44MM X20 0Y	No	No	yes	Polyest er	Yes	Yes	44mm	Samples Drawn from the live Bill of Entry of Related Firm
13	Test Memo- 2	15MM X20 0M	No	No	yes	Polyest er	Yes	Yes	15mm	Samples Drawn from the live Bill of Entry of Related Firm
14	Test Memo- 2	20MM X20 0M	No	No	yes	Polyest er	Yes	Yes	20mm	Samples Drawn from the live Bill of Entry of Related Firm

61.7 From the above, I find that none of the 14 samples have any inscription or painting or embroidery. All these samples are Narrow woven fabric, contains warp & weft and has selvedges. All these samples are made of man-made fibres and are not exceeding the width of 30 cm. Sample name A1, B1 and C1 were drawn during the mahazar proceedings dated 03.10.2022. at warehouse no. 10, Massey's Enterprises Pvt Ltd., No. 17, North Railway Terminus Road, Royapuram, Chennai – 13.

61.8 In view of above, there is no dispute about the fact that all the goods are of man made fiber and are narrow woven fabric and are of made fiber and are narrow woven fiber of less than 30 cm. In this way all the goods squarely fall in the scope of heading of CTH 58063200 which is for narrow woven fiber, as per Rule 1 of GIR the classification shall be determined according to the terms of the heading and any section and chapter notes since in the instant case, the imported goods squarely fall in the scope of CTH 58063200 which has also been accentuated by the chapter note 5 of the CTH 58063200. Further, since there is no dispute about the fact that imported goods do not contain any priority, label, badge, Inscription etc, the same do not qualify for CTH 5807.

61.9 I observe that, the test reports in respect of the samples drawn from the seized goods (stock maintained at the warehouse of the importer) received from the Quality Assurance Officer, Textiles Committee, Chennai also confirmed that the samples do not contain embroidery/adhesive/inscription or motif either by weaving or printing. The Lab report in respect of Test Memo No.1, for Sample C1 states as under:

> *"The sample is 100% Polyster Narrow woven Fabric (man-made fiber) on both warp & weft. It has selvedges. It does not contain embroidery/adhesive/inscription or motif either by weaving or printing."*

I further reiterate the facts of Test Report as tabulated at para 10.4. The test report clearly states that none of the goods contain any label, badge, inscription or embroidery etc. which may serve the purpose of label. Since the CTH 5807 is meant only for labels, therefore, it has been established that the goods seized at the at warehouse no. 10, Massey's Enterprises Pvt Ltd., No. 17, North Railway Terminus Road, Royapuram, Chennai – 13 does not merit classification under CTH 58071020/580171090/58079090. Further it has been established that the stock of goods available at the warehouse & from the test reports of the samples drawn thereof, that the goods imported in the earlier consignments also does not contain any inscription or printing. I further observe that, **the Importer was asked to identify the imported goods which have pre-printed labels but are declared as "White Strips Label Tape -Man Made Fibers" at the time of filing the bill of entry, the Importer stated that they do not maintain separate records for pre-printed and plain labels**. Neither the importer nor their domestic customers produced any details of the purchase order for the pre-printed labels till date. In view of the above, the said goods imported in the past consignments were also mis- declared as 'Labels' & were classified under CTH 58071020 or 580171090 or 58079090.

Reasons that Imports by the Noticee are Covered under CTH 58063200 and not under 5807.
61.10 I first produce the provisions of both the headings name CTH 5807 and 58063200.

5807		LABELS, BADGES AND SIMILAR ARTICLES OF TEXTILE MATERIALS, IN THE PIECE, IN STRIPS OR CUT TO SHAPE OR SIZE, NOT EMBROIDERED			
5807 10	-	*Woven :*			
5807 10 10	---	Of cotton	kg.	25%	-
5807 10 20	---	Of man-made fibre	kg.	25%	-
5807 10 90	---	Other	kg.	25%	-
5807 90	-	*Other :*			
5807 90 10	---	Felt or non-woven	kg.	25%	-
5807 90 90	---	Other	kg.	25%	-

Now I produce the provisions of CTH 5806

SECTION-XI **CHAPTER-58**

(1)		(2)	(3)	(4)	(5)
5806		NARROW WOVEN FABRICS OTHER THAN GOODS OF HEADING 5807; NARROW FABRICS CONSISTING OF WARP WITHOUT WEFT ASSEMBLED BY MEANS OF AN ADHESIVE (BOLDUCS)			
5806 10 00	-	Woven pile fabrics (including terry toweling and similar terry fabrics) andchenille fabrics	kg.	25%	-
5806 20 00	-	Other woven fabrics, containing by weight 5% or more of elastomeric yarnor rubber thread	kg.	25%	-
	-	*Other woven fabrics :*			
5806 31	--	*Of cotton :*			
5806 31 10	---	Typewriter ribbon cloth	kg.	25%	-
5806 31 20	---	Newar cotton	kg.	25%	-
5806 31 90	---	Other	kg.	25%	-
5806 32 00	--	Of man-made fibres	kg.	25%	-
5806 39	--	*Of other textile materials :*			
5806 39 10	---	Goat hair puttis tape	kg.	25%	-
5806 39 20	---	Jute webbing	kg.	25%	-
5806 39 30	---	Other narrow fabrics of jute	kg.	25%	-
5806 39 90	---	Other	kg.	25%	-
5806 40 00	-	Fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)	kg.	25%	-

In this regard, it is relevant to refer to Chapter Note 5 to Chapter 58, which states as under: –

"For the purposes of heading 5806, the expression —narrow woven fabrics means:

(a) woven fabrics of a width not exceeding 30 cm, whether woven as such or cut from wider pieces, provided with selvedges (woven, gummed or otherwise made) on both edges;

(b) .....

(c) "

I find after going through the above legal provisions and facts of the case that there is no dispute about the fact that all goods seized from Chennai warehouse are of man made fiber in form of narrow woven fabric of less than 30 cm. In this way, all the said goods squarely fall in the scope of heading of CTH 58063200. As per Rule 1 of GIR the classification shall be determined according to the terms of the heading and any section and chapter notes since in the instant case, the imported goods squarely fall in the scope of CTH 58063200 which has also been accentuated by the chapter note 5 of the CTH 58063200. Further, since there is no dispute about the fact that imported goods as seized from the Chennai godown do not contain any label, badge, Inscription etc, the same do not qualify for CTH 5807.

61.11 I observe that there are conclusive evidence to prove that the goods stored in Warehouse No. 10 were actually imported by classifying them under Heading 5807.

- On examination of the data available in the system, there is no dispute that the noticee has been declaring CTH 5807 for imports of all white strips of polyester for manufacturing labels in the guise as if the said white strips itself were some labels.
- The DRI has produced list of 06 Bills of Entry and all the details have been checked and found that although the goods have been identical or in line as seized in the Chennai godown and the imported goods of their related firm.
- I also observe that the test reports have confirmed beyond any doubt that the goods under live B/E and goods seized from Chennai Warehouse are identical in from of white strips of polyester. The said goods are not in form of labels, however, the same can be used for manufacturing label.
- The goods seized under mazahar dated 03.10.2022 at Chennai godown s and under past 6 bills of entry are **identical** in all material respects including description, supplier, classification, valuation, and other relevant parameters to those in seized in the Chennai godown and the goods of the importer's related firm.
- The importer has **not produced any evidence** to support the claim that the goods in question under Heading 5807 are actually in form of labels. In case the goods were labels, they must pertain to some products/manufacturer, for which noticee could have produced evidence from the manufacturer to whom such labels were supplied.
- As per the available records, **M/s. RM Ribbons** has **not submitted any documentary evidence** to substantiate the assertion that the imported goods were printed with any inscription, motif, or similar distinguishing feature.
- In any case, there is no dispute that the importer has failed to provide any such information about any product or manufacturer to whom such labels were pertaining. It clearly shows that actually all imported strips of polyester were plain white without any printing, badge or label.
- Upon examination, **none of the 03 samples** taken from the warehouse bear any inscription, painting, or embroidery. All the samples are narrow woven fabrics, composed of warp and weft yarns, with selvedges, made of man-made fibres, and all are **less than 30 cm in width**, conforming to the description under Heading **5806 3200**.

66.12 I further observe that the following :-

- As per Section 17 of the Customs Act, 1962, the Importer is required to self-assess the duty leviable on goods entered under Section 46. While the Proper Officer may verify the self-assessment, which is limited to number of self-assessed Bills of Entry, as selected by the Risk Management System (RMS) of the department.
- The verification is based entirely on the information and documents provided by the Importer. Under the self-assessment, onus lies on the Importer to declare all relevant and accurate details. The Department has placed substantial trust in Importers to make truthful declarations, which is why most Bills of Entry are facilitated without detailed assessment, except where selected by RMS.
- Importantly, the recovery of duty is under Section 28(4) of the Customs Act, 1962, regardless of previous clearances based on self-assessment. Under Section 28(1), where duties have been short-paid or short-levied not involving collusion, willful misstatement, or suppression of facts, the proper officer is empowered to raise a demand within two years from the relevant date. In cases involving collusion, willful misstatement, or suppression, the period extends to five years, as per Section 28(4) of the Act.
- In all previous instances, the assessments were conducted solely on the basis of the documents and declarations provided by the Importer. Any physical examination, where conducted, was based on the description declared at the time of import, which, in this case, referred merely to "white strips label tape" under Heading 5807.

5807		LABELS, BADGES AND SIMILAR ARTICLES OF TEXTILE MATERIALS, IN THE PIECE, IN STRIPS OR CUT TO SHAPE OR SIZE, NOT EMBROIDERED			
5807 10	-	*Woven :*			
5807 10 10	---	Of cotton	kg.	25%	-
5807 10 20	---	Of man-made fibre	kg.	25%	-
5807 10 90	---	Other	kg.	25%	-
5807 90	-	*Other :*			
5807 90 10	---	Felt or non-woven	kg.	25%	-
5807 90 90	---	Other	kg.	25%	-

- It is pertinent to note that the importer failed to disclose critical characteristics such as the presence or absence of inscription, motifs, printing, or weaving techniques. The description furnished was, therefore, incomplete and misleading, thereby preventing accurate classification and appropriate duty determination at the time of assessment.

61.13 Therefore, in view of the above findings the textile strips imported by M/s. RM Ribbons, are having width not exceeding 30 cm and does not have inscription or motifs are rightly classifiable under **CTH 58063200** as "***narrow woven fabrics of manmade fibres***".

C. NOW I TAKE UP THE NEXT QUESTION AS TO WHETHER THE SUBJECT IMPORTED GOODS "NAIL CLIPPERS" & "NARROW WOVEN FABRICS (PLAIN STRIPS)" VALUED RS. 5,40,65,684/- (FIVE CRORES FORTY LAKHS SIXTY-FIVE THOUSAND SIX HUNDRED EIGHTY-FOUR RUPEES ONLY) IMPORTED VIDE 01 LIVE BILL OF ENTRY OF NAIL CLIPPERS, 01 PAST BILLS OF ENTRY OF NAIL CLIPPERS AND 06 BILL OF ENTRY OF WHITE STRIPS LABELS TAPE FROM 21.08.2021 TO 28.09.2022, (WHICH INCLUDES THE IMPORTED GOODS VALUED AT RS. 1,63,892/- AVAILABLE IN WAREHOUSE/GODOWN & SEIZED UNDER MAHAZAR DATED 03.10.2022) SHOULD BE HELD LIABLE FOR CONFISCATION UNDER THE PROVISIONS OF SECTION 111(M) OF THE CUSTOMS ACT, 1962.

62. I reiterate my observations and findings at para 60 and 61 above, it is an undisputed fact that the importer has imported the nail clippers vide Bill of Entry no. 2640453 dated 28.09.2022 and 8888769 dated 30.05.2022 by under valuing the goods which resulted in loss of revenue of Rs. 85,51,174/- and the importer has also imported goods under CTH 58071020, 58071090 & 58079090 as the imported goods are not labels. Further, as per chapter note 5 supra, narrow woven fabrics are woven fabrics of a width not exceeding 30cm, whether woven as such or cut from wider pieces, provided with selvedges *(woven, gummed or otherwise made) on both edges).* The test reports of samples drawn from the goods seized from the warehouse no. 10, has confirmed that the goods imported are narrow woven fabric of polyester and are textile strips not exceeding 30cm and contains Warp, Weft & Selvedges. Therefore, the subject imported goods are to be considered as "Narrow woven fabrics" of man-made fibre.

62.1 I find that the importer had subscribed to a declaration as to the truthfulness of the contents of the bills of entry in terms of Section 46(4) of the Act in all their import declarations. Section 17 of the Act, w.e.f 08.04.2011, provides for self-assessment of duty on imported goods by the importer themselves by filing a bill of entry, in the electronic form. Thus, under the scheme of self-assessment, it is the importer who has to diligently ensure that he declares the correct description of the imported goods, its correct classification, the applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April, 2011, there is an added and enhanced responsibility of the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

62.2 I also find that, it is very clear that w.e.f. 08.04.2011, the importer must self-assess the duty under Section 17. Such onus appeared to have been deliberately not discharged by M/s. R.M. Ribbons in terms of the provisions of Section 46(4) of the Customs Act, 1962, the importers while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such

bill of entry and in support of such declaration, produce to the proper officer the invoice, of any, relating to the imported goods. In terms of the provisions of Section 47 of the Customs Act, 1962, the importer shall pay the appropriate duty payable on imported goods and then clear the same for home consumption. In the instant case, the impugned Bills of Entry being self-assessed were substantially mis-declared by the importer in respect of the description, country of origin and assessable value while being presented to the Customs.

62.3 I find that the SCN proposes confiscation of goods under the provisions of Section 111(m) of the Customs Act, 1962. Provisions of these Sections of the Act, are re-produced herein below:

"SECTION 111. ***Confiscation of improperly imported goods,*** *etc. — The following goods brought from a place outside India shall be liable to confiscation:*

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

62.4 I have already held in foregoing paras that the importer had wilfully misrepresented the facts and had evaded correct Customs duty by intentionally under valuation of the nail clippers and misclassification of Narrow Woven Fabric. By resorting to this deliberate suppression of facts and wilful mis-declaration, the importer has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer. Thus, this wilful and deliberate act was done with the fraudulent intention enrich themselves. Therefore, on account of the aforesaid mis-declaration / mis-statement/ under valuation in the aforementioned Bills of Entry, the impugned goods having a total Assessable Value of Rs. 5,40,65,684/- (Five Crores Forty Lakhs Sixty-Five Thousand Six hundred eighty-four rupees only) imported vide 01 Live Bill of Entry & 07 Past Bills of Entry from 21.08.2021 to 28.09.2022 (which includes the imported goods valued at Rs. 1,63,892/- available in warehouse/godown & seized under Mahazar dated 03.10.2022) are liable for confiscation under Section 111(m), of the Customs Act, 1962. Accordingly, I find that acts of omission and commission on part of the importer has rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

62.5 I also find that the case is established on documentary evidences in respect of past imports, though the department is not required to prove the case with mathematical precision but what is required is the establishment of such a degree of probability that a prudent man may on its basis believe in the existence of the facts in issue [as observed by the Hon'ble Supreme Courtin CC Madras V/s D Bhuramal – [1983 (13) ELT 1546 (SC)]. Further in the case of K.I. International Vs Commissioner of Customs, Chennai reported in 2012 (282) E.L.T. 67 (Tri. - Chennai) the Hon'ble CESTAT, South Zonal Bench, Chennai has held as under: -

> *"Enactments like Customs Act, 1962, and Customs Tariff Act, 1975, are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives. Evidence Act not being applicable to quasi-judicial proceeding, preponderance of probability came to rescue of Revenue and Revenue was not required to prove its case by mathematical precision. Exposing entire modus operandi through allegations made in the show cause notice on the basis of evidence gathered by Revenue against the appellants was sufficient opportunity granted for rebuttal. Revenue discharged its onus of proof and burden of proof remained un-discharged by appellants. They failed to lead their evidence to rule out their role in the offence committed and prove their case with clean hands. No evidence gathered by Revenue were demolished by appellants by any means. '*

62.6 I therefore hold that the said imported goods are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962, as proposed in the Show Cause Notice. The subject goods imported are not available for confiscation, but 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 regularised, 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 authorised by this Act ", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 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 from Section 111 only. Hence, the payment of 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. (iii)."

62.6.1 I further 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.).

62.6.2 I also find that the decision 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.) and the decision of Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) have not been challenged by any of the parties and are in operation.

62.6.3 It is established under the law that the declaration under section 46 (4) of the Customs Act, 1962 made by the importer at the time of filing Bills of Entry is to be considered as an undertaking which appeared as good as conditional release. I further find that there are various orders passed by the Hon'ble CESTAT, High Court and Supreme Court, wherein it is held that the goods cleared on execution of Undertaking/ Bond are liable for confiscation under Section 111 of the Customs Act, 1962 and Redemption Fine is imposable on them under provisions of Section 125 of the Customs Act, 1962. A few such cases are detailed below:

a. M/s Dadha Pharma h/t. Ltd. Vs. Secretary to the Govt. of India, as in 2000 (126) ELT 535 (Chennai High Court);
b. M/s Sangeeta Metals (India) Vs. Commissioner of Customs (Import) Sheva, as reported in 2015 (315) ELT 74 (Tri-Mumbai);
c. M/s SacchaSaudhaPedhi Vs. Commissioner of Customs (Import), Mu reported in 2015 (328) ELT 609 (Tri-Mumbai);
d. M/s Unimark Remedies Ltd. Versus. Commissioner of Customs (Export Promotion), Mumbai reported in 2017(335) ELT (193) (Bom)
e. M/s Weston Components Ltd. Vs. Commissioner of Customs, New Delhi reported in 2000 (115) ELT 278 (S.C.) wherein it has been held that:

"if subsequent to release of goods import was found not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods - Section 125 of Customs Act, 1962, then the mere fact that the goods were released on the bond would not take away the power of the Customs Authorities to levy redemption fine."

f. Commissioner of Customs, Chennai Vs. M/s Madras Petrochem Ltd. As reported in 2020 (372) E.L.T. 652 (Mad.) wherein it has been held as under:

"We find from the aforesaid observation of the Learned Tribunal as quoted above that the Learned Tribunal has erred in holding that the cited case of the Hon'ble Supreme Court in the case of Weston Components, referred to above is distinguishable. This observation written by hand by the Learned Members of the Tribunal, bearing their initials, appears to be made without giving any reasons and details. The said observation of the Learned Tribunal, with great respect, is in conflict with the observation of the Hon'ble Supreme Court in the case of Weston Components."

62.6.4 In view of the above, I find that the decision 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.), which has been passed after observing 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.

62.7 In view of above facts, findings and legal provisions, I find that it is an admitted fact that the noticee has misclassified and undervalued the goods. Therefore, I hold that the acts and omissions of the importer, by way of collusion and willful mis-statement of the imported goods, have rendered the goods liable to confiscation under section 111(m) of the Customs Act, 1962. **Accordingly, I observe that the present case also merits imposition of Redemption Fine, regardless of the physical availability, once the goods are held liable for confiscation.**

D. NOW I TAKE UP THE NEXT QUESTION AS TO WHETHER THE TOTAL DIFFERENTIAL DUTY OF RS. 1,11,66,304/- (ONE CRORE ELEVEN LAKHS SIXTY SIX THOUSAND THREE HUNDRED AND FOUR ONLY) IN RESPECT OF 01 LIVE BILL OF ENTRY OF NAIL CLIPPERS, 01 PAST BILLS OF ENTRY OF NAIL CLIPPERS AND 06 BILL OF ENTRY OF WHITE STRIPS LABEB TAPE FROM 21.08.2021 TO 28.09.2022, WHICH WAS NOT LEVIED BY REASON OF WILLFUL MIS-STATEMENT AND SUPPRESSION OF FACTS SHOULD BE DEMANDED FROM THEM, IN TERMS OF THE PROVISIONS OF SECTION 28 (4) OF THE CUSTOMS ACT, 1962 ALONG WITH THE APPLICABLE INTEREST UNDER THE PROVISIONS OF SECTION 28(10) & 28AA OF THE CUSTOMS ACT, 1962.

63. I reiterate my observations and findings at para 60 and 61 above, it is an undisputed fact that the importer has imported the nail clippers vide Bill of Entry no. 2640453 dated 28.09.2022 and 8888769 dated 30.05.2022 by under valuing the goods which resulted in loss of revenue of Rs. 85,51,174/- as mentioned in Table x above and the importer has also imported goods under CTH 58071020, 58071090 & 58079090 as the imported goods are not labels. Further, as per chapter note 5 supra, narrow woven fabrics are woven fabrics of a width not exceeding 30cm, whether woven as such or cut from wider pieces, provided with selvedges *(woven, gummed or otherwise made) on both edges)*. The test reports of samples drawn from the goods seized from the warehouse no. 10, has confirmed that the goods imported are narrow woven fabric of polyester and are textile strips not exceeding 30cm and contains Warp, Weft & Selvedges. Therefore, the subject imported goods are to be considered as "Narrow woven fabrics" of man-made fibre.

63.1 **Quantification of Duty liability on Nail Clippers on account of under-valuation**:

I observe that on perusal of the import data gathered and downloaded from ISS and ICES data, the importer has imported the subject nail clippers vide 02 Bills of Entry through Nhava Sheva Port, during the period August-2018 to October-2022. Accordingly, the differential duty payable in respect of imported nail clippers has been computed **Annexure-B, above** and abstract of the same is given below:

	BE No. 8888769 dated 30.05.2022	**BE No. 2640453 dated 28.09.2022**	**Total**
Description	**Value (in Rs.)**	**Value (in Rs.)**	
Declared CIF Value	13,27,555	13,61,977	26,89,532
Redetermined CIF Value	1,49,61,903	1,53,29,868	3,02,91,771
Duty paid at the time of assessment	4,11,276	4,21,941	8,33,217
BCD Payable	14,96,190	15,32,987	30,29,177
SWS Payable	1,49,619	1,53,299	3,02,918
IGST Payable	29,89,388	30,62,908	60,52,296
Duty Payable	46,35,198	47,49,193	93,84,391
Diff BCD Payable	13,63,435	13,96,789	27,60,224
Diff SWS Payable	1,36,343	1,39,679	2,76,022
Diff IGST Payable	27,24,143	27,90,785	55,14,927
Total Diff Duty Payable	**42,23,921**	**43,27,253**	**85,51,174**

The total duty paid & payable for the subject nail clippers vide 02 Bills of Entry through Nhava Sheva Port, during the period August-2018 to October- 2022 is tabulated below:

Declared CIF Value (In Rs.)	Redetermined CIF Value (In Rs.)	Duty Paid	Duty Payable	Diff Duty Payable
26,89,532	3,02,91,771	8,33,217	93,84,391	**85,51,174**

63.2 <u>Quantification of Duty liability on Narrow Woven Fabrics (plain strips) on account of mis-classification:</u>

I observe that the effective rate of BCD on goods falling under Chapters 50 to 63 had been notified vide Notification No. 82/2017-Cus., dated 27.10.2017 and the said notification was in effect till 30.04.2022. From 01.05.2022, the tariff rate of duty as per Customs Tariff Act, 1975 is applicable. In terms of the said notification & Customs Tariff Act, 1975, the applicable rate of duty for goods covered under CH 58.06 is as under: -

S. No.	Chapter/ Heading/ Sub-heading/ Tariff item	Description	BCD Rate of Duty	IGST	Remarks
(1)	(2)	(3)	(4)	(5)	
1.	5807 (58071020, 58071090 & 58079090)	All goods	10%	12%	Effective BCD as per S.No. 147 of the said Notification
2.	5806 32 00	All goods	20%	5%	BCD-Tariff Rate

Therefore, the goods falling under CTH 58063200 attract 20% BCD and IGST at 5%. Consequent to redetermination of the classification of the goods under the appropriate heading as discussed in para 61 above, the differential duty has been calculated for the period from 21.08.2021 (first bill of entry) to 27.11.2021 (last bill of entry). I further observe that on perusal of the import data gathered and downloaded from ISS and ICES data for the period from 21.08.2021 to 28.09.2022, it is noticed that for various bills of entry, the importer has availed MEIS Scrips for the payment of BCD. The said MEIS scrips were randomly verified and arrived at the differential BCD & SWS required to be paid by M/s. RM Ribbons on port-wise. They have imported the subject items vide 06 Bills of Entry through Nhava Sheva Port & Chennai Sea Port, during the period from 21.08.2021 to 28.09.2022. Accordingly, the differential duty of BCD & SWS payable in respect of imported “Narrow Woven Fabrics (plain strips)” port-wise has been computed as per **Annexure-B** above and abstract of the same is given below:

Port Code	CIF Value	BCD Paid @10%	BCD Payable @ 20%	Diff BCD Payable	SWS Paid	SWS Payable	Diff SWS Payable
INMAA 1	23773913	2377391	4754782	2377391	237739	475478	237739
INSAA1	NIL	NIL	NIL	NIL	NIL	NIL	NIL

Grand Total	23773913	2377391	4754782	2377391	237739	475478	237739

63.3 Total Duty Quantification:

The total differential duty payable in respect of imported nail clippers & Narrow Woven Fabrics (plain strips) during the period from 21.08.2021 to 28.09.2022 is calculated port-wise and summarized in below table:

Port Code	CIF Value	BCD Payabl e	SWS Payabl e	IGST Payabl e	Diff BCD Payabl e	Dif f SW S Payab le	Diff IGS T Payable	Duty Paya ble	Diff Duty Payable
INMAA1	2,37,73,9 13	47,54,7 82	4,75,4 78	nil	23,77,3 91	2,37,7 39	nil	52,30,26 0	26,15,130
INSAA1	3,02,91,7 71	30,29,1 77	3,02,9 18	60,52,2 95	27,60,2 24	2,76,0 23	55,14,9 27	93,84,39 1	85,51,174
Grand Total	5,40,65,6 84	77,83,9 59	7,78,3 96	60,52,2 95	51,37,6 15	5,13,7 62	55,14,9 27	1,46,14, 651	1,11,66,3 04

63.3 The Noticee has also contended that extended that **Limitation:** ***Extended period not invokable***

I do not find any merit in the noticee's contention as, due to deliberate under valuation and misclassification of the goods, duty demand against the Noticee 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;

(c) 2005 (191) E.L.T. 1051 (Tri. - Mumbai): Winner Systems Versus Commissioner of Central Excise & Customs, Pune: Final Order Nos. A/1022-1023/2005-WZB/C-I, dated 19-7-2005 in Appeal Nos. E/3653/98 & E/1966/2005-Mum.

Demand - Limitation - Blind belief cannot be a substitute for bona fide belief - Section 11A of Central Excise Act, 1944. [para 5]

(d) 2006 (198) E.L.T. 275 - Interscape v. CCE, Mumbai-I.

It has been held by the Tribunal that a bona fide belief is not blind belief. A belief can be said to be bona fide only when it is formed after all the reasonable considerations are taken into account;

63.4 Further, the noticee is also liable to pay applicable interest under the provisions of Section 28AA of the Customs Act, 1962. The relevant provision as under:

Section 28AA.
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 thereunder, 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.

In this regard, the ratio laid down by Hon'ble Supreme Court in the case of CCE, **Pune V/s. SKF India Ltd. [2009 (239) ELT 385 (SC)]** wherein the Apex Court has upheld the applicability of interest on payment of differential duty at later date in the case of short payment of duty though completely unintended and without element of deceit. The Court has held that

"….It is thus to be seen that unlike penalty that, is attracted to the category of cases in which the non-payment or short payment etc. of duty is "by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of the Act or of Rules made thereunder with intent to evade payment of duty", under the scheme of the four Sections (11A, 11AA, 11AB & 11AC) interest is leviable on delayed or deferred payment of duty for whatever reasons."

Thus, interest leviable on delayed or deferred payment of duty for whatever reasons, is aptly applicable in the instant case.

63.5 In view of the above, I find that the noticee had wilfully mis stated the correct classification of the good to evade the legitimate customs duty on account of collusion, wilful mis-statement and suppression of facts. Therefore, I confirm the demand of differential duty of Rs. 1,11,66,304/-(Rupees One Crore Eleven Lakhs Sixty-Six Thousand Three Hundred Four only) in respect of 01 Live Bill of Entry & 01 past bill of entry of nail clippers and 6 Past Bills of Entry of narrow woven fabric (plain strip) from 21.08.2021 to 28.09.2022, along with the applicable interest with section 28(10) & 28AA of the Customs Act, 1962.

E. NOW I TAKE UP THE NEXT QUESTION AS TO WHETHER M/S. RM RIBBONS SHOULD BE HELD LIABLE FOR PENALTY UNDER THE PROVISIONS OF SECTIONS 112 (A), 112(B) & 114A OF THE CUSTOMS ACT, 1962.

64. As per my detailed findings in paras 60 and 61 above, I find that with the introduction of self-assessment by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

64.1. I reiterate my findings from paras 60 and 61 above for the question of penalty also as the same are mutatis mutandis applicable to this issue also. The provisions of Section 114 A / 112 (a) of the Customs Act, 1962 are reproduced as under: -

Section 114A. Penalty for short-levy or non-levy of duty in certain cases. –

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:

*[**Provided** that where such duty or interest, as the case may be, as determined under [sub-section (8) of section 28], and the interest payable thereon under section [28AA], is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:*

***Provided** further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :*

***Provided** also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:*

***Provided** also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section [28AA], and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect :*

***Provided** also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.*

***Explanation** . - For the removal of doubts, it is hereby declared that -*
(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest 3 [sub-section (8) of section 28] relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;*

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.]

***SECTION 112. Penalty for improper importation of goods, etc. — Any person**, -*

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

64.2 It is a settled law that fraud and justice never dwell together (Frauset Jus nunquam cohabitant). Lord Denning had observed that "no judgement of a court, no order of a minister can be allowed to stand if it has been obtained by fraud, for, fraud unravels everything" there are numerous judicial pronouncements wherein it has been held that no court would allow getting any advantage which was obtained by fraud. The Hon'ble Supreme Court in case of CC, Kandla vs. Essar Oils Ltd. reported as 2004 (172) ELT 433 SC at paras 31 and 32 held as follows:
"31. ''Fraud'' as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letter or words, which includes the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter. ***It is also well settled that misrepresentation itself amounts to fraud.*** *Indeed, innocent misrepresentation may also give reason to claim relief against fraud.* ***A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood.*** *It is a fraud in law if a party makes representations, which he knows to be false, although the motive from which the representations proceeded may not have been bad. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. (Ram Chandra Singh v. Savitri Devi and Ors.[2003 (8) SCC 319].*

32. "Fraud" and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. Principle Bench of Tribunal at New Delhi extensively dealt with the issue of Fraud while delivering judgment in Samsung Electronics India Ltd. Vs commissioner of Customs, New Delhi reported in 2014(307)ELT 160(Tri. Del). In Samsung case, Hon'ble Tribunal held as under.

"If a party makes representations which he knows to be false and injury ensues there from

although the motive from which the representations proceeded may not have been bad is considered to be fraud in the eyes of law. It is also well settled that misrepresentation itself amounts to fraud when that results in deceiving and leading a man into damage by wilfully or recklessly causing him to believe on falsehood. Of course, innocent misrepresentation may give reason to claim relief against fraud. In the case of Commissioner of Customs, Kandla vs. Essar Oil Ltd. - 2004 (172) E.L.T. *433 (S.C.) it has been held that by "fraud" is meant an intention to deceive; whether it is from any expectation of advantage to the party himself or from the ill-will towards the other is immaterial. "Fraud" involves two elements, deceit and injury to the deceived.*

Undue advantage obtained by the deceiver will almost always cause loss or detriment to the deceived. Similarly a "fraud" is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. (Ref: S.P. Changalvaraya Naidu v. Jagannath [1994 (1) SCC 1: AIR 1994 S.C. 853]. It is said to be made when it appears that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly and carelessly whether it be true or false [Ref :RoshanDeenv. PreetiLal [(2002) 1 SCC 100], Ram Preeti Yadav v. U.P. Board of High School and Intermediate Education [(2003) 8 SCC 311], Ram Chandra Singh's case (supra) and Ashok Leyland Ltd. v. State of T.N. and Another [(2004) 3 SCC 1].

Suppression of a material fact would also amount to a fraud on the court [(Ref: Gowrishankarv. Joshi Amha Shankar Family Trust, (1996) 3 SCC 310 and S.P. Chengalvaraya Naidu's case (AIR 1994 S.C. 853)]. No judgment of a Court can be allowed to stand if it has been obtained by fraud. Fraud unravels everything and fraud vitiates all transactions known to the law of however high a degree of solemnity. When fraud is established that unravels all. [Ref: UOI v. Jain Shudh Vanaspati Ltd. - 1996 (86) E.L.T. *460 (S.C.) and in Delhi Development Authority v. Skipper Construction Company (P) Ltd. - AIR 1996 SC 2005]. Any undue gain made at the cost of Revenue is to be restored back to the treasury since fraud committed against Revenue voids all judicial acts, ecclesiastical or temporal and DEPB scrip obtained playing fraud against the public authorities are non-est. So also, no Court in this country can allow any benefit of fraud to be enjoyed by anybody as is held by Apex Court in the case of Chengalvaraya Naidu reported in (1994) 1 SCC I: AIR 1994 SC 853. Ram Preeti Yadav v. U.P. Board High School and Inter Mediate Education (2003) 8 SCC 311.*

A person whose case is based on falsehood has no right to seek relief in equity [Ref: S.P. Chengalvaraya Naidu v. Jagannath, AIR 1994 S.C. 853]. It is a fraud in law if a party makes representations, which he knows to be false, and injury ensues there from although the motive from which the representations proceeded may not have been bad. [Ref: Commissioner of Customs v. Essar Oil Ltd., (2004) 11 SCC 364 = 2004 (172) E.L.T. *433 (S.C.)].*

When material evidence establishes fraud against Revenue, white collar crimes committed under absolute secrecy shall not be exonerated as has been held by Apex Court judgment in the case of K.I. Pavunnyv.AC, Cochin - 1997 (90) E.L.T. *241 (S.C.). No adjudication is barred under Section 28 of the Customs Act, 1962 if Revenue is defrauded for the reason that enactments like Customs Act, 1962, and Customs Tariff Act, 1975 are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives.*

It is a cardinal principle of law enshrined in Section 17 of Limitation Act that fraud nullifies everything for which plea of time bar is untenable following the ratio laid down by Apex Court in the case of CC. v. Candid Enterprises - 2001 (130) E.L.T. *404 (S.C.). Non est instruments at all times are void and void instrument in the eyes of law are no instruments. Unlawful gain is thus debarred."*

64.3 As explained above, it is conclusively established that the importer M/s. R.M. Ribbons has willfully undervalued the nail clippers and misclassified the goods under CTH 58071020, 58071090 & 58079090 to evade appropriate Customs Duty. Thus, the importing firm has deliberately misclassified the goods and evaded the duty of Rs. 1,11,66,304/-(Rupees One Crore Eleven Lakhs Sixty Six Thousand Three Hundred Four only) in respect of 01 Live Bill of Entry & 01 past bill of entry of nail clippers and 6 Past Bills of Entry of narrow woven fabric (plain strip) from 21.08.2021 to 28.09.2022, which should be demanded and recovered from the importing firm under Section 28 (4) of the Customs Act, 1962. Consequently, the importing firm is liable for penalty under Section 114A of the Customs Act, 1962.

64.4 Since I will be imposing penalty on the importer under Section 114A, I shall refrain from imposing Penalty under Section 112(a) and section 112(b) of the Act on the importer, R.M. Ribbons, in terms of the fifth proviso to Section 114A of the Act ibid.

F. NOW I TAKE UP THE NEXT QUESTION AS TO WHETHER SHRI VINOD RANKA, AUTHORIZED PERSON OF M/S. RM RIBBONS SHOULD NOT BE HELD LIABLE FOR PENALTY UNDER THE PROVISIONS OF SECTIONS 112(A), 112(B) & 114AA OF THE CUSTOMS ACT, 1962.

65. As per my detailed findings in paras 60 and 61 above, I find that with the introduction of self-assessment by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

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*[**Provided** that where such duty or interest, as the case may be, as determined under [sub-section (8) of section 28], and the interest payable thereon under section [28AA], is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:*

***Provided** further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :*

***Provided** also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:*

***Provided** also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section [28AA], and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect :*

***Provided** also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.*

***Explanation** . - For the removal of doubts, it is hereby declared that -*
(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest 3 [sub-section (8) of section 28] relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;*

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.]

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(b) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

65.2 It is a settled law that fraud and justice never dwell together (Frauset Jus nunquam cohabitant). Lord Denning had observed that “no judgement of a court, no order of a minister can be allowed to stand if it

has been obtained by fraud, for, fraud unravels everything" there are numerous judicial pronouncements wherein it has been held that no court would allow getting any advantage which was obtained by fraud. The Hon'ble Supreme Court in case of CC, Kandla vs. Essar Oils Ltd. reported as 2004 (172) ELT 433 SC at paras 31 and 32 held as follows:

"31. ''Fraud'' as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letter or words, which includes the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter. ***It is also well settled that misrepresentation itself amounts to fraud.*** *Indeed, innocent misrepresentation may also give reason to claim relief against fraud.* ***A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood.*** *It is a fraud in law if a party makes representations, which he knows to be false, although the motive from which the representations proceeded may not have been bad. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. (Ram Chandra Singh v. Savitri Devi and Ors.[2003 (8) SCC 319].*

32. "Fraud" and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. Principle Bench of Tribunal at New Delhi extensively dealt with the issue of Fraud while delivering judgment in Samsung Electronics India Ltd. Vs commissioner of Customs, New Delhi reported in 2014(307)ELT 160(Tri. Del). In Samsung case, Hon'ble Tribunal held as under.

"If a party makes representations which he knows to be false and injury ensues there from although the motive from which the representations proceeded may not have been bad is considered to be fraud in the eyes of law. It is also well settled that misrepresentation itself amounts to fraud when that results in deceiving and leading a man into damage by wilfully or recklessly causing him to believe on falsehood. Of course, innocent misrepresentation may give reason to claim relief against fraud. In the case of Commissioner of Customs, Kandla vs. Essar Oil Ltd. - 2004 (172) E.L.T. 433 (S.C.) it has been held that by "fraud" is meant an intention to deceive; whether it is from any expectation of advantage to the party himself or from the ill-will towards the other is immaterial. "Fraud" involves two elements, deceit and injury to the deceived.

Undue advantage obtained by the deceiver will almost always cause loss or detriment to the deceived. Similarly a "fraud" is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. (Ref: S.P. Changalvaraya Naidu v. Jagannath [1994 (1) SCC 1: AIR 1994 S.C. 853]. It is said to be made when it appears that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly and carelessly whether it be true or false [Ref :RoshanDeenv. PreetiLal [(2002) 1 SCC 100], Ram Preeti Yadav v. U.P. Board of High School and Intermediate Education [(2003) 8 SCC 311], Ram Chandra Singh's case (supra) and Ashok Leyland Ltd. v. State of T.N. and Another [(2004) 3 SCC 1].

Suppression of a material fact would also amount to a fraud on the court [(Ref: Gowrishankarv. Joshi Amha Shankar Family Trust, (1996) 3 SCC 310 and S.P. Chengalvaraya Naidu's case (AIR 1994 S.C. 853)]. No judgment of a Court can be allowed to stand if it has been obtained by fraud. Fraud unravels everything and fraud vitiates all transactions known to the law of however high a degree of solemnity. When fraud is established that unravels all. [Ref: UOI v. Jain Shudh Vanaspati Ltd. - 1996 (86) E.L.T. 460 (S.C.) and in Delhi Development Authority v. Skipper Construction Company (P) Ltd. - AIR 1996 SC 2005]. Any undue gain made at the cost of Revenue is to be restored back to the treasury since fraud committed against Revenue voids all judicial acts, ecclesiastical or temporal and DEPB scrip obtained playing fraud against the public authorities are non-est. So also, no Court in this country can allow any benefit of fraud to be enjoyed by anybody as is held by Apex Court in the case of Chengalvaraya Naidu reported in (1994) 1 SCC I: AIR 1994 SC 853. Ram Preeti Yadav v. U.P. Board High School and Inter Mediate Education (2003) 8 SCC 311.

A person whose case is based on falsehood has no right to seek relief in equity [Ref: S.P. Chengalvaraya Naidu v. Jagannath, AIR 1994 S.C. 853]. It is a fraud in law if a party makes representations, which he knows to be false, and injury ensues there from although the motive from which the representations proceeded may not have been bad. [Ref: Commissioner of Customs v. Essar Oil Ltd., (2004) 11 SCC 364 = 2004 (172) E.L.T. 433 (S.C.)].

When material evidence establishes fraud against Revenue, white collar crimes committed under *absolute secrecy shall not be exonerated as has been held by Apex Court judgment in the case of K.I. Pavunnyv.AC, Cochin - 1997 (90)* E.L.T. *241 (S.C.). No adjudication is barred under Section 28 of the Customs Act, 1962 if Revenue is defrauded for the reason that enactments like Customs Act, 1962, and Customs Tariff Act, 1975 are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives.*

It is a cardinal principle of law enshrined in Section 17 of Limitation Act that fraud nullifies everything for which plea of time bar is untenable following the ratio laid down by Apex Court in the case of CC. v. Candid Enterprises - 2001 (130) E.L.T. *404 (S.C.). Non est instruments at all times are void and void instrument in the eyes of law are no instruments. Unlawful gain is thus debarred."*

65.3 As explained above, it is conclusively established that Shri Vinod Ranka, Authorized Person of M/s. RM Ribbons has willfully undervalued the nail clippers and misclassified the goods under CTH 58071020, 58071090 & 58079090 to evade appropriate Customs Duty. Thus, the importing firm has deliberately misclassified the goods and evaded the duty of Rs. 1,11,66,304/-(Rupees One Crore Eleven Lakhs Sixty Six Thousand Three Hundred Four only) in respect of 01 Live Bill of Entry & 01 past bill of entry of nail clippers and 6 Past Bills of Entry of narrow woven fabric (plain strip) from 21.08.2021 to 28.09.2022, which should be demanded and recovered from the importing firm under Section 28 (4) of the Customs Act, 1962. Consequently, Shri Vinod Ranka, Authorized Person of M/s. RM Ribbons is liable for penalty under Section 112(b) of the Customs Act, 1962.

65.4 Since I will be imposing penalty on the importer under Section 112(b), I shall refrain from imposing Penalty under Section 112(a) of the Act on Shri Vinod Ranka, Authorized Person of M/s. RM Ribbons.

65.5 Further I observe that Penal Action under Section 114 AA of the Customs Act has also been proposed against Shri Vinod Ranka, Authorized Person of M/s. RM Ribbons.

The relevant provision of the Section 114AA of the Custom Act, 1962 is as under:
- 114AA Penalty for use of false and incorrect material –

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

I reiterate my findings from paras 60 and 61 for the question of penalty also as the same appears mutatis mutandis to this also.

65.6 I note that, The Hon'ble CESTAT, New Delhi in the case of M/s S.D. Overseas vs The Joint Commissioner of Customs in Customs Appeal No. 50712 OF 2019 had dismissed the appeal of the petitioner while upholding the imposition of penalty under Section 114 AA of the Customs Act, wherein it had held as under:

> *28. As far as the penalty under Section 114AA is concerned, it is imposable if a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act. We find that the appellant has misdeclared the value of the imported goods which were only a fraction of a price the goods as per the manufacturer's price lists and, therefore, we find no reason to interfere with the penalty imposed under Section 114AA.*

65.7 There are several judicial decisions in which penalty on Companies under section 114AA of the Customs Act, 1962 has been upheld. Following decisions are relied upon on the issue-

i. M/s ABB Ltd. Vs Commissioner (2017-TIOL-3589-CESTAT-DEL)
ii. Sesa Sterlite Ltd. Vs Commissioner (2019-TIOL-1181-CESTAT-MUM)
iii. Indusind Media and Communications Ltd. Vs Commissioner (2019-TIOL-441-SC-CUS)

65.8 As observed in paras above, in the instant case, there is clear evidence of fraud and suppression of facts. The Shri Vinod Ranka, Authorized Person of M/s. RM Ribbons. has cleared the imported goods by under valuation and misclassifying them to avail the benefit of less rate of Basic Custom Duty. Therefore, I hold that Shri Vinod Ranka, Authorized Person of M/s. RM Ribbons. is liable for imposition of penalty under Section 114AA ibid.

G. **AS TO WHETHER AN AMOUNT OF RS. 50,00,000/- PAID BY M/S. RM RIBBONS TOWARDS DIFFERENTIAL DUTIES (BCD, SWS & IGST) PAID UNDER PROTEST SHOULD NOT BE TREATED AS VOLUNTARY DUTY PAYMENT AND BANK GUARANTEE NO. 6031NDDG00001123 DATED 24.11.2022 FOR AN AMOUNT OF RS.27,50,565/- FURNISHED BY M/S. RM RIBBONS AT THE TIME OF PROVISIONAL RELEASE OF SEIZED GOODS, SHOULD BE ENCASHED & APPROPRIATED AGAINST THE DEMAND PROPOSED.**

66. As I have already held in the foregoing paras that the importing firm M/s. RM Ribbons has wilfully evaded the applicable Customs duty. The importing firm evaded the duty of Rs. BCD of Rs. 51,37,615/- (Fifty-One Lakh Thirty-Seven Thousand Six Hundred Fifteen Rupees only), differential SWS of Rs. 5,13,762/- (Five Lakhs Thirteen Thousand Seven Hundred and Sixty-Two Rupees only) & differential IGST of Rs. 55,14,927/- (Fifty-Five Lakhs Fourteen Thousand Nine Hundred and Twenty-Seven Rupees only) in respect of 01 Live Bill of Entry & 07 Past Bills of Entry from 21.08.2021 to 28.09.2022, which should be demanded and recovered from the importing firm under Section 28 (4) of the Customs Act, 1962.

66.1 I observe that during the course of investigation, M/s. RM Ribbons paid Rs. **50,00,000/-under protest vide demand draft no. 517307** detailed below:

S. No	D.D No & Date	DD amount	BCD/SWS	IGST Amount	Port Name	TR-6Challan No. & Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	517307	50,00,000			Nhava Sheva	HC72,HCM 581, HCM 582 DATED 09.11.2022

66.2 I find that the bank guarantee no. 6031NDDG00001123 dated 24.11.2022 of an amount of Rs.27,50,565/- furnished by M/s. RM Ribbons at the time of provisional release of seized goods, shall be appropriated against the demand, interest and penalties.

Therefore, the amount paid by the importer during investigation vide the demand draft number mentioned above and the bank guarantee 6031NDDG00001123 dated 24.11.2022 of an amount of Rs.27,50,565/- should be appropriated against the demand of duty, interest and penalty.

67. In view of the above facts of the case and findings on record, I pass the following order;

ORDER

1. I reject the value of **nail clippers** imported vide 01 Live Bill of Entry No. 2640453 dated 28.09.2022 & 01 Past Bill of Entry No. 8888769 dated 30.05.2022 by mis-declaration of value and order to redetermine the value as Rs. 3,02,91,771/- (Rupees Three Crores Two Lakhs Ninety- One Thousand Seven Hundred Seventy-One only).

2. I reject the declared classification of goods Narrow woven fabric (plain strips) imported vide 06 past Bills of Entry filed during the period from 21.08.2021 to 28.09.2022 classified under CTH 58071020, 58071090 & 58079090 and order to re-classify the same under CTH 58063200 with applicable duties;

3. I order confiscation of the imported goods imported goods “nail clippers” & “Narrow Woven Fabrics (plain strips)” valued Rs. 5,40,65,684/- (Five Crores Forty Lakhs Sixty-Five Thousand Six hundred eighty-four rupees only) imported vide 01 Live Bill of Entry & 01 past bill of entry of nail clippers and 6 Past Bills of Entry of white strip label tape from 21.08.2021 to 28.09.2022 (which includes the imported goods valued at Rs. 1,63,892/- available in warehouse/godown & seized under Mahazar dated 03.10.2022) under Section 111(m) read with provisions of Section 46 (4) and Section 46 (4A) of the Customs Act, 1962 and impose redemption fine of Rs. 1,35,00,000/- (Rs. One Crore Thirty-five lakhs only) on M/s RM Ribbons in respect of these goods (both cleared in past and provisionally released) for their redemption u/s 125 of the

Customs Act, 1962;

4. I confirm the demand of differential duty Rs. 1,11,66,304/-(Rupees One Crore Eleven Lakhs Sixty Six Thousand Three Hundred Four only) in respect of 01 Live Bill of Entry & 01 past bill of entry of nail clippers and 6 Past Bills of Entry of narrow woven fabric (plain strip) from 21.08.2021 to 28.09.2022, cleared by M/s RM Ribbons, under the provision of Section 28(4) of the Customs Act, 1962 along with applicable interest leviable under Section 28AA read with section 28(10) of the Customs Act, 1962.

5. I impose a penalty equivalent to differential duty of Rs. 1,11,66,304/-(Rupees One Crore Eleven Lakhs Sixty-Six Thousand Three Hundred Four only) and interest accrued there upon on the importing firm M/s RM Ribbons under section 114A 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.

6. I impose a penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) under Section 112(b) of the Customs Act, 1962 on Mr. Vinod Ranka Authorized Representative, M/s RM Ribbons for their acts of omission and commission in relation to the said dutiable goods liable for confiscation.

7. I impose a penalty of Rs. 55,00,000/- (Rupees Fifty-Five Lakhs only) under Section 114AA of the Customs Act, 1962 on Mr. Vinod Ranka Authorized Representative, M/s RM Ribbons for their acts of omission and commission in relation to the said dutiable goods liable for confiscation.

8. I order to appropriate the deposit of the amount of differential duty of Rs.50,00,000/-(Rupees Fifty Lakhs only) and bank guarantee no. 6031NDDG00001123 dated 24.11.2022 of an amount of Rs.27,50,565/- furnished by M/s. RM Ribbons as discussed in para 66 above, against the aforesaid demand of duty, fine, penalty and interest.

Digitally signed by
Vijay Risi
Date: 24-08-2025
15:30:47

(VIJAY RISI)
COMMISSIONER OF CUSTOMS
NS-III, JNCH

To,

Noticee:-

M/s. RM Ribbons (IEC: AAWFR1796C)
Door No 2, Hunters Road, 1st Floor, Choolai,
Chennai, Tamil Nadu, 600084

Copy to:

a) The Additional Director General, DRI, Chennai Zonal Unit, T. Nagar, G.N. Chetty Road, Chennai-17
b) Deputy Commissioner of Customs,Gr. III, JNCH
c) DC, SIIB(I), for uploading in the Digit.
d) DC/CCO,
e) DC/Centralized Revenue Recovery Cell, JNCH
f) Notice Board.
g) Office copy.