



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

Adj. File No: S/10-1138/Adj./2025-26/Commr./Gr. III/NS-III/CAC/JNCH

Date: 29.01.2026

SCN File No: CUS/APR/ASS/2281/2025-Group 3-O/o-Commissioner-Customs-NS-III

SCN No: 1342/2025-26/COMMISSIONER/NS-III/JNCH dated 18.11.2025

SCN is issued by Appraising Group-III, NS-III, JNCH

DIN: 20260178NX000011641D

आदेश की तिथि Date of Order	:	29.01.2026
जारी किए जाने की तिथि Date of Issue	:	29.01.2026
आदेश सं. Order No.	:	372/2025-26/आयुक्त/एनएस-III/ सीएसी/जेएनसीएच 372/2025-26 /Commr./NS-III /CAC/JNCH
पारितकर्ता Passed by	:	श्री विजय रिशी SH. VIJAY RISI प्रधान आयुक्त, सीमाशुल्क (एनएस-3), जेएनसीएच, न्हावा शेवा Pr. Commissioner of Customs (NS-III), JNCH, Nhava Sheva
पक्षकार (पार्टी)/ नोटिसी का नाम Name of Party/ Noticee	:	मेसर्स फेया टेक्सटाइल। M/s. FEYA TEXTILE.

मूलआदेश

ORDER-IN-ORIGINAL

- इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्तिको जारी की जाती है, उसके उपयोग के लिए निःशुल्क 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.
- 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.
- 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.

S/10-1138/2025-26/Adj./Commissioner/Gr. III/NS-III/CAC/JNCH
SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

The proceedings of the present case emanate out of **Show Cause Notice No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025** (hereinafter called in short as “SCN”), issued by the Commissioner of Customs, NS-III, JNCH, Mumbai Customs Zone-II vide **File No. CUS/APR/ASS/2281/2025-Group 3-O/o-Commissioner-Customs-Nehva Sheva-III** to **M/s. Feya Textile (IEC- AADFF8018N)** having their registered address at Gala No. 5-8, C-10, Shri Arihant Godown Complex, Kalher, Thane, 421302 (hereinafter referred to as the “Importer” or “Noticee”).

BRIEF FACTS OF THE CASE

1. M/s. FEYA TEXTILE, had imported multiple consignments of Synthetic Knitted Fabrics, classifiable under various Customs Tariff Headings (CTHs) falling within Chapter 60 of the First Schedule to the Customs Tariff Act, 1975. The said consignments were cleared through different Bills of Entry at the port of Nhava Sheva, details of which are enumerated in Table I below. The importer had declared the goods for home consumption under the system of self-assessment in terms of Section 17 of the Customs Act, 1962, and the said consignments were accordingly cleared for home consumption upon payment of the duty as declared and assessed by the importer at the time of import.

Table-I

Sr. No.	BE number	BE date	BL Date	Full Item Description	Declared CTH	Declared Assessable Value (Rs.)	Declared quantity (in kgs)	Declared Unit Price in USD	Exchange rate in (In Rs.)	Total Duty Amount paid (in Rs.)
1	59766 40	05- Oct-24	20- 09-24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GS M)POLYESTER WARP KNITTED FABRIC	60053 900	1,901,7 74	18,65 6	1.2	84.85	446,53 7
2	59766 42	05- Oct-24	20- 09-24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GS M)POLYESTER WARP KNITTED FABRIC	60053 900	1,426,7 39	13,9 96	1.2	84.85	334,99 8

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				ER WARP KNITTED FABRIC						
3	59766 36	05- Oct-24	20- 09-24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GS M)POLYEST ER WARP KNITTED FABRIC	60053 900	1,7 78,326	17, 445	1.2	84.85	417, 551
4	64092 30	29- Oct-24	08- 10-24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT DESIGN,COL OUR,WEIGH T,GSM)POLY ESTER WARP KNITTED FABRIC	60053 900	2,7 99,107	27, 426	1.2	84.95	6 57,230
5	64092 34	29- Oct-24	08- 10-24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT DESIGN,COL OUR,WEIGH T,GSM)POLY ESTER WARP KNITTED FABRIC	60053 900	1,5 22,536	14, 918	1.2	84.95	3 57,491
6	64092 55	29- Oct-24	08- 10-24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT DESIGN,COL OUR,WEIGH T,GSM)POLY ESTER WARP KNITTED FABRIC	60053 900	1,4 24,138	13, 954	1.2	84.95	3 34,388
7	64092	29-	08-	POLYESTER	60053	1,6	15,	1.2	84.95	3

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	58	Oct-24	10-24	WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COL OUR,WEIGH T,GSM)POLY ESTER WARP KNITTED FABRIC	900	24,291	915			81,384
8	64312 48	30- Oct-24	08- 10-24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COL OUR,WEIGH T,GSM)POLY ESTER WARP KNITTED FABRIC	60053 900	3,1 89,590	31, 252	1.2	84.95	7 48,916
9	64312 45	30- Oct-24	08- 10-24	POLYESTER WARP KNITTED FABRIC (ROLLS PF ASSORTED DIFFRENT DESIGN,COL OR,WEIGHT, GSM)POLYE STER WARP KNITTED FABRIC	60053 900	2,8 62,691	28, 049	1.2	84.95	8 04,416
10	64312 32	30- Oct-24	08- 10-24	POLYESTER WARP KNITTED FABRIC (ROLLS PF ASSORTED DIFFRENT DESIGN,COL OR,WEIGHT, GSM)POLYE STER WARP KNITTED FABRIC	60053 900	1,4 80,439	14, 506	1.2	84.95	4 16,003
				Total		20,009, 630				4,898, 914

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2. Whereas, it appeared that vide Notification No. 77/2023 dated 16.03.2024, issued by the Directorate General of Foreign Trade (DGFT), the import policy and policy conditions governing goods falling under Customs Tariff Headings (CTHs) 60063100, 60063200, 60063300, 60063400, and 60069000 of Chapter 60 of the First Schedule to the Customs Tariff Act, 1975, were revised. Through the said notification, the import policy for the aforementioned goods was amended from "Free" to "Prohibited", subject to a prescribed Minimum Import Price (MIP) condition, and made applicable up to 15.09.2024. As per the revised policy, import of Synthetic Knitted or Crocheted Fabrics under the above CTHs was permitted only at or above an MIP of USD 3.50 per kilogram (CIF basis). The copy of the notification is reproduced below for kind perusal and reference.

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

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

Notification No. 77/2023
 New Delhi, Dated: 16th March 2024

Subject: Imposition of Minimum Import Price on Synthetic Knitted Fabrics up to 15th September 2024 -reg

S.O.: In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2023, as amended from time to time, the Central Government hereby revises the Import Policy and Import Policy Condition of the following ITC(HS) Codes under Chapter 60 of ITC (HS) 2022, Schedule-I(Import Policy), for the period up to 15th September 2024 as under:

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



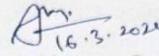
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					3.5 US Dollar and above per Kilogram
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2. The existing 'Free' Import Policy, as it stands prior to the issuance of this Notification, shall be in effect starting from 16th September 2024, unless expressly amended by subsequent notification.

Effect of the Notification: Minimum Import Price of US Dollar 3.50 per Kilogram is imposed on (5) specific Synthetic Knitted Fabric ITC(HS) Codes for the period up to 15th September 2024. The existing 'Free' Import Policy, as it stands prior to the issuance of this Notification, shall be in effect starting from 16th September 2024, unless expressly amended by subsequent notification.

This is issued with the approval of Minister of Commerce & Industry.


 (Santosh Kumar Sarangi)
 Director General of Foreign Trade &
 Ex- officio Addl. Secretary to the Government of India
 E-mail: dgft@nic.in

(F.No. 01/89/180/Misc-39/AM-05/PC-2[A]/E-1425)

2.1 Whereas, the aforesaid import restrictions and the requirement of adherence to the prescribed Minimum Import Price (MIP) were subsequently extended and broadened vide DGFT Notification No. 33/2024-25 dated 01.10.2024. Through the said notification, the validity of the MIP condition was extended up to 31.12.2024, and its scope was expanded to cover additional tariff items, namely CTHs 60019200, 60041000, 60049000, 60053600, 60053790, 60053900, 60062200, and 60064200, in addition to the tariff headings already covered under DGFT Notification No. 77/2023 dated 16.03.2024. Consequently, the restriction on imports valued below the prescribed MIP of USD 3.50 per kilogram (CIF basis) continued to remain applicable to all the aforesaid tariff items up to 31.12.2024. The copy of the notification is reproduced below for kind perusal and reference.

S/10-1138/2025-26/Adj./Commissioner/Gr. III/NS-III/CAC/JNCH
SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

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

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

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

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

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

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

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

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



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SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

: 2 :

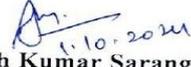
ITC(HS) Code	Item Description	Existing Import Policy	Revised Import Policy	Existing Policy Condition	Revised Policy Condition
60019200	- Other : -- Of man-made fibres	Free	Prohibited	-	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60041000	Knitted or crocheted fabrics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

: 3 :

Effect of the Notification:

Minimum Import Price (MIP) on Synthetic Knitted Fabrics is extended from 15th September 2024 to 31st December 2024. Further, MIP of US Dollar 3.50 per Kilogram on CIF Value has also been imposed on 08 new ITC (HS) Codes of various kinds of Knitted fabrics for the period up to 31st December, 2024.

This is issued with the approval of Minister of Commerce & Industry.


 (Santosh Kumar Sarangi)
 Director General of Foreign Trade &
 Ex- officio Addl. Secretary to the Government of India
 E-mail: dgft@nic.in

(Issued from F.No. 01/89/180/Misc-39/AM-05/PC-2[A]/E-1425)

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SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

2.2 Thereafter, vide DGFT Notification No. 49/2024-25 dated 04.01.2025, the validity of the MIP condition was further extended for the period from 01.01.2025 to 31.03.2025, thereby continuing the prohibition on imports of the subject goods declared below the MIP threshold during the said extended period. It appeared that imports declared at a CIF value below the prescribed MIP were to be treated as "Restricted", unless specifically covered under valid authorization schemes such as Advance Authorization, Export Oriented Unit (EOU), or Special Economic Zone (SEZ), and subject to strict compliance with the conditions stipulated therein. The copy of the notification is reproduced below for kind perusal and reference.

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

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

Notification No. 49/2024-25
New Delhi, Dated: 4 January, 2025

Subject: Amendment in Import Policy and Import Policy Condition of Synthetic Knitted Fabrics Covered under Chapter 60 of the ITC (HS), 2022– reg.

S.O.: In exercise of powers conferred by Section 3 and Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2023, as amended from time to time, and in partial modification to Notification No. 77/2023 dated 16.03.2024 and Notification No. 33/2024-25 dated 01.10.2024 the Central Government hereby extends the condition of Minimum Import Price (MIP) on the following 13 ITC (HS) codes of Synthetic Knitted Fabrics from 01.01.2025 to 31.03.2025 as under:

ITC(HS) Code	Item Description	Revised Import Policy	Policy condition
60063100	-Of synthetic fibres : -- Unbleached or bleached	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60063200	-Of synthetic fibres : -- Dyed	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60063300	-Of synthetic fibres : -- Of yarns of different colours	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60063400	-Of synthetic fibres : -- Printed	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60069000	-- Other	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60019200	- Other : -- Of man-made fibres	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram



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60041000	Knitted or crocheted fabrics of a width exceeding 30 cm, containing by weight 5 percent or more of elastomeric yarn or rubber thread, other than those of heading 60.01.	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60049000	- Other	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60053600	- Of synthetic fibres : -- Other, unbleached or bleached	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60053790	--- Other	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60053900	- Of synthetic fibres : -- Other, printed	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60062200	- Of cotton : -- Dyed	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60064200	- Of artificial fibres: - - Dyed	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram

2. Minimum Import Price (MIP) condition on above items shall not be applicable for imports by Advance Authorisation holders, Export Oriented Units (EOUs) and units in the SEZ subject to the condition that the imported inputs are not sold into Domestic Tariff Area (DTA).

Effect of the Notification :

Import of Synthetic Knitted Fabrics under ITC(HS) 60063100, 60063200, 60063300, 60063400, 60069000, 60019200, 60041000, 60049000, 60053600, 60053790, 60062200 and 60064200 is "Restricted". However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram. Further, inputs imported by Advance Authorisation holders, EOUs and SEZ shall be exempted from MIP condition.

This is issued with the approval of Minister of Commerce & Industry.

AM
4.1.2025

(Santosh Kumar Sarangi)
Director General of Foreign Trade &
Ex- officio Addl. Secretary to the Government of India
 E-mail: dgft@nic.in

(F.No. 01/89/180/Misc-39/AM-05/PC-2[A]/E-1425)

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2.3 Whereas, vide DGFT Notification No. 05/2025-26 dated 23.04.2025, the Directorate General of Foreign Trade (DGFT) undertook a revision of the applicability of the Minimum Import Price (MIP) condition imposed on imports of Synthetic Knitted or Crocheted Fabrics. Through the said notification, the DGFT restricted the scope of the MIP requirement to four specific tariff items, namely CTHs 60019200, 60053600, 60053790, and 60053900. Accordingly, imports falling under the above-mentioned CTHs continued to remain subject to the prescribed MIP of USD 3.50 per kilogram (CIF basis). The MIP condition, however, was withdrawn for all other tariff items that had earlier been brought under its ambit through the preceding DGFT Notifications Nos. 77/2023, 33/2024-25, and 49/2024-25, thereby limiting the restriction to the said four CTHs with effect from 23.04.2025. The copy of the notification is reproduced below for kind perusal and reference.

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

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

Notification No. 05/2025-26
New Delhi, Dated: 23 April, 2025

Subject: Amendment in Import Policy Condition of Synthetic Knitted Fabrics Covered under Chapter 60 of the ITC (HS), 2022-reg.

S.O.: In exercise of powers conferred by Section 3 and Section 5 of Foreign Trade (Development & Regulation) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy (FTP), 2023, as amended from time to time, had imposed MIP vide Notification No. 77/2023 dated 16.03.2024, No. 33/2024-25 dated 01.10.2024 and No. 49/2024-25 dated 04.01.2025. It has been decided by the Central Government to impose the condition of Minimum Import Price (MIP) on the following 04 ITC (HS) codes of Synthetic Knitted Fabrics till 31.03.2026 as under:

ITC(HS) Code	Item Description	Import Policy	Policy condition
60019200	- Other : -- Of man-made fibres	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60053600	- Of synthetic fibres : -- Other, unbleached or bleached	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60053790	--- Other	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60053900	- Of synthetic fibres : -- Other, printed	Restricted	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram

2. MIP condition on above items shall not be applicable for imports by Advance Authorisation holders, Export Oriented Units (EOUs) and units in the SEZ subject to the condition that the imported inputs are not sold into Domestic Tariff Area (DTA).

Effect of the Notification: Import of Synthetic Knitted Fabrics under ITC (HS) Codes 60019200, 60053600, 60053790 and 60053900, is "Restricted". However, import is "Free" if CIF value is 3.5 US Dollar and above per Kilogram. Further inputs imported by Advance Authorisation holders, Export Oriented Units (EOUs) and units in the SEZ shall be exempted from MIP condition.

This is issued with the approval of Minister of Commerce & Industry.


(Ajay Bhadoo)

Director General of Foreign Trade &
Ex- officio Addl. Secretary to the Government of India
E-mail: dgft@nic.in

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2.4 The validity period of each Notification, indicating the duration from the date of its enforcement to the date of cessation, is provided in the table below:

Sr. No.	Notification No.	Notification Date	CTH	Valid for the period	
				From	To
1	77/2023	16.03.2024	60063100	16.03.2024	15.09.2024
			60063200		
			60063300		
			60063400		
			60069000		
2	33/2024-25	01.10.2024	60063100	15.09.2024	31.12.2024
			60063200		
			60063300		
			60063400		
			60069000		
			60019200		
			60041000		
			60019200		
			60041000		
			60049000		
			60053600		
			60053790		
			60053900		
3	49/2024-25	04.01.2025	60063100	01.01.2025	31.03.2025
			60063200		
			60063300		
			60063400		
			60069000		
			60019200		
			60041000		
			60049000		
			60053600		
			60053790		
			60053900		
			60062200		
			60064200		
4	05/2025-26	23.04.2025	60019200	23.04.2025	31.03.2026
			60053600		
			60053790		
			60053900		

2.5 Whereas, in view of the above and on detailed scrutiny of the importer's declarations as well as the examination reports pertaining to the subject consignments as per the bills of entry mentioned in Table-I below, it has been observed that the declared CIF value per kilogram of the imported goods in the 10 bills of entry is below USD 3.50 per kilogram, i.e., lower than the prescribed Minimum Import Price (MIP) stipulated under the

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relevant policy provisions. The said MIP condition has been specifically made applicable to the concerned tariff items through the aforementioned DGFT Notifications issued under the Foreign Trade (Development and Regulation) Act, 1992, thereby governing the importability and valuation threshold of the goods in question.

2.6 As per Para 11.11 of the DGFT Handbook of Procedures, the date of shipment or dispatch for imports transported by sea is determined by the date mentioned on the Bill of Lading. In the present case, the Bills of Lading corresponding to the impugned Bills of Entry are all covered by the DGFT notifications *ibid*. Therefore, the said consignments fall within the purview of the DGFT Notifications prescribing the Minimum Import Price (MIP) condition, as the goods were shipped on board prior to clearance and within the validity period of the said notifications. Consequently, these imports are subject to the MIP requirement stipulated therein, and any declaration of CIF value below USD 3.50 per kilogram during this period amounts to a violation of the mandatory import policy condition applicable at the time of import.

2.7 Whereas, the importer has self-assessed, under section 17(1) of the Customs Act 1962, these 10 bills of entry at a unit price below the prescribed MIP for these items. These bills of entry were primarily facilitated through the risk management system. In the present case, the importer failed to truthfully declare that the subject goods attract MIP, in clear violation of truthful declaration entrusted upon them under section 46(4) of the Customs Act which constitutes suppression of substantial facts resulting in to lower assessment of duty. These violations of section 17 and section 46 led to short payment of duty which appeared to be recoverable under section 28(4) of the Customs Act along with interest under section 28AA of the Customs Act (differential duty quantified in Table I).

2.8 As the goods imported above mentioned Bills of Entry were found to be mis declared in respect of valuation, they were consequently liable for re-assessment under Section 17(4) of the Customs Act, 1962. For the purposes of the Customs Tariff Act, 1975, the valuation of imported goods is required to be determined in accordance with the provisions of Section 14 of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as the "*Customs Valuation Rules, 2007*"). As per these provisions, the transaction value declared by the importer is to be accepted provided it satisfies the conditions laid down under the said Rules and is not disqualified under Rule 12 thereof. However, in the present case, there existed reasonable grounds to doubt the truth and accuracy of the declared transaction value, warranting rejection under Rule 12 of the Customs Valuation Rules, 2007, for the following reasons:

The importer mis declared the value of the goods, having cleared the same at an MIP rate of USD 3.5 per kg, in contravention of the prescribed valuation norms.

In view of the above discrepancies, the declared transaction value could not be accepted under Rule 3(1) of the Customs Valuation Rules, 2007, and was therefore liable for rejection under Rule 12. Accordingly, the declared value not being acceptable as the transaction value under Rule 12 of the Customs Valuation (Determination of Value of

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Imported Goods) Rules, 2007, the assessable value was determined on the basis of the prevailing MIP rate of USD 3.5 per kg.

2.9 In the instant matter, the importer imported the goods under following CTH which are covered under Notification Nos. 33/2024-25 dated 01.10.2024, 49/2024-25 dated 04.01.2025 and 05/2025-26 dated 23.04.2025. The details of the subject Bills of Entry, along with the corresponding assessable values, declared CIF prices, declared duty rates, and the CTH, are furnished hereunder for ready reference:

TABLE-I

Sr . No.	BE num ber	BE date	BL Dat e	Full Item Description	Declare d CTH	Declar ed Assess able Value (Rs.)	Decl ared quan tity (in kgs)	De cla red U nit Pr ice in U S D	Exch ange rate in (In Rs.)	Total Duty Amou nt paid (in Rs.)
1	5976 640	5- Oct- 202 4	20- 09- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GSM)POLYEST ER WARP KNITTED FABRIC	600539 00	19017 74	1865 6	1.2	84.85	44653 6.5
2	5976 642	5- Oct- 202 4	20- 09- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GSM)POLYEST ER WARP KNITTED FABRIC	600539 00	14267 39	1399 6	1.2	84.85	33499 8.2
3	5976 636	5- Oct- 202 4	20- 09- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GSM)POLYEST ER WARP KNITTED FABRIC	600539 00	17783 26	1744 5	1.2	84.85	41755 0.9
4	6409 230	29- Oct- 202 4	08- 10- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER	600539 00	27991 07	2742 6	1.2	84.95	65723 0.4

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				WARP KNITTED FABRIC								
5	6409 234	29- Oct- 202 4	08- 10- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC	600539 00	15225 36	1491 8	1.2	84.95	35749 1.4		
6	6409 255	29- Oct- 202 4	08- 10- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC	600539 00	14241 38	1395 4	1.2	84.95	33438 7.5		
7	6409 258	29- Oct- 202 4	08- 10- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC	600539 00	16242 91	1591 5	1.2	84.95	38138 3.6		
8	6431 248	30- Oct- 202 4	08- 10- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC	600539 00	31895 90	3125 2	1.2	84.95	74891 5.7		
9	6431 245	30- Oct- 202 4	08- 10- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS PF ASSORTED DIFFRENT DESIGN,COLOR,WEIGH T,GSM)POLYESTER WARP KNITTED FABRIC	600539 00	28626 91	2804 9	1.2	84.95	80441 6.2		
10	6431 232	30- Oct- 202 4	08- 10- 202 4	POLYESTER WARP KNITTED FABRIC (ROLLS PF ASSORTED DIFFRENT DESIGN,COLOR,WEIGH T,GSM)POLYESTER WARP KNITTED FABRIC	600539 00	14804 39	1450 5.5	1.2	84.95	41600 3.3		
				Total		20009 630				48989 14		

2.10 The details of the subject Bills of Entry, along with the corresponding re-determine assessable values, Redetermine duty rates, and the CTH, are furnished hereunder for ready reference:

TABLE-II

Sr	BE	BE	BL	CTH	Diffe	Differen	Differen	E	BC	SW	IGS	Total
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· N o.	num ber	date	Date		renc e in MIP (3.5- decla red unit price)	tial rate as per MIP	tial value	xc ha ng e R at e	D @2 0	S @1 0%	T @5	Differen tial duty payable
1	59766 40	5- Oct- 2024	20- 09- 2024	6005 3900	2.3	195.155	3640812	84 .8 5	728 162. 3	728 16.2 3	222 089. 5	1023068
2	59766 42	5- Oct- 2024	20- 09- 2024	6005 3900	2.3	195.155	2731389	84 .8 5	546 277. 9	546 27.7 9	166 614. 8	767520. 4
3	59766 36	5- Oct- 2024	20- 09- 2024	6005 3900	2.3	195.155	3404479	84 .8 5	680 895. 8	680 89.5 8	207 673. 2	956658. 6
4	64092 30	29- Oct- 2024	08- 10- 2024	6005 3900	2.3	195.385	5358629	84 .9 5	107 172 6	107 172. 6	326 876. 4	1505775
5	64092 34	29- Oct- 2024	08- 10- 2024	6005 3900	2.3	195.385	2914753	84 .9 5	582 950. 7	582 95.0 7	177 800	819045. 7
6	64092 55	29- Oct- 2024	08- 10- 2024	6005 3900	2.3	195.385	2726402	84 .9 5	545 280. 5	545 28.0 5	166 310. 5	766119
7	64092 58	29- Oct- 2024	08- 10- 2024	6005 3900	2.3	195.385	3109552	84 .9 5	621 910. 5	621 91.0 5	189 682. 7	873784. 2
8	64312 48	30- Oct- 2024	08- 10- 2024	6005 3900	2.3	195.385	6106172	84 .9 5	122 123 4	122 123. 4	372 476. 5	1715834
9	64312 45	30- Oct- 2024	08- 10- 2024	6005 3900	2.3	195.385	5480354	84 .9 5	109 607 1	109 607. 1	334 301. 6	1539979
10	64312 32	30- Oct- 2024	08- 10- 2024	6005 3900	2.3	195.385	2834157	84 .9 5	566 831. 4	566 83.1 4	172 883. 6	796398. 2
				Total			3830670 0					1076418 3

2.11 During scrutiny, it was observed that verification of the Bills of Entry revealed the availability of earlier test reports in the E-Sanchit system for all the Bills of Entry mentioned in Table-I. The consignments were imported from the same overseas suppliers, *M/s Tongxiang Run & Fun Textiles Co. Ltd.China, M/s Haining Jie Ya Textile Co. Ltd., China and M/s Zhejiang Okly Industries Co. Ltd., China* thereby establishing the identity and consistency of the imported goods' description.

2.12 The re-determined assessable value and corresponding duty liability are summarized below:

TABLE-III

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Declared Assessable Value	Declared Duty	Re-determined Differential Value	Total redetermined assessable Value	Total Duty As per MIP	Payable total Differential Duty
20009630	4898914	38306700	58316330	15663097	10764183

Thus, the differential duty of **Rs. 1,07,64,183/-** appeared to be recoverable under section 28(4) of the Customs Act along with interest under section 28AA of the Customs Act.

3. Whereas, the aforesaid DGFT Notifications categorically stipulate that the import of Synthetic Knitted or Crocheted Fabrics at a unit value below USD 3.50 per kilogram on a CIF basis shall be treated as “Prohibited” under the prevailing import policy. The prohibition has been imposed with the objective of safeguarding domestic industry and ensuring fair trade practices in accordance with the provisions of the Foreign Trade (Development and Regulation) Act, 1992 and the Foreign Trade Policy in force. However, the said restriction is not applicable in cases where imports are specifically covered under valid authorizations, such as those effected under Advance Authorization Schemes, Export Oriented Units (EOUs), or Special Economic Zones (SEZs), subject to strict adherence to the terms and conditions of such authorizations. In such cases, the exemption is limited to imports that are not cleared for home consumption into the Domestic Tariff Area (DTA) and are utilized exclusively for the purposes specified under the respective authorization. However, in the imports under subject 10 bills of entry mentioned in Table-I above, the goods were not covered under the Advance Authorization Schemes, Export Oriented Units (EOUs), or Special Economic Zones (SEZs). It appeared that same were cleared for home consumption. The import effected by the said bills of entry is subject to MIP @3.5\$ per Kg as stated in the DGFT notifications mentioned above.

4. It appeared from the examination of the import documents, valuation particulars, and the Bills of Entry pertaining to the subject consignments that the importer has declared a CIF value per kilogram lower than the prescribed Minimum Import Price (MIP) as notified by the Directorate General of Foreign Trade (DGFT) under the relevant DGFT Notifications cited hereinabove. Such declaration of value, being below the DGFT-mandated MIP, constitutes a clear violation of the import policy conditions prevailing at the material time of import. In view thereof, the import of the said goods at a value below the prescribed MIP is to be treated as “Prohibited” under the applicable provisions of the Foreign Trade Policy. Accordingly, the goods so imported are liable for action under the provisions of the Customs Act, 1962, read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992, and the Foreign Trade Policy framed thereunder, for having been imported in contravention of the restrictions in force at the time of import.

5. Whereas, the import of the aforesaid goods, being governed by the provisions of the Foreign Trade (Development & Regulation) Act, 1992 and the Notifications issued by the Directorate General of Foreign Trade (DGFT) thereunder, is found to be in contravention of the prescribed import policy conditions. This contravention arises from the fact that the importer has declared a CIF value per kilogram lower than the stipulated Minimum Import

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Price (MIP) of USD 3.50, as mandated by the DGFT under the relevant policy notifications. Accordingly, such importation at a value below the prescribed MIP constitutes a violation of the import policy restrictions in force at the material time of import. Consequently, the said goods are to be treated as “Prohibited” for import in terms of Sections 2(33) and 11 of the Customs Act, 1962, read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992. In view thereof, the goods in question are liable to action under the provisions of the Customs Act, 1962, including confiscation under Section 111(d) and imposition of penalties under the relevant provisions, for having been imported in contravention of the applicable legal and policy framework.

6. Import at Values Below Minimum Import Price (MIP)

6.1. Whereas, as elaborated in the foregoing paragraphs, the Directorate General of Foreign Trade (DGFT), through the various notifications cited hereinabove, has prescribed a Minimum Import Price (MIP) of USD 3.50 per kilogram on a CIF basis as a mandatory policy condition governing the import of Synthetic Knitted or Crocheted Fabrics, falling under the relevant Customs Tariff Headings (CTHs) of Chapter 60 of the First Schedule to the Customs Tariff Act, 1975. The said MIP condition was imposed as part of the import policy framework formulated under the Foreign Trade (Development & Regulation) Act, 1992, with the objective of regulating import values, ensuring fair trade practices, and safeguarding domestic industry from unfair price undercutting.

6.2 It appeared from the scrutiny of the Bills of Entry filed by the importer, as detailed in Table-I, that several consignments of Synthetic Knitted Fabrics were imported and declared at CIF values below the prescribed Minimum Import Price (MIP) of USD 3.50 per kilogram, as notified by the Directorate General of Foreign Trade (DGFT). Such imports, having been affected at values below the threshold stipulated under the DGFT Notifications, are consequently restricted/prohibited under the prevailing Import Policy framed under the Foreign Trade (Development & Regulation) Act, 1992. The clearance of these goods at undervalued prices has not only resulted in a short payment of the applicable customs duty but also constitutes a violation of the provisions of the Foreign Trade Policy, amounting to an import made in contravention of the restrictions imposed thereunder. Accordingly, the goods so imported appeared to be liable to confiscation under the provisions of Section 111(d) & 111(m) of the Customs Act, 1962, for having been imported contrary to the import policy in force, and the importer is liable to penal action under the relevant provisions of the said Act, including Section 112(a) and Section 114A, for having knowingly imported and cleared prohibited goods in violation of the statutory policy conditions.

6.3 It appeared that the subject Bills of Entry, as enumerated in Table-I, are covered under the scope of the aforesaid DGFT Notifications prescribing the Minimum Import Price (MIP) condition, as the respective consignments were shipped on board prior to their clearance and the Bill of Lading dates clearly fall within the validity period of the said notifications. Accordingly, the imports in question are squarely governed by the MIP requirement stipulated therein, and any declaration of CIF value below USD 3.50 per kilogram during this period constitutes a violation of the mandatory import policy condition applicable at the time of import.

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7. RELEVANT PROVISIONS OF THE LAW IN SO FAR AS THEY APPLY TO THIS CASE ARE AS BELOW:

- **SECTION 17 Assessment of duty** — *(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*
- **Section 28 (4) of the Customs Act, 1962**, *where any duty has not been levied or has been short-levied 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 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;
- **Section 28AA of the Customs Act, 1962**, *the person who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under Sub-Section (2), whether such payment is made voluntarily or after determination of the duty under that section.*
- **SECTION 111: Confiscation of improperly imported goods etc.:** *The relevant clauses of Section 111 are reproduced below:*

The following goods brought from a place outside India shall be liable to confiscation: -
 - (d) any goods which are imported or attempted to be imported or are brought within the Indian Customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*
 - (m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54];*
- **Section 112: Penalty for improper importation of goods, etc.–** Any person,
 - (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*

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(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, 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, subject to the provisions of section 114A, to a penalty not exceeding ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher.

- **Section 114A of the Customs Act, 1962 deals with the penalty by reason of collusion or any willful mis-statement or suppression of facts. The relevant provision is reproduced below: -**

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 willful 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:

- **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.*
- **Section 46(4) of the Customs Act, 1962,** *the importer 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*
- **Section-46(4A):** *The importer who presents a bill of entry shall ensure the following, namely:*

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

8. Whereas, in this case, the Bills of Lading corresponding to the impugned Bills of Entry fall within the scope of the applicable DGFT Notifications prescribing the Minimum Import Price (MIP) condition, as the goods were shipped prior to clearance and within the validity period of the said notifications. The importer, however, self-assessed 10 Bills of Entry under Section 17(1) of the Customs Act, 1962, at unit prices below the prescribed MIP, without disclosing that the goods were subject to MIP, thereby contravening Sections 17 and 46(4) of the Customs Act. Such suppression of material facts resulted in short payment of duty, which appeared to be recoverable under Section 28(4) of the Customs Act, along with applicable interest under Section 28AA, as quantified in Table I.

9. Whereas, in view of the foregoing facts, evidences, and legal provisions discussed hereinabove, it appeared that the importer has contravened the provisions of the Customs Act, 1962, the Foreign Trade (Development & Regulation) Act, 1992, as well as the relevant Notifications issued by the Directorate General of Foreign Trade (DGFT) governing the import of Synthetic Knitted Fabrics. The importer's act of declaring and importing goods at a CIF value below the prescribed Minimum Import Price (MIP) amounts to a clear violation of the import policy conditions in force at the material time, thereby rendering the goods prohibited for import and liable to confiscation under the applicable provisions of the Customs Act, 1962.

10. The importer has declared CIF values for the subject consignments below the prescribed Minimum Import Price (MIP) of USD 3.50 per kilogram, as mandated by the Directorate General of Foreign Trade (DGFT) under the relevant policy notifications. By doing so, the importer has contravened the import policy conditions and violated the restrictions that were expressly applicable at the material time of import, thereby rendering the import non-compliant with the provisions of the Foreign Trade Policy in force.

11. It appeared that the import of the subject goods, namely *Synthetic Knitted Fabrics*, has been effected at a declared CIF value below the prescribed Minimum Import Price (MIP) of USD 3.50 per kilogram, as mandated by the Directorate General of Foreign Trade (DGFT) through the relevant notifications issued under the Foreign Trade (Development & Regulation) Act, 1992. The said DGFT notifications, having been issued in exercise of powers conferred under Sections 3 and 5 of the FT(D&R) Act, have the force of law, and any import made in violation thereof amounts to contravention of a prohibition imposed under another law for the time being in force. Accordingly, the import of Synthetic Knitted Fabrics below the prescribed MIP constitutes an import contrary to such prohibition, and therefore, the goods are to be treated as “prohibited goods” within the meaning of Section 2(33) of the Customs Act, 1962. In terms of Section 111(d) of the said Act, any goods imported or attempted to be imported contrary to any prohibition imposed by or under the Customs Act, 1962 or any other law for the time being in force are liable to confiscation. In

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the present case, since the importer has imported goods in contravention of the import policy conditions prescribed under the aforesaid DGFT notifications, the goods are rendered liable to confiscation under Section 111(d) of the Customs Act, 1962, for having been imported contrary to the prohibition imposed under the Foreign Trade (Development & Regulation) Act, 1992 and the Foreign Trade Policy framed thereunder.

12. It further appeared that the importer has declared the value of the imported Synthetic Knitted Fabrics at CIF prices lower than the prescribed Minimum Import Price (MIP) notified by the Directorate General of Foreign Trade (DGFT) under the Foreign Trade (Development & Regulation) Act, 1992. By declaring a value below the mandatory threshold of USD 3.50 per kilogram, the importer has mis declared the value of the goods with the intent of securing their clearance as freely importable goods and evading the operation of the import policy restrictions in force at the time of import. Such misdeclaration of value amounts to a material misstatement in the declaration made under Section 46 of the Customs Act, 1962, which directly affects the assessment of duty, the applicability of import restrictions, and the determination of the true nature of the goods under the Customs Tariff. Consequently, the importation and clearance of goods based on such incorrect or misleading declaration attracts the provisions of Section 111(m) of the Customs Act, 1962, which provides for confiscation of any goods wherein the value, quantity, or any material particular has been mis declared in the Bill of Entry or other documents. In the present case, the importer's deliberate undervaluation of the imported goods, resulting in importation below the DGFT-prescribed MIP, constitutes a misdeclaration of material particulars and renders the goods liable to confiscation under Section 111(m) of the Customs Act, 1962, in addition to the confiscation already warranted under Section 111(d) of the said Act.

13. Further, consequent upon amendment to the section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effect from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filling a bill of entry in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011(issued under Section 157 read with Section 46 of the Customs Act, 1962) the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is define as particulars relating to the imported goods that are entered in the Indian Customs Electronic data interchange system) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service center, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self -assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendment to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, notification etc and to correctly classify,

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determine and pay the duty applicable in respect of the imported goods.

14 In the instant case, M/s FEYA TEXTILE (IEC- AADFF8018N) have knowingly submitted incorrect and false declarations before the Customs authorities at the time of import, despite being fully aware that the goods under import were not entitled to clearance at values below the prescribed Minimum Import Price (MIP). Such conduct amounts to willful misstatement and suppression of material facts, with the evident intent to circumvent the import policy restrictions and evade payment of appropriate customs duty. Further, the importer has resorted to deliberate misdeclaration in respect of the value and import conditions applicable to the goods, as discussed in detail in the foregoing paragraphs of this Show Cause Notice. Since the duty payable on the imported goods has not been correctly assessed and paid due to such willful misstatement and suppression of facts, the importer is liable to recovery of differential duty under Section 28(4) of the Customs Act, 1962, along with interest under Section 28AA thereof. In addition, the importer also appeared liable to penal action under Sections 112(a) and 114A of the Customs Act, 1962, for having knowingly mis declared and suppressed material facts, thereby facilitating the importation and clearance of prohibited/restricted goods in violation of the applicable import policy and statutory provisions. Further, it appeared that the importer had **knowingly filed import documents containing false and misleading declarations** with respect to the declared value of the imported goods. The facts and records of the case indicate that such misdeclaration was not an inadvertent error but a **deliberate and conscious act** intended to suppress the true transaction value of the goods with the objective of evading legitimate customs duty. By **knowingly making false declarations and submitting documents containing incorrect and fabricated particulars** in connection with the import transaction, the importer has engaged in conduct that undermines the integrity of the customs clearance process and obstructs the proper assessment of duty. Such actions constitute a **clear and direct contravention of the provisions of Section 114AA of the Customs Act, 1962**, which provides that any person who knowingly or intentionally makes, signs, or uses, or causes to be made, signed, or used, any declaration, statement, or document that is false or incorrect in any material particular shall be liable to penalty. Accordingly, the importer's actions attract penal liability under the said section for **use of false and incorrect material** in a customs-related transaction.

15. In view of the foregoing, it appeared that the goods imported at a value below the prescribed Minimum Import Price (MIP) are to be treated as "prohibited goods" in terms of Sections 2(33) and 11 of the Customs Act, 1962, read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992. Accordingly, the said goods are liable to confiscation under the provisions of Sections 111(d) and 111(m) of the Customs Act, 1962, for having been imported in contravention of the import policy restrictions and by way of misdeclaration of value and violation of conditions prescribed under the Foreign Trade Policy. Further, by virtue of the aforesaid acts and omissions, the importer has rendered themselves liable to recovery of differential customs duty under Section 28(4) of the Customs Act, 1962, along with interest under Section 28AA of the said Act. The importer is also liable to penal action under Sections 112(a) and 114A of the Customs Act, 1962, for willful misstatement and suppression of facts, and for the importation of prohibited/restricted goods in violation of the import policy

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conditions and the statutory provisions governing import and assessment. The importer is also **liable to penal action under Section 114AA of the Customs Act, 1962**, as the investigation has established that false and incorrect declarations were knowingly made in the import documents

16. Now, therefore, the importer **M/s FEYA TEXTILE (IEC- AADFF8018N)** is hereby called upon to show cause to the Commissioner of Customs, JNCH, Nhava Sheva-III, within 30 (thirty) days from the date of receipt of this notice, as to why:

- i. The importer cleared the goods covered under various Bills of Entry, having a total declared assessable value of **Rs. 2,00,09,630/-** as detailed in Table-I. The goods were mis declared in terms of valuation/MIP; hence, the declared value should not be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Accordingly, the assessable value should not be re-determined at **Rs. 5,83,16,330/-**, based on the applicable Minimum Import Price (MIP).
- ii. The goods imported having total Re-assessable value of **Rs. 5,83,16,330/-, (Rupees Five Crore Eighty Three Lakhs Sixteen Thousand Three Hundred and Thirty)** as per Table-III under the aforementioned Bills of Entry should not be confiscated under Sections 111(d) and 111(m) of the Customs Act, 1962, on the grounds that they are "prohibited goods" and/or have been improperly imported in contravention of the restrictions in force.
- iii. Differential duty amounting to **Rs. 1,07,64,183/- (Rupees One Crore Seven Lakhs Sixty Four Thousand One Hundred and Eighty-Three only)** not paid/short paid by them on the aforesaid imported goods should not be demanded and recovered under Section 28(4) of the Customs Act, 1962.
- iv. The applicable interest on the amount as at Sr. No. (c) above should not be demanded and recovered under Section 28AA of the Customs Act, 1962.
- v. Penalty should not be imposed on the importer under Section 112(a) of the Customs Act, 1962, for the act of commission and omission that has rendered the goods liable for confiscation under Section 111(d) and 111(m).
- vi. Penalty should not be imposed on the importer under Section 114A of the Customs Act, 1962, for the act of commission and omission by way of willful suppression of substantial facts regarding applicability of MIP.
- vii. Penalty should not be imposed on the importer under Section 114AA of the Customs Act, 1962, for the act of false declaration.

DEFENCE REPLY

17. The Noticee vide e-mail dated 14.01.2026 has submitted a written reply dated 13.01.2026 to the SCN and has contended as follows:

“

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GROUND:

A. Because at the onset it is submitted that the impugned notice insofar as it relates to the Noticee is based on farce, false and frivolous allegation, and hence, liable to be set aside on this ground alone.

Preliminary Objections

B. It is submitted that the Ld. Adjudicating Authority may First deal with the preliminary objections being raised by the Noticee in the current matter:

Impugned Show Cause Notice is invalid as the same does not contain mandatory DIN as per Circular No. 37/2019 dated 05.11.2019

C. Because the impugned Notice is invalid in absence of containing a DIN and the same can be proved from the following points:

(i) Because it is no longer res-integra that all communications sent by the offices to the Taxpayers have to mandatorily bear Document Identification Number (DIN) being duly quoted prominently in the body of such communication.

*(ii) Because the Noticee seeks to rely on the Circular No. 37/2019 dated 05.11.2019 which categorically states that any specified communication which does not bear the electronically generated DIN. The copy of the Circular is annexed herein and marked as **ANNEXURE R3** and the relevant paras are re-produced below:*

“2. The Board in exercise of its powers under section 151A of the Customs Act, 1962 directs that no search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer under the Board to a taxpayer or any other person, on or after the 8th day of November, 2019 without a computer-generated Document Identification Number (DIN) being duly quoted prominently in the body of such communication. The digital platform for generation of DIN is hosted on the Directorate of Data Management (DDM)’s online portal “cbicddm.gov.in”

3. Whereas DIN is a mandatory requirement, in exceptional circumstances communications may be issued without an auto generated DIN. However, this exception is to be made only after recording the reasons in writing in the concerned file. Also, such communication shall expressly state that it has been issued without a DIN. The exigent situations in which a communication may be issued without the electronically generated DIN are as follows: -

(i) when there are technical difficulties in generating the electronic DIN,

or

(ii) when communication regarding investigation/enquiry, verification etc. is required to issued at short notice or in urgent situations and the authorized officer is outside the office in the discharge of his official duties.

4. The Board also directs that any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in Para 3 above, shall be treated as invalid and shall be deemed to have never been issued.”

(iii) The only two exceptions granted under para 3 are as follows:

- *When there are technical difficulties in generating the electronic DIN*

or

- *When communication regarding the investigation/enquiry, verification etc. is required to be issued at short notice or in urgent situations and the authorised officer is outside the office in the discharge of his official duties.*

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The relevant para is re-produced below:

“3. Whereas DIN is a mandatory requirement, in exceptional circumstances communications may be issued without an auto generated DIN. However, this exception is to be made only after recording the reasons in writing in the concerned file. Also, such communication shall expressly state that it has been issued without a DIN. The exigent situations in which a communication may be issued without the electronically generated DIN are as follows: -

(i) when there are technical difficulties in generating the electronic DIN,

or

(ii) when communication regarding investigation/enquiry, verification etc. is required to issued at short notice or in urgent situations and the authorized officer is outside the office in the discharge of his official duties.”

(iv) That it is pertinent to mention here that even the abovementioned exceptions have to be rectified within 15 working days of its issuance. The same can be confirmed from para 5 of the said Circular reproduced below:

“5. Any communication issued without an electronically generated DIN in the exigencies mentioned in paras 3 above shall be regularized within 15 working days of its issuance, by:

(i) obtaining the post facto approval of the immediate superior officer as regards the justification of issuing the communication without the electronically generated DIN;

(ii) mandatorily electronically generating the DIN after post facto approval; and

(iii) printing the electronically generated pro-forma bearing the DIN and filing it in the concerned file.”

(v) Taking the abovementioned Circular into consideration and applying the same to the current impugned Notice, it can be clearly inferred that no DIN has been mentioned in the Notice dated

03.12.2025, nor any exceptions have been cited for non issual of the same.

(vi) Further, admittedly, any exception should have been resolved within 15 working days, i.e., my maximum 31.12.2025 (excluding Saturday and Sunday and holidays).

(vii) Admittedly, communication regarding rectification of issue of DIN has been received by Noticee till date, hence the impugned Notice is invalid.

(viii) The Noticee also seeks to rely on the judgment of Arhaan Ferrous and Non-Ferrous Solutions (P.) Ltd. v. Superintendent, Central Tax [Writ Petition No 8639/2025 dated April 23, 2025] held that a Show Cause Notice (“SCN”) issued without containing a Document

Identification Number (“DIN”) would be non-est and invalid. Further, the Central Board of Indirect Tax and Customs (“CBIC”) vide Circular No. 128/47/2019-GST dated December 23, 2019 stated that non-mention of a DIN would render SCN invalid.

(ix) Hence, taking the abovementioned points into consideration, since the impugned Notice does not contain DIN, the same is invalid and hence liable to be set aside on this ground alone.

Notification No 33/2024-25 is ultra-varies and un-constitutional as the Government does not have power under Section 3 and 5 of FT(D&R), Act, 1992 to issue notification with retrospective effect

D. Because it is submitted that Notification No. 33/2024-25 on the basis of which the impugned Notice has been issued is ultra-varies and un- constitutional as the Government does not have power under Section 3 and 5 of FT(D&R), Act, 1992 to issue notification with retrospective effect and the same can

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be proved from the following points:

(i) *It is submitted that although multiple notifications have been cited in the impugned Notice, the Noticee falls under the category of Notification No. 33/2024-25 dated 01.10.2024 as the date of 10 Bill of Lading(s) for the impugned goods is 20.09.2024 and 29.09.2024.*

(ii) *It is an admitted fact that the earlier notification fixing Minimum Import Price expired on 15.09.2024 vide Notification No. 77/2023 dated 16.02.2024 which is also annexed herein and marked as ANNEXURE R4.*

(iii) *Admittedly, there was no notification till 01.10.2024 and hence under no circumstances the Noticee would have been aware that the Government is contemplating extending of the said impugned Notice.*

(iv) *Admittedly, the impugned Notification, i.e., Notification No. 33/2024-25 extended the Minimum Import price with retrospective effect, i.e., from 15.09.2024. The relevant notification is annexed herein and marked as ANNEXURE R5.*

(v) *It is submitted that it is no longer res-integra that the government does not have power to does not have power under Section 3 and 5 of FT(D&R), Act, 1992 to issue notification with retrospective effect and the same has been held in catena of judgments including judgment passed by the Hon'ble Supreme Court in the matter of Director General of Foreign Trade & Anr. v. Kanak Exports & Anr., 2016 (2) SCC 226 and the relevant para is re-produced below:*

"113. Mr. Adhyaru has successfully demonstrated that the following methods were found to be resorted to by these exporters to inflate their export turnovers: -

(i) *Export of rough diamonds even though India is not a rough diamond producing country. These exports stopped the moment DFCE benefits were disallowed. Export of such rough diamonds earlier has never been part of the normal commercial operations and has taken place just to take advantage of the Scheme. According to Gems and Jewellery Export Promotion Council, "India is not a rough exporting country. Rough diamonds which are unsustainable for cutting in India are re-exported."*

Such exports stopped the moment benefit was explicitly withdrawn.

(ii) *In the present case also the respondent M/s. Adani Exports Limited had stopped exporting the rough diamonds the moment the Notification was issued in January, 2004 and according to Gems and Jewellery Export Promotion Council, "Party has not exported rough diamonds during January/March 2004".*

(iii) *Cut and polished diamonds were imported, stored inside a bond and re-exported with artificial value addition. Few large firms including the petitioners exported these products to buyers directly related to them.*

(iv) *According to reliable information the same sets of diamonds were rotating and these never entered the Indian domestic territory or to the end consumers abroad. The value of such exports in the past two years may exceed Rs. 15,000 crores. Government has detailed report of the modus operandi of the firms involved.*

(v) *Most notorious misuse of the Scheme was carried out by few firms who exported Gold medallion and studded jewellery. Key firms included M/s. Kanak Exports, M/s. Rajesh Exports Ltd. and M/s. Adani Exports Ltd.*

(vi) *Many of these exporters exported to their own counterparts in Dubai and Sharjah. Since the jewellery attracted 5% import duty at Dubai, the consignments which were declared as jewellery in India were declared as scrap in Dubai to avoid the import duty.*

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(vii) As it was difficult for them to achieve the value addition prescribed by the Policy through craftsmanship, they added extra gold to get the value addition. However, in this process strangely enough per unit price of the gold exported was less than per unit price of gold imported.

(viii) Few exporters including petitioners have purchased exports of other firms to inflate their turnover. Contracts have been signed between the petitioners and other exporters that petitioner will provide marketing and other services and act as third party exporter. According to reports status-holders were purchasing exports made by other parties at a premium with a view to show incremental growth of 25% or more in exports without having actually achieved such growth.

114. In such a scenario, a sagacious approach with practical sense leads us to conclude that these writ petitioners/exporters had actually achieved the targets set down in the original Scheme and thereby acquired any "vested right". It was pernicious and blatant misuse of the provisions of the

Scheme and periscopic viewing thereof establishes the same. Thus, the impugned decision reflected in the notifications dated April 21 and 23, 2004, did not take away any vested right of these exporters and amendments were necessitated by over-whelming public interest/considerations to prevent the misuse of the Scheme. Therefore, we are of the opinion that even when impugned Notification issued under Section 5 could not be retrospective in nature, such retrospectivity have not deprived the writ petitioners/exporters of their right inasmuch as no right had accrued in favour of such persons under the Scheme. This Court, or for that matter the High Court in exercise of its writ jurisdiction, cannot come to the aid of such petitioners/exporters who, without making actual exports, play with the provisions of the Scheme and try to take undue

advantage thereof. To this extent, direction of the Bombay High Court granting these exporters benefit of the Scheme for the past period is set aside.

115. One incidental issue remains to be discussed. This pertains to imposition of fee sought to be levied by Public Notice No. 18, dated July 24, 2003. The exporters are right in their submission that fee could not be imposed by a Public Notice and it was necessary to have recourse to Section 5 of the Act to impose such a fee. Notification dated July 24, 2003 insofar as it relates to imposition of fee is, therefore, set aside."

(vi) That notification issued under Section 5 read with Section 3 of the FTDR Act could not have retrospective operation, has since being continuously upheld by the Hon'ble Supreme Court including in the matter of Union of India & Ors. v. Asian Food Industries, (2006) 13 SCC 542. The relevant para is re-produced below:

"48. The Delhi High Court, however, in our view correctly opined that the notification dated 4-7-2006 could not have been taken into consideration on the basis of the purported publicity made in the proposed change in the export policy in electronic or print media. Prohibition promulgated by a statutory order in terms of Section 5 read with the relevant provisions of the policy decision in the light of sub-section (2) of Section 3 of the 1992 Act can only have a prospective effect. By reason of a policy, a vested or accrued right cannot be taken away. Such a right, therefore, cannot a fortiori be taken away by an amendment thereof."

- It is submitted that the Hon'ble Delhi High Court also in the matter of Mallik Tanning Industries v. Union of India, 2014 SCC Online Del 6963 was pleased to hold that notification issued under Section 5 read with Section 3 of the FTDR Act could not have retrospective operation.

the relevant para is re-produced below:

"23. A bare reading of the provisions of Section 5 of the Act indicates that a policy cannot be made with retrospective effect. The expression 'formulate and announce' used in Section 5 clearly means that the power is to be exercised prospectively. The Supreme Court in Union of India v. Asian Food Industries: (2006) 13 SCC 542 held as under: -

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“48. The Delhi High Court, however, in our view correctly opined that the Notification dated 4-7-2006 could not have been taken into consideration on the basis of the purported publicity made in the proposed change in the export policy in electronic or print media. Prohibition promulgated by a statutory order in terms of Section 5 read with the relevant provisions of the policy decision in the light of sub section (2) of Section 3 of the 1992 Act can only have a prospective effect. By reason of a policy, a vested or accrued right cannot be taken away. Such a right, therefore, cannot a fortiori be taken away by an amendment thereof.”

(vii) It is submitted that the Hon'ble High Court of Delhi in the recent matter of Chillies Exporters Association India Vs. Directorate General of Foreign Trade & Anr [W.P. (C) 9463/2024] relying on abovementioned judgments was pleased to again uphold that Section 5 read with Section 3 of the FTDR Act could not have retrospective operation. The relevant paras are re-produced below for your quick perusal:

“29. Accordingly, the submission being urged on behalf of the respondents that the Central Government is empowered in public interest to issue notification under Section 5 of the FTDR Act having retrospective effect stands considered by Hon'ble Supreme Court in Kanak Exports (supra). We may notice that considering the said aspect of the matter, the Hon'ble Supreme Court has clearly held that Section 5 of the FTDR Act does not empower the Central Government to issue any notification with retrospective effect.

30. Similarly, on the aforesaid legal principle, we are of the opinion that any order made by the Central Government under Section 3 of the FTDR Act, being a piece of subordinate legislation, cannot have retrospective effect.

We, thus, conclude that Central Government lacks any power or authority available to it under Section 3 and Section 5 of the FTDR Act to either make an order or notification having retrospective effect.”

(viii) Taking the abovementioned judgments into consideration, it can be clearly inferred that since the said Notification No. 33/2024-25 has been issued with retrospective effect, the same is ultra-varies in nature and hence cannot be relied upon to issue impugned Notice to the Noticee.

Notice under Section 28(4) of the Customs Act, 1962 cannot be issued as no fraud or any wilful misstatement or suppression of fact can be attributed towards the Noticee

E. Because it is submitted that Notice under Section 28(4) of the Customs Act, 1962 cannot be issued as no fraud or any wilful misstatement or suppression of fact can be attributed towards the Noticee and the same can be proved from the following points:

(i) Because on the bare perusal of Section 28(4) of the Customs Act, 1962, where it appears to the Proper Officer that any duty has not been levied or not paid or short levied or erroneously refunded or where interest has not been levied or not paid or short levied or erroneously refunded **by reason of collusion, or wilful mis-statement or suppression of facts**, the proper officer shall serve notice on the person.

(ii) That admittedly, even as per the impugned Notice, there is no allegation of mis declaration or undervaluation or with regards to dispute regarding date of Bill of Lading/ Bill of Entry.

(iii) Admittedly, the said Bill of Entries were properly assessed by the Custom officers as per due procedure of law and they were also well aware of the said Notification under which the impugned Notice has been issued.

(iv) It is submitted that in absence of above, no collusion, wilful mis-statement or suppression of facts can be attributed to the Noticee.

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(v) Therefore, in absence of the above, the proper officer could not have issued Notice under Section 28(4) of Customs Act, 1962

(vi) Because the Hon'ble High Court of Judicature at Allahabad in "**HCL Infotech Ltd. vs Commissioner, Commercial Tax**" (2024) 23 Centax 71 (All.), held that:

"25. We find that the impugned Show Cause Notice does not make even a whisper of the fact that petitioner has wrongly availed or utilized Input Tax Credit due to any fraud, or wilful mis-statement or suppression of facts to evade tax therefore, the proceedings initiated against the petitioner under Section 74 of the CGST Act are without jurisdiction for the lack of basic ingredients required under the said clause. So far as the argument advanced by the learned counsel appearing for the respondents that the writ petition against the Show Cause Notice is not maintainable, is concerned, we find that it is consistent view of the Hon'ble Supreme Court that if the Show Cause Notice is without jurisdiction, then the same can be challenged by filing writ petition before the High Court under Article 226 of the Constitution of India.

26. In the present case, we do not find that the basic ingredients required for initiating proceedings under Section 74 of the CGST Act are present in the impugned Show Cause Notice dated 30.12.2023. Therefore, the entire exercise including the Show Cause Notice is without jurisdiction and thus this writ petition under Article 226 of the Constitution of India is maintainable.

27. In view of the aforesaid reasons, we are of the categorical view that the impugned Show Cause Notice dated 03.08.2024 in its present form lacks basic ingredients to proceed in the matter under Section 74 of the CGST Act. Therefore, the impugned Show Cause Notice dated 03.08.2024 and the entire exercise initiated pursuant thereto is absolutely without jurisdiction and is liable to be quashed."

(vii) Hence, taking the abovesaid reasons into consideration, the impugned Notice is liable to be set aside on this ground alone.

Submissions on merits

Duty Cannot be demanded from the Noticee

F. It is submitted that even for the sake of arguments, although specifically not accepted, duty cannot be demanded from the Noticee under Section 28(4) of the Customs Act, 1962 due to the existence of Notification No. 33/2024-25 and the same can be proved from the following points:

(i) It is submitted that on bare perusal of the said Notification, it can be clearly inferred that the goods classified under ITC (HS) Code 60053900 was "Free" before the issual of the said Notification. Hence, since the goods date of transit was 20.09.2024 and 29.09.2024 hence, under no circumstances the Noticee was liable to purchase the goods and declare the same at 3.5 US Dollar and above per Kilogram.

(ii) It is submitted that even if we consider the said notification, the goods were either prohibited or "Free". Admittedly, since the goods were correctly declared, either the said goods would have not been allowed to be released by the Customs or the Noticee should have been advised to change his declaration qua the price of the said goods.

(iii) Admittedly, since neither the goods were confiscated nor the Noticee was advised to change his declaration qua the value of the goods, it can be clearly implied that even the Customs Authorities accept that the Notification was not application, hence, any demand of duty post clearance on the basis of collusion/ mis-statement etc are liable at best can be termed as an "afterthought" department.

(iv) It is submitted that otherwise also since the goods are allegedly considered to be prohibited, no

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duty can be demanded from the Noticee regarding the same. Hence, the impugned Notice is liable to be set aside on this ground alone.

Incorrect Date of Bill of Lading(s) stated in the Impugned Show Cause Notice.

G. The Adjudicating Authority erred by stating incorrect date of the MAWB (Master Air Way Bill) mentioned in the impugned 10 Bill of Entry(s) i.e. 20.09.2024 and 08.10.2024 as the date of Bill of Lading(s) instead of date of HAWB (House Air Way Bill) i.e. 20.09.2024 and 29.09.2024 and the same can be proved from the following:

i. In the Table-I of the impugned Show Cause Notice the Adjudicating Authority have mentioned the date of 10 Bill of Lading(s) as 20.09.2024 and 08.10.2024 which actually are the date of the MAWB(s) vide the 10 Bill of Entries.

ii. The core difference is who issues them and for whom:

a) the Master Air Waybill (MAWB) is from the airline to the freight forwarder for a whole consolidated shipment, acting as the main contract, while

b) the House Air Waybill (HAWB) is from the forwarder to the actual shipper for individual packages within that consolidation, serving as a receipt and contract for that specific smaller part, linking the shipper to the forwarder, not directly to the airline.

In simple words when there are many small shipments going together, the forwarder groups them (consolidation). The airline gives the forwarder one big MAWB for the whole group, and the forwarder gives each small shipper a HAWB for their part.

iii. Thus, the date of Bill of Lading is actually the date of HAWB given in the 10 Bill of Entries i.e. 20.09.2024 and 29.09.2024 and not the date of MAWB.

iv. Hence the Bill of Lading(s) is 20.09.2024 and 29.09.2024 and the date of MAWB cannot be considered as the date of Bill of Lading(s) in the impugned Show Cause Notice.

No contravention of DGFT Notification(s) and Violation of the Customs Act, 1962 and FT(D&R) Act 1992 committed by the Noticee.

H. It is submitted that the noticee has been wrongly alleged by the adjudicating authority that the noticee has imported the impugned goods declared under CTH 60053900 below the prescribed MIP in contravention of DGFT Notification and Violation of the Customs Act, 1962 and FT(D&R) Act 1992, and the same can be proved from the following:

i. As per the impugned Show Cause Notice dated 03.12.2025 it was brought to the notice of the noticee that the import policy conditions have not been fulfilled in reference to the 10 Bill of Entry(s) dated 05.10.2024, 29.10.2024 and 30.10.2024 while affecting the import because vide Notification No. 33/2024-25 dated 01.10.2024 issued by the DGFT, the goods covered under CTH 60053900 had been changed from "FREE" to "PROHIBITED" with effect from 01.10.2024, where CIF value of goods are less than 3.5 USD per Kg.

ii. It is pertinent to mention that the facts that the shipment in above mentioned Bill of Entry(s) were shipped from the port of dispatched on 20.09.2024 and 29.09.2024. The same is also evident from the Bill of Lading(s) with respect to the mentioned Bill of Entry(s). The Bill of Ladings are annexed for your quick perusal as ANNEXURE R1.

iii. It is submitted that the Bill of Lading(s) issued by the shipping line is dated well before the date the impugned Notification No 33/2024-25 dated 01.10.2024 was issued. Thus, it was very evident that the noticee had fulfilled all the import policy conditions without any intent to affect the import.

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iv. It is pertinent to mention that vide Notification No 77/2024-25 dated 16.03.2024 issued by DGFT prior to the impugned Notification No 33/2024-25, the CTH 60053900 was not changed from "FREE" to "PROHIBITED". It is evident that the noticee lawfully abided to notification which was in effect at the time of shipment i.e 20.09.2024 and 29.09.2024.

v. It is further submitted that in accordance to the DGFT Handbook of Procedure para 2.17 "Date of reckoning of Import/Export clearly states that

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

(b) Date of reckoning of export is decided with reference to date of shipment / dispatch of goods from India as given in Paragraph 11.12 of Handbook of Procedures. However, for benefit under FTP, Let Export Order (LEO) date shall be the date of reckoning of export."

Therefore, it is eminent from the para 2.17 of the DGFT Handbook of Procedures that **date of reckoning of import is decided with reference to date of shipment/dispatch of goods from supplying country.** In the present matter the supplying country is "CHINA".

vi. According to the Para 11.11 of the DGFT Handbook of Procedures the date of shipment/dispatch in respect of import is determined by the date affixed on the Bill of Lading if the shipment's mode of transport is "By SEA". The 10 Bill of lading(s) with respect to the impugned 10 Bill of Entry(s) for the impugned goods declared under CTH 60053900 are dated 20.09.2024 and 29.09.2024. The paragraph 11.11 of the DGFT Handbook of Procedures is reproduced below for your quick perusal;

"11.11 Date of shipment/Dispatch in respect of Imports

Date of shipment/dispatch for imports will be reckoned as under: -

Mode of Transportation	Date of Shipment / Dispatch
By Sea	The date affixed on the Bill of Lading
By Air	Date of relevant Airway Bill provided this represents date on which goods left last airport in the country from which the import is effected.
From land-Locked Countries	Date of dispatch of goods by rail, road or other recognised mode of transport to consignee in India through consignment basis.
By Post Parcel	Date stamp of office of dispatch on the packet or dispatch note
By Registered Courier Service	Date affixed on Courier Receipt / Waybill
Multimodal Transport	Date of handing over goods to first carrier in a combined transport Bill of Lading

vii. It is pertinent to mention that the adjudicating authority has also accepted in Para 2.6 of the impugned Show Cause Notice that as per Para 11.11 of the DGFT Handbook of Procedures, the date of shipment or dispatch for imports transported by sea is determined by the date mentioned on the Bill of Lading but erred by stating that the impugned goods under CTH 60053900 fall within the purview of the DGFT Notification No. 33/2024-25.

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viii. Thus, it is a well-established fact that the vide para 2.17 and 11.11 that the date of reckoning of import is determined from the date affixed in the Bill of Lading and not from the date affixed in the Bill of Entry. It is again asserted that the date of HAWB should be considered as date of reckoning of import for the Bill of Entry the 10 bill of lading as affixed in the Bill of Entry(s).

ix. It is submitted that the duty vide Notification No 33/2024-25 cannot be imposed on all the mentioned Bill of Entry as the date affixed in the Bill of Lading(s) is 20.09.2024 and 29.09.2024 which is well before the Notification No 33/2024-25 was issued by DGFT on 01.10.2024.

x. The para 1.05 of the Foreign Trade Policy 2023 regarding transitional arrangements is reproduced below for your quick perusal;

“1.05 Transitional Arrangements

(a) Any License/ Authorisation/ Certificate/ Scrip/ instrument bestowing financial or fiscal benefit issued before commencement of FTP 2023 shall continue to be valid for the purpose and duration for which it was issued, unless otherwise stipulated.

(b) Item wise Import/Export Policy is delineated in the ITC (HS) Schedule I and Schedule II respectively. The importability/exportability of a particular item is governed by the policy as on the date of import/export. The date of import/export is defined in para 2.17 of HBP 2023. Bill of Lading and Shipping Bill are the key documents for deciding the date of import and export respectively. In case of change of policy from ‘free’ to ‘restricted/prohibited/state trading’ or ‘otherwise regulated’, the import/export already made before the date of such regulation/restriction will not be affected. However, the import through High Sea sales will not be covered under this facility.

Further, the import/export on or after the date of such regulation/restriction will be allowed for importer/exporter who has a commitment through Irrevocable Commercial Letter of Credit (ICLC) before the date of imposition of such restriction/ regulation and shall be limited to the balance quantity, value and period available in the ICLC. For operational listing of such ICLC, the applicant shall have to register the ICLC with jurisdictional RA against computerized receipt within 15 days of imposition of any such restriction/regulation. Whenever, Government brings out a policy change of a particular item, the change will be applicable prospectively (from the date of Notification) unless otherwise provided for.”

The issuance of Bill of Lading by the shipping line under Section 3 of The Indian Bill of Lading Act 1856, clearly shows that the shipment has boarded the ship and the ownership is of the consignee thereon. The Section 3 of The Indian Bill of Lading Act 1856 has been reproduced below for your quick perusal.

“3. Bill of lading in hands of consignee, etc., conclusive evidence of the shipment as against master, etc.—Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as, against the master or other person signing the same, notwithstanding that such good or some part thereof may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board:

Provided that the master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.”

xi. It is submitted that vide Para 1.05 of the FTP, 2023 the transaction arrangement was compiled and thereafter only the Bill of Lading was issued by the shipping line to the Noticee.

xii. Thus, taking the abovementioned facts into consideration, it is submitted that by imposing the

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differential duty and penalty vide the Notification No 33/2024-25 dated 01.10.2024 under the Customs Act 1962 by denying transitional arrangement as contained in para 1.05 of FTP 2023 is in violation of Principles of Natural Justice.

xiii. Therefore, by taking the above-mentioned points into consideration, it is submitted that no import policy for goods covered under CTH 60053900 have been violated by the client and the Notification No 33/2024-25 dated 01.10.2024 is applicable on our client in retrospective manner. Thus, the differential duty under Section 28(4) of the Customs Act 1962 along with penalty and applicable interest under Section 28AA of the Customs Act 1962 is incorrect as well as violation Principles of Natural Justice.

The Declared Assessable Value of the impugned goods vide CTH 60053600 are not liable to be rejected under Rule 12 of the Customs Valuation Rules 2007 and redetermined vide MIP prescribed vide DGFT Notifications post the dated of Bill of Ladings.

I. It is submitted that the adjudicating authority erred by not following the Customs Valuation Rules sequentially and rejected the declared assessable value of the impugned goods under CTH 60053900 under Rule 12 of the Customs Valuation Rules 2007 and wrongly alleged the noticee for mis-declaring the impugned goods. The same can be proved from the following:

i. As per para 2.8 of the impugned Show Cause Notices dated 03.12.2025, the noticee has been wrongly alleged to have mis-declared the impugned goods under CTH 60053900 vide 10 Bill of Entries dated 05.10.2024, 29.10.2024 and 30.10.2024 in terms of valuation prescribed MIP in the Notification 33/2024-25 dated 01.10.2024, 49/2024-25 dated 04.01.2025 and 05/2025-26 dated 23.04.2025.

ii. It is pertinent to mention that the said goods were cleared by the proper officer after paying the liable duty for home consumption.

iii. It is pertinent to mention that the adjudicating authority has also accepted in Para 2.6 of the impugned Show Cause Notice that as per Para 11.11 of the DGFT Handbook of Procedures, the date of shipment or dispatch for imports transported by sea is determined by the date mentioned on the Bill of Lading. Therefore, the Bill of Lading in respect to the impugned Bill of Entry is the date of HAWB i.e 20.09.2024 and 29.09.2024, and the same is considered as the date of reckoning.

iv. It is evident that on the date of reckoning the goods imported under CTH 60053900 was not changed from "FREE" to "PROHIBITED", and the noticee had lawfully declared the assessable value of the goods under CTH 60053900.

v. Admittedly, the Notice is only limited to not declaring goods at the rate of \$3.5 US Dollars or more and there is no whisper about under valuation.

vi. Hence, rejecting the declared assessable value under Rule 12 is in contravention to the General Rules of Interpretation of the Customs Valuation Rules 2007 and re-determining the assessable value is incorrect and the impugned Show Cause Notice is liable to be set aside on this ground alone.

Incorrect to propose Confiscation of goods under Section 111(d) and 111(m) of the Customs Act, 1962.

J. It is submitted that the Adjudicating Authority has erred incorrectly proposing confiscation of the impugned goods under Section 111(d) and Section 111(m) of the Customs Act 1962. It is pertinent to mention that the noticee under no circumstances violated provisions of Section 11 of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11 of Foreign Trade (Regulation) Rules, 1993, Section 111(d) and Section 111(m) of the Customs Act, 1962. The same can be proved from the following:

i. The Section 111 of the Customs Act is applicable for confiscation of improper goods. It is pertinent

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to mention that the noticee has not violated the provision of Section 111 of the Customs Act as the impugned goods were imported by the noticee lawfully.

ii. The Section 111 of the Customs Act has been reproduced below for your quick perusal:

SECTION 111: Confiscation of improperly imported goods etc.: The relevant clauses of Section 111 are reproduced below:

The following goods brought from a place outside India shall be liable to confiscation:

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

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

iii. It is evident from the bare perusal of the Section 111(d) and 111(m) of the Customs Act, 1962 that the imported goods are liable for confiscation if they are imported in contravention to any prohibition imposed by or under this Act or any other law for the time being in force. The noticee had declared the assessable value and the same was not found incorrect by the Customs Department and in adherence to the notification 77/2023 dated 16.03.2024 for the time being in force when the Bill of Ladings with respect to the Bill of Entry was issued by the shipping line to the noticee.

iv. The Adjudicating authority without considering the fact that the Notification 33/2024-25 dated 01.10.2024 which is post the date of issuance of the Bill of Ladings cannot be imposed in retrospective manner as the goods under CTH 60053900 was not changed from "FREE" to "PROHIBITED" on 20.09.2024 and 29.09.2024. Thus, it is evident that the noticee did not mis declare the impugned goods.

v. Hence, the noticee did not violate the provision of Section 111(d) and 111(m) of the Customs Act, 1962 and thus the impugned goods are not liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

vi. The noticee seeks to rely on the following judgment:

a) Navshiv Retail Pvt. Ltd. Vs. Commissioner of Customs, New Delhi - 2014(307) ET 549 (Tri-Delhi)

No penalty can be imposed under Section 112(a) of the Customs Act 1962 on the noticee.

K. It is submitted that the adjudicating Authority have erred by proposing to impose penalty under Section 112(a) of the Customs Act 1962 on the noticee for mis-declaring the assessable value of imported goods, rendering them liable to confiscation and the same can be proved from the following:

i. The Section 112(a) of the Customs Act has been reproduced below:

"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: -

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(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] [Substituted by Act 14 of 2001, Section 107, for certain words (w.e.f. 11.5.2001), 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, Substituted by Act 14 of 2001, Section 107, for certain words (w.e.f. 11.5.2001). whichever is the greater;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereinafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees Inserted by Act 36 of 1973, Section 3 (w.e.f. 1.9.1973)., whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.”

ii. It is submitted that the imposition of the penalty under Section 112 (a) of the Customs Act is in respect of the goods which have been held to be liable to be confiscated under Section 111 of the Customs Act, 1962.

iii. According to the facts and grounds mentioned above it has been proved that the said goods are not liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962 as the noticee had declared the assessable value under Section 17 of the Customs Act and had not violated the any provision of the Customs Act that would make the impugned goods liable for confiscation. Further, the said goods were duly cleared by the Customs Authorities themselves. Also, it is pertinent to mention that the noticee did not have any mens rea to mis-declare or 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.

iv. In the matter of Rama Nagappa Shetty Versus Commissioner Of Customs, the Hon'ble Gujarat High Court held that “invoking such provision would require mens rea on part of the appellant which is duly established on record”. The relevant para has been reproduced below:

“18. In view of the above dictum of law with regard to the statement recorded under Section 108 of the Act coupled with concurrent findings of fact arrived at by the adjudicating authority and the CESTAT, we are not inclined to interfere as no perversity is pointed out in such factual findings arrived at by the both the authorities. For the foregoing reasons and considering Section 112(a) of the Customs Act which provides that penalty against person who in relation to any goods does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111 or abets the doing or omission of such an act, penalty can be imposed not exceeding the value of the goods or five thousand rupees whichever is greater. Therefore, invoking such provision would require mens rea on part of the appellant which is duly established on record.”

v. Hence, penalty under section 112(a) of the Customs Act cannot be imposed on the noticee as the impugned goods are not liable for confiscation and the noticee did not have any mens-rea to mis-declare the assessable value of the said goods.

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No Penalty can be imposed under Section 114(A) of the Customs Act, 1962.

L. It is submitted that the Adjudicating Authority has erred by proposing impose of the penalty on the noticee under Section 114A of the Customs Act, 1962 and the same can be proved from the following points:

i. That the provisions of Section 114A of the Customs Act, 1962 under which the subject Show Cause Notice proposes penalty on the Noticee, seek to penalize:

“Where the duty has not been levied or has not 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 (2) of section 28 shall, also be liable to pay a penalty equal to the duty or interest so determined....”

ii. It is submitted that by any stretch of imagination, the noticee cannot be brought within the ambit of the provisions of Section 114(A) as the noticee did not collude or gave a wilful mis-statement or suppressed any facts and nothing has been brought on records by the investigating

authority to prove otherwise. It is re-iterated that the noticee made correct representation and declared the value correctly. Further, merely on the basis of some invoices of some other importers for which the matter is still sub-judice in nature and without bringing any other evidence on record the noticee cannot be alleged to have colluded or made mis-statement

iii. Hence it is re-iterated that penalty cannot be imposed on me under Section 114A of the Customs Act, 1962.

No Penalty can be imposed under Section 114AA of the Customs Act, 1962 for the act of false declaration.

M. It is submitted that the Adjudicating Authority has erred by proposing impose of the penalty on the noticee under Section 114AA of the Customs Act, 1962 and the same can be proved from the following points:

i. That the provisions of Section 114AA of the Customs Act, 1962 under which the subject Show Cause Notice proposes penalty on me, seek to penalize:

“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.”

ii. It is submitted that that by any stretch of imagination, the noticee cannot be brought within the ambit of the provisions of Section 114AA as this section is applicable only for those who have who have 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. It is pertinent to mention the Noticee has not 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.

iii. Further, the 10 B/E(s) filed by the Noticee were duly assessed, examined and loaded and no other evidence has been brought on record related to the noticee to prove otherwise.

iv. The Hon'ble CESTAT (Delhi) in the matter of M/s Hewlett Packard Sales Pvt. Ltd. Vs Principal Commissioner of Customs ACC (Import) Commissionerate vide Final Order 50860-50863/2025 06.06.2025 dated held that:

“59. To sum up:

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(f) Penalty under section 114AA of the Act is imposable for making false declarations. There is no evidence of any false declaration in this case and hence the penalty cannot be sustained.”

v.Hence it is re-iterated that penalty cannot be imposed on the Appellant under Section 114AA of the Customs Act, 1962.

6. That it is submitted that save and except, what are matters of record and save what has been specifically dealt with by the Noticee, all the statements, averments, contentions, allegations as made/raised against the Noticee in the purported SCN are denied and disputed.

7. That the Noticee specifically requests that personal hearing be granted in this matter in order for the Noticee to submit its defence.

PRAYER:

In view of the fact and circumstances of the case and the submissions made hereinabove, the Noticee most respectfully prays that the Hon'ble Adjudicating Authority may be graciously be please to:

- i. Set aside the impugned Notice insofar as the Noticee is concerned; and / or*
- ii. Grant Personal Hearing in the matter;*
- iii. Pass such order (s) or directions in favour of the Noticee*

”

RECORD OF PERSONAL HEARINGS

18. In order to follow principle of natural justice, an opportunity of personal hearing was granted to Noticee on 18.12.2025, 29.12.2025 & 14.01.2026 vide this office letter dated 27.11.2025, 23.12.2025 & 12.01.2026. Neither the Noticee nor any authorized representative on his behalf attended the personal hearing opportunity on 18.12.2025 & 29.12.2025. **Advocate Sh. Chinmaya Seth appeared before this adjudicating authority (virtually) on behalf of the Noticee on 14.01.2026. He re-iterated his written submission dated 13.01.2026 and had nothing further to add.** It is pertinent to mention here that a copy of the SCN with DIN is again provided to the Noticee via e-mail dated 18.12.2025, on its request.

DISCUSSION AND FINDINGS

19. I have carefully gone through the Show Cause Notice (SCN), the applicable legal provisions, 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.

PRINCIPLE OF NATURAL JUSTICE

20. Before going into the merits of the case, I observe that in the instant case, in compliance of the provisions of Section 28(8) read with Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, an opportunity of personal hearing was granted to Noticee on 18.12.2025, 29.12.2025 & 14.01.2026 vide this office letter dated 27.11.2025, 23.12.2025 & 12.01.2026. Neither the Noticee nor any authorized representative on his behalf attended the personal hearing opportunity on 18.12.2025 & 29.12.2025.

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Advocate Sh. Chinmaya Seth appeared before this adjudicating authority (virtually) on behalf of the Noticee on 14.01.2026. He re-iterated his written submission dated 13.01.2026 and had nothing further to add. Moreover, as per the provisions of Section 28(9) of the Customs Act, 1962, this adjudicating authority is under strict legal obligation to complete the adjudication proceedings within a time bound manner. 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.)]

FRAMING OF ISSUES

21. 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 impugned goods covered under various Bills of Entry (as detailed in Table-I), having a total declared assessable value of Rs. 2,00,09,630/-, are imported below the Prescribed Minimum Import Price (MIP) in Contravention of DGFT Notifications/ Import Policy or otherwise.**
- B. As to whether the declared value of the imported goods is mis-declared and liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and should be re-determined at Rs. 5,83,16,330/-, based on the applicable Minimum Import Price (MIP) or otherwise. And as to whether the differential duty amounting to Rs. 1,07,64,183/- (Rupees One Crore Seven Lakh Sixty Four Thousand One Hundred Eighty Three only) for the import of aforesaid imported goods (Table-I) should be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA, *ibid*, or otherwise.**
- C. As to whether the impugned imported goods (Table-I, Para 1 supra) having total Re-assessable value of Rs. 5,83,16,330/-, (Rupees Five Crore Eighty Three Lakh Sixteen Thousand Three Hundred Thirty) as per Table-III under the aforementioned Bills of Entry should be confiscated under Sections 111(d) and 111(m) of the Customs Act, 1962, on the grounds that they are "prohibited goods" and/or have been improperly imported in contravention of the restrictions in force or otherwise.**
- D. As to whether penalty should be imposed on the importer under Section 112(a) of the Customs Act, 1962, for the act of commission and omission by rendering the imported goods liable for confiscation under Section 111(d) and 111(m), or otherwise. And as to whether penalty should be imposed on the importer under Section 114A of the Customs Act, 1962, for the act of commission and omission**

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by way of willful suppression of substantial facts regarding applicability of MIP or otherwise and as to whether penalty should be imposed on the importer under Section 114AA of the Customs Act, 1962, for the act of false declaration or otherwise.

A. Now I take up the first question/issue before me, as to whether the impugned goods covered under various Bills of Entry (as detailed in Table-I), having a total declared assessable value of Rs. 2,00,09,630/-, are imported below the Prescribed Minimum Import Price (MIP) in Contravention of DGFT Notifications/ Import Policy or otherwise.

22. I observe that the Noticee M/s. Feya Textile (IEC: AADFF8018N) had imported multiple consignments of Synthetic Knitted Fabrics, classifiable under various Customs Tariff Headings (CTHs) falling within Chapter 60 of the First Schedule to the Customs Tariff Act, 1975. The said consignments were cleared through different Bills of Entry at the port of Nhava Sheva, details of which are enumerated in Table I below. The importer had declared the goods for home consumption under the system of self-assessment in terms of Section 17 of the Customs Act, 1962, and the said consignments were accordingly cleared for home consumption upon payment of the duty as declared and assessed by the importer at the time of import.

Table-I

S r. N o.	BE number	BE date	BL Date	Full Item Description	Declared CTH	Declared Assessable Value (Rs.)	Declared quantity (in kgs)	Declared Unit Price in USD	Exchange rate in (In Rs.)	Total Duty Amount paid (in Rs.)
1	597 664 0	05- Oct- 24	20- 09- 24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	1 ,901,774	18,6 56	1.2	84.85	4 46,537
2	597 664 2	05- Oct- 24	20- 09- 24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	1 ,426,739	13,9 96	1.2	84.85	3 34,998
3	597 663 6	05- Oct- 24	20- 09- 24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	1 ,778,326	17,4 45	1.2	84.85	4 17,551
4	640 923 0	29- Oct- 24	08- 10- 24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT	600 539 00	2 ,799,107	27,4 26	1.2	84.95	6 57,230

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				DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC						
5	640 923 4	29- Oct- 24	08- 10- 24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	1 ,522,536	14,9 18	1.2	84.95	3 57,491
6	640 925 5	29- Oct- 24	08- 10- 24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	1 ,424,138	13,9 54	1.2	84.95	3 34,388
7	640 925 8	29- Oct- 24	08- 10- 24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	1 ,624,291	15,9 15	1.2	84.95	3 81,384
8	643 124 8	30- Oct- 24	08- 10- 24	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFRENT DESIGN,COLOUR,WEIG HT,GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	3 ,189,590	31,2 52	1.2	84.95	7 48,916
9	643 124 5	30- Oct- 24	08- 10- 24	POLYESTER WARP KNITTED FABRIC (ROLLS PF ASSORTED DIFFRENT DESIGN,COLOR,WEIGH T,GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	2 ,862,691	28,0 49	1.2	84.95	8 04,416
10	643 123 2	30- Oct- 24	08- 10- 24	POLYESTER WARP KNITTED FABRIC (ROLLS PF ASSORTED DIFFRENT DESIGN,COLOR,WEIGH T,GSM)POLYESTER WARP KNITTED FABRIC	600 539 00	1 ,480,439	14,5 06	1.2	84.95	4 16,003
				Total		20,009,6 30				4,898,9 14

22.1 I further observe that Show Cause Notice has clearly brought forward the fact that DGFT Notifications has issued Notifications viz. Notification No. 77/2023 dated 16.03.2024, Notification No. 33/2024-25 dated 01.10.2024, Notification No. 49/2024-25 dated 04.01.2025 & Notification No. 05/2025-26 Dated 23.04.2025 whereby it is

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categorically stipulate that the import of Synthetic Knitted or Crocheted Fabrics at a unit value below USD 3.50 per kilogram on a CIF basis shall be treated as “Prohibited” under the prevailing import policy. The prohibition has been imposed with the objective of safeguarding domestic industry and ensuring fair trade practices in accordance with the provisions of the Foreign Trade (Development and Regulation) Act, 1992 and the Foreign Trade Policy in force. However, the said restriction is not applicable in cases where imports are specifically covered under valid authorizations, such as those effected under Advance Authorization Schemes, Export Oriented Units (EOUs), or Special Economic Zones (SEZs), subject to strict adherence to the terms and conditions of such authorizations. In such cases, the exemption is limited to imports that are not cleared for home consumption into the Domestic Tariff Area (DTA) and are utilized exclusively for the purposes specified under the respective authorization. However, in the instance case imports under subject 10 Bills of Entry (as mentioned in Table-I above), the goods were not covered under the Advance Authorization Schemes, Export Oriented Units (EOUs), or Special Economic Zones (SEZs) and instead were cleared for home consumption. The import effected by the said Bills of Entry is subject to MIP @3.5\$ per Kg as stated in the DGFT notifications mentioned above.

22.1.1 I further observe that SCN has also brought forward the fact that the imports effected vide subject Bills of Entry, as enumerated in Table-I, are covered under the scope of the aforesaid DGFT Notifications prescribing the Minimum Import Price (MIP) condition, as the respective consignments were shipped on board prior to their clearance and the Bill of Lading dates clearly fall within the validity period of the said notifications. Accordingly, the imports in question are squarely governed by the MIP requirement stipulated therein. However, scrutiny of import documents, valuation particulars, and the Bills of Entry pertaining to the subject consignments, it is clear that the importer has declared a CIF value per kilogram lower than the prescribed Minimum Import Price (MIP) as notified by the Directorate General of Foreign Trade (DGFT) under the relevant DGFT Notifications cited hereinabove. Such declaration of value, being below the DGFT-mandated MIP, constitutes a clear violation of the import policy conditions prevailing at the material time of import. In view thereof, the import of the said goods at a value below the prescribed MIP is “Prohibited” under the applicable provisions of the Foreign Trade Policy. Accordingly, the goods so imported are liable for action under the provisions of the Customs Act, 1962, read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992, and the Foreign Trade Policy framed thereunder, for having been imported in contravention of the restrictions in force at the time of import.

22.1.2 Accordingly, the Show Cause Notice proposes confiscation of the imported goods under the provisions of Sections 111(d) and 111(m) of the Customs Act, 1962, and imposition of penal action under Sections 112(a), 114A, and 114AA, along with recovery of the differential duty under Section 28(4) of the Customs Act, 1962, together with applicable interest under Section 28AA thereof.

22.2 I observe that as per Section 5 of the Foreign Trade Development and Regulation Act, 1992, the Central Government may formulate and announce Foreign Trade Policy. Accordingly, The Foreign Trade Policy (FTP) 2023 was notified by the Directorate

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General of Foreign Trade (DGFT) under Notification No. 1/2023, dated March 31, 2023. The handbook of procedure outlines the specific procedures to comply with the Foreign Trade Policy. In this context, I observe that vide Notification No. 77/2023 dated 16.03.2024, issued by the Directorate General of Foreign Trade (DGFT), the import policy and policy conditions governing goods falling under Customs Tariff Headings (CTHs) 60063100, 60063200, 60063300, 60063400, and 60069000 of Chapter 60 of the First Schedule to the Customs Tariff Act, 1975, were revised. Through the said notification, the import policy for the aforementioned goods was amended from "Free" to "Prohibited", subject to a prescribed Minimum Import Price (MIP) condition, and made applicable up to 15.09.2024. As per the revised policy, import of Synthetic Knitted or Crocheted Fabrics under the above CTHs was permitted only at or above an MIP of USD 3.50 per kilogram (CIF basis). Relevant part of the notification is reproduced for reference, as follows:

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

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

Notification No. 77/2023
 New Delhi, Dated: 16th March 2024

Subject: Imposition of Minimum Import Price on Synthetic Knitted Fabrics up to 15th September 2024 -reg

S.O.: In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2023, as amended from time to time, the Central Government hereby revises the Import Policy and Import Policy Condition of the following ITC(HS) Codes under Chapter 60 of ITC (HS) 2022, Schedule-I(Import Policy), for the period up to 15th September 2024 as under:

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



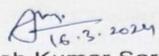
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					3.5 US Dollar and above per Kilogram
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2. The existing 'Free' Import Policy, as it stands prior to the issuance of this Notification, shall be in effect starting from 16th September 2024, unless expressly amended by subsequent notification.

Effect of the Notification: Minimum Import Price of US Dollar 3.50 per Kilogram is imposed on (5) specific Synthetic Knitted Fabric ITC(HS) Codes for the period up to 15th September 2024. The existing 'Free' Import Policy, as it stands prior to the issuance of this Notification, shall be in effect starting from 16th September 2024, unless expressly amended by subsequent notification.

This is issued with the approval of Minister of Commerce & Industry.


 (Santosh Kumar Sarangi)
 Director General of Foreign Trade &
 Ex- officio Addl. Secretary to the Government of India
 E-mail: dgft@nic.in

(F.No. 01/89/180/Misc-39/AM-05/PC-2[A]E-1425)

22.2.1 The aforesaid import restrictions and the requirement of adherence to the prescribed Minimum Import Price (MIP) were subsequently extended and broadened vide DGFT Notification No. 33/2024-25 dated 01.10.2024. Through the said notification, the validity of the MIP condition was extended up to 31.12.2024, and its scope was expanded to cover additional tariff items, namely CTHs 60019200, 60041000, 60049000, 60053600, 60053790, 60053900, 60062200, and 60064200, in addition to the tariff headings already covered under DGFT Notification No. 77/2023 dated 16.03.2024. Consequently, the restriction on imports valued below the prescribed MIP of USD 3.50 per kilogram (CIF basis) continued to remain applicable to all the aforesaid tariff items up to 31.12.2024. Relevant part of the notification is reproduced for reference, as follows:

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

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

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

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

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

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

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

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



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: 2 :

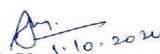
ITC(HS) Code	Item Description	Existing Import Policy	Revised Import Policy	Existing Policy Condition	Revised Policy Condition
60019200	- Other : -- Of man-made fibres	Free	Prohibited	-	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60041000	Knitted or crocheted fabrics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

: 3 :

Effect of the Notification:

Minimum Import Price (MIP) on Synthetic Knitted Fabrics is extended from 15th September 2024 to 31st December 2024. Further, MIP of US Dollar 3.50 per Kilogram on CIF Value has also been imposed on 08 new ITC (HS) Codes of various kinds of Knitted fabrics for the period up to 31st December, 2024.

This is issued with the approval of Minister of Commerce & Industry.


 (Santosh Kumar Sarangi)
 Director General of Foreign Trade &
 Ex- officio Addl. Secretary to the Government of India
 E-mail: dgft@nic.in

(Issued from F.No. 01/89/180/Misc-39/AM-05/PC-2[A]/E-1425)

22.2.2 I observe that, thereafter, vide DGFT Notification No. 49/2024-25 dated 04.01.2025, the validity of the MIP condition was further extended for the period from 01.01.2025 to 31.03.2025, thereby continuing the prohibition on imports of the subject goods declared below the MIP threshold during the said extended period. Therefore, the imports declared at a CIF value below the prescribed MIP were to be treated as "Restricted", unless specifically covered under valid authorization schemes such as Advance Authorization, Export Oriented Unit (EOU), or Special Economic Zone (SEZ),

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and subject to strict compliance with the conditions stipulated therein.

22.2.3 I further observe that vide DGFT Notification No. 05/2025-26 dated 23.04.2025, the Directorate General of Foreign Trade (DGFT) undertook a revision of the applicability of the Minimum Import Price (MIP) condition imposed on imports of Synthetic Knitted or Crocheted Fabrics. Through the said notification, the DGFT restricted the scope of the MIP requirement to four specific tariff items, namely CTHs 60019200, 60053600, 60053790, and 60053900. Accordingly, imports falling under the above-mentioned CTHs continued to remain subject to the prescribed MIP of USD 3.50 per kilogram (CIF basis). The MIP condition, however, was withdrawn for all other tariff items that had earlier been brought under its ambit through the preceding DGFT Notifications Nos. 77/2023, 33/2024-25, and 49/2024-25, thereby limiting the restriction to the said four CTHs with effect from 23.04.2025.

22.3 I observe that the validity period of each Notification, indicating the duration from the date of its enforcement to the date of cessation, is as follows:

Sr. No.	Notification No.	Notification Date	CTH	Valid for the period	
				From	To
1	77/2023	16.03.2024	60063100	16.03.2024	15.09.2024
			60063200		
			60063300		
			60063400		
			60069000		
2	33/2024-25	01.10.2024	60063100	15.09.2024	31.12.2024
			60063200		
			60063300		
			60063400		
			60069000		
			60019200		
			60041000		
			60019200		
			60041000		
			60049000		
			60053600		
			60053790		
			60053900		
			60062200		
60064200					
3	49/2024-25	04.01.2025	60063100	01.01.2025	31.03.2025
			60063200		
			60063300		
			60063400		
			60069000		
			60019200		
			60041000		
			60049000		
			60053600		
60053790					

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			60053900		
			60062200		
			60064200		
4	05/2025-26	23.04.2025	60019200	23.04.2025	31.03.2026

22.3.1 From the foregoing, I find that the aforesaid DGFT Notifications categorically stipulate that the import of Synthetic Knitted or Crocheted Fabrics (under certain CTH) at a unit value below USD 3.50 per kilogram on a CIF basis shall be treated as “Prohibited” under the prevailing import policy. The prohibition has been imposed with the objective of safeguarding domestic industry and ensuring fair trade practices in accordance with the provisions of the Foreign Trade (Development and Regulation) Act, 1992 and the Foreign Trade Policy in force. However, the said restriction is not applicable in cases where imports are specifically covered under valid authorizations, such as those effected under Advance Authorization Schemes, Export Oriented Units (EOUs), or Special Economic Zones (SEZs), subject to strict adherence to the terms and conditions of such authorizations. In such cases, the exemption is limited to imports that are not cleared for home consumption into the Domestic Tariff Area (DTA) and are utilized exclusively for the purposes specified under the respective authorization.

22.3.2 I observe that the suitable provisions have been made in law for regulation of imports of goods in to India. As far as tariff regulations are concerned, duties of customs are mainly levied as per Section 12 of the Customs Act, 1962. In case of non-tariff regulations, the multiple legislations have been enacted by the parliament. As per Section 11 of the Customs Act, 1962, the Central Government may prohibit imports of goods of any specified description by issuance of notification in the Official Gazette. Moreover, as per Section 5 of the Foreign Trade Development and Regulation Act, 1992, the Central Government may formulate and announce Foreign Trade Policy to regulate inter-alia imports of any goods by issuance of notification in the Official Gazette.

22.3.2.1 I further observe the Para 1.05 (b) of the Foreign Trade policy:

"(b) The date of import/export is defined in para 2.17 of HBP 2023. Bill of Lading and Shipping Bill are the key documents for deciding the date of import and export respectively. In case of change of policy from 'free' to 'restricted/prohibited/state trading' or 'otherwise regulated', the import/export already made before the date of such regulation/restriction will not be affected. However, the import through High Sea sales will not be covered under this facility. Further, the import/export on or after the date of such regulation/restriction will be allowed for importer/ exporter who has a commitment through Irrevocable Commercial Letter of Credit (ICLC) before the date of imposition of such restriction/regulation and shall be limited to the balance quantity, value and period available in the ICLC. For operational listing of such ICLC, the applicant shall have to register the ICLC with jurisdictional RA against computerized receipt within 15 days of imposition of any such restriction/regulation. Whenever, Government brings out a policy change of a particular item, the change will be applicable prospectively (from the date of Notification) unless otherwise provided for."

22.3.2.2 Para 2.17(a) of the Handbook of Procedures 2023:

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

22.3.2.3 Para 11.11 of the Handbook of Procedures 2023:

"Date of shipment/ dispatch for imports will be reckoned as under: -

S.No.	Mode of Transportation	Date of Shipment / Dispatch
(i)	By Sea	The date affixed on the Bill of Lading

22.3.2.4 In view of the foregoing, I observe that as per Para 11.11 of the DGFT Handbook of Procedures, the date of shipment or dispatch for imports transported by sea is determined by the date mentioned on the Bill of Lading.

22.3.3 Therefore, following conditions relevant to the instant case in hand, are required to be fulfilled for the applicability of MIP on import of goods, as follows:

- i. Goods are Synthetic Knitted fabric
- ii. Goods are classifiable under CTH 6005.3900.
- iii. The date of shipment or dispatch for imports transported by sea i.e. Bill of Lading issue date should be on or after 15.09.2024.
- iv. Goods are cleared for Home Consumption and not specifically covered under valid authorizations, such as those effected under Advance Authorization Schemes, Export Oriented Units (EOUs), or Special Economic Zones (SEZs).

22.4 Further, on detailed scrutiny of the importer's declarations as well as the examination reports pertaining to the subject consignments as per the impugned 10 Bills of Entry, as mentioned in Table-I, it is observed as follows:

- i. That the declared description of the goods by the importer in the impugned Bills of Entry is 'Polyester Warp Knitted Fabric (Rolls of Assorted Different Colour, Design & Different Weight/GSM) Polyester Warp Knitted Fabric'
- ii. Goods are self-classified by the Importer under CTH 6005.3900
- iii. The Bill of Lading date is for the period 20/09/2024 to 08/10/2024.
- iv. Goods are cleared for Home Consumption and are not covered under valid authorizations, such as those effected under Advance Authorization Schemes, Export Oriented Units (EOUs), or Special Economic Zones (SEZs).
- v. The declared CIF value per kilogram of the imported goods is below USD 3.50 per

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kilogram.

22.5 I observe declared description of the goods by the importer in the impugned Bills of Entry is 'Polyester Warp Knitted Fabric (Rolls of Assorted Different Colour, Design & Different Weight/GSM)'. In this regard, it is noticed that Polyester is a fibre produced through chemical synthesis by the polymerisation of petrochemical derivatives, resulting in polyethylene terephthalate (PET). The fibre is manufactured industrially by melt-spinning and subsequent drawing processes and does not originate from any natural plant or animal source. Accordingly, polyester is technically classified as a synthetic fibre, and it is neither a natural fibre nor an artificial (regenerated) fibre derived from natural polymers. **Therefore, the impugned goods are 'Synthetic Knitted fabric'.**

22.5.1 I observe that the CTH 6005 3900 covers Warp Knitted fabrics- other than those of headings 6001 to 6004, made of Synthetic fibres-printed. In this regard, I observe that it is an undisputed fact that the impugned goods are Warp knitted fabrics made of synthetic fibre, namely polyester and are printed. There is also no dispute regarding the declared description of the goods as "Polyester Warp Knitted Fabric (Rolls of Assorted Different Colour, **Design & Different Weight/GSM)**", or with respect to the classification declared by the importer himself under CTH 6005 3900. It is also undisputed fact that the goods are *neither* pile fabric / cut pile fabric which is covered under CTH 6001, *nor* has a declared width of 30 cm or less which are covered under CTH 6002, 6003 & 6004. **Accordingly, there remains no dispute that the impugned goods are correctly classifiable under CTH 6005 3900.**

22.5.2 Further, reliance is placed on the test reports available in the E-Sanchit system pertaining to all the Bills of Entry mentioned in Table-I. The consignments were imported from the same overseas suppliers, M/s Tongxiang Run & Fun Textiles Co. Ltd.China, M/s Haining Jie Ya Textile Co. Ltd., China and M/s Zhejiang Okly Industries Co. Ltd., China thereby establishing the identity and consistency of the imported goods' description.

22.5.3 I observe that a **Master Bill of Lading** is the primary transport document issued by the Carrier or vessel operator and evidences the actual lading of goods on board the vessel. The Master Bill of Lading is unique in nature and may cover multiple consignments booked under different House Bills of Lading. A **House Bill of Lading**, on the other hand, is issued by a freight forwarder or shipping agent for the purpose of booking, consolidation, and commercial documentation of cargo. Accordingly, for the purposes of determining the date of shipment or dispatch under the Import Policy, Para 11.11 of the DGFT Handbook of Procedures and DGFT provisions, reliance is required to be placed on the date mentioned on the Master Bill of Lading, as it reflects the actual date of shipment, whereas the House Bill of Lading has limited relevance for such determination.

22.5.3.1 I further observe that, as per The Indian Carriage of Goods By Sea Act, 1925 (Act No. 26 Of 1925), under ARTICLE III.—Responsibilities and Liabilities, states as follows:

***"Rule 3:** After receiving the goods into his charge, **the carrier, or the master** or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things— (a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such*

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marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage: (b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper: (c) The apparent order and condition of the goods:

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

Rule 4. Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3(a), (b) and (c). 1 [However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith.]”

22.5.3.1.1 From the foregoing, I observe that in terms of Article III Rule 3 of the Schedule to the Carriage of Goods by Sea Act, 1925, after receiving the goods into his charge, **the carrier or the Master of the vessel is statutorily obliged to issue a Bill of Lading recording, inter alia, the quantity, description and apparent condition of the goods.** Further, Article III Rule 4 of the said Act provides that such a Bill of Lading shall constitute *prima facie evidence* of the receipt of the goods by the carrier as therein described.

22.5.3.2 I further observe that the filing of the Import General Manifest (IGM) is governed by the provisions of Section 30 of the Customs Act, 1962, read with the Import Manifest (Vessels) Regulations, 1971. In terms of Section 30(1) of the Customs Act, the person in charge of the vessel, namely the master or the carrier, is mandatorily required to file the IGM with the proper officer of Customs prior to the arrival of the vessel at the port of import, declaring therein true and correct particulars of all goods carried by the vessel which are intended to be unloaded or discharged at the said port.

22.5.3.2.1 I further find that the prescribed IGM forms under the Import Manifest (Vessels) Regulations, 1971, particularly Form I, require declaration of detailed cargo particulars, including a specific and mandatory column for the Bill of Lading number and date, apart from the name of the consignor and consignee, description of goods, marks and numbers, and the port of loading and discharge. These particulars necessarily emanate from the Master Bill of Lading (MBL) issued by the master of the vessel or the carrier, which evidences the receipt and shipment of the goods on board the vessel.

22.5.3.2.2 I find that the statutory responsibility for filing the IGM vests exclusively with the master or the carrier and, therefore, the declaration of cargo in the IGM can only be made on the basis of the MBL issued by them. **I also find that where a freight forwarder or an agent issues a House Bill of Lading (HBL) to the shipper, the master of the vessel or the carrier is correspondingly required to issue a Master Bill of Lading, which may cover one or more such House Bills of Lading, and that such MBL necessarily contains the “shipped on board” date in respect of the goods corresponding to each such HBL. The**

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said “shipped on board” date reflects the date on which the goods covered by the respective HBL were actually laden on board the vessel.

22.5.3.2.3 A House Bill of Lading, being a document issued by a freight forwarder, does not discharge the statutory obligation cast upon the master under Section 30 of the Customs Act. **Accordingly, the filing of the IGM is intrinsically linked to the issuance of the MBL, and lawful filing of the IGM without issuance of the MBL is neither contemplated under the statute nor feasible in practice.** I also find that since the IGM is required to be filed prior to the arrival of the vessel and must accurately declare the goods proposed to be unloaded at the port of import, the MBL is necessarily issued contemporaneously with the shipment or lading of the goods on board the vessel. **Consequently, the date of issuance and the “shipped on board” date mentioned in the Master Bill of Lading assume statutory significance and are to be reckoned as the date of shipment or dispatch of the goods.**

22.5.3.3 Thus, the Master Bill of Lading, being issued by the carrier / Master of the vessel in discharge of a statutory duty and constituting prima facie evidence of receipt and shipment of the goods, carries greater evidentiary value and reliability as compared to the House Bill of Lading issued by an agent or freight forwarder. **Accordingly, in the event of any discrepancy between the House Bill of Lading and the Master Bill of Lading with regard to the ‘shipped on board’ date, the particulars recorded in the Master Bill of Lading, being the principal shipping document issued by the carrier / Master of the vessel, merit greater reliance for determining the actual date of shipment of the goods.**

22.5.3.4 In this context I observe the following anomalies in the ‘Laden on Board’ / ‘Shipped on board’ date of goods and HBL / MBL issue dates as follows:

Sr. No.	BE Number	BE date	Details as per supporting documents uploaded on e-Sanchit		Details as per IGM	
			BL/Date	Goods Laden on Board/ Shipped on Board Date as per BL.	MBL No.	Date
1	5976640	05-Oct-24	HBL No. BSE40900020 dated 20.09.2024	20.09.2024	ONEYNB4JA4635400	20-09-24
2	5976642	05-Oct-24	HBL No. BSE40900026 dated 20.09.2024	20.09.2024	ONEYNB4JA4301800	20-09-24
3	5976636	05-Oct-24	HBL No. BSE40900029 dated 20.09.2024	20.09.2024	ONEYNB4JA4636500	20-09-24
4	6409230	29-Oct-24	HBL No. BSE41000011 dated 29.09.2024	29.09.2024	MEDUF7419916	08-10-24
5	6409234	29-Oct-24	HBL No. BSE41000010 dated 29.09.2024	29.09.2024	MEDUF7711726	08-10-24
6	6409255	29-Oct-24	HBL No. BSE41000020 dated 29.09.2024	29.09.2024	MEDUF7938360	08-10-24
7	6409258	29-Oct-24	HBL No. BSE41000021 dated	29.09.2024	MEDUF7938360	08-10-24

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			29.09.2024			
8	6431248	30-Oct-24	HBL No. BSE41000009 dated 29.09.2024	29.09.2024	MEDUF7938386	08-10-24
9	6431245	30-Oct-24	HBL No. BSE41000013 dated 29.09.2024	29.09.2024	MEDUF7901988	08-10-24
10	6431232	30-Oct-24	HBL No. BSE41000012 dated 29.09.2024	29.09.2024	MEDUF7937875	08-10-24

22.5.3.4.1 For Bills of Entry at Sr. No. 04 to 10:

- i. The 'shipped on board' date of the goods as per the HBL issued by the agent of the carrier is 29.09.2024, whereas the Master Bill of Lading (MBL) issued by the carrier / Master of the vessel bears the date 08.10.2024. Thus, there is a considerable time gap between the date of shipment as reflected in the HBL and the date of issuance of the MBL.
- ii. However, for the Bills of Entry at Serial Nos. 01 to 03, the 'shipped on board' date of the goods as per the HBL issued by the agent of the carrier and the date of issuance of the Master Bill of Lading (MBL) issued by the carrier / Master of the vessel are the same, i.e., 20.09.2024, and therefore the 'shipped on board' date of the goods as per the HBL matches with the MBL issue date.

22.5.3.4.2 In this context I observe that it is an undisputed fact that the 'shipped on board' date of the goods, being the actual date on which the goods were loaded on board the vessel, cannot vary between the House Bill of Lading and the Master Bill of Lading, i.e. in other words same goods can't have two different dates of being shipped on board a vessel or ship.

22.5.3.4.3 However, in the instant case there is a significant time gap between the issue dated of the HBL and the MBL that remains unexplained and requires thorough verification from the Master Bill of Lading itself. **It is further pertinent to mention that neither the MBL has been uploaded by the importer on the E-Sanchit portal for the subject Bills of Entry, nor has a copy of the same been furnished by the Noticee in its defence submissions,** and therefore the 'shipped on board' date mentioned in the HBL could not be verified from the MBL.

22.5.3.4.4 Accordingly, in view of the above anomalies, the House Bills of Lading submitted as supporting documents and uploaded on the E-Sanchit system, cannot be relied upon and the Master Bill of Lading dates as reflected in the Import General Manifest (IGM) and relied upon in the Show Cause Notice are held to be correct and valid. Therefore, the relevant date of shipment or dispatch, as evidenced by the respective Bills of Lading, falls within the period from 20.09.2024 to 08.10.2024, which is subsequent to 15.09.2024.

22.5.3.5 Bill of Entry wise IGM screenshot from EDI 1.5 ICES system and B/L uploaded in the e-Sanchit as a supporting document is as follows:

Bill of Entry 5976640 dated 05.10.2024:

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 SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

Master Invoice	Items	Dept comments	Exam order	Queries	IGM	Cont	eXAm_instr	liceNce	dUty	Grp7_dutyfg	Others
view_be											
22/01/2026 Indian Customs EDI System - Imports V1.5 05:31:40 pm											
VIEW JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707 IGM8											
Enter BE No.:	5976642	Date:	05/10/2024	CC:	N	Type:	H	No of IGMs:	1		
Importer:	FEYA TEXTILE	AG:	3	First Chk:	N						
IGM No./Dt.:	2389035 04/10/2024	Inw. Dt.:	06/10/2024	Tot. Pkgs.:	609	RLS	Gross Wt.:	15551.2	KGS		
MAWB No./Dt.:	ONEYNB4JA4301800		20/09/2024	HAWB No./Dt.:	BSE40900026					20/09/2024	
Marks & Nos.:	AS PER B/L										
Gate Way IGM:		Gate Way Port:		Dest. Code:		Current CFS:					
IGM No./Dt.:		Inw. Dt.:		Tot. Pkgs.:		Gross Wt.:					
MAWB No./Dt.:				HAWB No./Dt.:							
Marks & Nos.:											
Gate Way IGM:		Gate Way Port:		Dest. Code:		Current CFS:					
IGM No./Dt.:		Inw. Dt.:		Tot. Pkgs.:		Gross Wt.:					
MAWB No./Dt.:				HAWB No./Dt.:							
Marks & Nos.:											
Gate Way IGM:		Gate Way Port:		Dest. Code:		Current CFS:					

4/10/24



HOLATRANS
Supply Chain Management Co., Ltd
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BILL OF LADING NO.
ORIGINAL

SHIPPER:
HAINING JIEYA TEXTILE CO., LTD
NO. 8 XIN FENG ROAD KUCUN SCIENCE&TECHNOLOGY
INDUSTRIAL ZONE HAINING,ZHEJIANG CHINA 314409
TEL:86-0573-87561976
FAX:86-0573-87516880

CONSIGNEE:
FEYA TEXTILE
SHREE ARJANT COMPOUND,BLDG NO C-10,GALA NO 1 TO
10,2ND FLOOR,KALHER PIPELINE
ROAD,KALHER BHIWADI-421302 (MAHARASHTRA)
EMAIL:FEYATEXILE1@GMAIL.COM
CONTACT NO.:+91 8869102837

NOTIFY PARTIES:
SAME AS CONSIGNEE

BILL OF LADING NO.:
BSE40900026

PAGES:
1

PORT OF DISCHARGE AGENT:
ABS LOGISTICS PRIVATE LIMITED
CORPORATE OFFICE : PLOT NO. 18, BIRD FLOOR,
REKHA ENCLAVE,MANSARVAR GARDEN, DELHI 110015,
INDIA
TEL:91-492096001002
GST NO.07AAHC8271B12Y
EMAIL:INFO@ABSLOGISTICS.IN
PAN NO. AAHC8271B IEC NO: 0609029281

PRE-CARRIAGE BY:
/

PLACE OF RECEIPT:
/

OCEAN VESSEL VOY NO.:
SEASPAR ADONIS/075W

PORT OF LOADING:
NNGBO

PORT OF DISCHARGE:
NHAVA SHEVA

PLACE OF DELIVERY:
NHAVA SHEVA

MARKS AND NUMBERS	QUANTITY	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT
N/M	609ROLLS	POLYESTER WARP KNITTED FABRIC/ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT/ GSM) HS :6002300 *PAN NO. AADFF8018N IEC CODE AADFF8018N GST NO. 27AADFF8218N1Z3	15551.2KGS	66CBM
SHIPPER'S LOAD & COUNT & SEAL 1*40HC S.T.C.				
SAY SIX HUNDRED AND NINE ROLLS ONLY.				
FREIGHT AND CHARGES:		BASE:	PREPAID:	COLLECT:

NYKH4724847/CNDE4247746HC
609ROLLS/15551.2KGS/66CBM

FOR AND ON BEHALF OF
Holatrans Supply Chain Management Co., Ltd.
SIGNATURE/RELIEF OF
Holatrans Supply Chain Management Co., Ltd.

AS AGENT FOR THE CARRIER
AS AGENT FOR THE CARRIER

11720330955

2024/09/20

Bill of Entry 5976636 dated 05.10.2024:

S/10-1138/2025-26/Adj./C/Commissioner/Gr. III/NS-III/CAC/JNCH
SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

Master Invoice	Items	Dept comments	Exam order	Queries	IGM	Cont	eXAm_instr	liceNce	dUty	Grp7_dutyfg	Others
<p align="center">Indian Customs EDI System - Imports V1.5 05:31:40 pm</p> <p align="center">22/01/2026 JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707</p>											
<p>VIEW IGMS</p> <p>Enter BE No: 5976636 Date: 05/10/2024 CC: N Type: H No of IGMs: 1</p> <p>Importer: FEVA TEXTILE AG: 3 First Chk: N</p>											
<p>IGM No./Dt.: 2389835 / 04/10/2024 Inw. Dt.: 06/10/2024 Tot. Pkgs.: 768 RLS Gross Wt.: 19383.4 KGS</p> <p>MAWB No./Dt.: ONEYNB4JA4636500 / 20/09/2024 HAWB No./Dt.: BSE40900029 / 20/09/2024</p> <p>Marks & Nos: AS PER B/L</p> <p>Gate Way IGM: Gate Way Port: Dest. Code: Current CFS:</p>											
<p>IGM No./Dt.: Inw. Dt.: Tot. Pkgs.: Gross Wt.: MAWB No./Dt.: HAWB No./Dt.: Marks & Nos: Gate Way IGM: Gate Way Port: Dest. Code: Current CFS:</p>											
<p>IGM No./Dt.: Inw. Dt.: Tot. Pkgs.: Gross Wt.: MAWB No./Dt.: HAWB No./Dt.: Marks & Nos: Gate Way IGM: Gate Way Port: Dest. Code: Current CFS:</p>											
<p>IGM No./Dt.: Inw. Dt.: Tot. Pkgs.: Gross Wt.: MAWB No./Dt.: HAWB No./Dt.: Marks & Nos: Gate Way IGM: Gate Way Port: Dest. Code: Current CFS:</p>											

4/10/24



HOLATRANS
Supply Chain Management Co.,Ltd
www.holatrans.cn



BILL OF LADING NO.
ORIGINAL

SHIPPER:
TONGXIANG LUCKY TIGER IMP. & EXP.CO.,LTD.
13F EAST DISTRICT DONGRUN BUILDING GAOQIAO
AVENUE TONGXIANG JIAXING ZHEJIANG CHINA
TEL:0573-88138815 FAX:0573-88138813

CONSIGNEE:
FEVA TEXTILE
SHREE ARHAAT COMPOUND, BLDG NO. C-10,GALA NO. 1 TO 2,2ND
FLOOR KALHER, BHIWANDI - 421302
IEC-AADFF8018N GST-27AADFF8018N1Z3

NOTIFY PARTIES:
SAME AS CONSIGNEE

BILL OF LADING NO.:
BSE40900029

PAGES:
1

AGENT OF DISCHARGE AGENT:
ABS LOGISTICS PRIVATE LIMITED
CORPORATE OFFICE : 32, ISHWAR COLONY,
BHAMA SHAHMARG, DELHI 110009,INDIA.
TEL:011-46298500/01020304
GST NO:07AAHC2827181ZY
EMAIL:INFO@ABSLOGISTICS.IN

PRE-CARRIAGE BY:
PLACE OF RECEIPT:

SEASPAN VESSEL VOP NO.:
SEASPAN ADONIS/075W

PORT OF LOADING:
NINGBO

PORT OF DISCHARGE:
NHAVA SHEVA

PLACE OF DELIVERY:
NHAVA SHEVA

MARKS AND NUMBERS	QUANTITY	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT
N/M	768ROLLS	POLYESTER KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR ,DESIGN & DIFFERENT WEIGHT / GSM) HS 66053900	19383.4KGS	68CBM
<p>TCLU7804966/CNDE41656/40HC 768ROLLS/19383.4KGS/68CBM</p>				
<p>SHIPPER'S LOAD & COUNT & SEAL 1*40HC S.T.C.</p>				
<p>SAY SEVEN HUNDRED AND SIXTY EIGHT ROLLS ONLY.</p>				
<p>FREIGHT AND CHARGES: BASIS: RATE: PREPAID: COLLECT:</p>				

HT2023039954

2024/09/20

FOR AND ON BEHALF OF
Holatrans Supply Chain Management Co.,Ltd.

FOR AND ON BEHALF OF
Holatrans Supply Chain Management Co.,Ltd.

AS AGENT FOR THE CARRIER
AS AGENT FOR THE CARRIER

Bill of Entry 6409230 dated 29.10.2024:

S/10-1138/2025-26/Adj./Commissioner/Gr. III/NS-III/CAC/JNCH
 SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

Master Invoice Items Dept comments Exam order Queries iGM Cont eXAm_instr liceNce dUTy Grp7_dutyfg Others

view_be		Indian Customs EDI System - Imports V1.5		05:31:40 pm	
22/01/2026		JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707			
VIEW					
Enter BE No :	6409234	Date :	29/10/2024	CC :	N
Importer :	FEYA TEXTILE	Type :	H	No of IGMs :	1
		AG :	3	First Chk :	N
IGM No./Dt. :	2991808 29/10/2024	Inw. Dt. :	31/10/2024	Tot. Pkgs. :	750 RLS
MAWB No./Dt. :	MEDUF7711726 08/10/2024	HAWB No./Dt. :	BSE41000010 29/09/2024	Gross Wt. :	16575.84 KGS
Marks & Nos :	AS PER B/L	Gate Way IGM :		Gate Way Port :	
		Dest. Code :		Current CFS :	
IGM No./Dt. :		Inw. Dt. :		Tot. Pkgs. :	
MAWB No./Dt. :		HAWB No./Dt. :		Gross Wt. :	
Marks & Nos :		Gate Way IGM :		Gate Way Port :	
		Dest. Code :		Current CFS :	
IGM No./Dt. :		Inw. Dt. :		Tot. Pkgs. :	
MAWB No./Dt. :		HAWB No./Dt. :		Gross Wt. :	
Marks & Nos :		Gate Way IGM :		Gate Way Port :	
		Dest. Code :		Current CFS :	
IGM No./Dt. :		Inw. Dt. :		Tot. Pkgs. :	
MAWB No./Dt. :		HAWB No./Dt. :		Gross Wt. :	
Marks & Nos :		Gate Way IGM :		Gate Way Port :	
		Dest. Code :		Current CFS :	



HOLATRANS
Supply Chain Management Co., Ltd
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BILL OF LADING NO.
ORIGINAL

<p>SHIPPER: ZHEJIANG OKLY INDUSTRIAL CO., LTD. NO. 8 ZHONGYUAN ROAD, XUCUN TOWN, HANING ZHEJIANG, CHINA 314409 TEL: 086-573-87562879 FAX: 086-573-87566787</p> <p>CONSIGNEE: FEYA TEXTILE SHREE ARIHANT COMPOUND, BLDG NO C-10, GALA NO 8 TO 6, 2ND FLOOR, KALHER PIPELINE PIPELINE ROAD, KALHER BHAWANDI-421302(MAHARASHTRA) EMAIL: FEYATEXILE1@GMAIL.COM PAN NO: AADFF8018N*</p> <p>TRADE MARKS: SAME AS CONSIGNEE.</p>	<p>BILL OF LADING NO.: BSE41000010 PAGES: 1</p> <p>PORT OF DISCHARGE: NHAVA SHEVA</p> <p>AGENCY: ABS LOGISTICS PRIVATE LIMITED CORPORATE OFFICE: PLOT NO. 19, 11RD FLOOR, REKHA ENCLAVE, MANSARVAR GARDEN, DELHI 110015, INDIA. TEL: 011-49798500/01/02 GST NO: 07AAHC6271B12Y EMAIL: INFO@ABSLOGISTICS.IN PAN NO: AAHC6271B IEC NO: 0509029281</p>																				
<p>PRELIMINARY: / OCEAN VESSEL VESSEL NO.: MSC MARA05437A PORT OF DISCHARGE: NHAVA SHEVA</p> <p>PLACE OF RECEIPT: / PORT OF LOADING: NINGBO PLACE OF DELIVERY: NHAVA SHEVA</p>																					
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>MARKS AND NUMBERS</th> <th>DESCRIPTION OF PACKAGES AND GOODS</th> <th>GROSS WEIGHT</th> <th>MEASUREMENT</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">N/M</td> <td>750 ROLLS POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT / GSM) HS: 85053000</td> <td style="text-align: center;">16875.84 KGS</td> <td style="text-align: center;">67 CBM</td> </tr> <tr> <td colspan="4" style="text-align: center;"> *CONTACT NO +91 9699102827 IEC CODE: AADFF8018N GST NO: 27AADFF8018N AADFF8018N AADFF8018N </td> </tr> <tr> <td colspan="4" style="text-align: center;"> SHIPPER'S LOAD & COUNT & SEAL T46HC S.T.C. </td> </tr> <tr> <td colspan="4" style="text-align: center;"> SAY SEVEN HUNDRED AND FIFTY ROLLS ONLY. </td> </tr> </tbody> </table>	MARKS AND NUMBERS	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT	N/M	750 ROLLS POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT / GSM) HS: 85053000	16875.84 KGS	67 CBM	*CONTACT NO +91 9699102827 IEC CODE: AADFF8018N GST NO: 27AADFF8018N AADFF8018N AADFF8018N				SHIPPER'S LOAD & COUNT & SEAL T46HC S.T.C.				SAY SEVEN HUNDRED AND FIFTY ROLLS ONLY.				
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SHIPPER'S LOAD & COUNT & SEAL T46HC S.T.C.																					
SAY SEVEN HUNDRED AND FIFTY ROLLS ONLY.																					
<p>CAALJ7853597/FK34560062/49HC 750 ROLLS 16875.84 KGS 67 CBM</p>																					
<p>TRADE MARKS: / DATE: / RATE: / PREPARED: / COLLECT:</p>																					
<p><small>THIS BILL OF LADING IS VALID ONLY IF THE GOODS ARE SHIPPED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE BILL OF LADING AND THE CARRIER'S TARIFFS. THE CARRIER ACCEPTS NO LIABILITY FOR LOSS OF OR DAMAGE TO GOODS OR DELAY IN DELIVERY OF GOODS UNDER THIS BILL OF LADING.</small></p>																					
<p>FORWARDED ON BEHALF OF: Holatrans Supply Chain Management Co., Ltd. 29/10/2024 10:45:07 Holatrans Supply Chain Management Co., Ltd.</p>																					
<p>AS AGENT FOR THE CARRIER [Signature]</p>																					
<p>2024/08/29</p>																					

Bill of Entry 6409255 dated 29.10.2024:

S/10-1138/2025-26/Adj./Commissioner/Gr. III/NS-III/CAC/JNCH
 SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

view_be		Indian Customs EDI System - Imports V1.5				05:31:40 pm	
22/01/2026		JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707				IGMS	
Enter BE No:	6409258	Date:	29/10/2024	CC:	N	Type:	H
Importer:	FEYA TEXTILE	AG:	3	No of IGMs:	1	First Chk:	N
IGM No./Dt.:	2391803 / 29/10/2024	Inw. Dt.:	31/10/2024	Tot. Pkgs.:	579	RLS	Gross WL.:
MAWB No./Dt.:	MEDUF7938360	08/10/2024		HAWB No./Dt.:	BSE41000020		29/09/2024
Marks & Nos.:	AS PER B/L						
Gate Way IGM:		Gate Way Port:		Dest. Code:		Current CFS:	
IGM No./Dt.:		Inw. Dt.:		Tot. Pkgs.:		Gross WL.:	
MAWB No./Dt.:				HAWB No./Dt.:			
Marks & Nos.:							
Gate Way IGM:		Gate Way Port:		Dest. Code:		Current CFS:	
IGM No./Dt.:		Inw. Dt.:		Tot. Pkgs.:		Gross WL.:	
MAWB No./Dt.:				HAWB No./Dt.:			
Marks & Nos.:							
Gate Way IGM:		Gate Way Port:		Dest. Code:		Current CFS:	
IGM No./Dt.:		Inw. Dt.:		Tot. Pkgs.:		Gross WL.:	
MAWB No./Dt.:				HAWB No./Dt.:			
Marks & Nos.:							
Gate Way IGM:		Gate Way Port:		Dest. Code:		Current CFS:	



HOLATRANS
Supply Chain Management Co., Ltd
www.holatrans.cn



BILL OF LADING NO.
ORIGINAL

SHIPPER:
ZHEJIANG OKLY INDUSTRIAL CO., LTD.
NO.8 ZHONGYUAN ROAD, XUCUN TOWN, HAINING ZHEJIANG, CHINA
314409
TEL:086-573-87562873
FAX:086-573-87566787

CONSIGNEE:
FEYA TEXTILE
SHREE ARIHANT COMPOUND,BLDG NO C-16,GALA NO 5 TO 8,2ND FLOOR,KALHER PIPELINE PIPELINE ROAD,KALHER,BHIWANDI-421302(MAHARASHTRA)
EMAIL:FEYATEXTILE1@GMAIL.COM
PAN NO.:AADFF8018N

NOTIFY PARTY:
SAME AS CONSIGNEE

BILL OF LADING NO.:
BSE41000020

PORT OF DISCHARGE AGENT:
ABS LOGISTICS PRIVATE LIMITED
CORPORATE OFFICE / PLOT NO. 19, 3RD FLOOR, REKHA ENCLAVE, MANSARVAR GARDEN, DELHI 110015, INDIA.
TEL:011-49299500/01/02
GST NO:07AAHCA6271B1Z3
EMAIL:INFO@ABSLOGISTICS.IN
PAN NO: AAHCA6271B
IEC NO: 0505029281

RECYCLE BY:
PLACE OF ORIGIN:

OCEAN VESSEL VOY NO.:
MSC MARA/08437A
PORT OF LOADING:
NINGBO

PORT OF DESTINATION:
NHAVA SHEVA
PLACE OF DELIVERY:
NHAVA SHEVA

MARKS AND NUMBERS	QUANTITY	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	NET WEIGHT
N/M	579 ROLLS	POLYESTER WARP KNITTED FABRIC (ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT / GSM) HS:60053900 *CONTACT NO:91 8869102827 IEC CODE:AADFF8018N GST NO: 27AADFF8018N1Z3 ADCCODE:051034T	15505KGS	69CBM

SHIPPER'S LOAD & COUNT & SEAL
1*49HC S.T.C.

CY-CY
FREIGHT PREPAID

SAY FIVE HUNDRED AND SEVENTY NINE ROLLS ONLY.

THE SHIPPER'S BILL OF LADING IS A RECEIPT FOR THE GOODS AND IS SUBJECT TO THE TERMS AND CONDITIONS OF THE BILL OF LADING CONTRACT. THE SHIPPER'S BILL OF LADING IS NOT VALID UNLESS IT IS SIGNED BY THE SHIPPER OR HIS AUTHORIZED AGENT. THE SHIPPER'S BILL OF LADING IS NOT VALID UNLESS IT IS SIGNED BY THE SHIPPER OR HIS AUTHORIZED AGENT. THE SHIPPER'S BILL OF LADING IS NOT VALID UNLESS IT IS SIGNED BY THE SHIPPER OR HIS AUTHORIZED AGENT.

DATE AND ORIGIN OF
Holatrans Supply Chain Management Co., Ltd.

DATE AND ORIGIN OF
Holatrans Supply Chain

2024/09/29

AS AGENCY FOR THE SHIPPER

Bill of Entry No. 6409258 dated 29.10.2024:

S/10-1138/2025-26/Adj./Commissioner/Gr. III/NS-III/CAC/JNCH
 SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

VIEW		Indian Customs EDI System - Imports V1.5				05:31:40 pm	
22/01/2026		JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707					
Enter BE No :	6431232	Date :	30/10/2024	CC :	N	Type :	H
Importer :	FEYA TEXTILE	AG :	3	No of IGMs :	1	First Chk :	N
IGM No./Dt. :	2891806 29/10/2024	Inw. Dt. :	31/10/2024	Tot. Pkgs. :	558	RLS	Gross Wt. : 16117.6 KGS
MAWB No./DL :	MEDUF7937875	08/10/2024	HAWB No./DL :	BSE41000012			29/09/2024
Marks & Nos :	AS PBR B/L						
Gate Way IGM :		Gate Way Port :		Dest. Code :		Current CFS :	
IGM No./Dt. :		Inw. Dt. :		Tot. Pkgs. :		Gross Wt. :	
MAWB No./DL :			HAWB No./DL :				
Marks & Nos :							
Gate Way IGM :		Gate Way Port :		Dest. Code :		Current CFS :	
IGM No./Dt. :		Inw. Dt. :		Tot. Pkgs. :		Gross Wt. :	
MAWB No./DL :			HAWB No./DL :				
Marks & Nos :							
Gate Way IGM :		Gate Way Port :		Dest. Code :		Current CFS :	
IGM No./Dt. :		Inw. Dt. :		Tot. Pkgs. :		Gross Wt. :	
MAWB No./DL :			HAWB No./DL :				
Marks & Nos :							
Gate Way IGM :		Gate Way Port :		Dest. Code :		Current CFS :	



HOLATRANS
Supply Chain Management Co., Ltd
www.holatrans.cn

SHIPPER:
TONGXIANG RUI & FUN TEXTILES CO., LTD
SOUTHWESTERN CORNER OF HAIHUA VILLAGE, DAMA
TOWN, TONGXIANG CITY, ZHEJIANG PROVINCE, CHINA ZIP: 314514

CONSIGNEE:
FEYA TEXTILE
SHREE ARHANT COMPOUND BLDG NO C-10,GALA NO 5 TO 8,2ND
FLOOR,KALHER PIPELINE
PIPELINE ROAD KALHER,BHIWANDI-421302(MAHARASHTRA)
EMAIL:ID.FEYATEXILE1@GMAIL.COM
PAN NO.AADFF8018N

NOTES PARTS:
SAME AS CONSIGNEE

BILL OF LADING NO.
ORIGINAL

BILL OF LADING NO.: BSE41000012 PAGES: 1

POINT OF DISCHARGE AGENT:
ABS LOGISTICS PRIVATE LIMITED
CORPORATE OFFICE : PLOT NO. 19, IIIRD FLOOR,
REKHA ENCLAVE
MANSARVAR GARDEN, DELHI 110015, INDIA.
TEL:011-49295600/0102
GST NO.07AAHCAS271B12Y
EMAIL:INFO@ABSLOGISTICS.IN
PAN NO:AAHCAS271B
IEC NO: 0590225261

PRE-CARRIAGE BY	OCEAN VESSEL VOY NO.	PORT OF DISCHARGE
PLACE OF RECEIPT:	MSC MARA/08437A	NHAVA SHEVA
	POINT OF LOADING: NINGBO	PLACE OF DELIVERY: NHAVA SHEVA

MARKS AND NUMBERS	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT
N/M	558ROLLS POLYESTER WARP KNITTED FABRIC(ROLLS OF ASSORTED DIFFERENT COLOUR, DESIGN & DIFFERENT WEIGHT; GSM) HS:60053900	16117.6KGS	83CBM
CAAU7907733FKJ502195940HC 558ROLLS16117.6KGS83CBM	SHIPPER'S LOAD & COUNT & SEAL 1'40HC S.T.C. SAY FIVE HUNDRED AND FIFTY EIGHT ROLLS ONLY.	GY-CY FREIGHT PREPAID	

FREIGHT AND CHARGES:

BASE	RATE	PREPAID	COLLECT

FOR AND ON BEHALF OF
Holatrans Supply Chain Management Co., Ltd.

FOR AND ON BEHALF OF
Holatrans Supply Chain Management Co., Ltd.

AS AGENT FOR THE CARRIER

2024/09/29

22.5.4 I observe that the importer has filed the impugned Bills of Entry for home

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SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

consumption and not submitted any authorizations, such as those effected under Advance Authorization Schemes, Export Oriented Units (EOUs), or Special Economic Zones (SEZs).

22.5.5 In view of the above, I find that the prohibition imposed by the DGFT vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024, prescribing a Minimum Import Price of USD 3.5 per Kg. for the import of “synthetic knitted fabric” under CTH 6005 3900, is squarely and categorically applicable to the impugned imported goods (Table-I, para 1 supra).

22.5.6 I observe that the declared unit price per kilogram of the impugned imported goods, described as ‘Polyester Warp Knitted Fabric (Rolls of Assorted Different Colour, Design & Different Weight/GSM)’ is USD 1.20 per kg, which is below the prescribed Minimum Import Price of USD 3.50 per kg. Accordingly, I find that the imported goods covered under Table-I (para 1.0 supra) have been imported in violation of, and in contravention of, the applicable DGFT Notifications and the prevailing Import Policy.

22.6 From the foregoing facts and analysis, I find that the imposition of Minimum Import Price (MIP) on the import of ‘Synthetic knitted or crocheted fabrics’, including those classifiable under CTH 6005 3900, has been prescribed by the DGFT in exercise of the powers conferred under Sections 3 and 5 of the Foreign Trade (Development and Regulation) Act, 1992, vide Notification No. 77/2023 dated 16.03.2024, as amended and clarified by Notification No. 33/2024–25 dated 01.10.2024 and subsequent notifications issued thereunder. While limited exemptions from MIP are provided for imports made under valid authorisations such as Advance Authorisation, Export Oriented Units (EOUs), or Special Economic Zones (SEZs), such exemptions are conditional and applicable only where the goods are not cleared for home consumption. In the instant case, the impugned goods have been imported for clearance for home consumption and are not covered under any such authorised schemes; therefore, the benefit of exemption from MIP is not available to the importer.

22.6.1 I find that the impugned goods, being warp-knitted fabrics made of synthetic fibre, namely polyester, and being printed, squarely fall under the description of goods covered under CTH 6005 3900. The declared description of the goods as ‘Polyester Warp Knitted Fabric (Rolls of Assorted Different Colour, Design & Different Weight/GSM)’ and the classification declared by the importer himself under CTH 6005 3900 remain undisputed. It is further established that the goods are neither pile / cut-pile fabrics classifiable under CTH 6001 nor fabrics of width 30 cm or less classifiable under CTH 6002, 6003 or 6004. The test reports available in the E-Sanchit system, pertaining to all the subject Bills of Entry and relating to consignments imported from the same overseas suppliers, confirm the identity, uniformity and consistency of the imported goods. Accordingly, I hold that the impugned goods are correctly classifiable under CTH 6005 3900. Polyester, being a chemically synthesised fibre, is a synthetic fibre, and the impugned goods, being knitted fabrics of polyester squarely fall within the description of “synthetic knitted fabric” covered under the MIP notifications. There is no dispute regarding the description or classification of the goods.

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SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

22.6.2 I further observe that, in terms of paragraph 11.11 of the DGFT Handbook of Procedures, the relevant date of shipment or dispatch for imports transported by sea is determined by the date mentioned on the Bill of Lading. Accordingly, for the applicability of the Minimum Import Price, the goods are required to be synthetic knitted fabrics classifiable under CTH 6005 3900 and the date of shipment or dispatch is required to be on or after 15.09.2024. In the present case, the relevant Bills of Lading are dated between 20.09.2024 and 08.10.2024, which is subsequent to 15.09.2024, thereby satisfying the condition relating to the date of shipment or dispatch.

22.6.3 In view of the above, I find that DGFT Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024 and subsequent notifications issued thereunder, prescribing a Minimum Import Price of USD 3.50 per kilogram for the import of synthetic knitted fabric under CTH 6005 3900, is squarely and categorically applicable to the impugned goods. However, I observe that the declared CIF unit price of USD 1.20 per kilogram is below the prescribed Minimum Import Price. Accordingly, I hold that the impugned goods have been imported in violation of and in contravention of the applicable DGFT Notifications and the prevailing Import Policy.

REBUTTAL TO DEFENCE SUBMISSIONS

23. Noticee vide written submission dated 13.01.2026 has contended as follows:

23.1 That the Bill of Lading dates mentioned in the Show Cause Notice are incorrect. The Adjudicating Authority erred by stating incorrect date of the MAWB (Master Air Way Bill) mentioned in the impugned 10 Bill of Entry(s) i.e. 20.09.2024 and 08.10.2024 as the date of Bill of Lading(s) instead of date of HAWB (House Air Way Bill) i.e. 20.09.2024 and 29.09.2024.

23.1.1 I observe that a **Master Bill of Lading** is the primary transport document issued by the Carrier or vessel operator and evidences the actual lading of goods on board the vessel. The Master Bill of Lading is unique in nature and may cover multiple consignments booked under different House Bills of Lading. A **House Bill of Lading**, on the other hand, is issued by a freight forwarder or shipping agent for the purpose of booking, consolidation, and commercial documentation of cargo. Accordingly, for the purposes of determining the date of shipment or dispatch under the Import Policy, Para 11.11 of the DGFT Handbook of Procedures and DGFT provisions, reliance is required to be placed on the date mentioned on the Master Bill of Lading, as it reflects the actual date of shipment, whereas the House Bill of Lading has limited relevance for such determination.

23.1.2 I further observe that, as per The Indian Carriage of Goods By Sea Act, 1925 (Act No. 26 Of 1925), under ARTICLE III.—Responsibilities and Liabilities, states as follows:

*“Rule 3: After receiving the goods into his charge, **the carrier, or the master** or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things— (a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases*

S/10-1138/2025-26/Adj./Commissioner/Gr. III/NS-III/CAC/JNCH
SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage: (b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper: (c) The apparent order and condition of the goods:

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

Rule 4. Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3(a), (b) and (c). 1 [However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith.]”

23.1.2.1 From the foregoing, I observe that in terms of Article III Rule 3 of the Schedule to the Carriage of Goods by Sea Act, 1925, after receiving the goods into his charge, **the carrier or the Master of the vessel is statutorily obliged to issue a Bill of Lading recording, inter alia, the quantity, description and apparent condition of the goods.** Further, Article III Rule 4 of the said Act provides that such a Bill of Lading shall constitute *prima facie evidence* of the receipt of the goods by the carrier as therein described.

23.1.3 I further observe that the filing of the Import General Manifest (IGM) is governed by the provisions of Section 30 of the Customs Act, 1962, read with the Import Manifest (Vessels) Regulations, 1971. In terms of Section 30(1) of the Customs Act, the person in charge of the vessel, namely the master or the carrier, is mandatorily required to file the IGM with the proper officer of Customs prior to the arrival of the vessel at the port of import, declaring therein true and correct particulars of all goods carried by the vessel which are intended to be unloaded or discharged at the said port.

23.1.3.1 I further find that the prescribed IGM forms under the Import Manifest (Vessels) Regulations, 1971, particularly Form I, require declaration of detailed cargo particulars, including a specific and mandatory column for the Bill of Lading number and date, apart from the name of the consignor and consignee, description of goods, marks and numbers, and the port of loading and discharge. These particulars necessarily emanate from the Master Bill of Lading (MBL) issued by the master of the vessel or the carrier, which evidences the receipt and shipment of the goods on board the vessel.

23.1.3.2 I find that the statutory responsibility for filing the IGM vests exclusively with the master or the carrier and, therefore, the declaration of cargo in the IGM can only be made on the basis of the MBL issued by them. **I also find that where a freight forwarder or an agent issues a House Bill of Lading (HBL) to the shipper, the master of the vessel or the carrier is correspondingly required to issue a Master Bill of Lading, which may cover one or more such House Bills of Lading, and that such MBL necessarily contains the “shipped on board” date in respect of the goods corresponding to each such HBL. The**

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SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

said “shipped on board” date reflects the date on which the goods covered by the respective HBL were actually laden on board the vessel.

23.1.3.3 A House Bill of Lading, being a document issued by a freight forwarder, does not discharge the statutory obligation cast upon the master under Section 30 of the Customs Act. **Accordingly, the filing of the IGM is intrinsically linked to the issuance of the MBL, and lawful filing of the IGM without issuance of the MBL is neither contemplated under the statute nor feasible in practice.** I also find that since the IGM is required to be filed prior to the arrival of the vessel and must accurately declare the goods proposed to be unloaded at the port of import, the MBL is necessarily issued contemporaneously with the shipment or lading of the goods on board the vessel. **Consequently, the date of issuance and the “shipped on board” date mentioned in the Master Bill of Lading assume statutory significance and are to be reckoned as the date of shipment or dispatch of the goods.**

23.1.3.4 Thus, the Master Bill of Lading, being issued by the carrier / Master of the vessel in discharge of a statutory duty and constituting prima facie evidence of receipt and shipment of the goods, carries greater evidentiary value and reliability as compared to the House Bill of Lading issued by an agent or freight forwarder. **Accordingly, in the event of any discrepancy between the House Bill of Lading and the Master Bill of Lading with regard to the ‘shipped on board’ date, the particulars recorded in the Master Bill of Lading, being the principal shipping document issued by the carrier / Master of the vessel, merit greater reliance for determining the actual date of shipment of the goods.**

23.1.4 In this context I observe the following anomalies in the ‘Laden on Board’ / ‘Shipped on board’ date of goods and HBL / MBL issue dates as follows:

Sr. No.	BE Number	BE date	Details as per supporting documents uploaded on e-Sanchit		Details as per IGM	
			BL/Date	Goods Laden on Board/ Shipped on Board Date as per BL.	MBL No.	Date
1	5976640	05-Oct-24	HBL No. BSE40900020 dated 20.09.2024	20.09.2024	ONEYNB4JA4635400	20-09-24
2	5976642	05-Oct-24	HBL No. BSE40900026 dated 20.09.2024	20.09.2024	ONEYNB4JA4301800	20-09-24
3	5976636	05-Oct-24	HBL No. BSE40900029 dated 20.09.2024	20.09.2024	ONEYNB4JA4636500	20-09-24
4	6409230	29-Oct-24	HBL No. BSE41000011 dated 29.09.2024	29.09.2024	MEDUF7419916	08-10-24
5	6409234	29-Oct-24	HBL No. BSE41000010 dated 29.09.2024	29.09.2024	MEDUF7711726	08-10-24
6	6409255	29-Oct-24	HBL No. BSE41000020 dated 29.09.2024	29.09.2024	MEDUF7938360	08-10-24
7	6409258	29-Oct-24	HBL No. BSE41000021 dated	29.09.2024	MEDUF7938360	08-10-24

S/10-1138/2025-26/Adj./Commissioner/Gr. III/NS-III/CAC/JNCH
SCN No.: 1342-2025-26/Commissioner/NS-III/JNCH dated 18.11.2025

			29.09.2024			
8	6431248	30-Oct-24	HBL No. BSE41000009 dated 29.09.2024	29.09.2024	MEDUF7938386	08-10-24
9	6431245	30-Oct-24	HBL No. BSE41000013 dated 29.09.2024	29.09.2024	MEDUF7901988	08-10-24
10	6431232	30-Oct-24	HBL No. BSE41000012 dated 29.09.2024	29.09.2024	MEDUF7937875	08-10-24

23.1.4.1 For Bills of Entry at Sr. No. 04 to 10:

- i. The 'shipped on board' date of the goods as per the HBL issued by the agent of the carrier is 29.09.2024, whereas the Master Bill of Lading (MBL) issued by the carrier / Master of the vessel bears the date 08.10.2024. Thus, there is a considerable time gap between the date of shipment as reflected in the HBL and the date of issuance of the MBL.
- ii. However, for the Bills of Entry at Serial Nos. 01 to 03, the 'shipped on board' date of the goods as per the HBL issued by the agent of the carrier and the date of issuance of the Master Bill of Lading (MBL) issued by the carrier / Master of the vessel are the same, i.e., 20.09.2024, and therefore the 'shipped on board' date of the goods as per the HBL matches with the MBL issue date.

23.1.4.2 In this context I observe that it is an undisputed fact that the 'shipped on board' date of the goods, being the actual date on which the goods were loaded on board the vessel, cannot vary between the House Bill of Lading and the Master Bill of Lading, i.e. in other words same goods can't have two different dates of being shipped on board a vessel or ship.

23.1.4.3 However, in the instant case there is a significant time gap between the issue dated of the HBL and the MBL that remains unexplained and requires thorough verification from the Master Bill of Lading itself. **It is further pertinent to mention that neither the MBL has been uploaded by the importer on the E-Sanchit portal for the subject Bills of Entry, nor has a copy of the same been furnished by the Noticee in its defence submissions,** and therefore the 'shipped on board' date mentioned in the HBL could not be verified from the MBL.

23.1.4.4 Accordingly, in view of the above anomalies, the House Bills of Lading submitted as supporting documents and uploaded on the E-Sanchit system, cannot be relied upon and the Master Bill of Lading dates as reflected in the Import General Manifest (IGM) and relied upon in the Show Cause Notice are held to be correct and valid. Therefore, the relevant date of shipment or dispatch, as evidenced by the respective Bills of Lading, falls within the period from 20.09.2024 to 08.10.2024, which is subsequent to 15.09.2024. Accordingly, I hold that the contention of the Noticee is mis-conceived and rejected.

23.2 Further, the Noticee has contended that Notification No. 33/2024-25 could not have been applied retrospectively to the present imports. It is also contended that the retrospective

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operation of the subsequent Notification No. 33/2024–25 dated 01.10.2024 is bad in law and unenforceable.

23.2.1 I further observe that, as per paragraph 1 of Notification No. 33/2024–25 dated 01.10.2024, the condition of Minimum Import Price (MIP) is applicable for the period from 15.09.2024 to 31.12.2024, that is, with retrospective effect. Accordingly, Notification No. 33/2024–25, read with Notification No. 77/2023 dated 16.03.2024, is rightly applicable to the instant case, and the contention of the Noticee in this regard is unfounded. The relevant paragraph of Notification No. 33/2024–25 is reproduced below for reference:

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

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

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

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

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

23.2.2 I observe that as per Section 5 of the Foreign Trade Development and Regulation Act, 1992, the Central Government may formulate and announce Foreign Trade Policy. Accordingly, The Foreign Trade Policy (FTP) 2023 was notified by the Directorate General of Foreign Trade (DGFT) under Notification No. 1/2023, dated March 31, 2023. The handbook of procedure outlines the specific procedures to comply with the Foreign Trade Policy. In this context, I observe that as per para 1.05 (b) of the Foreign Trade policy: *"(b) The date of import/export is defined in para 2.17 of HBP 2023. Bill of Lading and Shipping Bill are the key documents for deciding the date of import and export respectively. In case of change of policy from 'free' to 'restricted/prohibited/state trading' or 'otherwise regulated', the import/export already made before the date of such regulation/restriction will not be affected. However, the import through High Sea sales will not be covered under this facility. Further, the import/export on or after the date of such regulation/restriction will be allowed for importer/ exporter who has a commitment through Irrevocable Commercial Letter of Credit (ICLC) before the date of imposition of such restriction/regulation and shall be limited to the balance quantity, value and period available in the ICLC. For operational listing of such ICLC, the applicant shall have to register the ICLC with jurisdictional RA against computerized receipt within 15 days of imposition of any such restriction/regulation. Whenever, Government brings out a policy change of a particular item, the change will be applicable prospectively (from the date of Notification) unless otherwise provided for"*

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23.2.2.1 In this context I, observe that the imposition of Minimum Import Price by the DGFT, in exercise of the powers conferred under Sections 3 and 5 of the Foreign Trade (Development and Regulation) Act, 1992, read with paragraphs 1.02, 1.05 and 2.01 of the Foreign Trade Policy, 2023, is a conscious policy decision taken by the Government in the larger interest of regulation of foreign trade. The statutory framework clearly empowers the Central Government to regulate, restrict, or prohibit imports by prescribing conditions such as Minimum Import Price. **Such policy measures fall within the exclusive domain of the Government, and the Government is legally competent to impose such restrictions either prospectively or, where expressly provided, with retrospective effect.** Consequently, the imposition of MIP in the present case is within the scope of the statutory powers conferred under the FTDR Act and the Foreign Trade Policy. Therefore, I reject the contention of the Noticee.

23.3 Notice has further contended that the impugned Show Cause Notice is invalid as the same does not contain mandatory DIN as per Circular No. 37/2019 dated 05.11.2019. In this regard I observe that the SCN has been issued with a DIN, having DIN:20251178VN0000175499. I observe that the same is being shown as a '**Valid DIN**' on <https://esanchar.cbic.gov.in/DIN/DINSearch>. Therefore the contention of the Noticee is unfounded and rejected.

Screenshot of the SCN bearing DIN is as follows:

CUS/APR/4400/2025-Group 3-O/o-Commissioner-Customs-Nhava Sheva-III	I/3541722/2025
<p style="font-size: large; color: blue; margin: 0;">DIN: 20251178VN0000175499</p> <div style="display: flex; align-items: center; justify-content: center;"> <div style="text-align: center;"> <p style="font-size: small; margin: 0;">सीमाशुल्क आयुक्त का कार्यालय</p> <p style="font-weight: bold; margin: 0;">OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-III)</p> <p style="font-size: x-small; margin: 0;">जवाहरलाल नेहरू सीमा शुल्क भवन, न्हावा शेवा,</p> <p style="font-weight: bold; margin: 0;">JAWAHAR LAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA</p> <p style="font-size: x-small; margin: 0;">म. रज. TAL-URAN, तालुका - 400 707, RAIGAD - 400 707, जिल्हा MAHARASHTRA</p> </div> </div>	
<p>SCN No.: 1342/2025-26/Commissioner/NS-III/JNCH Date: 18-11-2025</p> <p>S/10-1138/2025-26/Adj./Commissioner/Gr. III/NS-III/CAC/JNCH</p>	
<p>Issued By: Shri Vijay Risi Commissioner of Customs, JNCH, Nhava Sheva-III</p>	
<p>Name of Importer: M/s FEYA TEXTILE (IEC- AADFF8018N)</p>	
<p><u>SHOW CAUSE NOTICE UNDER SECTION 28 (4) OF THE CUSTOMS ACT, 1962</u></p>	
<p>Subject: Show Cause Notice for Import of Synthetic Knitted Fabrics below the Prescribed Minimum Import Price (MIP) in Contravention of DGFT Notifications and Violation of the Customs Act, 1962 and FT(D&R) Act, 1992.</p>	
<p>Whereas, M/s. FEYA TEXTILE, having their registered office address at Gala No. 5-8, C-10, Shri Arihant Godown Complex, Kalher, Thane, 421302 (hereinafter referred to as "the importer"), had imported multiple consignments of Synthetic Knitted Fabrics, classifiable under various Customs Tariff Headings (CTHs) falling within Chapter 60 of the First Schedule to the Customs Tariff Act, 1975. The said consignments were cleared through different Bills of Entry at the port of Nhava Sheva, details of which are enumerated in Table I below. The importer had declared the goods for home consumption under the system of self-assessment in terms of Section 17 of the Customs Act, 1962, and the said consignments were accordingly cleared for home consumption upon payment of the duty as declared and assessed by the importer at the time of import.</p>	

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Screenshot of CBIC DIN verification website is as follows:



Central Board of Indirect Taxes & Customs
 Department of Revenue, Ministry of Finance, Government of India



☰
DIN Search

* Indicates mandatory fields

Enter Document Identification Number (DIN) *

Type the characters you see in the image below*

IXCBUX

Submit

<p>This is a valid DIN</p> <input style="width: 95%;" type="text" value="20251178NV0000175499"/>	<p>Communication-Category</p> <input style="width: 95%;" type="text" value="Notices"/>	<p>Communication-Sub-Category</p> <input style="width: 95%;" type="text"/>
<p>Stream</p> <input style="width: 95%;" type="text" value="CUSTOMS"/>	<p>Date of generation of the DIN (MM/DD/YYYY)</p> <input style="width: 95%;" type="text" value="2025-11-19 16:04:39.0"/>	<p>Name of the office issuing the DIN bearing communication (document)</p> <input style="width: 95%;" type="text" value="Mumbai(Nhava Sheva-III) Customs Commissionerate"/>
<p>Identifier</p> <input style="width: 95%;" type="text" value="Identifier"/>	<p>Party Name</p> <input style="width: 95%;" type="text" value="Party Name"/>	<p>Party Address</p> <input style="width: 95%;" type="text" value="Party Address"/>

Leveraging Technology for Serving Taxpayers

Best viewed in 1024 x 764 resolution
 Google Chrome Mozilla Firefox

Directorate of Data Management
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23.4 Noticee has contended that the issuance of Bill of Lading by the shipping line under Section 3 of The Indian Bill of Lading Act 1856, clearly shows that the shipment has boarded the ship and the ownership is of the consignee thereon. The Section 3 of The Indian Bill of Lading Act 1856 has been reproduced below, as follows:

“3. Bill of lading in hands of consignee, etc., conclusive evidence of the shipment as against master, etc.—Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as, against the master or other person signing the same, notwithstanding that such good or some part thereof may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board:

Provided that the master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.”

23.4.1 In this regard, I observe that the issue involved in the instant case is not with respect to whether the goods were loaded on board the vessel or with regard to the ownership of the goods governed by the Indian Bill of Lading Act, 1856, but pertains specifically to the determination of the date of shipment / dispatch of the goods. In this context, I further observe that the issue relating to the relevant date as per the House Bill of Lading and the Master Bill of Lading has already been examined and decided in detail in paragraph 23.1 supra, in light of the provisions of the Indian Carriage of Goods by Sea Act, 1925, and therefore does not require reiteration herein. Accordingly, the contention raised by the Noticee in this regard is misconceived, devoid of merit, and is hereby rejected.

B. Now, I take up the next issue, as to whether the declared value of the imported

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goods is mis-declared and liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and should be re-determined at Rs. 5,83,16,330/-, based on the applicable Minimum Import Price (MIP) or otherwise. And as to whether the differential duty amounting to Rs. 1,07,64,183/- (Rupees One Crore Seven Lakh Sixty Four Thousand One Hundred Eighty Three only) for the import of aforesaid imported goods (Table-I) should be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA, *ibid*, or otherwise.

24. I reiterate my findings from Para 22 supra, as the same appears *mutatis mutandis* to this also.

24.1 I find that the imposition of Minimum Import Price (MIP) on the import of ‘Synthetic knitted or crocheted fabrics’, including those classifiable under CTH 6005 3900, has been prescribed by the DGFT in exercise of the powers conferred under Sections 3 and 5 of the Foreign Trade (Development and Regulation) Act, 1992, vide Notification No. 77/2023 dated 16.03.2024, as amended and clarified by Notification No. 33/2024–25 dated 01.10.2024 and subsequent notifications issued thereunder. While limited exemptions from MIP are provided for imports made under valid authorisations such as Advance Authorisation, Export Oriented Units (EOUs), or Special Economic Zones (SEZs), such exemptions are conditional and applicable only where the goods are not cleared for home consumption. In the instant case, the impugned goods have been imported for clearance for home consumption and are not covered under any such authorised schemes; therefore, the benefit of exemption from MIP is not available to the importer.

24.1.1 I find that the impugned goods, being warp-knitted fabrics made of synthetic fibre, namely polyester, and being printed, squarely fall under the description of goods covered under CTH 6005 3900. The declared description of the goods as ‘Polyester Warp Knitted Fabric (Rolls of Assorted Different Colour, Design & Different Weight/GSM)’ and the classification declared by the importer himself under CTH 6005 3900 remain undisputed. It is further established that the goods are neither pile / cut-pile fabrics classifiable under CTH 6001 nor fabrics of width 30 cm or less classifiable under CTH 6002, 6003 or 6004. The test reports available in the E-Sanchit system, pertaining to all the subject Bills of Entry and relating to consignments imported from the same overseas suppliers, confirm the identity, uniformity and consistency of the imported goods. Accordingly, I hold that the impugned goods are correctly classifiable under CTH 6005 3900. Polyester, being a chemically synthesised fibre, is a synthetic fibre, and the impugned goods, being knitted fabrics of polyester squarely fall within the description of “synthetic knitted fabric” covered under the MIP notifications. There is no dispute regarding the description or classification of the goods.

24.1.2 I further observe that, in terms of paragraph 11.11 of the DGFT Handbook of Procedures, the relevant date of shipment or dispatch for imports transported by sea is determined by the date mentioned on the Bill of Lading. Accordingly, for the applicability of the Minimum Import Price, the goods are required to be synthetic knitted fabrics classifiable under CTH 6005 3900 and the date of shipment or dispatch is required to be on or after 15.09.2024. In the present case, the relevant Bills of Lading are dated between 20.09.2024

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and 08.10.2024, which is subsequent to 15.09.2024, thereby satisfying the condition relating to the date of shipment or dispatch.

24.1.3 In view of the above, I find that DGFT Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024 and subsequent notifications issued thereunder, prescribing a Minimum Import Price of USD 3.50 per kilogram for the import of synthetic knitted fabric under CTH 6005 3900, is squarely and categorically applicable to the impugned goods. However, I observe that the declared CIF unit price of USD 1.20 per kilogram is below the prescribed Minimum Import Price. Accordingly, I hold that the impugned goods have been imported in violation of and in contravention of the applicable DGFT Notifications and the prevailing Import Policy.

ISSUE OF DEMAND OF DUTY UNDER SECTION 28 (4) OF THE CUSTOMS ACT, 1962.

24.2 It is further observed that with the introduction of the system of self-assessment with effect from 2011 under Section 17 of the Customs Act, 1962, the primary responsibility and onus for correct assessment of duty has been squarely cast upon the importer, who is required to act in good faith and with due diligence while filing the Bill of Entry. The self-assessment regime imposes an added responsibility on the importer to correctly determine and declare the classification, description, value, rate of duty, and applicable policy conditions at the time of import.

24.2.1 Further, in terms of Sections 46(4) and 46(4A) of the Customs Act, 1962, read with the Electronic Bill of Entry (Regulations), the importer is mandatorily required to furnish a declaration at the time of filing the Bill of Entry affirming that the particulars furnished therein, including the description of goods, classification, quantity, value, and all other material details, are true, correct, and complete to the best of his knowledge and belief. Such statutory declaration reinforces the heightened obligation on the importer to ensure strict compliance with the provisions of the Customs Act, the Import Policy, and the applicable DGFT Notifications, and any failure in this regard renders the importer liable to appropriate action under law.

24.2.2 However, in the instant case, it is observed that the importer self-assessed ten Bills of Entry under Section 17(1) of the Customs Act, 1962 by declaring unit prices below the prescribed Minimum Import Price, without disclosing that the imported goods were subject to MIP. With the introduction of the system of self-assessment with effect from 2011 under Section 17 of the Customs Act, 1962, the primary responsibility and onus for correct assessment of duty has been squarely cast upon the importer, who is required to act in good faith and with due diligence while filing the Bill of Entry.

24.2.2.1 In this context, it is observed that the DGFT, vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024, has prohibited the import of the subject goods below the Minimum Import Price of USD 3.50 per kilogram. Consequently, contemporaneous imports of identical or similar goods are necessarily valued at or above the said Minimum Import Price of USD 3.50 per kilogram.

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24.2.2.2 It is further observed that acceptance of the transaction value under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is not absolute and is expressly subject to the provisions of Rule 12 thereof, which permits rejection of the declared value where there exists a significant variation from the value of identical or similar goods imported at or about the same time. Therefore, the Noticee was fully aware that the invoice value or declared transaction value did not represent the true assessable value for the purpose of levy of customs duty.

24.2.2.3 However, the Noticee, with blind belief, relied solely on the invoice value @ USD 1.20 per kilogram and declared the same in the Bills of Entry filed before the Customs authorities. It is well settled that a bona fide belief cannot be equated with blind belief. A belief can be said to be bona fide only when it is formed after taking into account all reasonable considerations, including applicable statutory provisions, import policy restrictions, and prevailing trade practices. **In the present case, the reliance placed by the Noticee on the invoice value, without due regard to the applicable MIP condition and valuation provisions, cannot be accepted as a bona fide belief and has resulted in incorrect self-assessment and short-levy of duty.**

24.2.2.4 Further, the importer failed to truthfully declare that the subject goods attracted the Minimum Import Price condition, in clear violation of the obligation of truthful declaration cast upon the importer under Section 46(4) of the Customs Act, 1962. Such failure amounts to suppression of material facts relating to the applicable import policy conditions, which directly impacted the assessment of duty and facilitated clearance of the goods at values below the prescribed MIP.

24.2.3 Accordingly, I find that the Noticee, M/s Feya Textile, knowingly submitted incorrect and false declarations before the Customs authorities at the time of import, despite being fully aware that the goods under import were not eligible for clearance at values below the prescribed Minimum Import Price. Such conduct constitutes willful misstatement and suppression of material facts with the clear intent to circumvent the import policy restrictions and evade payment of appropriate customs duty, thereby establishing the presence of *mens rea*. Further, the importer has resorted to deliberate misdeclaration in respect of the value and applicable import conditions of the goods, as discussed in paragraph 22 supra and reiterated in paragraph 24.1 supra. Accordingly, I find that, in view of the willful misdeclaration of value, misstatement and suppression of material facts on the part of the importer, resulting in short-assessment of duty, the provisions of Section 28(4) of the Customs Act, 1962 have been rightly invoked for recovery of the differential duty, along with applicable interest under Section 28AA of the said Act. In support of this finding 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

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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, willful 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, willful 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;

REJECTION OF DECLARED VALUE OF IMPORTED GOODS.

24.3 For the purposes of the Customs Tariff Act, 1975, the valuation of imported goods is required to be determined in accordance with the provisions of Section 14 of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as the “*Customs Valuation Rules, 2007*”).

24.3.1 In this regard, I observe that the Rule 3 read with Rule 12 of CVR, 2007, is as follows:

Rule 3. Determination of the method of valuation.

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

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

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

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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) (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.

24.3.2 I observe that the acceptance of the transaction value under Rule 3 is not absolute and is expressly subject to the provisions of Rule 12. While Rule 3 prescribes transaction value as the primary basis for valuation of imported goods, the same can be accepted only when the proper officer is satisfied about the truth and accuracy of the declared value. Where the proper officer has reason to doubt the declared value, Rule 12 empowers him to seek further information, documents, or evidence from the importer. Such doubts may arise on account of factors including significant variation from the value of identical or similar goods imported at or about the same time, abnormal or special discounts, misdeclaration or non-declaration of value-relevant parameters such as description, quality, quantity, brand, specifications or country of origin, and the use of fraudulent or manipulated documents. If, after examination of the additional information or in the absence of a satisfactory response, the doubts are not dispelled, the declared transaction value is liable to be rejected and the value is required to be determined sequentially under Rules 4 to 9.

24.3.3 Therefore, in terms of the said provisions, the transaction value declared by the importer is required to be accepted only if it satisfies the conditions laid down under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and is not liable to rejection under Rule 12 thereof. However, DGFT, vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024-25 dated 01.10.2024, has prohibited the import of the subject goods below the Minimum Import Price of USD 3.50 per kilogram. Consequently, contemporaneous imports of identical or similar goods are necessarily at or above the said Minimum Import Price of USD 3.50 per kilogram. In the present case, there exists a significant variation between the declared value of the impugned imported goods (@ USD 1.2 per Kg) and the value of identical or similar goods imported at or about the same time (@ equal to or greater than USD 3.5 per Kg). Accordingly, I find that the declared transaction value of the impugned goods could not be accepted under Rule 3(1) of the Customs Valuation Rules, 2007 and liable to rejection under Rule 12 of the Customs Valuation Rules, 2007 and the value is required to be determined sequentially under Rules 4 to 9 Customs Valuation Rules, 2007.

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RE-DETERMINATION OF VALUE OF IMPORTED GOODS.

24.4 I observe that in accordance with Rule 3(4), the value of the goods is to re-determined proceeding sequentially through Rules 4 to 9 of CVR 2007.

24.4.1 Relevant portion of the Rules 4 & 5, CVR 2007 are reproduced here, as follows:

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;

Rule 5. Transaction value of similar goods. — (1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:

24.4.2 I observe that Rules 4 and 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provide for determination of value on the basis of the transaction value of identical goods or similar goods sold for export to India and imported at or about the same time as the goods under assessment, subject to the provisions of Rule 3 thereof. In the instant case, it is observed that the DGFT, vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024, has prohibited the import of the subject goods below the Minimum Import Price of USD 3.50 per kilogram. Consequently, contemporaneous imports of identical or similar goods are necessarily valued at or above the said Minimum Import Price.

24.4.3 In the present case, the impugned goods are unbranded and exhibit variations in respect of Colour, Design & Different Weight/GSM and other technical specifications. Owing to these differences, the impugned goods cannot be considered identical to contemporaneous imports for the purpose of valuation under Rule 4. Accordingly, the value of the impugned goods is required to be determined under Rule 5 of the Customs Valuation Rules, 2007. Considering the facts and circumstances of the present case, and in view of the prevailing Minimum Import Price prescribed under the DGFT Notifications, the assessable value of the impugned goods is determined at USD 3.50 per kilogram under Rule 5 of Customs Valuation Rules, 2007.

24.4.4 Accordingly, I find that declared value of imported goods covered under various Bills of Entry (as detailed in Table-I), having a total declared assessable value of **Rs. 2,00,09,630/-** is liable for rejection under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the same at **Rs. 5,83,16,330/-**, based on the applicable Minimum Import Price (MIP).

DETERMINATION OF DIFFERENTIAL DUTY DEMAND

24.5 Accordingly, I observe that the re-determined assessable value of the impugned imported goods and the differential duty recoverable from the Noticee are as tabulated in Table-II read with Table- III, as follows:

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Table-II

Sr. No.	BE number	BE date	BL Date	CTH	Difference in MIP (3.5-declared unit price)	Differential rate as per MIP	Differential value	Exchange Rate	BCD @20	SWS @10%	IGST @5	Total Differential duty payable
1	5976640	5-Oct-2024	20-09-2024	60053900	2.3	195.155	3640812	84.85	728162.3	72816.23	222089.5	1023068
2	5976642	5-Oct-2024	20-09-2024	60053900	2.3	195.155	2731389	84.85	546277.9	54627.79	166614.8	767520.4
3	5976636	5-Oct-2024	20-09-2024	60053900	2.3	195.155	3404479	84.85	680895.8	68089.58	207673.2	956658.6
4	6409230	29-Oct-2024	08-10-2024	60053900	2.3	195.385	5358629	84.95	1071726	107172.6	326876.4	1505775
5	6409234	29-Oct-2024	08-10-2024	60053900	2.3	195.385	2914753	84.95	582950.7	58295.07	177800	819045.7
6	6409255	29-Oct-2024	08-10-2024	60053900	2.3	195.385	2726402	84.95	545280.5	54528.05	166310.5	766119
7	6409258	29-Oct-2024	08-10-2024	60053900	2.3	195.385	3109552	84.95	621910.5	62191.05	189682.7	873784.2
8	6431248	30-Oct-2024	08-10-2024	60053900	2.3	195.385	6106172	84.95	1221234	122123.4	372476.5	1715834
9	6431245	30-Oct-2024	08-10-2024	60053900	2.3	195.385	5480354	84.95	1096071	109607.1	334301.6	1539979
10	6431232	30-Oct-2024	08-10-2024	60053900	2.3	195.385	2834157	84.95	566831.4	56683.14	172883.6	796398.2
				Total			38306700					10764183

Table-III

Declared Assessable Value	Declared Duty	Re-determined Differential Value	Total re-determined assessable Value	Total Duty As per MIP	Payable total Differential Duty
20009630	4898914	38306700	58316330	15663097	10764183

24.5.1

Accordingly, I find that the differential duty amounting to **Rs. 1,07,64,183/- (Rupees One Crore Seven Lakh Sixty Four Thousand One Hundred Eighty Three only)** is liable for recovery from the importer M/s. Feya Textile under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA, *ibid*.

24.5.2 I observe that the goods have already been cleared by the importer and are not

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available for confiscation. Therefore, the prohibition under the applicable import policy and as-well-as the demand of duty is rightly applicable in the present case.

REBUTTAL OF DEFECEN SUBMISSION

24.6 Noticee has contended that Section 28(4) of the Customs Act, 1962 is unsustainable, in this regard, I observe that the invocation of section 28 (4) is discussed in details in the foregoing paras. It is established that the Importer:

- i. All ten impugned Bills of Entry were facilitated under the Risk Management System (RMS), and neither the verification of the self-assessment made by the importer was carried out, nor were the goods examined by the Customs authorities at the time of clearance.
- ii. With the introduction of the system of self-assessment with effect from 2011 under Section 17 of the Customs Act, 1962, the primary responsibility and **onus for correct assessment of duty has been squarely cast upon the importer**, who is required to act in good faith and with due diligence while filing the Bill of Entry.
- iii. Importer self-assessed ten Bills of Entry under Section 17(1) of the Customs Act, 1962 by declaring unit prices @ USD 1.20 per Kg, i.e. below the prescribed Minimum Import Price of USD 3.50 per Kg.
- iv. The acceptance of the transaction value under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is not absolute and is expressly subject to the provisions of Rule 12 of CVR, 2007. Rule 12 permits rejection of the declared value where there exists a significant variation from the value of identical or similar goods imported at or about the same time.
- v. As DGFT, vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024-25 dated 01.10.2024, has prohibited the import of the subject goods below the Minimum Import Price of USD 3.50 per kilogram. Consequently, contemporaneous imports of identical or similar goods are necessarily valued at or above the said Minimum Import Price of USD 3.50 per kilogram.
- vi. The Noticee was fully aware that the invoice value or declared transaction value did not represent the true assessable value for the purpose of levy of customs duty.
- vii. The Noticee, with blind belief, relied solely on the invoice value @ USD 1.20 per kilogram and declared the same in the Bills of Entry filed before the Customs authorities. Bona fide belief cannot be equated with blind belief. A belief can be said to be bona fide only when it is formed after taking into account all reasonable considerations, including applicable statutory provisions, import policy restrictions, and prevailing trade practices.
- viii. Reliance placed by the Noticee on the invoice value, without due regard to the applicable MIP condition and valuation provisions, cannot be accepted as a bona fide

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belief and has resulted in incorrect self-assessment and short-levy of duty.

- ix. The importer failed to truthfully declare that the subject goods attracted the Minimum Import Price condition, in clear violation of the obligation of truthful declaration cast upon the importer under Section 46(4) of the Customs Act, 1962. Importer willfully suppressed the fact in the BE that that the imported goods were subject to MIP.
- x. **Further, Section 46(4A) casts a statutory obligation upon the importer to ensure the accuracy and completeness of the information furnished in the Bill of Entry, the authenticity and validity of the supporting documents, and compliance with any restriction or prohibition applicable to the imported goods under the Customs Act, 1962 or under any other law for the time being in force.**
- xi. In the instant case, it is an admitted and established fact that the import of the subject synthetic knitted fabrics below the prescribed Minimum Import Price of USD 3.50 per kilogram was prohibited under the DGFT Notifications issued under the Foreign Trade (Development and Regulation) Act, 1992. The said MIP condition constituted a statutory restriction/prohibition applicable to the goods at the time of import.
- xii. However, the importer, while filing the impugned Bills of Entry under the self-assessment regime, failed to declare that the goods were subject to the Minimum Import Price condition and declared the CIF value at USD 1.20 per kilogram, which was substantially below the prescribed MIP. Importer willfully suppressed the fact in the BE that that the imported goods were subject to MIP.
- xiii. Such failure amounts to suppression of material facts relating to the applicable import policy conditions, which directly impacted the assessment of duty and facilitated clearance of the goods at values below the prescribed MIP.
- xiv. M/s Feya Textile, knowingly submitted incorrect and false declarations before the Customs authorities at the time of import, despite being fully aware that the goods under import were not eligible for clearance at values below the prescribed Minimum Import Price.
- xv. Such willful misstatement and suppression of material facts with the clear intent to circumvent the import policy restrictions and evade payment of appropriate customs duty, thereby establishing the presence of *mens rea*.
- xvi. In view of the willful misdeclaration of value, misstatement and suppression of material facts on the part of the importer, resulting in short-assessment of duty, the provisions of Section 28(4) of the Customs Act, 1962 have been rightly invoked for recovery of the differential duty, along with applicable interest under Section 28AA of the said Act.

Accordingly, the contention of the Noticee is rejected.

C. Now, I take up the next issue, as to whether the impugned imported goods (Table-I, Para 1 supra) having total Re-assessable value of Rs. 5,83,16,330/-, (Rupees Five Crore

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Eighty Three Lakh Sixteen Thousand Three Hundred Thirty) as per Table-III under the aforementioned Bills of Entry should be confiscated under Sections 111(d) and 111(m) of the Customs Act, 1962, on the grounds that they are "prohibited goods" and/or have been improperly imported in contravention of the restrictions in force or otherwise.

25. I observe that the SCN has proposed confiscation of the impugned goods under Sections 111(d) and 111(m) of the Customs Act, 1962. Section 111 (d) & 111 (m) are reproduced, as follows:

“SECTION 111: Confiscation of improperly imported goods etc.: The relevant clauses of Section 111 are reproduced below: The following goods brought from a place outside India shall be liable to confiscation: -

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

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

25.1 I reiterate my findings from Para 22 supra, as the same appears *mutatis mutandis* to confiscation of the goods under section 111 (d) of the Customs Act, 1962, which are as follows:

25.1.1 I find that the imposition of Minimum Import Price (MIP) on the import of ‘Synthetic knitted or crocheted fabrics’, including those classifiable under CTH 6005 3900, has been prescribed by the DGFT in exercise of the powers conferred under Sections 3 and 5 of the Foreign Trade (Development and Regulation) Act, 1992, vide Notification No. 77/2023 dated 16.03.2024, as amended and clarified by Notification No. 33/2024–25 dated 01.10.2024 and subsequent notifications issued thereunder. While limited exemptions from MIP are provided for imports made under valid authorisations such as Advance Authorisation, Export Oriented Units (EOUs), or Special Economic Zones (SEZs), such exemptions are conditional and applicable only where the goods are not cleared for home consumption. In the instant case, the impugned goods have been imported for clearance for home consumption and are not covered under any such authorised schemes; therefore, the benefit of exemption from MIP is not available to the importer.

25.1.2 I find that the impugned goods, being warp-knitted fabrics made of synthetic fibre, namely polyester, and being printed, squarely fall under the description of goods covered under CTH 6005 3900. The declared description of the goods as ‘Polyester Warp Knitted Fabric (Rolls of Assorted Different Colour, Design & Different Weight/GSM)’ and the classification declared by the importer himself under CTH 6005 3900 remain undisputed. It is further established that the goods are neither pile / cut-pile fabrics classifiable under CTH

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6001 nor fabrics of width 30 cm or less classifiable under CTH 6002, 6003 or 6004. The test reports available in the E-Sanchit system, pertaining to all the subject Bills of Entry and relating to consignments imported from the same overseas suppliers, confirm the identity, uniformity and consistency of the imported goods. Accordingly, I hold that the impugned goods are correctly classifiable under CTH 6005 3900. Polyester, being a chemically synthesised fibre, is a synthetic fibre, and the impugned goods, being knitted fabrics of polyester squarely fall within the description of “synthetic knitted fabric” covered under the MIP notifications. There is no dispute regarding the description or classification of the goods.

25.1.3 I further observe that, in terms of paragraph 11.11 of the DGFT Handbook of Procedures, the relevant date of shipment or dispatch for imports transported by sea is determined by the date mentioned on the Bill of Lading. Accordingly, for the applicability of the Minimum Import Price, the goods are required to be synthetic knitted fabrics classifiable under CTH 6005 3900 and the date of shipment or dispatch is required to be on or after 15.09.2024. In the present case, the relevant Bills of Lading are dated between 20.09.2024 and 08.10.2024, which is subsequent to 15.09.2024, thereby satisfying the condition relating to the date of shipment or dispatch.

25.1.4 In view of the above, I find that DGFT Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024 and subsequent notifications issued thereunder, prescribing a Minimum Import Price of USD 3.50 per kilogram for the import of synthetic knitted fabric under CTH 6005 3900, is squarely and categorically applicable to the impugned goods. However, I observe that the declared CIF unit price of USD 1.20 per kilogram is below the prescribed Minimum Import Price. Accordingly, I hold that the impugned goods have been imported in violation of and in contravention of the applicable DGFT Notifications and the prevailing Import Policy.

25.2 I observe that Section 111 of the Customs Act, 1962 provides for confiscation of improperly imported goods. In particular, clause (d) of Section 111 stipulates that 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 the Customs Act, 1962 or any other law for the time being in force, shall be liable to confiscation.

25.2.1 In the present case, it is undisputed fact that the import of the subject goods, namely *Synthetic Knitted Fabrics*, has been effected at a declared CIF value below the prescribed Minimum Import Price (MIP) of USD 3.50 per kilogram, as mandated by the Directorate General of Foreign Trade (DGFT) through the relevant notifications issued under the Foreign Trade (Development & Regulation) Act, 1992. The said DGFT notifications, having been issued in exercise of powers conferred under Sections 3 and 5 of the FT(D&R) Act, have the force of law, and any import made in violation thereof amounts to contravention of a prohibition imposed under another law for the time being in force.

25.2.3 Accordingly, the import of Synthetic Knitted Fabrics below the prescribed MIP constitutes an import contrary to such prohibition, and therefore, the goods are to be treated as “prohibited goods” within the meaning of Section 2(33) and 11 of the Customs Act, 1962, read with Section 3(3) of the Foreign Trade (Development & Regulation) Act. In terms of

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Section 111(d) of the said Act, any goods imported or attempted to be imported contrary to any prohibition imposed by or under the Customs Act, 1962 or any other law for the time being in force are liable to confiscation. In the present case, since the importer has imported goods in contravention of the import policy conditions prescribed under the aforesaid DGFT notifications, the goods are rendered liable to confiscation under Section 111(d) of the Customs Act, 1962, for having been imported contrary to the prohibition imposed under the Foreign Trade (Development & Regulation) Act, 1992 and the Foreign Trade Policy framed thereunder.

25.3 I reiterate my findings from Para 24 supra, as the same appears *mutatis mutandis* to confiscation of the goods under section 111 (m) of the Customs Act, 1962, which are as follows:

25.3.1 In the instant it is observed that the importer self-assessed ten Bills of Entry under Section 17(1) of the Customs Act, 1962 by declaring unit prices below the prescribed Minimum Import Price, without disclosing that the imported goods were subject to MIP. With the introduction of the system of self-assessment with effect from 2011 under Section 17 of the Customs Act, 1962, the primary responsibility and onus for correct assessment of duty has been squarely cast upon the importer, who is required to act in good faith and with due diligence while filing the Bill of Entry.

25.3.1.1 In this context, it is observed that the DGFT, vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024-25 dated 01.10.2024, has prohibited the import of the subject goods below the Minimum Import Price of USD 3.50 per kilogram. Consequently, contemporaneous imports of identical or similar goods are necessarily valued at or above the said Minimum Import Price of USD 3.50 per kilogram.

25.3.1.2 It is further observed that acceptance of the transaction value under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is not absolute and is expressly subject to the provisions of Rule 12 thereof, which permits rejection of the declared value where there exists a significant variation from the value of identical or similar goods imported at or about the same time. Therefore, the Noticee was fully aware that the invoice value or declared transaction value did not represent the true assessable value for the purpose of levy of customs duty.

25.3.1.3 However, the Noticee, with blind belief, relied solely on the invoice value @ USD 1.20 per kilogram and declared the same in the Bills of Entry filed before the Customs authorities. It is well settled that a bona fide belief cannot be equated with blind belief. A belief can be said to be bona fide only when it is formed after taking into account all reasonable considerations, including applicable statutory provisions, import policy restrictions, and prevailing trade practices. **In the present case, the reliance placed by the Noticee on the invoice value, without due regard to the applicable MIP condition and valuation provisions, cannot be accepted as a bona fide belief and has resulted in incorrect self-assessment and short-levy of duty.**

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25.3.1.4 Further, the importer failed to truthfully declare that the subject goods attracted the Minimum Import Price condition, in clear violation of the obligation of truthful declaration cast upon the importer under Section 46(4) of the Customs Act, 1962. Such failure amounts to suppression of material facts relating to the applicable import policy conditions, which directly impacted the assessment of duty and facilitated clearance of the goods at values below the prescribed MIP.

25.3.2 Accordingly, I find that the Noticee, M/s Feya Textile, knowingly submitted incorrect and false declarations before the Customs authorities at the time of import, despite being fully aware that the goods under import were not eligible for clearance at values below the prescribed Minimum Import Price. Such conduct constitutes willful misstatement and suppression of material facts with the clear intent to circumvent the import policy restrictions and evade payment of appropriate customs duty, thereby establishing the presence of *mens rea*. Further, the importer has resorted to deliberate misdeclaration in respect of the value and applicable import conditions of the goods, as discussed in paragraph 22 supra and reiterated in paragraph 24.1 supra. Accordingly, I find that, in view of the willful misdeclaration of value, misstatement and suppression of material facts on the part of the importer, resulting in short-assessment of duty, the provisions of Section 28(4) of the Customs Act, 1962 have been rightly invoked for recovery of the differential duty, along with applicable interest under Section 28AA of the said Act.

25.4 I observe that Section 111 of the Customs Act, 1962 provides for confiscation of improperly imported goods. Clause (m) of Section 111 stipulates that any goods which do not correspond, in respect of value or in any other particular, with the entry made under the said Act shall be liable to confiscation.

25.4.1 In the instant case, I observe that the importer self-assessed the impugned ten Bills of Entry under Section 17(1) of the Customs Act, 1962 by declaring the CIF value of the imported synthetic knitted fabrics at USD 1.20 per kilogram, which is substantially below the prescribed Minimum Import Price of USD 3.50 per kilogram notified by the DGFT vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024-25 dated 01.10.2024. In view of the said notifications, contemporaneous imports of identical or similar goods are necessarily valued at or above the prescribed Minimum Import Price, and the significant variation between the declared value of the impugned goods and the value of contemporaneous imports establishes that the goods do not correspond with the entries made in the Bills of Entry in respect of value. Although Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provides for acceptance of the transaction value, such acceptance is not absolute and is expressly subject to Rule 12 thereof, which permits rejection of the declared value where reasonable doubt exists regarding its truth or accuracy, including cases of significant deviation from the value of identical or similar goods imported at or about the same time. In the present case, the declared invoice value, being far below the prescribed Minimum Import Price, does not represent the true assessable value. The reliance placed by the importer solely on the invoice value, in blind belief and without due regard to the applicable DGFT notifications, import policy restrictions, and valuation provisions, cannot be accepted as a bona fide belief and amounts to deliberate **mis-**

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declaration of value, rendering the impugned goods liable to penal action under the provisions of the Customs Act, 1962.

25.4.2 I further observe that the importer **failed to truthfully declare in the Bills of Entry that the subject goods were covered under the Minimum Import Price condition prescribed under the DGFT notifications**. Such non-disclosure constitutes a clear violation of the obligation of truthful declaration cast upon the importer under Section 46(4) of the Customs Act, 1962. The suppression of material facts relating to the applicability of MIP directly impacted the assessment of duty and facilitated clearance of the goods at values below the prescribed threshold. The importer, despite being fully aware that the goods were not eligible for clearance below the prescribed Minimum Import Price, knowingly suppressed and mis-stated material particulars with the intent to circumvent the import policy restrictions and evade payment of appropriate customs duty. Such conduct establishes willful mis-statement and suppression of material facts. Consequently, the impugned goods do not correspond with the entries made in the Bills of Entry in respect of value and other material particulars. Accordingly, I find that impugned imported goods are also liable to confiscation under Section 111(m) of the Customs Act, 1962.

25.5 I therefore hold that the said imported goods are liable for confiscation under the provisions of Section 111(d) & 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 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 **rectified**, 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...”, bring 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 the 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. Therefore, their physical availability does not have any significance for imposition of

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redemption fine under Section 125 of the Act. We accordingly answer question No. (iii)."

25.5.1 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.).

25.5.2 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.

25.5.3 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 appears 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 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.”

- 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

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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.”

25.5.4 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. 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 issue, as to whether penalty should be imposed on the importer under Section 112(a) of the Customs Act, 1962, for the act of commission and omission by rendering the imported goods liable for confiscation under Section 111(d) and 111(m), or otherwise. and as to whether penalty should be imposed on the importer under Section 114A of the Customs Act, 1962, for the act of commission and omission by way of willful suppression of substantial facts regarding applicability of MIP or otherwise and as to whether penalty should be imposed on the importer under Section 114AA of the Customs Act, 1962, for the act of false declaration or otherwise.

26. I observe that the SCN has proposed penalty under section 112 (a), 114A & 114AA of the Customs Act 1962 on the Noticee. It is imperative that I re-iterate the provision of the above sections, which are 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*

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 willful 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:”

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Section 114AA of the Customs Act 1962 stipulates that “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”.

26.1 I reiterate my findings from Para 22 to 25 supra, as the same appears *mutatis mutandis* to this also.

26.1.1 I find that the imposition of Minimum Import Price (MIP) on the import of ‘Synthetic knitted or crocheted fabrics’, including those classifiable under CTH 6005 3900, has been prescribed by the DGFT in exercise of the powers conferred under Sections 3 and 5 of the Foreign Trade (Development and Regulation) Act, 1992, vide Notification No. 77/2023 dated 16.03.2024, as amended and clarified by Notification No. 33/2024–25 dated 01.10.2024 and subsequent notifications issued thereunder. While limited exemptions from MIP are provided for imports made under valid authorisations such as Advance Authorisation, Export Oriented Units (EOUs), or Special Economic Zones (SEZs), such exemptions are conditional and applicable only where the goods are not cleared for home consumption. In the instant case, the impugned goods have been imported for clearance for home consumption and are not covered under any such authorised schemes; therefore, the benefit of exemption from MIP is not available to the importer.

26.1.1.1 I find that the impugned goods, being warp-knitted fabrics made of synthetic fibre, namely polyester, and being printed, squarely fall under the description of goods covered under CTH 6005 3900. The declared description of the goods as ‘Polyester Warp Knitted Fabric (Rolls of Assorted Different Colour, Design & Different Weight/GSM)’ and the classification declared by the importer himself under CTH 6005 3900 remain undisputed. It is further established that the goods are neither pile / cut-pile fabrics classifiable under CTH 6001 nor fabrics of width 30 cm or less classifiable under CTH 6002, 6003 or 6004. The test reports available in the E-Sanchit system, pertaining to all the subject Bills of Entry and relating to consignments imported from the same overseas suppliers, confirm the identity, uniformity and consistency of the imported goods. Accordingly, I hold that the impugned goods are correctly classifiable under CTH 6005 3900. Polyester, being a chemically synthesised fibre, is a synthetic fibre, and the impugned goods, being knitted fabrics of polyester squarely fall within the description of “synthetic knitted fabric” covered under the MIP notifications. There is no dispute regarding the description or classification of the goods.

26.1.1.2 I further observe that, in terms of paragraph 11.11 of the DGFT Handbook of Procedures, the relevant date of shipment or dispatch for imports transported by sea is determined by the date mentioned on the Bill of Lading. Accordingly, for the applicability of the Minimum Import Price, the goods are required to be synthetic knitted fabrics classifiable under CTH 6005 3900 and the date of shipment or dispatch is required to be on or after 15.09.2024. In the present case, the relevant Bills of Lading are dated between 20.09.2024 and 08.10.2024, which is subsequent to 15.09.2024, thereby satisfying the condition relating to the date of shipment or dispatch.

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26.1.1.3 In view of the above, I find that DGFT Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024 and subsequent notifications issued thereunder, prescribing a Minimum Import Price of USD 3.50 per kilogram for the import of synthetic knitted fabric under CTH 6005 3900, is squarely and categorically applicable to the impugned goods. However, I observe that the declared CIF unit price of USD 1.20 per kilogram is below the prescribed Minimum Import Price. **Accordingly, I hold that the impugned goods have been imported in violation of and in contravention of the applicable DGFT Notifications and the prevailing Import Policy.**

26.1.2 It is observed that the importer self-assessed ten Bills of Entry under Section 17(1) of the Customs Act, 1962 by declaring unit prices below the prescribed Minimum Import Price, without disclosing that the imported goods were subject to MIP. With the introduction of the system of self-assessment with effect from 2011 under Section 17 of the Customs Act, 1962, the primary responsibility and onus for correct assessment of duty has been squarely cast upon the importer, who is required to act in good faith and with due diligence while filing the Bill of Entry.

26.1.2.1 In this context, it is observed that the DGFT, vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024, has prohibited the import of the subject goods below the Minimum Import Price of USD 3.50 per kilogram. Consequently, contemporaneous imports of identical or similar goods are necessarily valued at or above the said Minimum Import Price of USD 3.50 per kilogram.

26.1.2.2 It is further observed that acceptance of the transaction value under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is not absolute and is expressly subject to the provisions of Rule 12 thereof, which permits rejection of the declared value where there exists a significant variation from the value of identical or similar goods imported at or about the same time. Therefore, the Noticee was fully aware that the invoice value or declared transaction value did not represent the true assessable value for the purpose of levy of customs duty.

26.1.2.3 However, the Noticee, with blind belief, relied solely on the invoice value @ USD 1.20 per kilogram and declared the same in the Bills of Entry filed before the Customs authorities. It is well settled that a bona fide belief cannot be equated with blind belief. A belief can be said to be bona fide only when it is formed after taking into account all reasonable considerations, including applicable statutory provisions, import policy restrictions, and prevailing trade practices. **In the present case, the reliance placed by the Noticee on the invoice value, without due regard to the applicable MIP condition and valuation provisions, cannot be accepted as a bona fide belief and has resulted in incorrect self-assessment and short-levy of duty.**

26.1.2.4 Further, the importer failed to truthfully declare that the subject goods attracted the Minimum Import Price condition, in clear violation of the obligation of truthful declaration cast upon the importer under Section 46(4) of the Customs Act, 1962. Such failure amounts to suppression of material facts relating to the applicable import policy conditions, which

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directly impacted the assessment of duty and facilitated clearance of the goods at values below the prescribed MIP.

26.1.2.5 Accordingly, I find that the Noticee, M/s Feya Textile, knowingly submitted incorrect and false declarations before the Customs authorities at the time of import, despite being fully aware that the goods under import were not eligible for clearance at values below the prescribed Minimum Import Price. Such conduct constitutes willful misstatement and suppression of material facts with the clear intent to circumvent the import policy restrictions and evade payment of appropriate customs duty, thereby establishing the presence of *mens rea*. Further, the importer has resorted to deliberate misdeclaration in respect of the value and applicable import conditions of the goods, as discussed in paragraph 22 supra and reiterated in paragraph 24.1 supra. **Accordingly, I find that, in view of the willful misdeclaration of value, misstatement and suppression of material facts on the part of the importer, resulting in short-assessment of duty, the provisions of Section 28(4) of the Customs Act, 1962 have been rightly invoked for recovery of the differential duty, along with applicable interest under Section 28AA of the said Act.**

26.1.3I find that the import of Synthetic Knitted Fabrics below the prescribed MIP constitutes an import contrary to such prohibition, and therefore, the goods are to be treated as “prohibited goods” within the meaning of Section 2(33) and 11 of the Customs Act, 1962, read with Section 3(3) of the Foreign Trade (Development & Regulation) Act. In terms of Section 111(d) of the said Act, any goods imported or attempted to be imported contrary to any prohibition imposed by or under the Customs Act, 1962 or any other law for the time being in force are liable to confiscation. In the present case, since the importer has imported goods in contravention of the import policy conditions prescribed under the aforesaid DGFT notifications, **the goods are rendered liable to confiscation under Section 111(d) of the Customs Act, 1962**, for having been imported contrary to the prohibition imposed under the Foreign Trade (Development & Regulation) Act, 1992 and the Foreign Trade Policy framed thereunder.

26.1.4In the instant case, I observe that the importer self-assessed the impugned ten Bills of Entry under Section 17(1) of the Customs Act, 1962 by declaring the CIF value of the imported synthetic knitted fabrics at USD 1.20 per kilogram, which is substantially below the prescribed Minimum Import Price of USD 3.50 per kilogram notified by the DGFT vide Notification No. 77/2023 dated 16.03.2024, read with Notification No. 33/2024–25 dated 01.10.2024. In view of the said notifications, contemporaneous imports of identical or similar goods are necessarily valued at or above the prescribed Minimum Import Price, and the significant variation between the declared value of the impugned goods and the value of contemporaneous imports establishes that the goods do not correspond with the entries made in the Bills of Entry in respect of value. Although Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provides for acceptance of the transaction value, such acceptance is not absolute and is expressly subject to Rule 12 thereof, which permits rejection of the declared value where reasonable doubt exists regarding its truth or accuracy, including cases of significant deviation from the value of identical or similar goods imported at or about the same time. In the present case, the declared invoice value, being far below the prescribed Minimum Import Price, does not

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represent the true assessable value. The reliance placed by the importer solely on the invoice value, in blind belief and without due regard to the applicable DGFT notifications, import policy restrictions, and valuation provisions, cannot be accepted as a bona fide belief and amounts to deliberate mis-declaration of value, rendering the impugned goods liable to penal action under the provisions of the Customs Act, 1962.

26.1.4.1 I further observe that the importer failed to truthfully declare in the Bills of Entry that the subject goods were covered under the Minimum Import Price condition prescribed under the DGFT notifications. Such non-disclosure constitutes a clear violation of the obligation of truthful declaration cast upon the importer under Section 46(4) of the Customs Act, 1962. The suppression of material facts relating to the applicability of MIP directly impacted the assessment of duty and facilitated clearance of the goods at values below the prescribed threshold. The importer, despite being fully aware that the goods were not eligible for clearance below the prescribed Minimum Import Price, knowingly suppressed and mis-stated material particulars with the intent to circumvent the import policy restrictions and evade payment of appropriate customs duty. Such conduct establishes willful mis-statement and suppression of material facts. Consequently, the impugned goods do not correspond with the entries made in the Bills of Entry in respect of value and other material particulars. **Accordingly, I find that impugned imported goods are also liable to confiscation under Section 111(m) of the Customs Act, 1962.**

Applicability of Penalty under section 112(a) of the Customs Act, 1962

26.2 I observe that Section 112(a) of the Customs Act, 1962 provides for imposition of penalty on any person who, in relation to any goods, does or omits to do any act which renders such goods liable to confiscation under Section 111 of the said Act, or abets the doing or omission of such an act. In the present case, it has already been established that the impugned goods are liable to confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962 on account of mis-declaration of value, suppression of material facts relating to the applicability of Minimum Import Price, and contravention of the import policy conditions notified by the DGFT.

26.2.1 I further find that the Noticee, M/s Feya Textile, by knowingly declaring the goods at a value below the prescribed Minimum Import Price, failing to disclose the applicability of MIP in the Bills of Entry, and relying on such incorrect declarations for self-assessment under Section 17 of the Customs Act, 1962, has committed acts and omissions which directly rendered the impugned goods liable to confiscation. Such acts and omissions were not inadvertent but deliberate, as discussed in detail in the preceding paragraphs, and were carried out with full knowledge of the applicable import policy and valuation provisions.

26.2.2 Accordingly, I hold that the Noticee has rendered himself liable to penalty under Section 112(a) of the Customs Act, 1962 for acts and omissions resulting in improper importation of goods liable to confiscation under Section 111 of the said Act.

Applicability of Penalty under section 114A of the Customs Act, 1962

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26.3 I observe that Section 114A of the Customs Act, 1962 provides for imposition of penalty equal to the duty or interest determined under Section 28(8) of the said Act where duty has not been levied or has been short-levied by reason of collusion, willful misstatement, or suppression of facts. In the present case, it has already been established that the importer self-assessed ten Bills of Entry by declaring the value of the **imported goods at USD 1.20 per kilogram**, which is substantially below the **Minimum Import Price of USD 3.50 per kilogram** prescribed by the DGFT, and failed to disclose that the goods were subject to the MIP condition.

26.3.1 It is further found that the importer, despite being fully aware of the DGFT Notifications prohibiting import of the subject goods below the prescribed MIP, relied solely on the invoice value with blind belief and did not make a truthful declaration regarding the applicability of MIP in violation of Section 46(4) of the Customs Act, 1962. Such reliance on invoice value alone, in disregard of the applicable import policy restrictions and valuation provisions, cannot be accepted as a bona fide belief and clearly constitutes willful misstatement and suppression of material facts. The said acts and omissions were carried out with the intent to circumvent the import policy restrictions and evade payment of appropriate customs duty, thereby establishing the presence of *mens rea*.

26.3.2 Accordingly, since the short-levy of duty has arisen by reason of willful misstatement and suppression of material facts, and the differential duty has been determined under Section 28(8) of the Customs Act, 1962 pursuant to invocation of Section 28(4) thereof, I hold that the Noticee, M/s Feya Textile, is liable to penalty under Section 114A of the Customs Act, 1962 equal to the duty so determined. I further observe that the benefit of reduced penalty of twenty-five per cent, as provided under the proviso to Section 114A, shall be available only if the duty along with applicable interest under Section 28AA is paid within thirty days from the date of communication of this order.

Applicability of Penalty under section 114AA of the Customs Act, 1962

26.4 I observe that Section 46(4) of the Customs Act, 1962 mandates that the importer, while presenting a Bill of Entry, shall make and subscribe to a declaration as to the truth of the contents of such Bill of Entry. Further, Section 46(4A) casts a statutory obligation upon the importer to ensure the accuracy and completeness of the information furnished in the Bill of Entry, the authenticity and validity of the supporting documents, and compliance with any restriction or prohibition applicable to the imported goods under the Customs Act, 1962 or under any other law for the time being in force.

26.4.1 In the instant case, it is an admitted and established fact that the import of the subject synthetic knitted fabrics below the prescribed Minimum Import Price of USD 3.50 per kilogram was prohibited under the DGFT Notifications issued under the Foreign Trade (Development and Regulation) Act, 1992. The said MIP condition constituted a statutory restriction/prohibition applicable to the goods at the time of import. However, the importer, while filing the impugned Bills of Entry under the self-assessment regime, failed to declare that the goods were subject to the Minimum Import Price condition and declared the CIF value at USD 1.20 per kilogram, which was substantially below the prescribed MIP.

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26.4.2 By doing so, the importer knowingly made and used Bills of Entry and declarations which were false and incorrect in material particulars, namely, with regard to the applicability of import policy restrictions and the true assessable value of the goods. Such non-disclosure and incorrect declaration directly violated the obligations imposed under Sections 46(4) and 46(4A) of the Customs Act, 1962, and facilitated clearance of the goods in contravention of the prohibition imposed by law.

26.4.3 I further find that the said acts were not the result of any inadvertent error or bona fide belief. The importer was fully aware of the MIP-based prohibition and yet knowingly suppressed material facts and used declarations and documents which were false and incorrect in material particulars, with the intent to circumvent the import policy restrictions and evade payment of appropriate customs duty. Such conduct squarely satisfies the ingredients of knowledge and intention required for invocation of Section 114AA of the Customs Act, 1962.

26.4.4 Accordingly, I hold that the importer has knowingly and intentionally made, signed, and used declarations and documents which were false and incorrect in material particulars in the transaction of business under the Customs Act, 1962, in violation of Sections 46(4) and 46(4A), and is therefore liable to penalty under Section 114AA of the said Act.

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

ORDER

- i. I hold that the importer **M/s. Feya Textile** has mis-declaring the value/MIP of the imported goods covered under various Bills of Entry (as detailed in Table-I), having a total declared assessable value of **Rs. 2,00,09,630/-**. Accordingly, I reject the declared value of the impugned goods under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the same at **Rs. 5,83,16,330/-**, based on the applicable Minimum Import Price (MIP).
- ii. I confiscate the imported goods having total **Re-assessable value of Rs. 5,83,16,330/- (Rupees Five Crore Eighty Three Lakh Sixteen Thousand Three Hundred Thirty Only)** as per Table-III under the aforementioned Bills of Entry under Sections 111(d) and 111(m) of the Customs Act, 1962, on the grounds that they are "prohibited goods" and/or have been improperly imported in contravention of the restrictions in force and mis-declaration of value and suppression of fact about applicability of MIP on the impugned goods in the Bills of Entry. However, I impose a redemption fine of **Rs 1,50,00,000/- (Rupees One Crore Fifty Lakh Only)** on the importer M/s. Feya Textile in lieu of confiscation under Section 125(1) of the Customs Act, 1962.;
- iii. I confirm the demand the differential duty amounting to **Rs. 1,07,64,183/- (Rupees One Crore Seven Lakh Sixty Four Thousand One Hundred Eighty Three only)** not paid/short paid on the aforesaid imported goods and recovery from the importer M/s. Feya Textile under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA, *ibid*.

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- iv. I impose a penalty of **Rs 1,50,00,000/- (Rupees One Crore Fifty Lakh Only)** on the importer, M/s. Feya Textile importer under Section 112(a)(i) of the Customs Act, 1962, for the act of commission and omission by rendering the imported goods liable for confiscation under Section 111(d) and 111(m).
- v. I impose a penalty equivalent to differential duty of **Rs. 1,07,64,183/- (Rupees One Crore Seven Lakh Sixty-Four Thousand One Hundred Eighty-Three only) and interest** accrued there upon on the importer, M/s. Feya Textile under Section 114A of the Customs Act, 1962 for the act of commission and omission by way of willful mis-declaration of value & willful suppression of substantial facts regarding applicability of MIP. However, 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.
- vi. I impose a penalty of **Rs. 60,00,000/- (Rupees Sixty Lakh Only)** on the importer **M/s. Feya Textile** under Section 114 AA of the Customs Act, 1962, for the act of false declaration.

**Digitally signed by
Vijay Risi
Date: 29-01-2026
17:03:24
Pr. COMMISSIONER OF CUSTOMS
NHAVA SHEVA-III, JNCH**

To,

M/s. FEYA TEXTILE,
Gala No. 5-8, C-10,
Shri Arihant Godown Complex,
Kalher, Thane, 421302

Copy to:

- i. AC/DC, Chief Commissioner's Office, JNCH
- ii. The AC/DC, Group-III, JNCH
- iii. AC/DC, Centralized Revenue Recovery Cell, JNCH
- iv. The Asst. /Dy. Commissioner of Customs (SIIB-Import), JNCH: For uploading on DIGIT Portal.
- v. The Asst. /Dy. Commissioner of Customs (CAC), JNCH: For uploading on CARMA Portal.
- vi. AC/DC, EDI, JNCH: - For display on JNCH Website.
- vii. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
- viii. Office Copy.