Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad
REGIONAL BENCH- COURT NO.1

Customs Appeal No. 10087 of 2026

(Arising out of Order in Original MUN-CUSTM-000-COM-32-25-26 dated 04/11/2025 passed by the Commissioner of Customs-Mundra)

JMV ENTERPRISE **.....Appellant**
216, Vishal Tower,
Janakpuri, Delhi-110058

VERSUS

Commissioner of Customs - Mundra **.....Respondent**
Office of the Principal Commissionerate of Customs
Port User Building, Custom House, Mundra-Kachchh-370421

WITH

(i) Customs Appeal No. 10542 of 2026 (Shri Hari Kishan)
(ii) Customs Appeal No. 10543 of 2026 (Shri Sabu George)
(iii) Customs Appeal No. 10544 of 2026 (Shri Kapil Kotiya)
(iv) Customs Appeal No. 10545 of 2026 (Om Enterprise)
(v) Customs Appeal No. 10546 of 2026 (Shri Arun Jyoti)
(vi) Customs Appeal No. 10547of 2026 (Jai Maa Enterprise)
(vii) Customs Appeal No. 10553 of 2026 (Jai Maa Enterprise)
(viii) Customs Appeal No. 10554 of 2026 (Shri Sanjeev Shekhar Malhotra)
(ix) Customs Appeal No. 10555 of 2026 (Skytex)
(x) Customs Appeal No. 10556 of 2026 (Shri Arun Jyoti)
(xi) Customs Appeal No. 10557 of 2026 (Shri Lakshay Lamba)
(xii) Customs Appeal No. 10558 of 2026 (Shri Kapil Kotiya)
(xiii) Customs Appeal No. 10559 of 2026 (Shri Sabu George)

[Arising out of Order in Original No. MUN-CUSTM-000-COM-34-25-26 dated 06/11/2025 passed by Commissioner of Customs- Mundra]

APPEARANCE:
Shri Manish Jain, Advocate appeared for the Appellant
Shri Girish Nair, Assistant Commissioner (AR) appeared for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

FINAL ORDER NO. 10847-10860/2026

DATE OF HEARING: 07.09.2026
DATE OF DECISION:19.11.2026

SATENDRA VIKRAM

M/s JMV Enterprise and others (appellants) have imported various textile products declaring the said goods under CTH 5911 9990 & 5905 0090 and paid the basic customs duty and the IGST. They cleared the goods to Adani Ports & SEZ Mundra and thereafter, filed DTA bills of entry for clearance to various domestic buyers. Based on an intelligence, the DRI conducted

investigation against the above importers during which, they searched the premises of M/s. JMV Enterprise at Janakpuri, Delhi, premises of M/s Jai Maa Enterprises at Delhi, search at the shop of M/s Ritika Traders and M/s Kishor Traders located at Chembur, Mumbai. Search was also conducted at the residence of Shri Arun Jyoti Mahajan, Partner of M/s Jai Maa Enterprises. The Officers recorded the statements of Shri Sanjeev Shekhar Malhotra proprietor of M/s JMV Enterprise, statement of Shri Kapil Kotiya, owner of M/s Ocean Logistics (a freight forwarder), statement of Shri Ankur Mahajan son of Shri Arun Jyoti Mahajan, Proprietor of M/s Bhagwati International, statement of Shri Narendra Chand Ramnivash Morya, Authorised person of M/s Kishor Traders and Ritika Traders, statement of Shri Lakshay Lamba, Partner of M/s Skytex, statement of Shri Ashok Kumar, Accountant of M/s JRN Fabrics, statement of Shri Kunal Joshi of M/s A K Fashions and the statement of Shri Sabu George, partner of M/s Rainbow Shipping Services.

1.1 The officers observed that the goods in respect of SEZ bill of entry No. 1015305 dated 27.10.2022 (container No. HLXU6433720) and bill of entry No. 1015832 dated 04.11.2022 (container No. ESDU1224964) were available in the warehouse unit M/s OWS Warehouse Services LLP. They drew the representative samples of the above goods and sent to CRCL Vadodara to ascertain actual identification of the said imported goods. Similar exercise was also undertaken in respect of goods of M/s Om Enterprises where the samples were drawn of the imported goods and sent to CRCL Vadodara for testing. Samples were also drawn from the stock of goods available in the premises of M/s Kishor Traders, Mumbai and were sent for testing to CRCL Vadodara.

1.2 The reports received from CRCL Vadodara, in respect of M/s JMV Enterprise and M/s Om Enterprises indicated that the goods were coated with compounded Polyurethane on one side. The test reports received in respect of samples drawn, of the goods imported by M/s JMV Enterprise as described in Table 4 of para 4.3 of the SCN dated 07.11.2024, are as under :-

Table-4

Sr. No	Test Report No. and Date	SEZ Bill of Entry No. & Date	Declared Description and classification in BE	Appropriate description of goods as per Test Reports
01	RCL/AH/DRI/3030 /01.12.2022 Dated26.12.2022	1015305 Dated 27.10.2022	Felt Woven Coated Fabric	White Woven Coated Fabric coated with compounded Polyurethane (PU)
02	RCL/AH/DRI/3031 /01.12.2022 Dated26.12.2022			White Woven Coated Fabric coated with compounded Polyurethane (PU)
03	RCL/AH/DRI/3032 /01.12.2022 Dated26.12.2022			White Knitted Fabric having raised fibers, coated with compounded polyurethane (PU)
04	RCL/AH/DRI/3033 /01.12.2022 Dated26.12.2022			White Knitted Fabric having raised fibers, coated with compounded polyurethane (PU)
05	RCL/AH/DRI/3034 /01.12.2022 Dated26.12.2022			Dyed woven fabric coated with compounded polyurethane (PU) laminated with PVC film on one side.
06	RCL/AH/DRI/3035 /01.12.2022 Dated26.12.2022	1015832 Dated 04.11.2022	Felt Woven Coated Fabric	Dyed woven fabric coated with compounded polyurethane (PU)

1.3 The outcome of testing of samples drawn of the goods imported by M/s OM Enterprises are as under :-

Bill of Entry No. & Date	Type of goods	Test Memo No. & Date	Test Result as per CRCL Report
1015307 dated 27.10.2022	Type-1	9/OM/1015307 dated 18.11.2022 [RUD-4]	Dyed Woven Fabric Coated with Compounded Polyurethane on one side.
	Type-2	10/OM/1015307 dated 18.11.2022 [RUD-5]	Dyed knitted Fabric having raised fibres on one surface, coated with compounded polyurethane on one side.
	Type-3	11/OM/1015307 dated 18.11.2022 [RUD-6]	Dyed viscose cut Fibres passed on Polyurethane Layer forming check pattern.
	Type-4	12/OM/1015307 dated 18.11.2022 [RUD-7]	White knitted Fabric coated with compounded polyurethane laminated with PVC film.
	Type-5	13/OM/1015307 dated 18.11.2022 [RUD-8]	Non-Woven Bonded Fabric coated with Compounded Polyurethane on one side.

Bill of Entry No. & Date	Type of goods	Test Memo No. & Date	Test Result as per CRCL Report
	Type-6	14/OM/1015307 dated 18.11.2022 [RUD-9]	White knitted Fabric having raised Fibres, coated with Compounded Polyurethane.
1015306 dated 27.10.2022	Type-1	15/OM/1015306 dated 18.11.2022 [RUD-10]	White knitted Fabric having raised Fibres on one surface, coated with Compounded Polyurethane on one side.
	Type-2	16/OM/1015306 dated 18.11.2022 [RUD-11]	White knitted Fabric coated with Compounded Polyurethane on one side.
	Type-3	17/OM/1015306 dated 18.11.2022 [RUD-12]	Dyed Non-Woven fabric coated with compounded polyurethane on one side.
	Type-4	18/OM/1015306 dated 18.11.2022 [RUD-13]	White knitted Fabric having raised fibres on one side, coated with compounded polyurethane having laminated with PVC film.
	Type-5	19/OM/1015306 dated 18.11.2022 [RUD-14]	Dyed knitted Fabric having raised fibres on one surface, coated with compounded polyurethane laminated with PVC film.
1014717 dated 17.10.2022	Type-1	35/OM/1014717 dated 17.10.2022 [RUD-15]	Dyed knitted Fabric having raised fibres, of polyester filament yarns, coated with compounded polyurethane on one side, having shining surface.
	Type-2	36/OM/1014717 dated 17.10.2022 [RUD-16]	Dyed knitted fabric having raised fibres on one side, of polyester filament yarns, coated with compounded polyurethane on one side having glossy surface laminated with polyurethane film.
	Type-3	37/OM/1014717 dated 17.10.2022 [RUD-17]	Dyed self-designed knitted fabric of polyester filament yarns backed with white non-woven fabric of polyesters fibres, both layers are pasted together with polymeric material based on compounded polyurethane.
	Type-4	38/OM/1014717 dated 17.10.2022 [RUD-18]	Dyed knitted fabric made of polyester filament yarns, coated with compounded polyurethane on one side.
1015514 dated 31.10.2022	Type-1	57/OM/1015514 dated 19.01.2023 [RUD-21]	Dyed Woven Fabric coated with compounded polyurethane and laminated with transparent polyester film on one side.
	Type-2	58/OM/1015514 dated 19.01.2023 [RUD-22]	White knitted Fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	59/OM/1015514 dated 19.01.2023 [RUD-23]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side

Bill of Entry No. & Date	Type of goods	Test Memo No. & Date	Test Result as per CRCL Report
			having glossy surface laminated with PVC film.
	Type-4	60/OM/1015514 dated 19.01.2023 [RUD-24]	White knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-5	61/OM/1015514 dated 19.01.2023 [RUD-25]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
1015513 dated 31.10.2022	Type-1	54/OM/1015513 dated 19.01.2023 [RUD-26]	White knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-2	55%OM/1015513 dated 19.01.2023 [RUD-27]	Dyed knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	56/OM/1015513 dated 19.01.2023 [RUD-28]	Dyed knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
1015612 dated 05.11.2022	Type-1	62/OM/1015612 dated 19.01.2023 [RUD-29]	Dark Grey knitted fabric having raised fibres on one side of Polyester filament yarns & coated with compounded polyurethane on other side.
	Type-2	63/OM/1015612 dated 19.01.2023 [RUD-30]	White knitted fabric having raised fibres on one side, of polyester filament yarns, coated with Compounded Polyurethane on other side.
1015777 dated 05.11.2022	Type-1	64/OM/1015777 dated 19.01.2023 [RUD-31]	White knitted fabric having raised fibres on one side, of polyester filament yarns, coated with Compounded Polyurethane on other side.
	Type-2	65/OM/1015777 dated 19.01.2023 [RUD-32]	Dark Grey knitted fabric having raised fibres on one side of Polyester filament yarns & coated with compounded polyurethane on other side.
	Type-3	66./OM/1015777 dated 19.01.2023 [RUD-33]	Woven Fabric of spun yarns of viscose & coated with compounded polyurethane on the one side having glossy surface, laminated with PVC film.

1.4 From the statements recorded of various buyers, the officers arrived at a conclusion that the goods were mis-declared under CTH 5911 9090 and 5905 0090 in the bills of entry which actually were classifiable under CTH 5903 2090 and thus, there was a difference in the rate of BCD. The goods under

CTH 59032090 also attracted Antidumping duty and consequently there was short payment of duty amount. It came out from various statements that appellants had imported PU coated fabrics in the past also. Therefore, the goods imported by the above appellants in past were also attracting the antidumping duty.

1.5 Accordingly, a Show Cause Notice dated 07.11.2024 was issued to M/s. JMV Enterprise, Janakpuri, Delhi, proposing – (a) confiscation of goods valued at Rs. 26,41,277/- and Rs. 12,17,405/- imported vide SEZ Bill of Entry No. 1015305 dated 27.10.2022 and B/E No. 1015832 dated 04.11.2022 respectively under Section 111(m) of the Customs Act, 1962; (b) rejection of classification of the imported goods (wrongly described as "Felt Woven Coated Fabric") declared under CTH 59119990 and re-determination of classification under CTH 59032090; (c) reassessment of goods imported vide above two bill of entry by charging BCD & Anti-dumping duty as applicable for goods under CTH 59032090 (d) rejection of classification of past imported goods (Textile coated fabric felt woven coated fabric) declared under CTH 59119990 and glitter fabric under CTH 59050090 and its re-determination under CTH 59032090 as PU coated fabric; (e) confiscation of past imported goods value Rs. 1,38,07,948/- under Section 111(m) and demand of differential customs duty of Rs.1,24,12,428/- under Section 28(4) from the actual owner/ beneficial owner of the imported goods; (f) demand of differential Customs duty of Rs.3,12,724/- in respect of goods mis-declared as textile coated fabric under CTH 59119090 (which were actually non-woven fabric falling under CTH 5603 9490 attracting BDC 20%), under Section 28(4) of the Customs Act 1962.

1.6 The above show cause notice also proposed penalty under the Customs Act, 1962, on M/s. JMV Enterprise under Section 112(a) and 112(b); penalty on Shri Sanjeev Shekhar Malhotra, Proprietor of M/s. JMV Enterprises under Section 117; penalty on Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa

Enterprises under Section 112(a), 112(b), and 114AA; penalty on Shri Lakshya Lamba, Partner of M/s Skytex and Shri Kapil Kotia proprietor of M/s Ocean Logistics under Section 112(a), 112(b) and Section 114AA; penalty on Shri Sabu George, G-Card Holder under Section 117 and penalty on M/s. Jai Maa Enterprises and M/s. Skytex under Section 114A.

2. Similarly, after conducting investigation, the Department issued Show Cause Notice dated 07.11.2024 to M/s. Om Enterprises, M/s A N Enterprises, M/s Jai Maa Enterprises and Shri Banaras Dass Khatri all located in Karol Bagh, New Delhi wherein it was proposed to confiscate the seized (i.e. live consignment) goods valued at Rs. 1,75,64,629/- under Section 111(m), rejection of declared classification under CTH 59119990 of goods :Felt Woven Coated fabric" and "Textile coated fabric", and it's re-determination under CTH 59032090, re-assessment of goods under Section 17 and demand of differential Customs duty (including anti-dumping duty) of Rs.2,11,66,372/-. For the past consignments, the Show Cause Notice proposed rejection of declared classification of "Textile coated fabric" under CTH 59119990 and of "Glitter fabric" under CTH 59050090, and re-determining the same under CTH 59032090 as PU coated fabric, demanding differential customs duty (including antidumping duty) of Rs. 1,15,64,091/- from the actual owner / beneficial owner of the imported goods and confiscation of seized past imported goods valued at Rs. 1,59,04,280/- under Section 111(m) of the Customs Act, 1962.

2.1 This Show Cause Notice also proposed penalty under the Customs Act, 1962 on M/s. Om Enterprises under Section 112(a) and 112(b); penalty on Shri Arun Jyoti, Partner of M/s. Jai Maa Enterprises, Shri Amit Jain, Proprietor of M/s. AN Enterprise, Shri Banarsi Dass Khatri, Proprietor of M/s. Shri Ganesh Overseas, and Shri Kapil Kotia, Proprietor of M/s. Ocean Logistics under Section 112(a), 112(b), and 114AA; penalty on Shri Hari Kishan, Proprietor of M/s. Om Enterprises, and Shri Sabu George, G-Card Holder under Section

117; and the penalty on M/s. Jai Maa Enterprises and M/s. AN Enterprises under Section 114A.

3. The Show Cause Notice issued to M/s. JMV Enterprises, was adjudicated by the Learned Principal Commissioner vide impugned order dated 04.11.2025. He held that M/s. JMV Enterprises had wrongly declared the imported goods in the B/Es as "Textile Coated Fabric", "Felt Woven Coated Fabric", and "Glitter Fabric" etc under CTH 59119090 / 59050090, which upon testing by the CRCL, were found to be woven or knitted fabrics coated with compounded polyurethane, and dyed woven fabrics coated with compounded polyurethane laminated with PVC film on one side. On the basis of the test reports and by relying on the Rules of Interpretation of Customs Tariff, he rejected the declared classification and held that the PU coated fabrics are correctly classified under CTH 59032090. For non-woven fabrics, he held classification of the said goods under CTH 56039490. He also held that the subject goods being PU coated, are leviable to Anti-Dumping Duty as prescribed under Notification No. 14/2022-Cus (ADD) dated 20.05.2022. After Justifying invocation of extended period in the matter, learned Pr. Commissioner ordered as under: -

(i) Confiscated the seized goods valued Rs.38,58,682/- under section 111(m) of the Customs Act, 1962 and imposed redemption fine of Rs.5,00,000/- in lieu of confiscation.

(ii) Rejected the declared classification of imported goods under CTH 59119990 and re-determined the same under CTH 59032090; Ordered re-assessment of goods imported vide Bill of Entry no. 2017048 dated 03.11.2022 and 2017572 dated 10.11.2022.

(iii) For past consignments, he rejected the declared classification of under CTH 59119990 and 59050090 and reclassified the imported goods under CTH 59032090.

(iv) Confirmed demand of customs duty Rs.1,24,12,428/- and Rs. 3,12,724/- against the actual owner/ beneficial owner under Section 28(4) along with interest under Section 28AA.

(v) Confiscated past imported goods valued at Rs. 1,38,07,948/- under Section 111(m). No redemption fine imposed.

(vi) Following penalties were imposed on various Noticees:-

a) Rs.4,30,000/- on M/s. JMV Enterprises under Section 112(a) (ii) and Rs. 3.5 lakhs on Shri Sanjeev Shekhar Malhotra, it's Proprietor under Section 117.

b) Rs. 1,24,12,428/- under Section 114A on M/s. Jai Maa Enterprises and a penalty of Rs. 16 lakhs under Section 112 (b) & Rs. 20 lakhs under Section 114AA on it's Partner Shri Arun Jyoti Mahajan.

c) Rs.15 lakh under Section 112 (b) and Rs.20 lakh under Section 114AA on Shri Kapil Kotia, Proprietor of M/s. Ocean Logistics.

d) Rs.3 lakh under Section 117 Shri Sabu Geroge, G-Card holder.

e) Rs.3,12,724/- on M/s Skytex under Section 114 A and Rs. 30,000/- under Section 112(b) and Rs 5 Lakh under Section 114AA on it's Partner Shri Lakshaya Lamba.

4. The show cause notice dated 07.11.2024 issued to M/s. Om Enterprises was decided by the Learned Commissioner of Customs, Mundra vide order dated 06.11.2025, as under:-

(i) Confiscated seized goods valued Rs. 1,75,64,629/- under Section 111(m), and imposed redemption fine of Rs. 20 lakhs.

(ii) Rejected the declared classification of imported goods declared under CTH 59119990 and re-determined the same under CTH 59032090; Ordered re-assessment of goods imported vide 7 SEZ to DTA B/E (mentioned at Sr. No. 8 to 14 of table at para 12.2 of the

impugned order) by including applicable duties, duty under Section 17(4).

(iii) For past consignments, rejected the declared classification of imported goods under CTH 59119990/ 59350090 and re-determined the same under CTH 59032090.

(iv) Confirmed demand of customs duty of Rs. 1,15,64,091/- including anti-dumping duty against actual/beneficial owner, under Section 28(4) alongwith applicable interest under Section 28AA.

(v) Ordered confiscation of imported goods valued Rs. 1,59,04,280/- under section 111(m) but did not impose any redemption fine.

(vi) Held M/s Jai Maa Enterprises as the beneficial owner of 7 consignments, Shri Amit Jain (through it's Proprietorship firm M/s AN Enterprises) as beneficial owner of 5 consignments and Shri Banarsi Dass Khatri (through it's Proprietorship firm M/s Shree Ganesh Overseas) as beneficial owner of two seized consignments, and imposed the following penalties on various noticees :-

a) Rs. 25 lakhs on M/s Om Enterprises under section 112(a)(ii) and Rs. 3.50 lakh on it's proprietor Shri Hari Kishan under Section 117

b) Rs. 8 lakh under section 112(b)(ii) and Rs. 40lakh under Section 114AA on Shri Arun Jyoti Mahajan, Partner of M/s Jai Maa Enterprises

c) Rs. 6 lakh under section 112(b)(ii) and Rs. 25lakh under Section 114AA on Shri Amit Jain, Proprietor of M/s A.N. Enterprises.

d) Rs. 5 lakh under section 112(b)(ii) and Rs. 20lakh under Section 114AA on Shri Banarsi Das Khatri, Proprietor of M/s Shree Ganesh Overseas.

e) Shri Kapil Kotia, Proprietor of M/s Ocean Logistics - Rs. 30lakh under section 112(b)(ii) and Rs. 25lakh under Section 114AA.

f) Shri Sabu George - Rs. 3lakh under Section 117.

g) Rs.83,64,266/- under Section 114A on M/s Jai Maa Enterprises / beneficial owner

h) Rs.31,99,825/- under Section 114A on M/s A.N. Enterprises / beneficial owner

5. Aggrieved with the above orders, M/s JMV Enterprises, M/s OM Enterprises and others filed appeal before this Tribunal. In their appeal, they raised the following issues;

a) Whether imported goods i.e. felt woven coated/ textile coated fabrics are classifiable under CTH 59119990 as declared by the appellant or under CTH 59032090 as held by the department?

b) Whether the subject imported goods are leviable to anti-dumping duty under Notification No. 14/2022-Cus (ADD) dated 20.05.2022 and, if so, can the test report pertaining to one consignment be relied to demand duty liability in respect of past imported consignments?

c) Whether the adjudicating authority has failed to correctly appreciate nature, composition, characteristics and end-use of the goods while determining their classification under CTH 59032090?

d) Whether extended period of limitation under section 28(4) of the Customs Act, 1962, is invocable in this case or not?

Their detailed submissions are as under:

5.1 The subject goods coated with Compounded PU/Mixed with Additives, acrylics, Fillers etc. fall outside the scope of anti-dumping Notification No. 14/2022-Cus (ADD) dated 20.05.2022 as per which, Anti-Dumping Duty is leviable on the following goods.

Sr. no.	Heading sub-Heading of Tariff Item	Description of Goods	Country of Origin	Country of Export	Producer	Amount (USD)	Unit of Measurement

2	*56039490 59032090*	*Polyur-ethane Leather which includes any kind of textile coated one sided or both sided with Polyur-ethane*	*China PR*	*Any Country Including China PR*	*Any producer other than Anhuni Anli Material Technology Ltd.*	*0.46*	*Meters*
3.	*-do-*	*-do-*	*Any Country other than China PR*	*China PR*	*Any*	*0.46*	*Meters*

5.2 The above Notification was issued in terms of final finding of the Designated Authority vide DGTR Notification No. 6/55/2020-DGTR dated 21.02.2022 wherein the product under consideration (PUC) was defined as under:-

> *"Subject: Initiation of anti-dumping investigation concerning imports of "Polyurethane Leather which includes any kind of textile coated on one sided or both sided with Polyurethane originating in or exported from China PR.*
>
> *Product under Consideration*
>
> *3. The product under consideration (PUC) is "Polyurethane Leather which includes any kind of textile coated one sided or both sided with Polyurethane" PUC may be in rolled form or sheet or any other form. The PUC is commercially known as PU Leather PU Leather is sold in the market parlance by various names such as artificial PU Leather, PU Coated Fabric (Plain Printed Embossed), Lining Material, Synthetic Leather Cloth, PU Synthetic Leather, Synthetic Leather Lining, Dipping PU Lining etc. All such products are also included within the scope of the PUC The PUC is used in many applications and sectors, such as furnishing, automotive, fooreear, clothing, bags and wallets.*
>
> *4. PUC is manufactured using the production process which comprises (1) the coagulation or wet process and (i) the transfer coating or dry process. The coagulation process is the key process which is followed by the finishing process called transfer coating in the mamfacturing of PUC. Therefore, any entity which does not carry out both these processes together but merely carries out the transfer coating process cannot be said to be a manufacturer of PUC."*

5.3 As per ADD Notification dated 20.05.2022, PUC is commercially known as PU Leather and includes products marked under various trade descriptions such as artificial PU Leather, PU coated fabric, PU synthetic material and similar products.

5.4 The goods imported by the Appellants are "textile coated fabric" with compounded PU mixed with additives, PVC, acrylics, fillers and other constituents, thereby possessing a composition and character distinct from the goods specifically described in above ADD Notification. Compounded polyurethane is a formulated mixture containing PU resins, additives, fillers, PVC and stabilizers, which is chemically and commercially distinct from pure polyurethane. Therefore, imported goods cannot be treated as PU-coated fabrics falling under CTH 5903 2090. Accordingly, ADD Notification dated 20.05.2022 is not applicable on their goods. The DGTR Final Findings show that PUC is PU Leather, commercially understood as synthetic leather manufactured through both *coagulation* and *transfer coating processes*. The Department has failed to establish that the subject goods are manufactured through both the processes and also that, these possess essential attributes of PU Leather, namely:

Leather-like appearance;
Pure polyurethane coating;
Manufacture through PU leather production process

5.5 It is a settled principle of law that a taxing statute, including an anti-dumping notification imposing a levy, must be construed strictly and no person can be subjected to a levy unless the goods in question unambiguously fall within the scope of the charging notification. Equally, the description contained in an anti-dumping notification cannot be expanded by implication or intendment so as to cover products that are not expressly specified therein. Since ADD is a special levy, its scope must be strictly construed and cannot be extended by implication. In support, they rely on the decision of CESTAT Delhi in the case of M/s. Delta Electronics Vs. CCE, Meerut reported at 2012 (5) TMI 477 holding that coverage of an ADD notification must be construed strictly. Thus, if imported goods are technically distinct from PUC, anti-dumping duty cannot be levied by implication or presumption.

5.6 Hon'ble Supreme Court in the case of Commissioner of Customs v. Dilip Kumar & Co., (2018) 9 SCC 1, while reiterating the rule of strict interpretation in fiscal statutes and notifications, held that the benefit or applicability of a notification must be determined strictly on the basis of its language and that no addition or substitution can be made through interpretative process. Therefore, scope of Notification No. 14/2022-Customs (ADD) cannot be enlarged to include compounded or acrylic-mixed products when Notification does not expressly provide so. The imported goods are a compounded preparation mixed with acrylics and other constituents and is commercially, chemically and functionally distinct from the goods covered under the ADD Notification.

5.7 Felt woven coated fabric imported by the appellants are not covered within the scope of Product Under Consideration (PUC) since as per confirmation provided by the foreign suppliers, these goods are manufactured through dry process method. The scope of the PUC is restricted to products manufactured through the prescribed process and does not encompass goods produced through the dry process. Since manufacturing process constitutes a fundamental and distinguishing characteristic of the product, the subject goods are commercially, technically, and functionally distinct from PUC. They rely on the decision of CESTAT Chennai in the case of M/s. CETC Renewable Energy Technology (India) Pvt. Ltd. v. Commissioner of Customs, Chennai, 2023 (8) TMI 415 wherein it was held that if the technical evidence shows that a product possesses distinct characteristics and falls outside the notified description, duties cannot be levied merely because of superficial similarity with the goods.

5.8 CRCL Test Reports describing the goods as "Dyed Knitted Fabric having raised fibres on one surface, coated with compounded polyurethane on one side" and “white knitted fabric having raised fibers on one surface, coated with compounded polyurethane on one side” are vague and inconclusive as they

do not establish that the subject goods are covered under ADD Notification. Reliance cannot be placed on such CRCL Test Reports which are vague, generic, and inconclusive for the purpose of determining correct classification of the subject goods. The reports merely describe the goods as fabrics coated with compounded polyurethane and do not provide any detailed analysis of the manufacturing process, technical specifications, product characteristics, or other parameters relevant for determining coverage under the Product Under Consideration (PUC).

5.9 In a similar situation, CESTAT Delhi in the case of M/s. Gee Tee Textiles Vs. Commissioner of Customs, New Delhi reported at 2026 (3) TMI 47 found that CRCL Reports stated that imported goods were coated/laminated with PU. Since expression was not clear, a clarification was sought by the Department and CRCL confirmed that the goods were laminated. The Tribunal further observed that charge levied by the ADD notification is on PU coated fabrics. It does not explicitly cover fabrics laminated with PU and therefore, it cannot be interpreted so as to charge anti-dumping duty even on fabrics laminated with PU. Relevant extract is reproduced hereunder for ease of reference:

> "*10. It must be noted that while CTH 5903 includes Textile fabrics, impregnated, coated covered or laminated with plastics, the Antidumping duty has been imposed only on PU Coated fabrics. As per the test reports of the CRCL, the imported goods were coated laminated with PU. Since this expression was not clear, a clarification was sought by the department and CRCL confirmed that the goods were laminated Relevant portion of the letter of CRCL is passed below;*
>
> *Sub: Verification of sealed samples forwarded by the Customs for NOC/ Inspection report-reg.*
>
> *"Ref.C.No. VIII (SB) 10/Cus. Prev/Gr.-IV/23/2022-23 dated 01.09.2022*
>
> *With reference to the subject cited above, as per standard Literature available, Coated fabric refers to any fabric which is coated, filled, impregnated or laminated with a continuous film forming polymeric composition.*
>
> *However, it has been observed from the test findings of the samples under reference, the said samples of fabric are laminated."*
>
> *"The charge levied by the Anti-Dumping Notification is on PU coated fabrics. It does not explicitly cover fabrics laminated with PU and therefore, it cannot be interpreted so to charge anti-dumping duty even on fabrics laminated with PU. The demand of anti-dumping duty in the impugned order, therefore, deserves to*

be set aside as there is no charge of this duty on fabrics laminated with PU." 28. The Department in the present case has not analysed the manufacturing process, and whether the goods satisfy the technical parameters of the ADD Notification."

5.10 In the present case, no such clarification has been issued or sought by the Department to ascertain whether the subject goods are coated fabrics or laminated fabrics. The CRCL reports merely state that the goods are coated with compounded polyurethane without conclusively determining nature of the subject goods. It has been held by Hon'ble Supreme Court in the case of Sneh Enterprises Vs. Commissioner of Customs, 2006 (202) E.L.T. 7 (S.C.) that if the Department is unable to establish through clear evidence that imported goods are covered by the ADD Notification, levy cannot be sustained. Relevant portion is extracted hereunder:

"*While dealing with a taxing provision, the principle of "Strict Interpretation' should be applied The Court shall not interpret the statutory provizion in such a manner which would create an additional fiscal burden on a person. It would never be done by invoking the provisions of another Act, which are not attracted It is also trite that while two interpretations are passible, the Court ordinarily would interpret the provisions in favour of a tax-payer and against the Revenue."*

5.11 Reliance is also placed on the decision of Hon'ble Delhi High Court in the case of Plaza Lamps and Tubes Ltd. Vs. Commissioner of Customs, Delhi 2006 (11) TMI 221 and of Cestat Mumbai in Salasar Fortune Marketing Vs. Commissioner of Customs, 2004 (166) E.L.T. 353 to support above contention.

5.12 Without prejudice, Test Reports pertaining to the present consignment(s) cannot be applied to past imports in absence of drawl of any sample and it's testing. The demand of duty on past consignments has been raised solely on the basis of test reports relating to live consignments and samples drawn from the third-party traders. No evidence has been produced linking such samples to the Appellant's past imports. Also, the Department has failed to establish any nexus through batch numbers, lot numbers,

invoices, transport records, supplier traceability or stock movement documents. No independent evidence exists to prove misdeclaration in respect of past consignments.

5.13 It is a settled principle that each Bill of Entry is a separate assessment, and test results of one consignment cannot be applied to another. Moreover, past consignments were examined and cleared by the Customs after due verification, which cannot be revisited without fresh evidence. They rely on the decision of Hon'ble Gujarat High Court in the case of Elite Impex Vs. Union of India, 2011 (268) E.LT. 76 (Guj.). Relevant extract is reproduced hereunder:

> *"10. With respect to remaining 12 containers covered in seizure panchnama dated 4-1-2011, we find that in view of facts on record it would be open for the Customs Authorities to insist that the petitioners pay full import duty and also give bond for the entire amount of value of the goods, 23% of which may be in form of bank guarantee as envisaged in circular No. 686/2/2003 dated 2-1-2003. However, to permit the respondents to impose further conditions on the ground that in the past the petitioners had cleared goods without payment of import duty by making faise declarations, at this stage, in our opinion would be prejudging the issue. Since all proceedings are still at adjudication stage, it would not be appropriate on our part to make any conclusive observations with regard to the contentions raised by the both sides. However, suffice it to say that when the past clearances have not been reopened either by issuance of show cause notice or any other mode envisaged under the Customs Act and Rules thereunder, merely on the ground that in the present case, department has reason to believe that there are mis-declarations, to permit them to impose additional conditions covering past consignments would not be possible."*

5.14 Reliance is also placed on the case of Stonex India Pvt. Ltd. Vs. Commissioner of Customs Mundra, 2025 (391) E.L.T. 652 (Tri.-Ahmd.) and Syed Irfan Mohammed Vs. Union of India, 2017 (349) ELT 462 (A.P.) wherein it has been held that allegations regarding past imports cannot rest on presumption from later consignments.

5.15 Learned Adjudicating Authority has erroneously relied upon the statements recorded under Section 108 of the Customs Act, 1962 without

complying with the mandatory requirements of Section 138B of the Customs Act, 1962. In absence of examination of the deponents as witnesses and affording an opportunity for cross- examination, such statements cannot be treated as admissible evidence. Reliance is placed on the case of Mitesh Impex Vs. Union of India reported 2026 (396) E.L.T 45 (Guj.) wherein it was held that compliance with Section 138B of the Customs Act is mandatory before statements recorded during investigation can be relied upon as evidence against a person. Hon'ble Gujarat High Court in the case of Aziz Fakirmohammed Sumbhaniya Vs. Union of India reported at 2023 (384) E.L.T. 250 (Guj.) has also held that a statement which has not been tested through the procedure contemplated under Section 138B, cannot be treated as conclusive evidence for imposing duty. Relevant extract is reproduced below:-

> *"Much emphasis is placed on the ground of violation of principles of natural justice, as penalty imposed here is based on the statement of co-accused and without any independent corroborative evidence. Application of Section 9D of the Central Excise Act and Section 1388 of the Customs Act is made which makes it mandatory for the Commissioner to conduct the examination-in-chief before admitting the statements and evidence. Section 1388 of the Customs Act makes it clear that no statement can be used as evidence unless and until the contents are affirmed by the person before the Commissioner."*

5.16 He placed reliance on following decisions of Tribunal holding same view:

(i) Anurag Jalan Vs. CC (Pre), Kolkata, 2022 (382) E.L.T 532 (Tri.)
(ii) Tejas Narendra Mehta Vs. CC, Ahmedabad, 2024 (388) E.L.T 207 (T)
(iii) Sh. Deept Swarup Agarwal Vs. CC 2025 (6) TMI 613 (Tri.-Delhi)
(iv) PC Jain v. CC, Kolkata -2025 (5) TMI 1626-CESTAT Kolkata

5.17 In both the cases, SCN has been issued on 07.11.2024 under Section 28(4) for demanding duty on goods imported during the period from 01.09.2022 to 06.11.2022. This Section is not invokable in these cases as there was no suppression or collusion, on their part and the Appellants had no intention to evade payment of duty and acted in a bona fide manner. Everything was on record and nothing was done without any record or in

contravention of the legal provisions. Therefore, neither the subject goods are liable for confiscation under Section 111(m) of the Customs Act, 1962 nor any RF is imposable on them. Likewise, no interest is payable under Section 28AA as demand for Customs Duty itself is not maintainable. On the above grounds, penalty is also not imposable on the appellant. In view of above submissions, they prayed to set aside the impugned Order(s) and allow their appeals.

6. During hearing, learned advocate mentioned that the department has drawn samples from the live consignments and got it tested from CRCL Vadodara, which indicated that the goods are dyed woven fabric coated with compounded polyurethane on one side. He argued that the department has wrongly applied the test results of live consignments for rejecting the declared classification of the goods, re-determining the same under CTH 59032090 and confirmed the differential customs duty on past imports. He pleads that the test results in respect of goods of one B/E cannot be applied to the goods pertaining to another B/E as held in a catena of decisions. The order of the learned adjudicating authority in both the show cause notices for the past consignments is therefore, not legally correct and tenable.

6.1 For the live consignments, Learned Advocate pleads that the test reports provided by CRCL Vadodara clearly indicate coating with compounded PU whereas the relevant notification no. 14/2022-Customs (ADD) dated 20.05.2022, provides for imposition of anti-dumping duty on goods falling under CTH 59032090 & 56039490 @ 0.46 USD per meter subject to satisfying the condition of country of origin, country of export and producer. He argues that the above notification does not cover compounded Polyurethane as found by the CRCL on testing of samples and therefore, the impugned goods imported by the appellants do not attract any anti-dumping duty.

6.2 Learned advocate submits that notification dated 21.02.2022 giving final findings in case number AD(OI)-46/2020 from F. No. 6/55/2020-DGTR,

defines the product under consideration (PUC) at Sr. No. 5 of para 'C' which is reproduced below;

> *"C. PRODUCT UNDER CONSIDERATION ('PUC') AND LIKE ARTICLE*
>
> *5. At the stage of initiation, the product under consideration was defined as:*
>
> *"The product under consideration (PUC) is "Polyurethane Leather which includes amy kind of textile coated one sided or both sided with Polyurethane". The PIJC may be in rolled form or sheet form or any other form. The PUC is commercially known as PU Leather. PU Leather is also sold in market parlance by various names such as artificial PU Leather. PU Coated Fabric (Plain Printed! Embossed)/, Lining Material, Synthetic Leather Cloth, PU Synthetic Leather, Synthetic Leather Lining Dipping PU Lining etc. All such products are also included within the scope of the PUC. The PUC is used in many applications and sectors, such as furnishing... automotive, footwear, clothing, bass and wallets.*
>
> *The PUC is manufactured using the production process which comprises the coagulation or wet process and (ii) the transfer coating or dry process. The coagulation process is the key process which is followed by the finishing process called transfer coating in the manufacturing of the PUC. Therefore, <u>any entity which does not carry out both these processes together but merely carries out</u> the transfer coating process cannot be said to be a manufacturer of the PUC.*
>
> *PU Leather is primarily imported under Chapter 56 and Chapter 59 of the Customs Tariff Act. 1975 under tariff items 5603 94 00 and 5903 20 90 respectively. The imports of PUC are also observed under certain other customs tariff headings viz 3921 13 90, 5903 10 10, 5903 10 90, 5903 20 10, 5903 90 10, 5903 90 20, 5903 90 90, 5603 11 00, 5603 12 00, 5693 13 00, 5603 14 00, 5603 91 00, 5603 92 00, 5603 93 00, etc."*

6.3 Therefore, any entity which does not carry out both the processes together, but merely carries out transfer coating process, cannot be said to be a manufacturer of the PUC. To support his case, he submits a certificate dated 23.08.2022 issued by the overseas supplier to M/s JMV and Certificate dated 04.08.2022 issued to M/s Om Enterprises (as reproduced below) and mentions that the goods imported by the appellants are not covered under the said notification as coating is being done by dry method. He argues that the department's case fails on both the counts.

丽水海河国际企业有限公司
LISHUI HAIHE INTERNATIONAL ENTERPRISE CO., LTD.
地址：中国浙江省丽水市水阁工业区南城同济路75号1楼
Add: FIRST FLOOR NO. 75, TONGJI ROAD, SOUTH CITY, ECONOMIC DEVELOPMENT ZONE, SHUIGE DISTRICT, LISHUI CITY, ZHEJIANG PROVINCE, CHINA
TEL: +86 (0)578 8888 8888
FAX: +86 (0)578 8888 8889
EMAIL: info@haihe-international.com

CERTIFICATE REGARDING COMPOSITION AND MANUFACTURE OF COMPOUNDED POLYURETHANE (PU) COATED FABRIC

To Whomsoever It May Concern

We, **LISHUI HAIHE INTERNATIONAL ENTERPRISE CO., LTD** having our registered office/factory at FIRST FLOOR NO. 75, TONGJI ROAD, SOUTH CITY, ECONOMIC DEVELOPMENT ZONE, SHUIGE DISTRICT, LISHUI CITY, ZHEJIANG PROVINCE, CHINA, hereby certify that the fabric supplied by us to **JMV ENTERPRISES** under various invoices relating to textile fabric coated with a compounded polyurethane (PU) formulation. We hereby certify and confirm the following:

1. NATURE OF THE PU COATING

The coating applied to the subject fabric/textiles supplied by us is not composed merely of neat or unmodified polyurethane resin. The polyurethane resin is generally first formulated and compounded/mixed with styrene acrylic emulsions and with various ingredients, including pigments, fillers, plasticisers, cross-linking agents, catalysts, stabilisers and other functional additives, depending upon the specification and end-use requirements of the fabric.

The resulting compounded PU formulation is then applied to the textile using roller to manufacture the finished coated fabric (dry method).

2. COMPONENTS OF THE COMPOUNDED PU FORMULATION

The PU coating formulation used for the subject fabric contains polyurethane resin mixed with styrene acrylic emulsions together with one or more of the following categories of ingredients:

Component	Function in compounded PU formulation
Polyurethane resin/prepolymer mixed with styrene acrylic emulsions	Primary polymeric binder/base material
Pigments and colourants	Imparting the required colour, shade, opacity and visual characteristics
Fillers (such as calcium carbonate, silica, talc, clay or other mineral fillers, as applicable)	Modifying coating body, density, hardness, surface characteristics and other physical properties
Plasticisers/flexibilisers	Controlling flexibility, softness and elongation of the coating
Cross-linking agents/curatives	Promoting cross-linking/curing of the polyurethane system and improving mechanical, chemical and durability properties
Catalysts/accelerators	Controlling and/or accelerating the curing or cross-linking reaction
Stabilisers	Improving thermal, UV, oxidative and/or storage stability
Dispersing/wetting agents	Assisting uniform dispersion of pigments and fillers and improving coating application
Defoamers/anti-foaming agents	Controlling foam formation during mixing and coating
Thickeners/rheology modifiers	Controlling viscosity and rheological characteristics of the coating formulation
Flame-retardant additives (where applicable)	Providing the required flame-retardant properties
Matting agents (where applicable)	Controlling surface gloss and appearance
Adhesion promoters (where applicable)	Improving adhesion between the coating and textile substrate
Other functional additives	Providing specific technical properties required for the finished fabric

The precise ingredients and quantities may vary according to the particular product specification, colour, coating thickness and intended end use.

3. COMPOUNDING PROCESS

The polyurethane resin is generally mixed with styrene acrylic emulsions and thereafter with the required pigments, fillers, plasticisers, cross-linkers/curatives, catalysts and other additives in accordance with our manufacturing formulation. The ratio of polyurethane resin and acrylics various case to case and based on orders from customers.

The ingredients are subjected to controlled mixing and dispersion so as to produce a homogeneous compounded PU coating formulation having the required viscosity, rheology, colour, solids content and performance characteristics.

Accordingly, the coating applied to the fabric is a formulated and compounded polyurethane system containing multiple incorporated ingredients and is not simply a layer of unmodified polyurethane resin.

4. APPLICATION TO TEXTILE FABRIC

The compounded PU formulation is applied to the textile by dry process as compounded PU slurry which is generally mixed with styrene acrylic emulsions is applied directly to the fabrics/textile using roller.

Following application, the coated fabric is subjected to appropriate drying, heating during which the PU coating mixed with styrene acrylic emulsions forms the required continuous polymeric coating layer. We also sometimes do lamination with PVC film thereafter.

5. ROLE OF PIGMENTS, FILLERS AND ADDITIVES

90

90

The pigments, fillers and other additives are intentionally incorporated into the PU formulation before the coating is applied to the fabric. They are not merely contaminants or incidental substances. These ingredients are incorporated to achieve specified physical, chemical and aesthetic properties of the finished coating, including:

- Colour and opacity
- Coating thickness and body
- Flexibility and elongation
- Hardness and abrasion resistance
- Adhesion to the textile substrate
- Resistance to water, chemicals, UV exposure and weathering
- Surface finish and appearance
- Thermal stability
- Other performance characteristics required for the intended end use

6. TYPICAL FORMULATION

Material	Typical function
Polyurethane resin / styrene acrylic emulsions	Binder
Pigments / colourants	Colour / opacity
Mineral fillers	Body / physical properties
Plasticisers / flexibilisers	Flexibility
Cross-linkers / curatives	Cross-linking / curing
Catalysts	Curing reaction
Dispersants / wetting agents	Dispersion
Stabilising agents	Stability
Defoamers	Foam control
Rheology modifiers / thickeners	Viscosity control
Other functional additives	Product-specific properties

7. CONFIRMATION

We specifically confirm that the PU coating used in the manufacture of the subject fabric is a compounded polyurethane formulation which is generally incorporating styrene acrylic emulsions, pigments, fillers and other functional additives, including, as applicable, plasticisers, cross-linking agents, catalysts, stabilisers, dispersing agents, defoamers and rheology modifiers.

The finished goods are therefore manufactured by applying the above compounded PU formulation generally mixed with styrene acrylic emulsions to the textile substrate and subsequently drying/curing the coating.

This certificate is issued on the basis of our manufacturing specifications, formulation records and technical records relating to the subject product. The information stated herein is true and correct to the best of our knowledge and belief.

FAVOUR OF JMV ENTERPRISES | INVOICE NO: HH22347 | DATED: 23.AUG.2022

Authorized Signatory:
LISHUI HAIHE INTERNATIONAL ENTERPRISE CO., LTD

OFFICIL SEAL / 盖章：

丽水市海合进出口贸易有限公司
LISHUI HAIHE INTERNATIONAL ENTERPRISE CO.,LTD.

Signature / 签字盖章

傅为建

87 87

温州龙升国际贸易有限公司
WENZHOU LONGSHENG INTERNATIONAL TRADE CO., LTD.
Global Trade & Quality Import Export Solutions
地址 / ADDR:
Room 202, No.10, Xingshu Road, Lucheng, Wenzhou, Zhejiang, China
联系 / CONTACT:
TEL: +86 (577) 8800-8888 EMAIL: info@wzlongsheng.com

CERTIFICATE REGARDING COMPOSITION AND MANUFACTURE OF COMPOUNDED POLYURETHANE (PU) COATED FABRIC

To Whomsoever It May Concern

We, **WENZHOU LONGSHENG INTERNATIONAL TRADE CO., LTD** having our registered office/factory at ROOM 202, NO.10, XINGSHU ROAD, LUCHENG, WENZHOU, ZHEJIANG, CHINA, hereby certify that the fabric supplied by us to **OM ENTERPRISES** under various invoices relating to textile fabric coated with a compounded polyurethane (PU) formulation.

We hereby certify and confirm the following:

1. Nature of the PU coating

The coating applied to the subject fabric/textiles supplied by us is not composed merely of neat or unmodified polyurethane resin. The polyurethane resin is generally first formulated and compounded/mixed with styrene acrylic emulsions and with various ingredients, including pigments, fillers, plasticisers, cross-linking agents, catalysts, stabilisers and other functional additives, depending upon the specification and end-use requirements of the fabric.

The resulting compounded PU formulation is then applied to the textile using roller to manufacture the finished coated fabric (dry method).

2. Components of the compounded PU formulation

The PU coating formulation used for the subject fabric contains polyurethane resin mixed with styrene acrylic emulsions together with one or more of the following categories of ingredients:

Component	Function in compounded PU formulation
Polyurethane resin/prepolymer mixed with styrene acrylic emulsions	Primary polymeric binder/base material
Pigments and colourants	Imparting the required colour, shade, opacity and visual characteristics
Fillers (such as calcium carbonate, silica, talc, clay or other mineral fillers, as applicable)	Modifying coating body, density, hardness, surface characteristics and other physical properties
Plasticisers/flexibilisers	Controlling flexibility, softness and elongation of the coating
Cross-linking agents/curatives	Promoting cross-linking/curing of the polyurethane system and improving mechanical, chemical and durability properties
Catalysts/accelerators	Controlling and/or accelerating the curing or cross-linking reaction
Stabilisers	Improving thermal, UV, oxidative and/or storage stability
Dispersing/wetting agents	Assisting uniform dispersion of pigments and fillers and improving coating application
Defoamers/anti-foaming agents	Controlling foam formation during mixing and coating
Thickeners/rheology modifiers	Controlling viscosity and rheological characteristics of the coating formulation
Flame-retardant additives (where applicable)	Providing the required flame-retardant properties
Matting agents (where applicable)	Controlling surface gloss and appearance
Adhesion promoters (where applicable)	Improving adhesion between the coating and textile substrate
Other functional additives	Providing specific technical properties required for the finished fabric

The precise ingredients and quantities may vary according to the particular product specification, colour, coating thickness and intended end use.

3. Compounding process

The polyurethane resin is generally mixed with styrene acrylic emulsions and thereafter with the required pigments, fillers, plasticisers, cross-linkers/curatives, catalysts and other additives in accordance with our manufacturing formulation. The ratio of polyurethane resin and acrylics varies case to case and based on orders from customers.

88

88

The ingredients are subjected to controlled mixing and dispersion so as to produce a homogeneous compounded PU coating formulation having the required viscosity, rheology, colour, solids content and performance characteristics.

Accordingly, the coating applied to the fabric is a formulated and compounded polyurethane system containing multiple incorporated ingredients and is not simply a layer of unmodified polyurethane resin.

4. Application to textile fabric

The compounded PU formulation is applied to the textile by dry process as compounded PU slurry which is generally mixed with styrene acrylic emulsions is applied directly to the fabrics/textile using roller.

Following application, the coated fabric is subjected to appropriate drying, heating during which the PU coating mixed with styrene acrylic emulsions forms the required continuous polymeric coating layer. We also sometimes do lamination with PVC film thereafter.

5. Role of pigments, fillers and additives

The pigments, fillers and other additives are intentionally incorporated into the PU formulation before the coating is applied to the fabric. They are not merely contaminants or incidental substances.

These ingredients are incorporated to achieve specified physical, chemical and aesthetic properties of the finished coating, including, as applicable:

- Colour and opacity
- Coating thickness and body
- Flexibility and elongation
- Hardness and abrasion resistance
- Adhesion to the textile substrate
- Resistance to water, chemicals, UV exposure and weathering
- Surface finish and appearance
- Thermal stability and other performance characteristics required for the intended end use

6. Typical formulation

For the relevant product, the compounded PU coating formulation may contain the following categories of materials:

Material	Typical function
Polyurethane resin / styrene acrylic emulsions	Binder
Pigments / colourants	Colour / opacity
Mineral fillers	Body / physical properties
Plasticisers / flexibilisers	Flexibility
Cross-linkers / curatives	Cross-linking / curing
Catalysts	Curing reaction
Dispersants / wetting agents	Dispersion
Stabilising agents	Stability
Defoamers	Foam control
Rheology modifiers / thickeners	Viscosity control
Other functional additives	Product-specific properties

7. Confirmation

We specifically confirm that the PU coating used in the manufacture of the subject fabric is a compounded polyurethane formulation which is generally incorporating styrene acrylic emulsions, pigments, fillers and other functional additives, including, as applicable, plasticisers, cross-linking agents, catalysts, stabilisers, dispersing agents, defoamers and rheology modifiers.

The finished goods are therefore manufactured by applying the above compounded PU formulation generally mixed with styrene acrylic emulsions to the textile substrate and subsequently drying/curing the coating.

This certificate is issued on the basis of our manufacturing specifications, formulation records and technical records relating to the subject product. The information stated herein is true and correct to the best of our knowledge and belief.

FAVOUR OF: OM ENTERPRISES
INVOICE NO: LS22 – 4035
DATED: 04.AUG.2022

6.4 Learned Advocate further pleads that the impugned orders have been passed by the adjudicating authority by relying upon the statements recorded of various persons under Section 108 of the Customs Act, 1962, without complying with the mandatory requirements of section 138B of the Customs Act, 1962. He also challenges invocation of extended period on the ground that the appellants had no intention to evade payment of duty and have acted in a bona fide manner. Therefore, confiscation of imported goods, imposition of redemption fine and the penalties are liable to be set aside. He also pleads for setting aside penalties imposed on other appellants being not legally tenable.

7. Arguing for revenue, learned AR submitted that the department has acted in this case on the basis of credible intelligence. The officers examined two containers of live consignments imported by M/s JMV Enterprise under SEZ bill of Entry no. 1015305 dated 27.10.2022 and 1015832 dated 04.11.2022, drawn the representative sample(s) of the imported goods and also got it tested from CRCL Vadodara which showed that the subject imported goods were "*coated with compounded PU*". Similar testing was done on goods imported by M/s Om Enterprises and those available at the premises of M/s Kishor Traders Mumbai, where the rest was found to be same by CRCL. The revenue conducted investigation in the matter by conducting searches at various premises and recording the statements of various concerned persons including Shri Kapil Kotia, Shri Sanjeev Shekhar Malhotra, Shri Sabu George, Shri Lakshya Lamba and others. The revenue by way of credible evidence has established that the appellants had mis-declared description of goods and wrongly classified them, to evade levy of anti-dumping duty. He emphasizes that the appellant's intent to evade customs duty is evident from the fact that IEC of M/s. JMV Enterprise and M/s. Om Enterprises were used by various domestic traders namely M/s. Jai Maa Enterprises, M/s. A.N. Enterprises, M/s Shree Ganesh Overseas etc., who were the actual beneficiary of the imported

goods. These traders were placing orders directly on the foreign suppliers and were also receiving the import documents which were given to Shri Kapil Kotiya to complete all the customs formalities through dummy IECs. Import under these IECs was being managed by Shri Kapil Kotia, Proprietor of M/s Ocean Logistics, who had full control and handled all the formalities including bank accounts of M/s JMV Enterprise.

7.2 Learned AR further submitted that:-

a) The Adjudicating Authority observed that some of these statements were recorded following searches conducted at their respective premises which served as crucial downstream evidence confirming actual receipt, invoicing, and use of mis-declared imported goods which establish a clear link between the SEZ warehouse consignments and the domestic supply chain, explaining how the same mis-declared goods entered and circulated in the domestic market.

b) Shri Sanjeev Shekhar Malhotra (Proprietor of M/s. JMV Enterprises) in his statement dated 27.11.2022 admitted that the firm was set up in 2020 on the directions/guidance of Shri Kapil Kotiya who helped him open the firm, handled all formalities such as IEC registration and bank accounts in exchange of a remuneration of Rs.15,000/- per month. He admitted signing papers, cheques, and RTGS forms on the directions of Shri Kapil Kotiya, without knowing the firm's buyers, employees, or operations. Shri Kotiya had once mentioned the name of M/s. Jai Maa Enterprises and M/s. Bhagwati Enterprises as buyers. He said that M/s. JMV Enterprise only acted as an intermediary for imports, while Shri Kapil Kotiya handled all the affairs. After reviewing CRCL reports, he acknowledged that the imported goods declared as “Textile Coated Fabric” or "Felt Woven Coated Fabric were actually PU-coated or non-woven fabrics and admitted that Shri Kotiya had full control while he was just a name lender earning a fixed

salary. These admissions clearly prove that M/s. JMV Enterprises was a dummy IEC firm, fully controlled by Shri Kapil Kotiya.

c) Shri Kapil Kotiya (Proprietor of M/s. Ocean Logistics) admitted to have managed operations of M/s. JMV Enterprise, M/s. OM Enterprises, and M/s. J Bridge Worldwide which shows that he was using their IECs to import goods on behalf of domestic traders. He explained that the domestic traders placed orders with overseas suppliers and forwarded import documents to him. They took delivery of goods as a local purchase once customs clearance was done under dummy IEC. He named M/s. Jai Maa Enterprises, M/s. Skytex, and M/s. Madhav Life as users of IEC of M/s. JMV and confirmed that the proprietor of M/s. JMV Enterprises was not involved in import of goods except signing the documents for which he was paid Rs. 15,000/- per month. That the domestic traders earlier imported PU-coated fabric but after ADD was imposed, they stopped direct imports and started using dummy IEC firms. He also admitted that later bills of entry No. 2019872 dt. 14.12.2022 & 2019670 dt. 12.12.2022 filed after seizure of goods, had described the goods as "PU Coated Fabric under CTH 59032090 based on trader’s instructions, even though the bill of lading showed "Fabric" under CTH 59119090. He also admitted handling customs clearance, sales, and banking for M/s. JMV Enterprise and M/s. OM Enterprises and that M/s. Jai Maa Enterprises and M/s. Skytex were the real owners of the imported goods. Shri Kapil Kotiya provided Annexure-A wherein consignment wise details of actual beneficial owners were mentioned. The bank guarantee for provisional release of the seized goods was funded by the actual owners. The Adjudicating Authority has correctly held Shri Kotiya as the mastermind, coordinator between the actual importer and dummy IEC holder.

d) Shri Ankur Mahajan (Proprietor of M/s. Bhagwati International) in his statement dated 28.12.2022 stated that his family firms viz. M/s. Jai Maa

Enterprises, M/s. Bhagwati International, M/s. Tayesha International traded in PU-coated, PVC-coated, glitter, non-woven, and bonded fabrics. They stopped direct imports in 2018 and began buying from M/s. JMV Enterprises, M/s. OM Enterprises, and M/s. Alpha Impex. He did not know the IEC holder of M/s. JMV and dealt only with Shri Kapil Kotiya who arranged door step delivery. He admitted placing order for supply of PU-coated fabric from Chinese suppliers like Volcano International and Cinorich. The invoices of M/s. JMV declared the goods as "Textile Coated Fabric though these were PU-coated. That he knew levy of ADD on PU-coated fabric from China, but used false description in his resale invoices, to maintain consistency. This confirms that M/s. Jai Maa Enterprises was the real importer who were fully aware of levy of ADD on goods. This was also confirmed by Shri Arun Jyoti Mahajan, Partner of M/s. Jai Maa Enterprise.

e) M/s. JMV Enterprises were used as a means for import, however, the actual control, order placement was done by the domestic traders like M/s. Jai Maa Enterprises and M/s. Skytex. Shri Kapil Katiya designed and managed this setup by offering a fixed sum to the Proprietor of M/s JMV for signing the documents while Shri Kapil Kotiya managed all key operations, including handling of bank accounts, preparing and submitting documents, and dealing with customs clearance. He found that this setup allowed the real beneficiaries to place orders directly with Chinese suppliers using the name of the dummy firm. This modus helped in shielding the domestic traders from having direct interaction with customs authorities and show the dummy importers as consignee on record while the real traders controlled the transactions right from placing supply order to delivery.

f) The domestic traders i.e. M/s. Jai Maa Enterprises and M/s. Skytex directly negotiated and placed orders for PU-coated or non-woven fabrics with Chinese suppliers, received the import documents (i.e. Bills of Lading.

Invoices, and Packing Lists) from the suppliers and handed them over to Shri Kapil Kotiya for Customs Clearance. The invoices issued in the name of M/s. JMV declared the goods description as Textile Coated Fabric, even though they were PU-coated.

g) The imports were deliberately mis-declared to customs as "Felt Woven Coated Fabric" or "Textile Coated Fabric under CTH 59119090, instead of correctly declaring them as PU-coated fabrics under CTH 59032090, to evde payment of applicable Customs Duty and Anti-Dumping Duty. CRCL test reports confirmed that the goods were polyurethane coated fabrics. Shri Kapil Kotiya's admission that as per the traders instructions later Bills of Entry were correctly declared as "PU Coated Fabric under CTH 59032090. The mis-declaration in respect of description and classification shown in Bills of Lading establishes that this was not a mistake but a deliberate act to evade payment of customs duty and ADD.

h) The Adjudicating Authority after taking into account CRCL Test Reports and supportive corrobotive statements has noticed that PU is formulated with additives (e. g. Pigments, stabilizers, solvents, fillers like calcium carbonate or cross-linkers) to enhance applicability, durability or performance in fabric coatings, which does not change the base chemical identity as it remains polyurethane. Explanatory Notes to Heading 5903 explicitly cover "textile fabrics impregnated, coated, covered or laminated with plastics (e. g. polyvinyl chloride), and polyurethane is listed as a type of plastic, without qualifiers for purity or compounding. Additives in chemical compounds do not alter classification if the essential character remains unchanged. Each of the test report consistently states that the fabric is "woven or knitted, coated with compounded polyurethane (PU)," which establishes polyurethane as coating material. The fact that the coating compound contains pigments or fillers, does not alter its polymeric identity. Accordingly, applying GIR 1 and GIR 3(b), the goods must be

classified according to the component giving them their essential character, which is the polyurethane coating. He held that goods subject shipments have coating of polyurethane, and so, these cannot be placed in "other" category under CTH 5903 9090 and are classified under CTH 5903 2090. He also held that the goods which were found to be "non-woven fabrics", were rightly classifiable under CTH 56039490. Accordingly, the imported goods fall within the purview of Notification No. 14/2022-Customs (ADD) dated 20.05.2022 for levy of Anti-Dumping Duty.

i) The Adjudicating Authority, after detailed discussions, has held that extended period under Section 28(4) of the Customs Act, 1962 has rightly been invoked and confirmed the differential demand of duty along with interest under Section 28AA. After analysing the roles played by various noticees, the learned Commissioner imposed penalty on them.

8. We have heard both the sides and also perused various submissions written as well as oral.

8.1 We find that in respect of both the importers namely M/s. JMV Enterprise and M/s. Om Enterprise, the department has examined live consignments and also drawn the representative samples for testing. In the case of **M/s. JMV Enterprise**, five representative samples were drawn from the goods covered by SEZ bill of entry no. 1015305 dated 27.10.2022 and one from the goods belonging to SEZ B/E No. 1015832 dated 04.11.2022. M/s JMV had declared description of goods in both the B/Es as "Felt Woven Caoted Fabric" which on testing by CRCL Vadodara were found to be coated with compounded Polyurethane. The outcome of testing of each sample and nature of goods is as under:-

Sr. No	Test Memo No. and Date	Test Report No. and Date	Appropriate description of goods as per Test Reports
1	20/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3030/01. 122022 Dtd-26.122O22	Woven Coated Fabric coated with compounded Polyurethane
	21/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3031 /01. 12.2022 Dtd-26.12.2022	Woven Coated Fabric coated with compounded Polyurethane

	22/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3032/01. 12.2022 Dtd-26.12.2022	Knitted Fabric having raised fibers, coated with compounded polyurethane
	23/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3033/01. 12.2022 Dtd-26.12.2022	Knitted Fabric having raised fibers, coated with compounded polyurethane
	24/JMV/1015305 Dated-18.11.2022	RCL/AH/DRI/3034/01. 12.2022 Dtd-26.12.2022	Dyed Woven Fabric, Coated with compounded Polyurethane on one side
2	25/JMV/1015832 Dated-18.11.2022	RCL/AH/DRI/3035/01. 12.2022 Dtd-26.12.2022	Dyed Woven Fabric, Coated with compounded Polyurethane on one. side

8.2 **Outcome of sample testing in case of M/s Om Enterprises**

Bill of Entry No. & Date	**Type of goods**	**Test Memo No. & Date**	**Test Result as per CRCL Report**
1015307 dated 27.10.2022	Type-1	9/OM/1015307 dated 18.11.2022 [RUD-4]	Dyed Woven Fabric Coated with Compounded Polyurethane on one side.
	Type-2	10/OM/1015307 dated 18.11.2022 [RUD-5]	Dyed knitted Fabric having raised fibres on one surface, coated with compounded polyurethane on one side.
	Type-3	11/OM/1015307 dated 18.11.2022 [RUD-6]	Dyed viscose cut Fibres passed on Polyurethane Layer forming check pattern.
	Type-4	12/OM/1015307 dated 18.11.2022 [RUD-7]	White knitted Fabric coated with compounded polyurethane laminated with PVC film.
	Type-5	13/OM/1015307 dated 18.11.2022 [RUD-8]	Non-Woven Bonded Fabric coated with Compounded Polyurethane on one side.
	Type-6	14/OM/1015307 dated 18.11.2022 [RUD-9]	White knitted Fabric having raised Fibres, coated with Compounded Polyurethane.
1015306 dated 27.10.2022	Type-1	15/OM/1015306 dated 18.11.2022 [RUD-10]	White knitted Fabric having raised Fibres on one surface, coated with Compounded Polyurethane on one side.
	Type-2	16/OM/1015306 dated 18.11.2022 [RUD-11]	White knitted Fabric coated with Compounded Polyurethane on one side.
	Type-3	17/OM/1015306 dated 18.11.2022 [RUD-12]	Dyed Non-Woven fabric coated with compounded polyurethane on one side.
	Type-4	18/OM/1015306 dated 18.11.2022 [RUD-13]	White knitted Fabric having raised fibres on one side, coated with compounded polyurethane having laminated with PVC film.
	Type-5	19/OM/1015306 dated 18.11.2022 [RUD-14]	Dyed knitted Fabric having raised fibres on one surface, coated with compounded polyurethane laminated with PVC film.
1014717 dated 17.10.2022	Type-1	35/OM/1014717 dated 17.10.2022 [RUD-15]	Dyed knitted Fabric having raised fibres, of polyester filament yarns, coated with compounded polyurethane on one side, having shining surface.
	Type-2	36/OM/1014717 dated 17.10.2022 [RUD-16]	Dyed knitted fabric having raised fibres on one side, of polyester filament yarns, coated with compounded polyurethane on one side having glossy surface laminated with polyurethane film.
	Type-3	37/OM/1014717 dated 17.10.2022 [RUD-17]	Dyed self-designed knitted fabric of polyester filament yarns backed with white non-woven fabric of polyesters fibres, both layers are pasted together with polymeric

Bill of Entry No. & Date	Type of goods	Test Memo No. & Date	Test Result as per CRCL Report
			material based on compounded polyurethane.
	Type-4	38/OM/1014717 dated 17.10.2022 [RUD-18]	Dyed knitted fabric made of polyester filament yarns, coated with compounded polyurethane on one side.
1015514 dated 31.10.2022	Type-1	57/OM/1015514 dated 19.01.2023 [RUD-21]	Dyed Woven Fabric coated with compounded polyurethane and laminated with transparent polyester film on one side.
	Type-2	58/OM/1015514 dated 19.01.2023 [RUD-22]	White knitted Fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	59/OM/1015514 dated 19.01.2023 [RUD-23]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-4	60/OM/1015514 dated 19.01.2023 [RUD-24]	White knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
	Type-5	61/OM/1015514 dated 19.01.2023 [RUD-25]	Dark Grey knitted fabric of Polyester filament yarns & coated with compounded polyurethane on one side having glossy surface laminated with PVC film.
1015513 dated 31.10.2022	Type-1	54/OM/1015513 dated 19.01.2023 [RUD-26]	White knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-2	55%OM/1015513 dated 19.01.2023 [RUD-27]	Dyed knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
	Type-3	56/OM/1015513 dated 19.01.2023 [RUD-28]	Dyed knitted fabric having raised fibres on one surface coated with compounded polyurethane on one side.
1015612 dated 05.11.2022	Type-1	62/OM/1015612 dated 19.01.2023 [RUD-29]	Dark Grey knitted fabric having raised fibres on one side of Polyester filament yarns & coated with compounded polyurethane on other side.
	Type-2	63/OM/1015612 dated 19.01.2023 [RUD-30]	White knitted fabric having raised fibres on one side, of polyester filament yarns, coated with Compounded Polyurethane on other side.
1015777 dated 05.11.2022	Type-1	64/OM/1015777 dated 19.01.2023 [RUD-31]	White knitted fabric having raised fibres on one side, of polyester filament yarns, coated with Compounded Polyurethane on other side.
	Type-2	65/OM/1015777 dated 19.01.2023 [RUD-32]	Dark Grey knitted fabric having raised fibres on one side of Polyester filament yarns & coated with compounded polyurethane on other side.
	Type-3	66./OM/1015777 dated 19.01.2023 [RUD-33]	Woven Fabric of spun yarns of viscose & coated with compounded polyurethane on the one side having glossy surface, laminated with PVC film.

8.3 The officers also conducted search at the godown/shop of M/s Ritika Traders and M/s Kishor Traders located at MG/54/1/10, Thakkar Bapa Nagar,

CS Road, Chembur, Mumbai and took stock of available goods under Panchnama dated 16.12.2022. On questioning, the owner Shri Kishor Kumar Ramuram Naval accepted to have purchased PU coated fabric, flock fabric, Glitter fabric etc. from M/s Jai Maa Enterprises, M/s Bhagwati International & M/s Tayesha International. The officers took representative samples of the goods available in the said premises under panchnama dated 16.12.2022 and sent to CRCL Vadodara for testing. The test reports given by CRCL in respect of these samples is reproduced below, which indicates the goods to be coated with compounded PU on one side.

Sr. No	**Test Memo No. and Date**	**Test Report No. and Date**	**Declared Description in sale invoice of M/s Jai Maa Enterprises**	**Appropriate description of goods as per Test Reports**
1.	52/KISHOR/54 dated 19.12.2022	RCL/AZU/DRI/3351/22. 12.2022 dt. 04.0 1.2023 [RUD No.39]	Textile coated Fabric (Invoice No.-2022-23/ 1045 dt. 12.11.2022)	Dyed Knitted Fabric having. raised fibers on one surface, coated with compounded polyurethane on one side.
2.	52/KISHOR/47 dated 19.12.2022	RCL/AZU/DRI/3352/22. 12.2022 dt. 04.0 1.2023 [RUD No.39]	Glitter Fabric (Invoice No. 2022- 23/1312 dt. 23.10.2022)	White Knitted Fabric having raised fibers on one surface, coated with compounded polyurethane on one side.

8.4 From the above test reports, it is clear that the goods imported by M/s. JMV Enterprise & M/s Om Enterprises were coated with compounded PU on one side, which the importers had wrongly declared as "felt woven coated fabric" and classified under CTH 59119090/ Textile coated fabric under CTH 59119090. Chapter Heading 5911 of the Customs Tariff Act, 1975 covers "Textile products and articles, for technical uses, specified in note 8 to this chapter." As per Note 8 to chapter 59, *Heading 5911 applies to the following goods, which do not fall in any other heading of Section XI:*

> *(a) Textile products in the piece, cut to length or simply cut to rectangular (including square) shape (other than those having the character of the products of headings 5908 to 5910), the following only:*

(i)Textile fabrics, felt and felt lined woven fabrics, coated, covered or laminated with rubber, leather or other material of a kind d for card clothing, and similar fabrics of a kind used for other technical purposes, including narrow fabrics made of velvet impregnated with rubber, for covering weaving spindles (weaving beams):

(ii) Bolting cloth

(iii) Filtering or straining cloth of a kind used in oil presses or the like, of textile material or of human hair:

(iv) Flat woven textile fabrics with multiple warp or weft, whether or not felted, impregnated or coated, of a kind used in machinery or for other technical purposes:

(v) Textile fabrics reinforced with metal, of a kind used for technical purposes;

(vi) Cords, braids and the like, whether or not coated, impregnated or reinforced with metal, of a kind used in industry as packing or bricating materials:

(b) Textile articles (other than those of headings 5908 to 5910) of a kind used for technical purposes (for example, textile fabrics and felts endless or fitted with linking devices, of a kind used in paper making or similar machines (for example, for pulp or asbestos-cemen gaskets, washers, polishing discs and other machinery parts).”

Further, subheading of this heading at single dash (-) level namely CTH 591190 covers “others” under which products like “paper maker’s felt, woven” “Gaskets, washers, polishing discs and other machinery parts of Textile articles” fall under CTH 59119020. After these specifically described goods, there is a residuary entry of “other” under CTH 59119090 used by M/s JMV Enterprise and M/s Om Enterprise to classify their imported goods. We find that CTH 5911 does not cover goods coated with PU as the same are covered under CTH 5903 covering “Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902”. Under this entry, there are three single dash (-) entry i.e. CTH 590310 for coating with polyvinyl chloride, CTH 590320 for coating with polyurethan and the third one for other. The single dash (-) entry under CTH 590320 has two triple dash (---) entries

i.e. one for imitation leather fabrics, of cotton under CTH 59032010 and the second for "other" under CTH 59032090.

8.5 We find that the learned adjudicating authority has clearly and categorically analyzed the test reports of the samples drawn from the live consignments, also considered the representation and reply of the importers and other noticees and then, based on the rules of interpretation, rejected the declared classification of goods under CTH 59119090 and re-determined their classification under CTH 59032090. He also held the goods imported by the appellants M/s. JMV Enterprise and M/s Om Enterprises covered under Notification No. 14/2022-Cus (ADD) dated 20/05/2022 and leviable to anti-dumping duty. As regards the past consignments, learned adjudicating authority also decided against the appellants by heavily relying on the test reports in respect of samples drawn from the live consignments and the statements recorded of various persons. He held that the past consignments of goods imported by M/s JMV Enterprise and M/s Om Enterprises are correctly classified under CTH 59032090 and are leviable to anti-dumping duty. This finding has been challenged by the appellants on two grounds i.e. (a) Non-adherence to the provisions of Section 138B of the Customs Act by the learned adjudicating authority and (b) test reports in respect of live consignments, cannot be used for determining nature and classification of past imports in absence of any clear-cut finding by any laboratory.

8.6 We agree with the pleadings of the learned Advocate that the test reports of the live consignments cannot be used to fasten duty liability in respect of past consignments imported by the appellants. The learned Adjudicating authority has relied on the statements of various persons to hold that the goods imported in past, were also PU coated and accordingly confirmed the duty demand alongwith interest and also imposed penalties. We however find that these statements have not been tested by the learned adjudicating authority on their admissibility, as per provision of Section 138 B

of the Customs Act, 1962. There is also no other evidence to link recovery of goods at the buyer's end with the consignments imported by M/s JNV Enterprise & M/s Om Enterprises. Learned Advocate has relied on various decisions to plead that demand on past consignment is unsustainable as the test reports cannot apply to the past consignments. We find that this Tribunal in the case of M/s Stonex India Pvt Ltd Vs. Commissioner of Mundra reported at 2024 (10) TMI 1716, in para 5.7 and 5.8 has observed as under :-

> *"5.7 Without prejudice to above, we find that demand of customs duty of past imports under Annexure B and C to SCN is also not sustainable on the ground that goods were not tested by department in respect of past imports in respect of which demand is made in Annexure-B and C to SCN. It is settled position of law that each Bill of entry is a separate assessment and test report of one bill of entry cannot be made applicable to the goods imported under another bill of entry. Each consignment must be assessed separately, especially for natural mined rocks, where properties vary significantly. Further, foreign suppliers analysis reports clearly provides dolomite as 92% to 99%. Further, goods from very same foreign suppliers were tested and found as dolomite by other customs laboratories and Geological survey of India, Nagpur. Reliance is placed upon decision in case of* ***Shalimar Paints Ltd. v. Commissioner — 2001 (134) E.L.T. 285*** *(Tribunal) wherein Hon'ble Cestat held has under:*
>
> > *"7. The first grievance of the appellant is that though the classification lists in question covered about 30 products, test reports relatable to only 4 products are available and there is absolutely no material against the appellant in so far as the remaining 26 products are concerned. He submits that presuming though denying that the test reports of CRCL are correct, the same can be made the basis for classifying only those products to which the test report relates. The same cannot be made applicable to the other items for which no samples were either drawn or if samples were drawn, there is no test report. For this proposition he relied upon the Tribunal's decision in the case of S.D. Kemexc Indus. v. CCE - 1995 (75) E.L.T. 377. In the said decision assessee was manufacturing 22 different types of chemicals. The Department drew samples only from two types of chemicals. It was held that test reports can be made applicable only for the two products for which the samples were drawn and not to the rest of the products. Following the ratio of the above decision we fully agree with the contention of the ld. adv. that the test reports, if at all could be made applicable only to the 4 items in question to which it belonged to. The balance 26 products would be classified under Heading 27.15 on the basis of the declarations made by the appellant which is based upon their technical literature as well as the production records*

and for which the Revenue has not adduced any evidence to shift the classification to heading 32.10."

Above decision was affirmed by Hon'ble Supreme court in case of ***[Commissioner v. Shalimar Paints Ltd. - 2002 (145) E.L.T. A242].***

5.8 In case of ***Commissioner of customs (preventive) Vs Marks Marketing P Ltd. Reported as 2017 (346) ELT 144*** *(Tri - Del) wherein Hon'ble Cestat held as under:*

"9. We find no merit in the above statement of the Revenue. Admittedly, the change in the classification of the present import of fabrics is based upon the test result by the chemical examiner whereas it is not disputed that no such test results were carried out in respect of previous imports. ***The law on the issue is well settled. The test reports of the samples drawn from a particular consignment cannot be applied to the previous consignments.*** *Merely because the deponent of the statement has agreed before the Customs that the previous consignment may be of the same composition, by itself does not establish that the previous consignments were admittedly of the same composition. The expression used by the deponent is 'may be' and he himself was not sure of the same fact. The composition of the fabrics may vary or change from the consignment to consignment inasmuch as there is not much difference in the wool content of the fabrics. Revenue has not given us any reason as to why the ratio of Tribunal's decision in the case of Shalimar Paints (supra) which stands upheld by the Hon'ble Supreme Court, is not applicable to the facts of the present case.*

Apart from the decision of Shalimar Paints, we note that there are number of other precedent decisions holding to the same effect."

Therefore, in absence of any test report in respect of past consignments and non-fulfilment of this mandatory requirement under Section 138B of the Act, statements tendered by various persons, some of which are also in appeal before us, cannot be taken as credible evidence to fasten the duty liability on the appellants.

8.7 The appellants have also argued that their goods are coated with compounded Polyurethane and therefore, are outside the purview of Notification No. 14/2022-Cus (ACC) dated 20.05.2022 as this notification provides for levy of anti-dumping duty on Textile coated with polyurethane falling under CTH 56039490 & 59032090. During oral hearing, appellants were asked to produce technical literature to support their above contention which

they failed to submit. From the certificate(s) provided by the Overseas Suppliers, we observed that in *"compounding process, Polyurethane resin is generally mixed with styrene acrylic emulsions and thereafter, with the required pigments, fillers, plasticizers, cross-linkers/curatives, catalysts and other additives in accordance with their manufacturing formulation. The ratio of polyurethane resin and acrylics varies from case to case and based on order from customers. The ingredients are subjected to controlled mixing and dispersion so as to produce a homogeneous compounded PU coating formulation having the required viscosity, rheology colour, solids content and performance characteristics."* The above clearly reveals that mixing of various ingredients has been done to achieve a certain degree of quality and texture of the finished goods on which PU coating is done. This mixing however, does not change the very characteristic of Polyurethane and, is only intended to produce and supply goods as per the customer's orders. The same is also revealed from open source enquiry which indicates that Polyurethane has immense applications in such as Foam application; coatings, Adhesives, sealants and Elastomers; Construction and Insulation, Automotive and Industrial; Footwear and Consumer products; PU leather etc and each application requires a different category of Polyurethane for which additives are required. We therefore, reject the above contention of the appellant that coating with compounded Polyurethane Anti-dumping notification.

8.8 Learned Advocate has also relied on certain case laws to plead that Anti-dumping duty can be imposed only on the product specially identified and investigated under Notification. In the case of M/s JH- Welltec Machines (India) Pvt Ltd reported at 2023 (11) TMI 1087- CESTAT Mumbai ruled in favour of the appellant as the issue involved was levy of Anti-dumping duty on incomplete articles. The Tribunal held that incomplete articles cannot be treated as complete machines and levied anti-dumping duty which was to be collected on complete machine. In the case of Andhra Petrochemicals Ltd Vs.

Designated Authority reported at 2006 (4) TMI 510, the issue before CESTAT New Delhi was challenge of final finding of DGTR and Anti-dumping Notification which is not in the present case and therefore, this decision has no applicability. The issue before CESTAT Mumbai in the case of Philips India Ltd reported at 2004 (166) ELT 49 (Tri.- Mumbai) was imposition of anti-dumping duty on parts of CFL imported by the appellants whereas, the Notification provided anti-dumping duty on compact fluorescent lamp with choke and without choke. We therefore find that reliance of learned Advocate on these cases, is not helpful as the facts in the present case are clearly distinguishable. Therefore, while upholding misclassification of imported goods in respect of live consignments of the appellants including their confiscation and redemption fine, we set aside the duty demand in respect of past consignments which is not supported by credible evidence such as test reports etc. We also uphold reassessment of goods under CTH 59032090 and levy of antidumping duty along with interest.

8.9 Learned Advocate has also taken one more ground to challenge the orders of the learned Adjudicating Authority. He mentions that as per DGTR Notification dated 21.02.2022, the product under consideration *"(PUC) is manufactured using the production process which comprises (i) the coagulation or wet process and (ii) the transfer coating or dry process. The coagulation process is the key process which is followed by the finishing process called transfer coating in the manufacturing of the PUC. Therefore, any entity which does not carry out both these processes together but merely carries out the transfer coating process, cannot be said to be manufacturer of the PUC."* He takes support of two certificates issued by the overseas suppliers as reproduced in para 6.3 above, to plead that the imported goods, in their case, are manufactured using dry process and therefore, are outside the ambit of DGTR investigation and not leviable to anti-dumping duty. We however, find that at para C3 dealing with examination by the authority at Sr. No. 13

have confirmed the scope of the product under consideration which is reproduced below :-

> *"The product under Consideration (PUC) is "Polyurethane Leather which includes any kind of textile coated on sides or both sided with Polyurethane". The PUC may be in rolled from or sheet from or any other from. The PUC is commercially known as PU Leather. PU Leather is also sold in market parlance by various names such as artificial PU Leather, PU Coated Fabric (Plain/Printed/Embossed), Lining Material, Synthetic Leather Cloth, PU Synthetic Leather, Synthetic Leather Lining, Dipping PU Lining etc. All such products are also included within the scope of the PUC. The PUC is used in many applications and sectors, such as furnishing, automotive, footwear, clothing, bags and wallets."*

Further, the Designated Authority during investigation process, had taken submissions/representation from the domestic industry, overseas manufacturer's/ suppliers and the interested parties and after analysing their statements, came to conclusion in para 'J' dealing with post-disclosure comments". The relevant portion of para J(4)(f) is reproduced below:-

> *"As regards the submission made for the exclusion of PUC manufactured using dry technique, the Authority notes that none of the producers / exporters from the subject country or the association of the exporters participating in this investigation have mentioned about the new technique involving only the dry process. This signifies that there is no difference in the manufacturing process and the product produced is commercially and use-wise substitutable with the PUC manufactured using the two-step process. The user industry requesting for exclusion of products manufactured using dry process has not provided any substantial evidence even in their post-disclosure submissions to establish the difference in the products manufactured using the two techniques. Therefore, the Authority finds that the products manufactured using either of the technology are "like articles" and thus, finds no merit in such a claim for exclusion of products manufactured using dry technique only."*

In view of the above, contention of the appellant(s) for excluding their goods from levy of Anti-dumping duty on this ground is rejected. Otherwise also, the relevant ADD notification dated 20.05.2022 issued under the Customs Act, does not refer to any particular process which the goods should have undergone, for levy of antidumping duty.

8.10 In view of the above discussions, we hold that classification of imported goods determined by the learned Adjudicating Authority in respect of live

consignment under CTH 59032090 is correct. We also upheld confiscation of the said goods under Section 111(m) of the Customs Act, 1962 and the imposition of redemption fine in lieu of confiscation. We also uphold his order for reassessment of said goods and recovery of differential customs duty. For the past consignments, we set aside confiscation of the said goods, demand of differential duty and interest on the ground that the department has failed to produce any credible evidence by way of test reports, etc to establish nature and description of the said goods. Regarding penalties imposed on various appellants, we find that the learned Adjudicating Authority has examined their role in detail in the light of various evidences, and imposed penalties on them for contravention of various Sections/Provisions of the Customs Act, 1962. In the instant case, since duty demand for the past period has been set aside and the demand, confiscation etc. for the live consignments have only been upheld, we order for proportionate reduction in penalty on the appellants. We accordingly, order for reduction of penalties on various appellants as detailed below: -

- In respect of Order-in-Original dated 06.11.2025 passed in the case of M/s Om Enterprises

Sr. No.	Appellant	Penalty
1.	M/s Om Enterprises	Penalty of Rs. 6 lakh under Section 112(a)(ii)
2.	Shri Hari Kishan (Prop. Of M/s Om Enterprises)	Penalty of Rs. 2 lakh under Section 117
3.	Shri Arun Jyoti (Partner M/s Jai Maa Enterprises)	Penalty of Rs. 10 lakh under Section 114AA
		Penalty of Rs. 3 lakh under Section 112(b)(ii)
4.	Shri Kapil Kotiya (Prop. of M/s Ocean Logistics)	Penalty of Rs. 8 lakh under Section 114AA
		Penalty of Rs. 6 lakh under Section 112(b)(ii)
5.	Shri Sabu George (G-card holder)	Penalty of Rs. 1 lakh under Section 117
6.	M/s Jai Maa Enterprise	No penalty under Section 114A

- In respect of Order-in-Original dated 04.11.2024 passed in the case of M/s JMV Enterprise

Sr. No.	Appellant	Penalty
1.	M/s JMV Enterprise	Penalty of Rs. 2 lakh under Section 112(ii)
2.	Shri Sanjeev Shekhar Malhotra (Prop. of M/s JMV Enterprise)	Penalty of Rs. 1.5 lakh under Section 117
3.	Shri Arun Jyoti Mahajan (Partner of M/s Jai Maa Enterprises)	Penalty of Rs. 8 lakh under Section 114AA
		Penalty of Rs. 5 lakh under Section 112(b)(ii)
4.	Shri Lakshay Lamba (Partner of M/s Skytex)	Penalty of Rs. 1.5 lakh under Section 114AA
		Penalty of Rs. 10,000/- under Section 112(b)(ii)
5.	Shri Kapil Kotiya (Proprietor of M/s Ocean Logistics)	Penalty of Rs. 8 lakh under Section 114AA
		Penalty of Rs. 6 lakh under Section 112(b)(ii)
6.	Shri Sabu George (G-card holder)	Penalty of Rs. 1 lakh under Section 117
7.	M/s Jai Maa Enterprise	No penalty under Section 114A
8.	M/s Skytex	No penalty under Section 114A

9. Appeals are partly allowed, in above terms.

(*Order Pronounced in the open court on 19.11.2026*)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha