

		OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPECIAL ECONOMIC ZONE, MUNDRA-370421 PHONE NO.02838-271165/66/67/68 FAX.No.02838-271169/62
A	File No.	F.No.VIII/48-228/DE/Saurashtra/16-17
B	Order-in-Original No.	MCH/ADC/GPM/37/2018-19
C	Passed by	GIRRAJ PRASAD MEENA Additional Commissioner of Customs Custom House, Mundra
D	Date of Order	27.04.2017
E	Date of Issue	22.06.2018
F	SCN NO. & Date	B/Es No. (i) 8900211/15.03.2017 (ii) 8899126/15.03.2017 & (iii) 8899125/15.03.2017.
G	Name of the Noticee / Importer	M/s Sudershan Paper Mart, 904, Chawri Bazar Delhi 110006.

1. This Order - in - Original is granted to the concerned free of charge.
2. Any person aggrieved by this Order-in-Original may file an appeal under Section 128 (1) of the Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA”

Having his office at 7th Floor, Mridul Tower, Behind Times of India, Ashram Road, Ahmedabad-380009.

3. Appeal shall be filed within sixty days from the date of communication of this order.
4. The appeal should bear Court Fee Stamp of Rs.5/- (Rupees Five only) under Court Fee Act and it must be accompanied by –
 - (i) A copy of the appeal, and
 - (ii) This copy of the order or any other copy of this order, which must bear a Court Fee stamp of Rs.5.00 (Rupees Five only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
5. An appeal against this order shall lie before the Commissioner (Appeals) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute or penalty, are in dispute or penalty, where penalty alone is in dispute.
6. Proof of payment of duty/interest/fine/penalty etc. should be attached with the appeal memo.
7. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

Sub: Mis-declaration of “Stock Lot of Printed Base Paper for Décor (Non Prime Quality Mixed Size and GSM” imported by M/s. Sudershan Paper Mart, 904, Chawri Bazar Delhi 110006 under B/Es No. (i) 8900211/15.03.2017 (ii) 8899126/15.03.2017 & (iii) 8899125/15.03.2017.

BRIEF FACTS OF THE CASE:

M/s. Sudershan Paper Mart, 904, Chawri Bazar Delhi-110006 (hereinafter referred to as "the importer") having IEC No. 0504019546 have imported "Stock Lot of Rejected Printed/Unprinted Paper (Mix Size, Mix GSM & Colour)" classified under CTH-48114100 (hereinafter referred to as "the imported item") of the description, quantity & value as detailed herein below (**as Annexure-A**), under the cover of Bills of Lading No. (i) DEHAM115758 dated 05.02.2017 and Invoice No. 17009 dated 23.01.2017 from M/s. STM International OHG, Sangerstrasse 7, 67659-kaiserslautern, Germany (ii) DEHAM111010 dated 05.02.2017 and Invoice No. 17006 dated 20.01.2017 from M/s. STM International OHG, Sangerstrasse 7, 67659-kaiserslautern, Germany and (iii) DEHAM115757 dated 05.02.2017 and Invoice No. 17011 dated 24.01.2017 from M/s. STM International OHG, Sangerstrasse 7, 67659-kaiserslautern, Germany and had filed three Bills of Entry No. (i) 8900211/15.03.2017 (ii) 8899126/15.03.2017 & (iii) 8899125/15.03.2017 respectively through Customs Broker M/s. Aman Seatrans Private Limited, Gandhidham, Kutch-370201, Gujarat (hereinafter referred to as the CB) for clearance of the said imported items.

Annexure-A

Sr. No.	B/E No. & Date	Description of the imported item	CTH No.	Quantity [in MTS]	Assessable value [in Rs.]
01.	8900211/15.03.2017	"Stock Lot of Rejected Printed/Unprinted Paper (Mix Size, Mix GSM & Colour)"	48114100	21.93	495206.00
2	8899126/15.03.2017		48114100	21.75	491142.24
3	8899125/15.03.2017		48114100	21.84	493174.55
		Total		65.52	1479522.79

The aforesaid Bills of Entry were assessed on second check basis. During the course of examination by the officers of Docks Examination, it was noticed that the imported item was not as per the declaration and the same appeared to be as "Base Paper in different Size and GSM". It was also noticed that the importer had declared the import price/value of the cargo @ 309 Euro/MT (USD 326/MT) whereas contemporary price/value at which same cargo was assessed at Custom House, Mundra is @ 1418 EURO/MT (USD 1500/MT).

Further, the importer via their CB has requested to the Deputy Commissioner (DE), Custom House, Mundra to re-examination of cargo and the cargo was re-examined on request of the importer. During the re-examination of the said cargo was found as "Printed Decorative Paper 72 GSM" as printed on the paper reels.

The Cargo again re-examined on 26.04.2017 by the Superintendent (Docks) on 26.04.2017 and found to be "Printed Base Paper apparently for decorative purpose mix size and GSM (60-80) not prime quality". During the re-examination, excess weight of 0.0196 Mts was found against declared weight of 65.52 MTS.

In view of above, it appears that the importer had mis-declared and undervalued the said imported item in order to evade payment of duty and thus had violated the provisions of Section 46 (4) of the Customs Act, 1962, therefore, the imported item appears to be liable for confiscation under the provisions of Section 111 (m) of the Customs Act, 1962. Further, for such an act of violation of provisions of Customs Act, the importer appears to have made them liable for penalty under the provisions of Section 112 of the Customs Act, 1962.

The importer vide letter dated 04.04.2017 has informed that they do not want any show cause notice and personal hearing in the matter.

FINDINGS:

I have carefully gone through the Bill of Entry, Bill of Lading, Invoice, Packing List, noting of the officers of Dock Examination. I find that the importer vide letter dated 04.04.2017 have requested for waiver of Personal Hearing and Show Cause Notice in the matter hence, after waiving the requirement of SCN & PH, I proceed further on the basis of available records.

I find that following three points are required to be examined in respect of the items imported under Bills of Entry No. (i) 8900211/15.03.2017 (ii) 8899126/15.03.2017 & (iii) 8899125/15.03.2017:

1. Whether the value declared by the importer is proper or is required to be rejected and re-assessed under the provisions of Custom Valuation (Determination of Price of Imported Goods) Rules, 2007;
2. Whether the imported items are liable for confiscation under the provisions of Section 111 (m) of the Customs Act, 1962;
3. Whether the importer is liable for imposition of penalty under the provisions of Section 112 (a) of the Customs Act, 1962.

I find that the importer had imported "Stock Lot of Rejected Printed/ Unprinted Paper (Mix Size, Mix GSM & Colour)" and had filed Bills of Entry No. (i) 8900211/15.03.2017 (ii) 8899126/15.03.2017 & (iii) 8899125/15.03.2017 for clearance of the same. During examination, it was noticed that the imported item was not as per the declaration and the same appeared to be as "Stock Lot of Printed Base Paper for Décor (Non Prime Quality Mixed Size and GSM". It was also noticed that the "Stock Lot of Printed Base Paper for Décor (Non Prime Quality Mixed Size and GSM" was assessed @ EURO 996.00 PMT (i.e. INR 71,263.80/-PMT) vide Bills of Entry No. (i) 8900211/15.03.2017 (ii) 8899126/15.03.2017 & (iii) 8899125/15.03.2017. Accordingly, to determine the actual price of the cargo imported, import price of contemporary data of NIDB was also taken into consideration. The details of NIDB data are given as under (as Annexure-B):

Annexure-B

Sr. No.	CH	B/E No.	Date	COO	Description of Goods	Unit Ass. Value/Kg (In Rs.)
1	INNSA1	8696225	27.02.2017	CN	Stock lot of base paper Mix Size, Mix GSM	85.66062
2	INNSA1	8182718	13.01.2017	CN		86.88
3	INNSA1	8034668	31.12.2016	CN		86.67063
4	INNSA1	7940599	23.12.2016	CN		86.67062

I find that the said item was imported @ EURO 280.00 PMT (INR 20,034.00/PMT), however, it was found that similar items were being imported @ EURO 996.00 PMT (i.e. INR 71,263.80/-PMT). Therefore, it is concluded that the importer had failed to declare correct description and value of the imported item, hence, the value declared by the importer is liable to be rejected under the provisions of Rule 12 of the Custom Valuation (Determination of Price of Imported Goods) Rules, 2007 and to be determined as per Rule 5 of the Custom Valuation Rules. Accordingly, the value was to enhance from USD 280.00 PMT (INR 20,034/PMT) to USD 996.00 PMT (i.e. INR 71,263.80/-PMT).

CONFISCATION OF IMPORTED ITEM:

As regards confiscation of the imported item, I find that the importer had imported "Stock Lot of Printed Base Paper for Décor (Non Prime Quality Mixed Size and GSM" by way of mis-declaring the same as "**Stock Lot of Rejected Printed/Unprinted Paper (Mix Size, Mix GSM & Colour)**" in contravention to the provisions of import policy and undervalued the same import item in order to evade payment of duty in contravention of provisions of Section 46(4) of the Customs Act, 1962. I find that as per the Section 111 (m) of the Customs Act, 1962, if any goods are imported contrary to any prohibition imposed by or under the Customs Act or any other law for the time being in force, then the goods are liable for confiscation. For ready reference, I reproduce the provisions of Section 111(m) of the Customs Act, 1962 herein below:-

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

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

In view of above, I find that the importer had imported "Base Paper" in the name of "Uncoated Printing Paper". However, the items were imported by way of mis-declaring the same as Uncoated Printing Paper. Therefore, the imported items are liable for confiscation under the aforementioned provisions of Section 111 (m) of the Customs Act, 1962. I therefore order accordingly.

IMPOSITION OF PENALTY UPON THE IMPORTER:

I find that as per the Section 112 (a) of the Customs Act, 1962, any person who does any act which would render such goods liable for confiscation under Section 111 of the Customs Act shall be liable to penalty not exceeding the value of the goods or five thousand rupees, whichever is greater. For ready reference, I reproduced provisions of Section 112 (a) of the Customs Act, 1962-

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

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

I find that the importer had imported "Stock Lot of Printed Base Paper for Décor" by way of mis-declaring the same as "Stock Lot of Rejected Printed/ Unprinted Paper (Mix Size, Mix GSM & Colour)" and undervalued the same import item in order to evade payment of duty in convention of provisions of Section 46(4) of the Customs Act, 1962. Hence, the goods have been held liable for confiscation, the importer is liable for penalty under the Section 112 (a) of the Customs Act, 1962. I therefore order accordingly.

In view of above, I pass following order:

::ORDER::

- (i) I reject the declared value of the imported item under the provisions Rule 12 of the Custom Valuation (Determination of Price of Imported Goods) Rules, 2007 and enhance the value of the imported item under the provision of Rule 5 of the Custom Valuation (Determination of Price of Imported Goods) Rules, 2007 and order for recovery of duty along with interest calculated on the enhanced value.
- (ii) I order for confiscation of offending goods valued at Rs. 47,71,822/- under the Section 111 (m) of the Customs Act, 1962. However, I give an opportunity to the importer to redeem the same on payment of redemption fine of Rs.2,50,000/- (Rs. Two Lacs Fifty Thousand only) under Section 125 of the Customs Act, 1962.
- (iii) I impose penalty of Rs.1,00,000/- (Rs. One lakh only) upon the importer M/s Sudershan Paper Mart, 904, Chawri Bazar, Delhi-110006. under Section 112 (a) of the Custom Act, 1962.

Meena
22/06/18

(G P MEENA)

Additional Commissioner' (Import)
Customs House, Mundra.

F.No.VIII/48-228/DE/Saurashtra/16-17

Mundra, Date: 22.06.2018

By R.P.A.D

To,
M/s Sudershan Paper Mart,
904, Chawri Bazar,
Delhi 110006.

Copy to:-

1. The Deputy Commissioner (RRA), Custom House, Mundra.
2. The Deputy Commissioner (Recovery), Custom House, Mundra.
3. The Guard File.