



OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,  
CUSTOM HOUSE: MUNDRA, KUTCH  
MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421  
Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62

A	File No.	VIII/48-22/Adj/ADC/MCH/2018-19
B	Order-in-Original No.	MCH/ADC/PK/ 53/2019-20
C	Passed by	Shri Prashant Kaduskar Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra
D	Date of Order	23.08.2019
E	Date of Issue	23.08.2019
F	SCN NO. & Date	F. No. S/15-23/Enq.-NFPL/SIIB/CHM/2017-18 dated 31.07.2018
G	Noticee/ Party/ Importer/ Exporter	1) M/s Delta Agrotech Private Limited, 5/25, Ramesh Nagar, New Delhi-110015 2) Shri Praveen Kumar Rana, Director, M/s Delta Agrotech Private Limited, 5/25, Ramesh Nagar, New Delhi-110015.

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।  
This Order - in - Original is granted to the concerned free of charge.
2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-  
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“ सीमा शुल्क आयुक्त (अपील), कांडला  
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009”  
“THE COMMISSIONER OF CUSTOMS (APPEALS), KANDLA  
Having his office at 7<sup>th</sup> Floor, Mridul Tower, Behind Times of India,  
Ashram Road, Ahmedabad-380 009.”

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।  
Appeal shall be filed within sixty days from the date of communication of this order.
4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-  
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –
  - (i) उक्त अपील की एक प्रति और  
A copy of the appeal, and
  - (ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।  
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।  
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.
6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।  
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.
7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।  
An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Subject :- F. No. S/15-23/Enq.-NFPL/SIIB/CHM/2017-18 dated 31.07.2018 issued to M/s Delta Agrotech Private Limited, 5/25, Ramesh Nagar, New Delhi-110015.

**BRIEF FACTS OF THE CASE:**

M/s Delta Agrotech Private Limited, 5/25, Ramesh Nagar, New Delhi-110015 (hereinafter referred to as “exporter”) is engaged in the export of MEN T-Shirts (Knitted) Dyed/Printed [of blended containing cotton and man-made fiber (READYMADE GARMENTS POLYESTER COTTON BLENDED)] under export promotion schemes, i.e., the Duty Drawback (henceforth referred to as “DBK”) and benefits of Merchandise Exports From India Scheme (henceforth referred to as “MEIS”), Rebate of State levies (henceforth referred to as “ROSL”) from the Customs port, Mundra.

2. The Customs Broker M/s. Narendra Forwarders Pvt. Ltd., on behalf of the exporter having IEC No.0503081655 presented following Shipping Bills for Let Export Order of the cargo declared as "MEN T-Shirts (Knitted) Dyed/Printed [of blended containing cotton and man-made fibre (READYMADE GARMENTS POLYESTER COTTON BLENDED)]" classified under CTH 61099090 details are as under:-

Sr. No.	SB No. & Date	Declared FOB Value (Rs.)	No. of PCS	Declared DBK (610902A) 9.6%/45/PCS Rs.	ROSL Claimed Value (0.39%)	MEIS 2%	Total Benefits In Rs.
1	7797626 /03.08.2017	4853940	10400	465978.24	18930.37	97078.8	581987.406
2	7797022 /03.08.2017	5115306	10960	491069.376	19949.69	102306.1	613325.1894
3	7797629 /03.08.2017	5040630	10800	483900.48	19658.46	100812.6	604371.537
4	7797680 /03.08.2017	5003292	10720	480316.032	19512.84	100065.8	599894.7108
5	7797690 /03.08.2017	4898746	10496	470279.5776	19105.11	97974.91	597359.5974
6	7797691 /03.08.2017	5107838	10944	490352.4864	19920.57	10215.8	612429.8242
	<b>TOTAL</b>	<b>30019752</b>	<b>64320</b>	<b>2881896.19</b>	<b>117077</b>	<b>600395</b>	<b>3599368.26</b>

3. Acting on an intelligence, the cargo covered under the aforesaid shipping bills were examined by the officers of SIIB under Panchnama dated 08.08.2017 in presence of the independent Panchas. During the course of examination of export cargo covered under the aforesaid shipping bills, the officers of SIIB examined the export cargo physically and found it different from that declared in the aforesaid Shipping Bills, which appeared to be "100% Cotton T-Shirts" as per tag/ label stitched over the T-Shirts. To ascertain the actual and correct composition of the goods, some representative samples were drawn under the said Panchnama for detailed investigation.

3.1 During the Panchnama proceedings, the cargo covered under the aforesaid Shipping Bills were found to be 100% Cotton T-Shirts which is covered under the CTH 61091000 instead of "MEN T-Shirts (Knitted) Dyed/ Printed [of blended containing cotton and man-made fibre

(READYMADE GARMENTS POLYESTER COTTON BLENDED)]" classified under CTH 61099090 and market value of the exported goods is very low as compared to the declared value, i.e., 7.35 USD/Piece (Rs.513.4/-). Hence, the aforesaid cargo was seized vide Seizure Memo dated 08.08.2017 under the reasonable belief that the goods were mis-declared and overvalued and liable for confiscation under the provisions of Customs Act,1962 and further the said seized goods were handed over to Honeycomb CFS under Supratnama dated 08.08.2017.

**3.1** Thereafter, the exporter vide their letter dated 09.08.2017, requested for provisional release of the cargo which was accorded by the competent authority subject to Bond for full value and bank guarantee for Rs.10 Lakhs and withholding the export benefits till the investigation of the case.

**3.2** Thereafter, the export section had informed vide letter dated 30.09.2017 that the exporter had submitted their full value Provisional Bond dated 11.08.2017 for Rs.3,00,19,752/- duly accepted by the Export Section Custom House, Mundra and entry of the said made into Bond Register at Sr. No. 229 dated 29.09.2017 (Maintained in Export Section, Custom House, Mundra) and Bank Guarantee No. 16170100000026 dated 22.09.2017 for Rs.10,00,000/- (Rupees Ten Lakhs Only) issued by the Axis Bank Limited, Credit Management Centre, New Delhi, A-11, Vishal Enclave, Opp. Rajouri Garden, New Delhi-110027 in which the Bank has declared that "the validity of Bank Guarantee will be form 22.09.2017 to 22.09.2018 and they have undertaken to renew the B.G. automatically on their own till it is fully discharged by the Customs Authority (Beneficiary) or letter of Discharge is received from the Custom Authority in Writing" and the cargo covered under the aforesaid Shipping Bills were release vide this office letter dated 30.09.2017.

**3.3** Thereafter, the sealed covered samples, drawn under Panchnama dated 08.08.2017, were sent to the Textile Committee, Mumbai vide letter dated 12.09.2017 for testing of composite sample of Men T-Shirts (Knitted) Dyed/ Printed [of Blend Containing Cotton &MMF) (Ready Made Garments Polyester Cotton Blended)] with a request for testing of the following particulars:

Sr. No.	Query/for testing
1	Nature and composition of the goods i.e. whether Polyester, Cotton, nylon etc. or if blended, specify the % quantum of blending
2	Whether the goods is made up of filament yarn or staple spun yarn or if blended, specify the % quantum of blending
3	Whether texturized/non texturized yarn used, if blended, then its % composition
4	Whether bleached/unbleached /dyed/printed etc.
5	Whether knitted /woven or any other kind of fabric
6	Correct description & Proper classification of the sample i.e. HS Code

In spite of letter dated 12.09.2017 and reminder dated 15.12.2017, the test report in respect of the above exported goods had not been received from Textile Committee, Mumbai till

30.01.2018. Further, a letter F. No. Custom/tr query/2017-18 dated 13.12.2017 received from the Textile Committee, Mumbai along with Performa invoice informing that "the testing has already been carried out & test reports are ready by 9<sup>th</sup> October,2017 but the exporter has not paid the test charges & hence the test report could not be delivered". The same information received from the Textile Committee was forward to Exporter's Custom Broker but the exporter has not paid the Textile Committee charges. Thereafter, this office had issued a letter dated 19.01.2018 to the exporter with a request to pay the Testing Charges raised by the Textile Committee, Mumbai at the earliest and submit payment particulars to this office but the exporter did not pay the same till date.

3.4 During investigation, Summonses dated 04.12.2017, 18.12.2017 and 19.01.2017 were issued to the exporter, but nobody turned up till 30.01.2018, however, the exporter had submitted certain documents vide their letter dated 28.12.2017. Further, a letter dated 29.12.2017 and Summons dated 19.01.2018 was issued to M/s Shirdi Overseas Imports and Exports, 851, Industrial Area-A, Ludhiana, Punjab, however, no proper reply received from them till 30.01.2018.

#### 4. Extension of Time period under Section 110 of the Customs Act, 1962.

4.1 As the subject case was under active investigation and in order to conduct fair inquiry, to establish the correct classification and proper value of the subject cargo and to frame appropriate charges against the person/s found to be actively involved in this case, further time was required. However, as some of the person/s, stated to be directly involved in this case, were playing delay tactics and it was in the interest of the investigation that statements of these persons were to be recorded and inquiry with regard to various aspects was required to be conducted from different angles and the statements of some of the persons, stated to be directly/ indirectly involved in this offence were to be recorded, as they have not come forward even after issuance of summonses, more time was required on account of the following reasons:-

4.1.1 To ascertain the correct classification of the exported goods, the Test Report was pending at the Textile Committee, Mumbai subject to payment of requisite fees by the exporter which was already communicated to the exporter as well as CHA.

4.1.2 To record the Statement of any Authorised Person/ Director of the exporter M/s. Delta Agrotech Pvt Ltd., New Delhi.

4.1.3 To scrutinize the documents called for by one of the supplier M/s Shirdi Overseas Imports and Exports, 851, Industrial Area-A, Ludhiana, Punjab which was yet to be submitted.

4.2 Accordingly, a Show Cause Notice dated 30.01.2018 was issued by the Commissioner, Customs House, Mundra to extend the time period prescribed for issuance of Show Cause Notice under Section 110 of the Customs Act, 1962 in respect of 64320 Pcs of MEN T-Shirts (Knitted)

Dyed/Printed [of blended containing cotton and man-made fibre (READYMADE GARMENTS POLYESTER COTTON BLENDED)] which were placed under seizure vide Seizure Memo F. No. S/15-23/Enq-NFPL/SIIB/CHM/2017-18 dated 08.08.2017 by further period of six months in terms of proviso to Section 110(2) of the Customs Act, 1962 read with Section 124 of the Customs Act, 1962.

4.3 Further, the said Show Cause Notice dated 30.01.2018 was adjudicated vide Order-In-Original No. MUN-CUSTOM-000-COM-14-17-18 dated 05.02.2018 (F. No. VIII/48-30/ADJ/COMMR/MCH/17-18) by the Commissioner, Customs House, Mundra and the time period prescribed for the issuance of the Show Cause Notice under Section 124 of the Customs Act, 1962 in respect of goods which were seized vide Seizure Memo dated 08.08.2017 was extended for a further period of six months, i.e., upto **08.08.2018** under Section 110(2) of the Customs Act, 1962.

#### **5. INVESTIGATION DONE AFTER THE EXTENSION GRANTED :-**

During the investigation done so far, it was unearthed that in the subject cargo, it appeared that the exporter had:




- A. Mis-declared the goods by classifying the same under CTH 61099090 which was for T-Shirts, Singlets and other vests, knitted or crocheted – Other and the same appeared to be of Cotton with appropriately to be classifiable under CTH 6109 1000 which is for T-Shirts, Singlets and other vests, knitted or crocheted - of Cotton; and
- B. Declared the per unit price of T-Shirt as 7.35 USD (Rs. 466.725/- @63.5) which appeared to be higher.


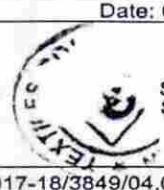
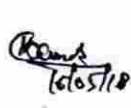
From the above, it appeared that the exporter had adopted modus operandi by which they had declared the cotton T-Shirts as Blended as the rate of Drawback on blended was higher by 2% than that of for Cotton. Also, they had over-valued the said subject cargo as all the export incentive schemes viz. Drawback, MEIS, ROSL are nothing but a particular percentage of FOB value of the said exported items and more the Value, higher will be the benefits.

#### **5.1 Rejection of CTH 6109 9090 as declared by the exporter and Re-classification of the same under CTH 6109 1000**

The CTH declared by the exporter in all the Shipping Bills was 6109 9090 with the details of cargo as "MEN T-Shirts (Knitted) Dyed/ Printed [of blended containing cotton and man-made fibre (READYMADE GARMENTS POLYESTER COTTON BLENDED)]". However, during the Panchnama proceedings on dated 08.08.2017, the same was appeared to be 100% Cotton T-Shirts and accordingly, some representative samples were drawn for detailed investigation. Further, the said samples were sent to Textile Committee, Mumbai for testing purpose vide Test Memo dated 12.09.2017, and in response, Test Report No. 0153061718-2664 and 0153061718-2665 both dated 09.10.2017 was received after the requisite payment was made

by the exporter vide Demand Draft dated 12.02.2018 and reminder letter dated 12.03.2018 by the SIIB, Customs House, Mundra. In the said Test Reports, it was informed by the Textile Committed, Mumbai that the description of the said samples is of 100% Cotton and the H.S. Code is 6109 10. The Test Results communicated vide TEST REPORTS dated 09.10.2017 are re-produced hereunder:-

<b>TEST REPORT</b>		Format No. 04/26B/03
<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  <p><b>प्रयोगशालाएँ वस्त्र समिति</b> वस्त्र मंत्रालय, भारत सरकार वस्त्र प्रयोगशाला एवं अनुसंधान केंद्र पी. बालु रोड, प्रभादेवी चौक, प्रभादेवी, मुंबई - 400 025</p> </div> <div style="text-align: center;"> <p><b>LABORATORIES TEXTILES COMMITTEE</b> Ministry of Textiles, Government of India Textile Laboratory &amp; Research Centre P. Balu Road, Prabhadevi Chowk, Prabhadevi, Mumbai-400 025.</p> </div> <div style="text-align: center;">  </div> </div> <p style="text-align: center;">Tel. : 91-22-6652 7546 / 545 / 550 / 607 Fax : 92-22-6652 7554 * Email : dlab.tc@nic.in / tclabmumbai@gmail.com * Website : www.textilescommittee.nic.in</p>		
Test Report No: 0153061718-2664		Date: 09 Oct 2017
Name & Address of Customer	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS MUNDRA 5-B, Port User Building (PUB), MP & SEZ, Port Road, Mundra Port, Mundra-370421	
Sample forwarding letter No. & date:	F. No. S/15-23/Enq-NFPL/SIIB/CHM/2017-18/3849/04.09.	
Date of receipt of sample	18 Sep 2017	
Buyers Name & address (Optional):	Delta Agrotech Private Limited	
Customer Sample No.	S/B Nos. 7797022, 7797626, 7797629, 7797680, 7797690, 7797691 All dtd. 03.08.17	Lab. Sample No.
Sample Description:	Men T-Shirts (Knitted) Dyed/Printed [of blend containing cotton & MMF] (Ready Made Garments Polyester Cotton Blended)-m/r	0153061718-2664
Sample Characteristics:	Garment(RMG)	
Date of Performance of Tests:	18 Sep 2017 - 25 Sep 2017	
TEST RESULTS		
Sample Mark	--	
Laboratory Sample No.	0153061718-2664	
1	Identification of fibre ((IS 667:1981))	
	Knitted	Cotton
2	Fibre Blend Composition (%).	
	Cotton	100
3	Whether made of staple spun yarn/Filament yarn /Staple spun Fibre	
	Knitted	Staple spun yarn
	Percentage of Staple / Filament Yarn / Staple Fibre	
	Staple spun yarn	100
4	Whether Texturised/ Non texturised yarn (In house)	
	Knitted	Not applicable
5	Whether Woven/Knitted/Non woven	Knitted
6	Whether Unbleached/Bleached/Dyed/Printed/Yarns of Different Colour (In house)	Printed
7	H S Code (EP&QA)	H.S. Code 6109.10
	Description	Cotton knitted T- Shirt
<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  <p>16/05/18</p> </div> <div style="text-align: center;"> <p><b>SAYINATHA B. SHETTY</b> Quality Assurance Officer</p> </div> <div style="text-align: right;"> <p>Signature &amp; Seal of the Officer Page 1 of 1</p> </div> </div>		
<p>Sample not drawn by Textiles Committee, Results relate only to sample tested. This test report shall not be published in any form without the explicit written consent of the Textiles Committee. Please quote Test Report No. and date for all future correspondence. Sample conditioned and tested at a temp. of 27 ± 2°C instead of 21 ± 1°C and 65 ± 2% RH whenever ASTM/AATCC test Methods adopted. Complaints if any, are to be received within 45 days of date of issue of the test report.</p>		
<p><b>Avail services of Textiles Committee - Most Reliable and Most Accurate</b></p>		

 <b>प्रयोगशालाएँ</b> <b>वस्त्र समिति</b> वस्त्र मंत्रालय, भारत सरकार वस्त्र प्रयोगशाला एवं अनुसंधान केंद्र पी. बालु रोड, प्रभादेवी चौक, प्रभादेवी, मुंबई - 400 025 Tel : 91-22-6652 7546 / 545 / 550 / 607 Fax : 92-22-6652 7554 * Email : dlab.te@nic.in / tclabmumbai@gmail.com * Website : www.textilescommittee.nic.in		LABORATORIES <b>TEXTILES COMMITTEE</b> Ministry of Textiles, Government of India Textile Laboratory & Research Centre P. Balu Road, Prabhadevi Chowk, Prabhadevi, Mumbai-400 025. * Email : dlab.te@nic.in / tclabmumbai@gmail.com * Website : www.textilescommittee.nic.in	
<b>TEST REPORT</b>		Format No. 04/26B/03	
Test Report No: 0153061718-2665		Date: 09 Oct 2017	
Name & Address of Customer	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS MUNDRA 5-B, Port User Building (PUB), MP & SEZ, Port Road, Mundra Port, Mundra-370421	 Sample Swatch	
Sample forwarding letter No. & date:	F. No. S/15-23/Eng-NFPL/SIIB/CHM/2017-18/3849/04.09.		
Date of receipt of sample	18 Sep 2017		
Buyers Name & address (Optional):	Delta Agrotech Private Limited		
Customer Sample No.	S/B Nos. 7797022, 7797626, 7797629, 7797680, 7797690, 7797691 All dtd. 03.08.17	Lab. Sample No.	
Sample Description:	Men T-Shirts (Knitted) Dyed/Printed [of blend containing cotton & MMF] (Ready Made Garments Polyester Cotton Blended)-m/r	0153061718-2665	
Sample Characteristics:	Garment(RMG)		
Date of Performance of Tests:	18 Sep 2017 - 25 Sep 2017		
TEST RESULTS			
Sample Mark	---		
Laboratory Sample No.	0153061718-2665		
1	Identification of fibre ((IS 667:1981))	Knitted	Cotton
2	Fibre Blend Composition (%)..	Cotton	100
3	Whether made of staple spun yarn/Filament yarn /Staple spun Fibre	Knitted	Staple spun yarn
	Percentage of Staple / Filament Yarn / Staple Fibre	Staple spun yarn	100
4	Whether Texturised/ Non texturised yarn (In house)	Knitted	Not applicable
5	Whether Woven/Knitted/Non woven	Knitted	
6	Whether Unbleached/Bleached/Dyed/Printed/Yarns of Different Colour (In house)	Printed	
7	H S Code (EP&QA)	H.S. Code 6109.10	
	Description	Cotton knitted T- Shirt	
		SAYINATHA B. SHETTY Quality Assurance Officer Signature & Seal of the Officer 03/10/17 9/10/17	
Sample not drawn by Textiles Committee, Results relate only to sample tested. This test report shall not be published in any form without the explicit written consent of the Textiles Committee. Please quote Test Report No. and date for all future correspondence. Sample conditioned and tested at a temp. of 27 ± 2°C instead of 21 ± 1°C and 65 ± 2% RH whenever ASTM/AATCC test Methods adopted. Complaints if any, are to be received within 45 days of date of issue of the test report. <b>Avail services of Textiles Committee - Most Reliable and Most Accurate</b>			

On the plain reading of the said Test Reports, it can be seen that the samples sent by this office in respect of the export cargo are nothing but 100% Cotton S-Shirts and same has to be correctly classifiable under H.S. Code 6109.10.

## 5.2 Rejection of declared value & Re-determination of Assessable Value:

5.2.1 Rule 3 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 provides the method of valuation. As regards the value of goods exported vide various Shipping Bills as detailed in the previous paras, it appeared that the subject exporter had inflated the price to avail more benefits of Drawback and other export benefits. Since the export goods are mis-declared and not as the declaration by exporter in respect of the quality and material, the transaction value needs to be rejected. So, the value mentioned by them requires rejection as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and

also requires re-determination under the provisions of Rule 3 of the said Rules. Further, Sub-Rule (3) of the Rule 3 states that 'if the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6'. Sub-Rules (1) and (2) of Rule 3 states that '(1) Subject to Rule 8, the value of export goods shall be the transaction value and (2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price'. From the facts of the case it appears that since the value of the export goods could not be determined under the provisions of Sub-Rule (1) and (2), as per the Rule 3(3) *ibid*, the same is required to be re-determined by following procedures laid down under Rule 4 to 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

5.2 As the goods to be exported were not Standard Goods, as required under Rule 4, the export data contained in Export Commodity Data Base (ECDB) cannot be used for comparing price of the goods of like kind and quality. Further as the subject goods were not identified specifically with any Brand, Mark, Style or other specifications, the goods exported of like kind and quality cannot be identified to compare their transaction value with the declared value of the subject goods. Hence value of the subject export goods cannot be determined under the provisions of Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

5.3 Further, during the investigation, to ascertain the actual value of the exported cargo, various documents were called for from the exporter and in response, the exporter had submitted various documents, viz., Retail Invoice issued by actual manufacturer, i.e., M/s Shirdi Overseas Imports & Exports, 851, Industrial Area A, Ludhiana. Further, documents were called for from M/s Shirdi Overseas Imports & Exports vide various Letter/ Summons, however, no proper reply was received as delay tactics were played by the said manufacturer. Thereafter, Letters dated 13.03.2018 and 03.04.2018 were issued to the concerned jurisdictional Customs Authorities with a request to arrange the said documents but no reply / response received. So, any details related with the supply made by them to the exporter so that the actual price / actual cost for the goods exported by them was not submitted by the manufacturer. So, in absence of complete details and data related to cost involved, the value cannot be determined under Rule 5 of the said Rules.

5.4 Therefore, the value of the export goods is required to be ascertained under Rule 5 i.e. Computed value method, which states that 'If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:-(a) cost of production, manufacture or processing of export goods; (b) charges, if any, for the design or brand; (c) an amount towards profit.' As per this rule, the local market price of the export goods may not be the only basis for determining the value, therefore opinion of expert, i.e., the Government Approved Valuer was taken with regard to the value of export goods. A Government Approved Valuer was appointed vide letter dated 19.04.2018 for inspection/ examination of the subject export cargo and to re-assess the value of the same. The subject cargo was examined/ inspected by M/s Valueguru Chartered Engineers & Valuers Pvt. Ltd., Mundra in the presence of authorized representative from exporter and Vide Report No. IND/MUN/080518/DEL/CUS/OPE/PUB/LCL/GOP/CER/0356 dated 08.05.2018, the Valuer had submitted their report and in the said report, the net total per T-Shirt value has been arrived at



Rs.220/-. In the said Valuation Report of the Government Approved Valuer, it had been mentioned that he had inspected the samples from the subject exported cargo and they had calculated the manufacturing cost per T-shirt as per Indian Market Price by considering 1. the cost incurred for processing the raw material, 2. cost incurred at the time of manufacturing T-Shirt, 3. minimum 20% profit per T-Shirt, and 4. Maximum Transport Charges. So, it appeared that the value determined by the Government Approved Valuer is more scientific and reliable and therefore the same were considered to arrive at Drawback and other export benefits to be allowed to the subject exporter.

**6. Recording of Statement under Section 108 of the Customs Act, 1962 of Shri Praveen Kumar Rana, Director of M/s Delta Agrotech Private Limited on 16.05.2018.**

Statement of Shri Praveen Kumar Rana, Director of M/s Delta Agrotech Private Limited was recorded on 16.05.2018 under Section 108 of the Customs Act, 1962 and the same is reproduced here-under:-

**Q.1** What is your PAN No., Aadhar Number, your profession, your firm name, the constitution of the firm & e-mail ID?

**Answer:** My PAN Card No. is AKAPR8183M and Aadhar Number is 9410 3110 6167. I am one of the Directors of M/s Delta Agrotech Private Limited, 5/25, Ramesh Nagar, New Delhi-110015 and other than me, there are two more Directors viz. Shri Arun Shrivastava and Shri Ramit Popli and the firm is functional since February-2002 and IEC was issued on 11.03.2004. I further state that the Office of the firm is situated at 5/25, Ramesh Nagar, New Delhi-110015. I further state that my email ID is [praveen1976rana@gmail.com](mailto:praveen1976rana@gmail.com).

**Q.2** What is your firm's Business profile?

**Answer:** The business of M/s Delta Agrotech Private Limited, New Delhi is trading, import and export mainly of edible oil. I further state that this was our first consignments.

**Q.3** Please state your role/designation in M/s Delta Agrotech Private Limited, New Delhi?

**Answer:** I am the Director of the firm M/s Delta Agrotech Private Limited, New Delhi having DIN 00989387. I further state I am looking after all the works related with sale and purchase of the firm along-with the Customs related work.

**Q.4** Kindly peruse the Shipping Bills numbers 7797022, 7797626, 7797629, 7797680, 7797690 and 7797691 all dated 03.08.2017 filed by you declaring the goods as MEN T-Shirts (Knitted) Dyed/Printed [of blended containing cotton and man-made fibre (READYMADE GARMENTS POLYESTER COTTON BLENDED)]. Please offer your comment.

**Answer:** I hereby peruse the Shipping Bills numbers 7797022, 7797626, 7797629, 7797680, 7797690 and 7797691 all dated 03.08.2017 filed by us declaring the goods as MEN T-Shirts (Knitted) Dyed/Printed [of blended containing cotton and man-made fibre (READYMADE GARMENTS POLYESTER COTTON BLENDED)] and in token of having seen the same, I hereby put my dated signature on the same. I also hereby confirm that the said Shipping bills had been filed by M/s Narendra Forwarder Pvt. Ltd. as CHA.

**Q.5** Please confirm the HS Code, description and Drawback Serial Number of the export goods exported vide the subject Shipping Bills?

**Answer:** I hereby confirm that we have classified the exported goods under HS Code 6109 9090 for T-Shirts, singlets and other vests, knitted or crocheted, all goods of sale value exceeding Rs. 1000 per piece – other and the Drawback Serial Number is 610902A with the applicable Drawback Rate is 9.6 % with Rs. 45/- as drawback cap per unit.

**Q.6** Kindly peruse the Panchnama dated 08.08.2017 drawn at the Honeycomb CFS, Mundra vide which samples of the export cargo was drawn and offer your comments.

**Answer:** I have gone through the Panchnama dated 08.08.2017 drawn at the Honeycomb CFS, Mundra vide which samples of the export cargo was drawn and in token of having seen and agreeing with the same, I hereby put my dated signature on the same.

**Q.7** Kindly peruse the Test Memo No. 11/SIIB/2017 dated 12.09.2017 vide which the samples were sent to Textile Committee, Mumbai and offer your comments.

**Answer:** I hereby the Test Memo No. 11/SIIB/2017 dated 12.09.2017 vide which the samples were sent to Textile Committee, Mumbai and in token of having seen and agreeing with the same, I hereby put my dated signatures on the same.

**Q.8** Kindly peruse the Test Report No. 0153061718-2664 and Test Report No. 153061718-2665 dated 09.10.2017 in respect of Memo No. 11/SIIB/2017 dated 12.09.2017 issued by Textile Committee, Mumbai and offer your comments.

**Answer:** I hereby peruse the Test Report No. 0153061718-2664 and Test Report No. 153061718-2665 dated 09.10.2017 and Memo No. 11/SIIB/2017 dated 12.09.2017 issued by Textile Committee, Mumbai and in token of having seen the same, I hereby put my dated signature on the same.

**Q.9** The HS Code and Description, as mentioned in the Test Results issued by Textile Committee, Mumbai in respect of Test Memo sent by this office are 610910 and Cotton Knitted T-Shirts respectively. However, HS Code and Description as mentioned in the Shipping Bills are 6109 9090 and T-Shirts of blend containing Cotton and Man Made Fibre respectively. Please clarify.

**Answer:** I hereby state that this was our first consignment to be exported and we had not manufactured the said exported goods but purchased the same from M/s Shirdi Overseas Import and Export, 851, Industrial Area-A, Ludhiana-141 003 and we had ordered the T-Shirts of blended material but our supplier had supplied us the 100% Cotton T-Shirts and in the Retail Invoice of the said material raised by M/s Shirdi Overseas Import and Export, Ludhiana, the details of the cargo has been mentioned as MENS T SHIRTS (KNITTED) DYED / PRINTED.

**Q.10** The unit price of the said item exported vide subject Shipping Bills had been declared as 7.35 USD (466.725 INR @ 63.5). Please produce the cost calculation sheet for the said item or details of cost of production, manufacturing or processing, transportation, design, brand, or amount towards profit margin etc. for the goods exported by you.

**Answer:** As the subject exported goods have not been manufactured by us, so we are unable to produce the cost calculation sheet for the said item or details of cost of production, manufacturing or processing, transportation, design, brand, or amount towards profit margin etc. for the goods exported by us.

**Q.11** Kindly peruse the Panchanama dated 26.04.2018 drawn at Room No. 301, PUB building, Customs House, Mundra vide which the inspection / examination of samples available at SIIB, Customs House, Mundra which were drawn vide Panchanama dated 08.08.2017 was done by M/s Valueguru Chartered Engineers & Valuers Pvt. Ltd., Mundra and offer your comments.

**Answer:** I hereby peruse the Panchanama dated 26.04.2018 drawn at Room No. 301, PUB building, Customs House, Mundra vide which the inspection / examination of samples available at SIIB, Customs House, Mundra which were drawn vide Panchanama dated 08.08.2017 was done by M/s Valueguru Chartered Engineers & Valuers Pvt. Ltd., Mundra and in token of having seen the same and confirming the facts that our representative Mrs. ReemaManojAnandani was also present during the said inspection / examination, I hereby put my dated signature on the same.

**Q.12** Kindly peruse the Report No. IND/MUN/080518/DEL/CUS/OPE /PUB/LCL/GOP/CER/0356 dated 08.05.2018 issued by M/s Valueguru Chartered Engineers & Valuers Pvt. Ltd., Mundra vide which the Net Total Price per T-Shirt (including 20% profit and transport charges) has been mentioned as Rs. 220/-. Please offer your comments.

**Answer:** I hereby peruse the Report No. IND/MUN/080518/DEL/CUS /OPE/PUB/LCL/GOP/CER/0356 dated 08.05.2018 issued by M/s Valueguru Chartered

*Engineers & Valuers Pvt. Ltd., Mundra vide which the Net Total Price per T-Shirt (including 20% profit and transport charges) has been mentioned as Rs. 220/- and in token of having seen and agreeing with the same, I hereby put my dated signature on the same.*

*I further state that as per the Invoice raised by the supplier M/s Shirdi Overseas Imports & Exports, Ludhiana, we have purchased the said T-Shirts at Unit price of Rs. 351/- and exported the same to our overseas buyer at unit price of Rs. 466.725/-. As we had not ordered 100% Cotton T-Shirts but our supplier sold us the 100% Cotton T-Shirts instead of Blended T-Shirts and there is not mistake on our part.*

7. During the course of investigation as discussed in the preceding paras, it has been found that the details in respect of the export goods have neither been submitted by M/s Shirdi Overseas Import & Export, Ludhiana (the supplier of the imported goods) nor arranged by the jurisdictional Customs Authorities. Further, vide Summons dated 30.05.2018 / 08.06.2018 and 28.06.2018 was issued under Section 108 of the Customs Act, 1962 to M/s Delta Agrotech Pvt. Ltd., 5/25, Ramesh Nagar, New Delhi-110015 to appear before Superintendent (SIIB), Customs House, Mundra on 06.06.2018 / 18/19.06.2018 and 03.07.2018 respectively to submit the details of payments made to M/s. Shirdi Overseas Import & Export, Ludhiana in respect of goods purchased from them along-with the copies of ledger, the details of Foreign Remittance / Bank Realization Certificate in respect of goods exported vide Shipping Bills No. 7797626, 7797022, 7797629, 7797680, 7797690 and 7797691 all dated 03.08.2017 and the copies of Bank Statement showing the debit/ credit entries in respect of payment made to M/s. Shirdi Overseas Import & Export, Ludhiana and foreign remittance received. In the response, neither any Authorised persons from the exporter appeared on the date informed vide Summons of various dates nor any details/ documents submitted by them.

In view of the above, it can be inferred that on record, proof / documentary evidence of neither the payment of the exported goods to the manufacturer nor the foreign remittance from the overseas buyer are available. Therefore, all the export benefits viz. Duty Drawback (DBK), Rebate of State Levies (ROSL) and Merchandise Exports for India Scheme (MEIS) should be restricted to the value as discussed in the preceding paras / as detailed in the Annexure-A to the SCN and the same should be denied.

## **8. Confiscation:**

8.1 As discussed in the preceding paras of this Notice that during the Panchnama proceedings, the cargo covered under the subject Shipping Bills were found to be 100% Cotton T-Shirts which is covered under the CTH 61091000 instead of "MEN T-Shirts (Knitted) Dyed/ Printed [of blended containing cotton and man-made fibre (READYMADE GARMENTS POLYESTER COTTON BLENDED)]" classified under CTH 61099090 and market value of the exported goods is very low as compared to the declared value i.e. 7.35 USD/Piece (Rs.513.4/-) and accordingly the aforesaid cargo was Seized vide Seizure Memo dated 08.08.2017 under the reasonable belief that the goods are mis-declared and overvalued and liable for confiscation under the provisions of Customs Act, 1962.

**8.2** The per piece price of each T-Shirt was declared as Rs.466.725 (7.35 USD @ exchange rate 63.5) in all the Shipping Bills and during investigation, as the exporter and the manufacturer, both were playing delay tactics, the valuation was done by appointing an independent Government approved valuer, M/s Valueguru Chartered Engineers & Valuers Pvt. Ltd., Mundra and after inspection / examination of the samples (which were drawn from the export cargo) on 26.04.2018 in the presence of authorised persons from the exporter's side and two independent panchas, the Valuer had submitted their report bearing Report No. IND/MUN/080518/DEL/CUS/OPE/PUB/LCL/GOP/CER/0356 dated 08.05.2018 and in the said report, the net total per T-Shirt value has been arrived at Rs.220/- which is much lower than the declared per piece price of the said T-Shirt. Also, during the investigation, ample opportunities were given to exporter to submit the required documents/ details but no response was received. Also, during the recording of the Statement under Section 108 of the Customs Act, 1962 of Shri Praveen Kumar Rana, Director of the firm on 16.05.2018, he was neither able to justify the price of Rs.7.35 USD as declared by them in the said Shipping Bills filed by them nor submitted any documentary evidence / cost calculation sheet in support of their declared price. So the mens rea of the exporter was proved that to claim the higher Drawback amount and export related benefits/ incentives, the value of the exported goods was inflated as well as the same were misclassified.

**8.3** The CTH declared by the exporter in all the Shipping Bills was 6109 9090 with the details of cargo as "MEN T-Shirts (Knitted) Dyed/Printed [of blended containing cotton and man-made fibre (READYMADE GARMENTS POLYSTER COTTON BLENDED)]". However, during the Panchnama proceedings on dated 08.08.2017, the same was appeared to be 100% Cotton T-Shirts and accordingly, some representative samples were drawn for detailed investigation and further on the reasonable belief that the same is liable for confiscation, the said cargo was placed under seizure vide Seizure Memo dated 08.08.2017. Further, the said samples were sent to Textile Committee, Mumbai for testing purpose vide Test Memo dated 12.09.2017 and in response, Test Report No. 0153061718-2664 and 0153061718-2665 both dated 09.10.2017 was received after the requisite payment was made by the exporter vide Demand Draft dated 12.02.2018 and reminder letter dated 12.03.2018 by the SIIB, Customs House, Mundra. In the said Test Reports, it was informed that the said samples were of 100% Cotton and the H.S. Code is 6109 10. The Drawback Serial Number as mentioned by the exporter in all the Shipping bills filed by them was 610902A which is for *(T-Shirts, Singlets and other vests, knitted or crocheted) Of Blend containing Cotton and Man Made Fibre* and the applicable Drawback Rate is 9.6 % with Rs. 45/- as drawback cap per unit. However, as per the results of the Test Report, the said T-Shirts are of 100% Cotton and as per the Drawback Schedule, there is specific entry for *(T-Shirts, Singlets and other vests, knitted or crocheted) of Cotton* i.e. 610901 and for 610901A, the Drawback Rate is 7.6 % with Rs. 36/- as drawback cap per unit. The applicable rate of Drawback for the period of investigation / Shipping Bills is as per Notification No. 131/2016 – (N.T.) dated 31.10.2016. The detailed table showing the applicable Rates is as under:-

Tariff Item	Description of goods	Unit	A		B	
			Drawback when Cenvat facility has not been availed		Drawback when Cenvat facility has been availed	
			Drawback Rate	Drawback cap per unit in Rs. (₹)	Drawback Rate	Drawback cap per unit in Rs. (₹)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
61080207	Of Cotton containing 1% or more by weight of spandex/lycra/elastane	Piece	8%	17	2%	4.2
61080299	Of Others	Piece	7.6%	15	2%	4
<b>6109</b>	<b>T-shirts, singlets and other vests, knitted or crocheted</b>					
610901	Of Cotton	Piece	7.6%	36	2%	9.5
610902	Of Blend containing Cotton and Man Made Fibre	Piece	9.6%	45	2.5%	11.7
610903	Of Man Made Fibres	Piece	9.8%	47	2.5%	12
610904	Of Silk (other than containing Noil silk)	Piece	7.6%	80	4.8%	50.5
610905	Of Wool	Piece	8.7%	43	3.5%	17.3
610906	Of Blend containing Wool and Man Made Fibre	Piece	8.7%	43	3%	14.8
610907	Of Cotton containing 1% or more by weight of spandex/lycra/elastane	Piece	8%	40	2%	10
610999	Of Others	Piece	7.6%	33	2%	8.7
<b>6110</b>	<b>Jerseys, pullovers, cardigans, waistcoats an similar articles, knitted or crocheted</b>					
611001	Of Cotton	Piece	7.7%	87	2%	22.6
611002	Of Blend containing Cotton and Man Made Fibre	Piece	9.5%	85	2.5%	22.4
611003	Of Man Made Fibres	Piece	9.8%	90	2.5%	23
611004	Of Silk (other than containing Noil silk)	Piece	7.6%	110	4.8%	69.5
611005	Of Wool	Piece	8.3%	130	3.5%	54.8
611006	Of Blend containing Wool and Man Made Fibre	Piece	8.3%	110	3%	39.8
611007	Of Cotton containing 1% or more by weight of spandex/lycra/elastane	Piece	8%	95	2%	23.8
611099	Of Others	Piece	7.6%	70	2%	18.4
<b>6111</b>	<b>Babies' garments and clothing accessories, knitted or crocheted</b>					
611101	Of Cotton	Piece	7.3%	29	1.8%	7.2
611102	Of Blend containing Cotton and Man Made Fibre	Piece	9.5%	36	2.5%	9.5
611103	Of Man Made Fibres	Piece	9.8%	40	2.5%	10.2
611104	Of Silk (other than containing Noil silk)	Piece	7.6%	43	4.8%	27.2
611105	Of Wool	Piece	8.7%	40	3.5%	16.1
611106	Of Blend containing Wool and Man Made Fibre	Piece	8.7%	40	3%	13.8
611107	Of Cotton containing 1% or more by weight of spandex/lycra/elastane	Piece	7.8%	37	1.8%	8.5
611199	Of Others	Piece	7.3%	33	1.8%	8.1

Further, during the recording of the Statement of Shri Praveen Kumar Rana, Director of the firm under Section 108 of the Customs Act, 1962 on 16.05.2018, the said Test Reports were perused by him and Shri Praveen Kumar Rana was totally agree with the outcomes of the said Test Reports and it was confirmed that the said export cargo consists of 100% cotton..

**8.4** From the above, it appeared that said exporter have adopted two fold modus operandi. Firstly by enhancing the value of the export cargo by inflating the per piece price of the T-Shirt by almost doubling the same and as the Drawback rate is nothing but a certain percentage of the FOB value of the export cargo which they shipped and more FOB value means more Drawback claim amount they will get. Secondly, the said cargo was actually T-Shirts of 100% Cotton and they had declared the same of Blend containing Cotton and Man Made Fibre and on comparing the Drawback Rates for both the cases, it is noticed that there is a difference of 2% and exporter had claimed 2% more Drawback then they were actually entitled. It is unearthed that the exporters have done this because the Drawback, MEIS and other export benefits are available at higher rate for the goods exported and classified under the CTH as 6109 9090 instead of 6109 10 00 . It also appeared that the exporter/s have drastically over valued their export products.

8.5 The exporter had mis-classified as well as over-valued the export cargo to claim higher amount of Drawback Rates as well as other export related benefits/ incentives and after the samples from the export cargo was Tested by Textile Committee, Mumbai for checking classification angle and inspected / examined by the Government approved valuer as discussed in the preceding paras of this Notice. In view of the facts discussed in the previous Paras and material evidence available on record, the total FOB re-determined as per Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules 2007 read with Section 14 of the Customs Act, 1962 of the exported goods has been arrived, as discussed in the preceding paras, to Rs.1,41,50,400/- (Rupees One Crore Forty One Lakh Fifty Thousand and Four Hundred only). In view of the same, the said exported goods are liable for confiscation under Sections 113(i) and 113(ia) of the Customs Act, 1962.

#### 9. Penalty:

Shri Praveen Kumar Rana, Director of the firm, under his voluntary statement dated 16.05.2018 admitted that he is looking after all the works related with the Sale and Purchase of the firm along-with Customs related work, that they have classified the exported goods under HS Code 6109 9090 for T-Shirts, singlets and other vests, knitted or crocheted, all goods of sale value exceeding Rs. 1000 per piece – other and the Drawback Serial Number is 610902A with the applicable Drawback Rate is 9.6 % with Rs. 45/- as drawback cap per unit, that the HS Code and Description, as mentioned in the Test Results issued by Textile Committee, Mumbai in respect of Test Memo sent by this office are 610910 and Cotton Knitted T-Shirts respectively, that he is unable to produce the cost calculation sheet for the said item or details of cost of production, manufacturing or processing, transportation, design, brand, or amount towards profit margin etc. for the goods exported by us, that he is totally agreed with the Report No. IND/MUN/080518/DEL/CUS /OPE/PUB/LCL/GOP/CER/0356 dated 08.05.2018 issued by M/s Valueguru Chartered Engineers & Valuers Pvt. Ltd., Mundra vide which the Net Total Price per T-Shirt (including 20% profit and transport charges) has been mentioned as Rs.220/-. Now as Shri Praveen Kumar Rana, being the director of the firm, was handling all the Customs related work and being responsible for each and everything in respect of purchase and sale of the goods in respect of export of T-Shirts, on his part that the act of mis-classification and over-valuation of the goods which leads the goods to be liable for confiscation and for the said act, **Shri Praveen Kumar Rana** is liable for penalty under Section 114(iii) / 114AA of the Customs Act, 1962.

10.1 In view of the above M/s Delta Agrotech Private Limited, 5/25, Ramesh Nagar, New Delhi-110015 was issued a SCN No. S/15-23/Enq-NFPL/SIIB/CHM/2017-18 Dated 31.07.2018 asking them to show cause to the Commissioner of Customs, Office of the Principal Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421 as to why:-

- (i) The Classification declared/ claimed under Custom Tariff Head (CTH) 6109 9090 for the export goods listed in Annexure-A attached to this Show Cause Notice should not be

- rejected and why they should not be re-classified under CTH 6109 1000 of the Customs Tariff Act, 1975,
- (ii) The FOB Value declared as Rs.3,00,19,752/- (Rupees Three Crore Thirty Six Nineteen Thousand Seven Hundred fifty Two only) for the export goods listed in Annexure-A attached to this Show Cause Notice should not be rejected under the Clause (iii) of Second Proviso to Section 14(1) of the Customs Act, 1962 read with Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and re-determined as Rs.1,41,50,400/- (Rupees One Crore Forty One Lakh Fifty Thousand and Four Hundred only) under Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules 2007 read with Section 14 of the Customs Act, 1962,
  - (iii) The goods valued as Rs.3,00,19,752/- (Rupees Three Crore Thirty Six Nineteen Thousand Seven Hundred fifty Two only) for the export goods listed in Annexure-A attached to this Show Cause Notice and re-determined as Rs.1,41,50,400/- (Rupees One Crore Forty One Lakh Fifty Thousand and Four Hundred only) should not be held liable for confiscation under Section 113 (i) & 113 (ia) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992.
  - (iv) The Shipping Bills as detailed in the Annexure-A to this Notice should not be assessed in terms of (i) to (iii) above and the Duty Drawback (DBK) amount of Rs. 28,81,896.19/-, Rebate of State Levies (ROSL) amount of Rs.1,17,077/- and Merchandise Exports from India Scheme (MEIS) benefit of Rs.6,00,395/- as claimed by the exporter (**Totaling to Rs.35,99,368.22/-**) should not be restricted to Rs.10,75,430.40/-, Rs.55,186.53/- and Rs.2,83,008/- respectively (**Totaling to Rs.14,13,624.96/-**) accordingly as detailed in the Annexure-A to this Notice and the same should not be denied as any proof / documentary evidence of neither the payment of the exported goods to the manufacturer nor the foreign remittance from the overseas buyer have been provided / made available during the investigation.
  - (v) The Penalty should not be imposed on them under Section 114(iii) of the Customs Act, 1962.

**10.2** Further, Shri Praveen Kumar Rana, Director of M/s Delta Agrotech Private Limited, 5/25, Ramesh Nagar, New Delhi-110015 was issued a SCN No. S/15-23/Enq-NFPL/SIIB/CHM/2017-18 Dated 31.07.2018 asking him to show cause to the Commissioner of Customs, Office of the Principal Commissioner of Customs, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370 421 as to why:-

- (i) The Penalty should not be imposed on him under Section 114(iii) / 114AA of the Customs Act, 1962.

**11.** Subsequently, a Corrigendum F. No. S/15-23/Enq-NFPL/SIIB/CHM/2017-18 dated 25.10.2018 to the above show cause notice was issued by the Additional Commissioner (SIIB), Custom House, Mundra, according to which the noticees have been asked to show cause to the Additional Commissioner, Custom House, Mundra.

## WRITTEN SUBMISSION

12. The noticees (M/s. Delta Agrotech Pvt. Ltd. and Shri Praveen Kumar Rana, Director of the exporter) vide letter dated 11.12.2018, submitted their written submission, wherein they have, *inter alia*, reiterated as under:

### 12.1 SUBMISSIONS QUA ALLEGATIONS OF MISDECLARATION OF DESCRIPTION OF GOODS

They have obtained an order for export of 64320 pieces of Men T-Shirts (knitted) Dyed/Printed [of Blend Containing Cotton and Man Made Fibre (Ready Made Garment Polyester Cotton)] at USD 7.35 per piece from overseas buyer and accordingly they have placed an order for purchase of said T-Shirt from one supplier of Ready Made Garments, namely, M/s Shirdi Overseas Imports & Exports, 851, Industrial Area, Ludhiana at unit price of Rs.351/- per piece and exported the same to overseas supplier at Rs.466.75 (USD 7.35 per piece) by filing six shipping bills. The copies of the invoices issued by M/s Shirdi Overseas Imports & Exports for sale of aforesaid goods and the copies of Ledger folio showing the payment against the invoices to said supplier annexed as Annexure 1 and Annexure-2 to the reply.

12.1.2 The noticee has placed purchase order of blended Men T- Shirt containing Cotton and Man Made Fibre at unit price of Rs.351/- which were accordingly supplied by M/s. Shirdi Overseas Imports & Exports and the invoices issued by supplier for the impugned goods, contrary to contention in the notice nowhere declared the goods as made up of 100% cotton T-Shirt and the Customs officers instead of getting the goods tested from Chemical Examiner, Central Revenue Control Laboratory, in terms of Chapter 3 Para 1 (iv) of Customs Appraising Manual Volume-III, sent the samples to Textile Committee, which on some payment dispute hold back the test reports for quite some time despite persuasion by the Customs Officers and therefore the noticee has bona fide doubt about the authenticity of the said test reports and requested for retesting of the samples through Chemical Examiner in terms of Para 19(1) of Chapter 3 Para 1(iv) of Customs Appraising Manual Volume-III. The noticee referred to the Para 1(iv) and Para 19(1) of Chapter-3 and shown to have attach Annexed hereto are the copies of relevant Para 1 (iv) & Para 19(1) of Chapter 3 of Appraising Manual Volume-III as Annexure-3 & Annexure-4, however, these copies have not been attached.

12.1.3 The impugned goods being blended Men T-Shirt containing cotton and Manmade fibre were appropriately classified under Chapter Heading 61099090 eligible for Drawback at 9.6% of FOB value (with a cap of Rs.45/- per piece) under Drawback schedule 610902A and accordingly for other export benefits of ROSL and MEIS and the proposed denial of the said incentives on the basis of unauthorized and biased report of Textile Committee, to whom samples were forwarded contrary to the Appraising Manual.

### 12.2 SUBMISSIONS QUA ALLEGATIONS OF MISDECLARATION OF VALUE OF IMPUGNED EXPORT CONSIGNMENTS



12.2.1 The value of impugned goods was determined on the basis of mutually agreed price with the overseas buyer namely M/s Elegant Trading FZE, UAE for export of 64320 pieces of Men T-Shirts (knitted) Dyed/ Printed [of Blend Containing Cotton and Man Made Fibre (Ready Made Garment Polyester Cotton)] under RITC code 6109 90 90 at the value of USD 7.35 per piece (Rs.466.25 @63.50) with total FOB value of Rs.3,00,19,752/- and accordingly the noticee placed an order to one of the supplier of Man Made Fabrics, namely, M/s Shirdi Overseas Imports & Exports, Ludhiana for purchase of 64320 pieces of Men T Shirt (knitted) dyed/ printed of cotton blended with Man Made fibre at rate of Rs. 351/- per piece which they had exported to overseas supplier through 06 shipping bills at the rate of Rs.466.725 per piece, referred in the Notice.

12.2.2 The price declared in shipping bills was genuine transactional value of Section 14 of the Customs Act, ibid read with Rule 3 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and being fair value, arrived at between seller and buyer, cannot be brushed aside on costing by Chartered Engineer, which was determined at the level of manufacturer of Shirts without analyzing the process of manufacture and other cost factors as well as the profit margins at different levels of supply. The noticee has argued that they were not the manufacturer but purchaser of said Shirts from another supplier of Readymade garments and therefore the price determined by the Chartered Engineer considering the cost structure of Shirts at manufacturer level cannot be applied to the impugned consignment where the Shirts were purchased by the noticee from another supplier of Ready Made Garments and therefore such garments borne the expenses and profits at different level of supply. Moreover, the report of Chartered Engineer for lacking with the basis for arriving at the cost of the fabrics and determination of various expenses, which may vary from manufacturer to manufacturer, is not reliable and cannot be made the sole reason for rejection of fair transactional value.

12.2.3 Re-determination of value on the basis of vague costing done by the Chartered Engineer is not only contrary to the statutory provisions but also contrarious to the decision of Hon'ble Tribunal in the case of M/s Parson Overseas vs. Commissioner of Customs, (Exports), Mumbai reported in 2017 (357) ELT 604 (Mumbai (Tri.) wherein Hon'ble Tribunal held that:-

*"Valuation (Customs) - Based on costing of export goods - It is not permissible as there is no statutory provision supporting it - It was more so as transaction value was available, entire transaction was concluded on declared export price and there was no allegation of money laundering - Price other than sale price can be resorted only where export price is proved to be wrong price - Suction 14 of Customs Act, 1962."*

12.2.4 The noticee have purchased the impugned T- Shirts from a supplier of readymade garments on fair transaction value and therefore, the value cannot be re-determined without rejecting the transactional value on cogent reasons and for this proposition the noticee relies on the decision of Hon'ble Tribunal in the case of R. Kishan & Co. vs. Commissioner of Customs (Exports), Nhava Sheva in 2016 (331) ELT 91 (Tri-Mumbai) wherein it was held that:-

*"Valuation (Customs) - Overvaluation of export goods - Sequential application of Export Valuation Rules - Redetermination of value of export goods done by lower*

*authorities directly jumping to Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, not proper as Rules 4 and 5 ibid not considered for such re-determination - Export goods purchased from market and proper invoices for procurement of export goods, submitted by exporter, such bills cannot be discarded summarily - Valuation Rules required to be applied in sequential manner- Rule 5 ibid, is applicable in this case and declared value is correct - Section 14 of Customs Act, 1962 Valuation (Customs) - Overvaluation of export goods -Sequential application of Export Valuation Rules - Redetermination of value of export goods done by lower authorities directly jumping to Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, not proper as Rules 4 and 5 ibid not considered for such re-determination - Export goods purchased from market and proper invoices for procurement of export goods, !Omitted by exporter, such bills cannot be discarded summarily - Valuation Rules required to be applied in sequential manner - Rule 5 ibid, is applicable in this case and declared value is correct - Section 14 of Customs Act, 1962".*

12.2.5 Rule 3 to Rule 6 of the Customs Valuation Rules ibid provide for determination of value of export goods and required to be followed sequentially as provided in sub-rule (3) of Rule 3 of the said Rules. Rule 3 provides for valuation of goods on the basis of transactional value and in case of rejection of transactional value in terms of Rule 8 of the Rules, the Rule 4 prescribed valuation on the basis of value of contemporaneous export and therefore, the re-determination of the value of impugned goods under Rule 5 overriding the provisions of Rule 4 merely on vague observation of non-availability of similar/ identical goods when the impugned goods are widely traded items, is contrary to provisions and therefore not tenable.

12.2.6 The value declared by them also satisfies the criterion of Rule 5 of the Valuation Rules i.e. computed value method though invoked in the Notice but wrongly applied taking a basis of report of Chartered Engineer who determined the cost at manufacturer's level whereas the goods were admittedly purchased by the Noticee from another supplier of Readymade Garments. The invoices (referred and enclosed as Annexure-1) under which the impugned goods were purchased at the rate of Rs.351/- per piece and after adding further cost and margin of profit sold at the rate of Rs.466.25 (USD 7.35 (@63.30) per piece. Therefore, the impugned goods not only satisfy the criteria of transactional value but also in accordance with Rule 5 of the Valuation Rules, invoked but misinterpreted by the Notice and therefore the F.O.B. value declared by the Noticee cannot be rejected, being fair and genuine transactional value of Section 14 of the Customs Act, ibid.

12.2.7 Section 75 of the Customs Act, ibid read with Rule 3 of Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 provides for allowing drawback on the export of goods at such amount, or at such rates, as may be determined by the Central Government. Entry No. 610902A of Drawback Schedule as applicable during the relevant time prescribed the drawback at the rate of 9.6% of FOB value of goods exported subject to a cap of Rs. 45/- per piece and therefore, the rate of drawback is expressed as a percentage of the free on board value or the rate per unit quantity of the export goods, as the case may be. Section 76 of the Customs Act provides for disallowing the drawback in respect of the goods whose market price is less than the amount of drawback due. The legal provisions, therefore, mandate the determination of drawback amount on the basis of FOB value of the goods but restrict it to the

extent of the market value of the said goods.

12.2.8 In the instant case the FOB price being fair transactional value, the drawback amount will be based on FOB value instead of value ascertained by Chartered Engineer particularly when the amount of drawback is less than re-determined value and therefore not hit by the bar of Section 76 of the Act.

### 12.3 SUBMISSIONS QUA PROPOSED CONFISCATION OF IMPUGNED EXPORT CONSIGNMENTS

12.3.1 The Notice proposed confiscation of goods under Section 113 (i) & (ia) of the Customs Act and the provisions of Section 113(i) (ia) of the Act, *ibid* which reads as under:-

"(i)- any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under Section 75."

(ia) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under Section 75."

12.3.2 The value, referred in Section 113(i), is defined in Section 2(41) as the value of goods determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14 and the said sub-section (1) of section 14 provides that the value of export goods shall be the transactional value of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation, where the buyer and seller of goods are not related and the price is sole consideration for sale and sub-section (2) gives power to Board for notifying the tariff value of any class of export goods having regard to the trend of value of such goods. Therefore, the transactional value consists of the following components;

- (i) The price actually paid or payable;
- (ii) The price should be for delivery of goods at the time and place of export;
- (iii) Buyer and seller should not be related person;
- (iv) *The* price should be *the* sole consideration for sale.

12.3.3 The proposed confiscation on the basis of alleged overvaluation of the impugned goods without falsifying any of the ingredient of Section 14 is contrary to the legal provisions of section 113(i) and therefore invalidate proposed confiscation of goods. The noticee has declared the genuine transactional value on agreed upon price entered between the noticee and non-related overseas buyer for delivery at the time and place of exportation and the price was the sole consideration for sale and therefore the price consisting of all the components of Section 14 (1), was genuine transactional value but the Notice without rebutting any of the component of the said value alleged mis-declaration of value on the basis of re-determination of value by Chartered Engineer, and therefore without refuting the genuineness of any of the component of transactional value declared by the noticee, the transactional value cannot be considered for rejection

and the goods cannot be proposed for confiscation and therefore, the Notice is liable to be dropped.

12.3.4 The noticee relied on the decision of Hon'ble Tribunal in the case of M/s Handtex vs. Commissioner of Customs, Raigarh [2008 (226) ELT 665 (Tri-Del)], in Para 7 of which it was held that:-

"Every change made by the assessing officer during the course of assessment whether relating to rate of duty or value need not lead to an inference of mis-declaration by the importer. If a person receives a consignment as a gift, the transaction value is nil but the same requires to be valued for the purpose of levying Customs Duty. Fixation of value or enhancement of value for assessment purpose cannot in every case lead to an inference of mis-declaration of value in the absence of any evidence to that effect. Therefore, we are unable to accept the charge of mis-declaration and consequent confiscation and imposition of penalty. We also find that the appellant has accepted for the enhancement of price stating the reasons that they were urgently in need of the consignment."

12.3.5 Though the aforesaid decision was delivered in respect of import of goods but applies mutatis mutandis to the export of goods also as the transactional value in case of import as well as export is determined having the consideration of same components of value, as defined under Section 14 of the Customs Act.

12.3.6 The noticee relied on the decisions of Hon'ble Tribunals Nitish Tools Pvt. Ltd. vs. Commissioner of Customs, Chennai [2009 (237) ELT 482 (Tri-Chennai)] in which it was again held that fixation of value or enhancement of value for the purpose of assessment could not in every case lead to an inference of mis-declaration of value in the absence of any evidence to that effect. In their case also there was no evidence of mis-declaration of value and the redetermination of value was made only on the basis of report of the Chartered Engineer and therefore in absence of any mis-declaration on their part, the goods cannot be confiscated.

12.3.7 They had purchased Blended T- Shirt containing Cotton and Manmade Fibre from the supplier of the Readymade Garments and accordingly made payment to him and therefore they strongly repudiates the purported mis-declaration of description of goods and requests the retesting of goods by Chemical Examiner, CRCL and prays Hon'ble Commissioner to grant an opportunity to them for making further submissions after re-testing of goods.

## **12.4 SUBMISSIONS QUA PROPOSED PENALTY**

12.4.1 Proposed penalty under Section 114 (iii) of the Act is contrary to the provisions of said sections which provides for imposing penalty on any person who in relation to any goods does or omits to do any act or omission which would render such goods liable for confiscation but in the present case, in absence of any evidence for establishing mis-declaration on the part of

the noticee, neither the goods are liable for confiscation nor the penalty can be imposed upon them. The noticee submits that all the declarations were made by them to the best of their knowledge and belief and based on documents and moreover none could be falsified in the Notice and therefore, the re-determination of value was sought for only on the basis of flimsy costing report of Chartered Engineer and therefore no penalty can be imposed upon them in absence of *mensrea*.

12.4.2 The noticee in support of above contention most respectfully relies, in addition to aforesaid decisions, on the decision of Hon'ble Tribunal in the case of M/s Advanced Scan Support Technologies vs. Commissioner of Customs, Jodhpur [2015 (326) ELT 185 (Tri-Del)] in which it was held that:

*"However, it is a fact that nothing has been brought out in the impugned order which shows that the appellant mis-declared the goods or declared a value which was different from the amount which was actually paid to the suppliers. Appellant even submitted a Chartered Engineer certificate from Japan in support of the valuation. It has also to be noted that although it gave consent to the valuation and gave up its right for show cause notice or personal hearing the fact remains that it was so done to avoid delay in clearance and accumulation of demurrage charges. Thus, it is simply a case of valuation dispute devoid of any mensrea on the part of the appellant. Consequently, it is a case for demand of differential duty on account of valuation rather than a case warranting confiscation and/or penalty. As has been held by Supreme Court in the case of Handtex v. CC, Raigad (supra)" every change made by the assessing officer during the course of assessment whether relating to rate of duty or value need not lead to an inference of misdeclaration by the importer."*

## **12.5 SUBMISSIONS QUA PROPOSED PENALTY ON PRAVEEN KUMAR RANA**

12.5.1 The noticee Praveen Kumar Rana submitted that neither he had made any false or incorrect statement nor any of his act made the goods liable for confiscation as the goods were purchased from a supplier of readymade garments as per Export Orders and shipping bills were filed on mutually agreed prices with overseas buyer and therefore, in view of the discussions made herein supra no penalty is imposable on him under any of the provisions of Section 114 or 114AA of the Customs Act, *ibid*.

12.5.2 The noticee, therefore, most respectfully submits that the allegations under the Notice being contumacious, perverse, based on wrong appreciation of facts and fallacious application of law should not be countenanced and dropped.

## **12.6 ANCILLARY SUBMISSIONS**

12.6.1 This is an interim reply which has been furnished on the basis of averments made in the Show Cause Notice and the information available in relied upon documents and the

noticees reserve their right to make further submissions after retesting of goods as prayed in para 4.2 above.

12.6.2 The noticee prays for a personal hearing to present their case for appreciation of their case in proper perspective for conscionable adjudication of the Show Cause Notice.

### **13. PERSONAL HEARING**

Personal hearings in the case were fixed on following dates:

- i. 24.04.2019 OR 25.04.2019 OR 26.04.2019 – at 3.00 pm (any one date)
- ii. 16.05.2019 OR 17.05.2019 OR 20.05.2019 – at 3.00 pm (any one date)
- iii. 27.05.2019 OR 28.05.2019 – at 4.00 pm (any one date)
- iv. 30.05.2019 – at 04.00 pm.
- v. 03.06.2019 OR 04.06.2019 – at 03.00 pm

Shri Abhas Mishra, Advocate remain present for hearing on 04.06.2019 on behalf of the noticees, wherein he, *inter alia*, reiterated that the process and procedure which has been adopted by the department to arrive at the final value of the Men T-Shirts is faulty. The declared value has to be negated first and then sequentially through rule 4, 5, 6, 7 etc., the residual rule can be resorted to. The department has directly gone to the residual rule under Customs Valuation Rule which is *ab initio* incorrect.

They have repeated plea for re-testing of sample in para 4.2 of the written submission. The department has not acceded to their request of re-testing by Chemical Examiner, CRCL instead of by Textile Committee.

He refers to and relied upon following case laws:

1. Parson Overseas vs. CC, (Exports), Mumbai [2017 (357) ELT 604 (Mumbai (Tri.))]
2. R. Kishan & Co. vs. CC (Exports), Nhava Sheva [(331) ELT 91 (Tri-Mumbai)]
3. Nitish Tools Pvt. Ltd. vs. CC, Chennai [2009 (237) ELT 482 (Tri-Chennai)]
4. Handtex vs. CC, Raigarh [2008 (226) ELT 665 (Tri-Del)]
5. Advanced Scan Support Technologies vs. CC, Jodhpur [2015 (326) ELT 185 (Tri-Del)]

He stated that in view of above, the value re-determined by the department is legally incorrect & he requested to drop the proceeding under the Show Cause Notice & allow the export of the goods immediately. He also referred to & reiterated the written submission dated 11.12.2018.

### **14. DISCUSSION AND FINDING**

14.1 I have carefully gone through the case records, the written submissions made by both the noticees and also record of the personal hearing and the case laws submitted.

14.2 The issues under consideration to decide in this case is whether:

- (i) The Classification declared/ claimed under Custom Tariff Head (CTH) 61099090 for the export goods listed in Annexure-A attached to the notice are required to be rejected and

- the T-shirts exported is required to be re-classified under CTH 6109 1000 of the Customs Tariff Act, 1975 or otherwise;
- (ii) The FOB value declared as Rs.3,00,19,752/- for the export goods listed in Annexure-A to the notice required to be rejected under the Clause (iii) of Second Proviso to Section 14(1) of the Customs Act, 1962 read with Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and required to be re-determined as Rs.1,41,50,400/- under Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules 2007 read with Section 14 of the Customs Act, 1962;
  - (iii) The goods valued as Rs.3,00,19,752/- for the export goods listed in Annexure-A attached to the notice and re-determined as Rs.1,41,50,400/- required to be held liable for confiscation under Section 113(i) & 113(ia) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992;
  - (iv) The Shipping Bills as detailed in the Annexure-A to the notice required to be re-assessed in terms of (i) to (iii) above and the Duty Drawback (DBK) amount of Rs.28,81,896.19/-, Rebate of State Levies (ROSL) amount of Rs.1,17,077/- and Merchandise Exports from India Scheme (MEIS) benefit of Rs.6,00,395/- as claimed by the exporter (**Totaling to Rs.35,99,368.22/-**) required to be restricted to Rs.10,75,430.40/-, Rs.55,186.53/- and Rs.2,83,008/- respectively (**Totaling to Rs.14,13,624.96/-**) accordingly as detailed in the Annexure-A to the notice and the same is required to be denied as any proof/ documentary evidence of neither the payment of the exported goods to the manufacturer nor the foreign remittance from the overseas buyer have been provided / made available during the investigation;
  - (v) M/s Delta Agrotech Pvt. Ltd., New Delhi is liable to penalty under Section 114(iii) of the Customs Act, 1962; and
  - (vi) Shri Praveen Kumar Rana, Director of M/s Delta Agrotech Private Limited, 5/25, Ramesh Nagar, New Delhi-110015 is liable for penalty under Section 114(iii) / 114AA of the Customs Act, 1962.

14.3 The noticee has argued that they have obtained an order for export of 64320 pieces of Men T-Shirts (knitted) Dyed/ Printed [of Blend Containing Cotton and Man Made Fibre (Ready Made Garment Polyester Cotton)] from overseas buyer and accordingly they have placed an order for purchase of said T-Shirt from one supplier of Ready Made Garments, namely, M/s Shirdi Overseas Imports & Exports, 851, Industrial Area, Ludhiana and exported the same to overseas supplier. The noticee has annexed the copies of the invoices issued by M/s Shirdi Overseas Imports & Exports for sale of aforesaid goods and the copies of Ledger folio showing the payment against the invoices to said supplier annexed as Annexure-1 and Annexure-2 to the reply. The noticee has further argued that they have placed purchase order of blended Men T-Shirt containing Cotton and Man Made Fibre which were accordingly supplied by M/s. Shirdi Overseas Imports & Exports. The supplier has also raised invoices for the said goods.

14.3.1 I find that the noticee have claimed to have annexed copy of 'export invoices' issued by the goods supplied to them i.e., M/s. Shirdi Overseas Imports & Exports, with the

written submission, however, on scrutiny of documents, it is observed that they have annexed copy of invoice raised by the noticee to the overseas supplier. One sample copy of the export invoices is as under:

INVOICE					
<b>Exporter</b> M/S DELTA AGROTECH PVT LTD 5/25, RAMESH NAGAR, NEW DELHI- 110015 INDIA		DAPL/001/2017-18 Dt 29-07-2017 <b>Invoice No. &amp; Date</b>			
		<b>Buyer's Order No. &amp; Date</b>			
		<b>Other reference</b> I.E.C. NO. :- Q503081665 GST NO. 07AABCJ2074M1ZF			
<b>Consignee</b> M/S. Elegant Trading FZE PO Box 40693 Ras Al Khaimah, U.A.E.		<b>Buyer (If other than consignee)</b> M/S SKY STAR INTERNATIONAL GENERAL TRADING LLC Office N.504, The Airlun Centre Bank Street, Bur Dubai, Khalid Bin Walid Road, P.O.Box-378834			
<b>Pre-shipment by</b> Road	<b>Place of Receipt by Pre-carrier</b> Mudra	<b>Terms of Delivery &amp; payment</b> D/A 180 DAYS Commission 10%			
<b>Freight No.</b>	<b>Port of Loading</b> Mudra				
<b>Port of Discharge</b> Jebal Ali	<b>Place of Delivery</b> U.A.E.				
<b>No. &amp; kind of pkgs.</b> 650 Pkgs Nos.	<b>Description of Goods</b> <u>READYMADE GARMENTS</u> <u>POLYESTER COTTON BLENDED</u>  Mens T-Shirts (Knitted) Dyed / Printed  <b>Freight:</b> _____  <u>WE INTEND TO CLAIM REWARDS UNDER</u> <u>MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS)"</u>  <u>Under Drawback + ROSL</u>	<b>Total Pcs.</b> 10400	<b>Units</b> Pcs.	<b>Rate in US\$ per Pcs.</b> 7.35	<b>Amount Total in US\$</b> 76,440.00  30.00
<b>Total</b>		10400			76,470.00
<b>Amount chargeable</b> (In words) <b>Total US\$ :- Seventy Six Thousand Four Hundred Seventy Only</b>		<b>Total C &amp; F US\$</b>			76,470.00
<b>Declaration</b> We declare that this invoice shows the actual price of the goods described and that all particulars are true and correct		<b>Signature</b> For DELTA AGRO TECH PVT. LTD. Authorized Signatory/Director			

14.3.2 The noticee has to attach the copies of invoices authenticated/ certified by a Chartered Accountant, along with UDIN, verifying the genuineness of the supplier showing the transaction value and other relevant details, instead of copies of 'export invoices'. I find that the noticee has not attached the copies of relevant invoices showing transaction value with the written submission.

14.4 I also find that the noticee have attached copies of ledger of M/s. Shirdi Overseas



Imports & Exports, however, on scrutiny of the said ledger, it is observed that the said copies are not authenticated/ certified by a Chartered Accountant, along with UDIN, verifying the genuineness of the said ledgers. Therefore, I hold that such documents cannot be termed as “evidence”. Thus, I find that copies of invoices are not in conformity with the written submission and copies of ledger cannot be acceptable as evidence.

14.5 The noticee disputed testing of export goods by the Textile Committee Mumbai. They have contested that the subject goods were to be tested by Chemical Examiner, CRCL in terms of Chapter 3 Para 1 (iv) of Customs Appraising Manual Volume-III. Thus, the noticee requested for retesting of the samples through Chemical Examiner. In this regard I find the noticee at no point of time, even upto the time of investigation and issuance of the notice, raised the issue regarding re-testing by the CRCL. I find that the Director of the noticee Shri Praveen Kumar Rana, during his statement dated 16.05.2018, at question No. 8, 9 and 10 affirmed that it was their first consignment to be exported and they had not manufactured the said exported goods but purchased the same from M/s. Shirdi Overseas Import & Export, Ludhiana and they have ordered the T-Shirts of blended material but their supplier had supplied them 100% Cotton T-Shirts and retail invoice of the said material raised by the supplier. I find that the goods were examined under Panchnama dated 08.08.2017 & samples were sent to Textiles Committee, Mumbai vide letter dated 12.09.2017 for testing of samples of men’s T-Shirts (Knitted) Dyed/Printed (of Blend containing Cotton & MMF). However, the exporter was non-cooperative and they did not pay the testing charges & hence according to Textiles Committee letter F.No. Custom/Tr query/2017-18 dated 13.12.2017 the testing was already carried out and tests report were ready by 09.10.2017 but since exporter did not pay testing charges the test reports could not be delivered which was received only on 30.01.2018. Thus, I find that there is an deliberate non-cooperation on the part of exporter to delay the investigation. I find that the request for retesting of sample by Central Revenue Control Lab is curious as well as inexplicable & illogical.

14.5.1 I find that the Board has extended the facility of testing of goods under “Indian Customs Single Window” to other locations and other participating agencies in the Trade Facilitation. The relevant text of Board’s Circular No. 3/2016-Cus. dated 03.02.2016 is reproduced below:

“The Central Board of Excise and Customs has taken-up the task of implementing ‘Indian Customs Single Window Project’ to facilitate trade. This project envisages that the importers and exporters would electronically lodge their Customs clearance documents at a single point only with the Customs. **The required permission, if any, from other regulatory agencies (such as Animal Quarantine, Plant Quarantine, Drug Controller, Textile Committee etc.)** would be obtained online without the importer/ exporter having to separately approach these agencies. This would be possible through a common, seamlessly integrated IT systems utilized by all regulatory agencies and the importers/exporters. The Single Window would thus provide the importers/ exporters a single point interface for Customs clearance of import and export goods thereby reducing interface with Governmental agencies, dwell time and cost of doing business.

*Lab Module in ICES for use by CRCL, Textile Committee and other Agencies :*

**7. Another feature has been introduced in ICES to bring online the process of referring samples of consignment for testing and analysis. It is referred to as the 'Lab Module'. This feature was launched at a few locations to automate the process of referring samples drawn from consignments to testing facilities of the Central Revenues Control Laboratories (CRCL). Now, this module has been fine tuned in order to extend it for the testing of consignments by laboratories/ referral agencies under the Textile Committee, and to other Agencies to whom Customs may refer samples/documentation for testing and/or NOC."**

14.5.2 I find that Textile Committee, Mumbai is also a specialized laboratory to test the textile samples working under the Ministry of Textile, Government of India. They have more expertise & Knowledge to test the textile samples than CRCL/Customs Laboratories. It is true that the Textile Committee charges the fee for testing of the sample. They provide the test report only after making charges for testing of samples. In the instant case, the noticee had not paid the testing charges to the Textile Committee; therefore, they (Textile Committee) did not provide the sample test report. However, later on when the noticee had paid the testing charges to the Textile Committee, they provided the test report of the impugned goods. This fact is also on record that the noticee had not paid the charges to the Textile Committee that is why they kept the test report on hold. It does not mean that the Textile Committee, Mumbai changed the test report of the noticee on the ground of non-payment of their test charges as alleged by the noticee regarding authenticity of the test report of Textile Committee. This unsubstantiated argument cannot be a sole ground of re-testing of the impugned goods by the CRCL as sought by the exporter.

14.6 In the written submission, the noticee no. 1 has argued that the unit price of export goods was mutually agreed with the overseas buyer for export of "MEN T-Shirts (Knitted) Dyed/Printed [of blended containing cotton and man-made fiber (READYMADE GARMENTS POLYESTER COTTON BLENDED)]" under CTH 61099090. Thus, it is transactional value in terms of section 14 of the Customs Act, 1962 read with rule 3 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Therefore, the value of the goods cannot be brushed aside by the report determined by the Chartered Engineer.

14.6.1 In this regard, I find that though on records/ papers the noticee has mutually agreed with the overseas buyer for supply/ export of "MEN T-Shirts (Knitted) Dyed/Printed [of blended containing cotton and man-made fiber (READYMADE GARMENTS POLYESTER COTTON BLENDED)]" classified under CTH 61099090, but physically the noticee has attempted to export the goods other than declared goods. In other words, the noticee has declared the description as "MEN T-Shirts (Knitted) Dyed/Printed [of blended containing cotton and man-made fiber (READYMADE GARMENTS POLYESTER COTTON BLENDED)]" under CTH 61099090, however, as per test report of the Textile Committee, Mumbai, the goods were "100% Cotton knitted T-Shirts". When the description of goods is quite different, it is obvious that the value of the goods will be different. In other words, "blended" and "man-made fiber" is not found by the Textile Committee, in the test of the samples. As per the sample test report of the impugned goods were 100% Cotton T-Shirts, it is correctly classifiable under CTH 6109.10 of the Customs Tariff.

14.6.2 In the context of the present case the declared description is "Mens T-Shirt (Knitted) Dyed/Printed [of blended containing cotton & man made fibre (Readymade Garment of Polyester cotton blended)] & classified the goods under Custom Tariff Item 61099090. On testing by Textile Committee Mumbai, the ascertained description is Mens T-Shirt knitted & printed of 100% cotton fiber [Readymade Garment of Cotton]. The classification ascertained is Custom Tariff Subheading 6109.10. Thus, the composition of material of T-Shirts is 100% cotton & not polyester & cotton blend. Consequently the classification is also different than declared. Hence I find that in terms of rule 8(2) (iii) (c) of the Customs Valuation (Determination of value of Exports Goods) Rules, 2007 (CVR,2007). The declared value can be rejected if there is a misdeclaration in description, quantity etc.. Thus, the rejection of the declared value is legally correct & has been rightly done. Moreover, the declared value of the T-shirts has also found to be misdeclared. Thus, the declared value needs to be rejected under provisions of CVR, 2007 as mentioned supra. I also find that the value of export goods need to be re-determined in terms of rule 3 (3) by proceedings sequentially from rule 4 to 6 of CVR, 2007.

14.7 I find that as per rule 4 (1) CVR, 2007 the value to be determined on the basis of the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation. This is determination of export value by comparison. However, as discussed in the notice, the goods to be exported are not standard goods, as required under Rule 4, the export data contained in Export Commodity Data Base (ECDB) could not be used for comparing price of the goods of like kind and quality in as much as the subject goods were not identified specifically with any Brand, Mark, Style or other specifications, the goods exported of like kind and quality could not be identified to compare the transaction value with the declared value of the subject goods. Hence, value of the subject export goods cannot be determined under the provisions of Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 by Determination of export value by comparison.

14.7.1 Further, during the investigation, to ascertain the actual value of the exported cargo, various documents were called for from the Exporter and in response, the exporter had submitted various documents viz. Retails Invoice issued by actual manufacturer i.e. M/s Shirdi Overseas Imports & Exports, Ludhiana. Further, documents were called for from M/s Shirdi Overseas Imports & Exports vide various Letter/ Summons, however, no proper reply was received due to purposeful delay tactics by the manufacturer. Thereafter, letters dated 13.03.2018 and 03.04.2018 was issued to the concerned jurisdictional Customs Authorities with a request to arrange the said documents but no reply/ response was received. Hence, any details related with the supply made by them to the exporter so that the actual price/ actual cost for the goods exported by them was not submitted by the manufacturer. The department was not in possession of quantifiable data as regards raw material cost, processing cost, conversion cost, packing cost etc. as well as margin of profits. Hence, the help was taken of Govt. approved valuer M/s. ValueGuru Chartered Engineers & Valuers Pvt Ltd., Mundra, Kutch, who vide their report dated

08.05.2018 has computed the cost of export goods by the computed value method which is in conformity with Rule 5 of CVR, 2007. Hence, the net value per T-Shirt arrived at Rs. 220/- per T-Shirt is the value in conformity with rule 5 of Custom Valuation (Determination of Value of Export Goods) Rules, 2007.

14.7.2 As discussed in the notice, the local market price of the export goods may not be the only basis for determining the value, therefore opinion of expert, i.e., the Government Approved Valuer was appointed vide letter dated 19.04.2018 to re-assess the value of the goods. The subject cargo was examined/ inspected by M/s Valueguru Chartered Engineers & Valuers Pvt. Ltd., Mundra in the presence of authorized representative from exporter and vide Report No. IND/MUN/080518/DEL/CUS/OPE/PUB/LCL/GOP/CER/0356 dated 08.05.2018, the Valuer had submitted his report, wherein the net total per T-Shirt value has been arrived at Rs. 220/-. In the said Valuation Report Valuer, he had stated that he had inspected the samples from the subject exported cargo and he had calculated the manufacturing cost per T-shirt as per Indian Market Price by considering

1. the cost incurred for processing the raw material,
2. cost incurred at the time of manufacturing T-Shirt;
3. minimum 20% profit per T-Shirt, and 4. Maximum Transport Charges.

So, I find that the value determined by the Government Approved Valuer has more rational basis and is more reliable, and therefore, the same was considered in terms of rule 5 of CVR, 2007.

14.7.3. The director of the exporting firm Shri Praveen Rana in his statement recorded on 16.05.2018 under section 108 of the Customs Act, 1962 in Q/A 12 (Para 6 of the SCN) has stated that he agrees with the report No. Ind/MUN/0805518/DELCus/OpE/PUB/CCL/CER/0356 dated 08.05.2018 of M/s Value Guru Chartered Engineer & Valuer Pvt Ltd. wherein the value of Rs. 220/- per T-Shirt has been determined. The value determined by the Govt. approved valuer is in conformity with Rule 5 of CVR, 2007 as discussed above.

14.7.4 I also find that during investigation of the case the details in respect of the export goods have neither been submitted by M/s Shirdi Overseas Import & Export, Ludhiana (the supplier of the goods) nor arranged by the jurisdictional Customs Authorities. Further, summonses dated 30.05.2018 / 08.06.2018 and 28.06.2018 were issued to the noticee to appear before Superintendent (SIIB), Customs house, Mundra on 06.06.2018 / 18/19.06.2018 and 03.07.2018 respectively to submit the details of payments made to M/s Shirdi Overseas Import & Export, Ludhiana in respect of goods purchased from them along-with the copies of ledger, the details of Foreign Remittance/ Bank Realization Certificate in respect of goods exported vide Shipping Bills No. 7797626, 7797022, 7797629, 7797680, 7797690 and 7797691 all dated 03.08.2017 and the copies of Bank Statement showing the debit/ credit entries in respect of payment made to M/s Shirdi Overseas Import & Export, Ludhiana and foreign remittance received. However, no response received from the noticee nor anybody appeared for investigation. Even, the noticee had not given any reason for their non-appearance before the

investigating authority. Thus, I find that the noticee did not cooperate during the investigation of the case except only one single date on which his statement was recorded. I further find that as soon as the investigation proceeded further, in depth, the noticee stopped cooperating with investigating authorities. Therefore, the department was left with no option except to determine value with the help of Chartered Engineer.

14.7.5 I find that during the investigation of the case, the exporter has not appeared nor they have provided the stipulated records/ documents regarding actual description and value of goods even after issuance of repeated reminders on various dates and summonses.

14.7.6 I also find that the noticees were asked during investigation to produce Bank Realization Certificate in respect of goods exported vide Shipping Bills No. 7797626, 7797022, 7797629, 7797680, 7797690 and 7797691 all dated 03.08.2017 and the copies of Bank Statement showing the debit/ credit entries in respect of payment made to M/s Shirdi Overseas Import & Export, Ludhiana and foreign remittance received. The noticee has also not produced the above records with their written submission nor discussed anything in the written submission. I find that it was the delay tactics played by the noticee during investigation as well as during adjudication process also.

14.7.7 In view of the above, it can be inferred that on record, proof / documentary evidence of neither the payment of the exported goods to the manufacturer nor the foreign remittance from the overseas buyer are available. Therefore, all the export benefits viz. Duty Drawback (DBK), Rebate of State Levies (ROSL) and Merchandise Exports for India Scheme (MEIS) are liable to be restricted to the value as discussed in the Annexure-A to the notice.

14.7.8 In the said Test Reports, the Textile Committee has informed that the impugned samples were of 100% Cotton and the H.S. Code was 6109 10. The Drawback Serial Number as mentioned by the exporter in all the Shipping bills filed by them was 610902A which is for (*T-Shirts, Singlets and other vests, knitted or crocheted*) Of Blend containing Cotton and Man Made Fibre and the applicable Drawback Rate is 9.6% with Rs.45/- as drawback cap per unit. However, as per the results of the Test Report, the said T-Shirts are of 100% Cotton and as per the Drawback Schedule, there is specific entry for (*T-Shirts, Singlets and other vests, knitted or crocheted*) of Cotton i.e. 610901 and for 610901A, the Drawback Rate is 7.6% with Rs.36/- as drawback cap per unit. The applicable rate of Drawback for the period of investigation/ Shipping Bills was as per Notification No. 131/2016 – (N.T.) dated 31.10.2016.

14.7.9 In view of above discussion, I find that the exporter has mis-declared the description, mis-classified of the goods in Custom Tariff and over-valued the export goods (misdeclared the value) to claim higher amount of Drawback Rates as well as other export related benefits/ incentives. After the samples from the export cargo was tested by Textile Committee, Mumbai the misdeclaration of description & consequently misclassification of T-shirt was revealed. On evaluation of goods by Govt approved Valuer the misdeclaration (Overvaluation) was also

revealed. In view of the facts the total FOB re-determined as per Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules 2007 read with Section 14 of the Customs Act, 1962 of the exported goods which comes to Rs.1,41,50,400/- (FOB).

14.7.11 I find from the export documents as well as from investigation and Chartered Engineer's report that the exporter has attempted to export the low valued 100% cotton T-Shirts by grossly overvaluing the impugned goods to avail higher drawback. Therefore, the goods were seized under seizure memo dated 08.08.2017 under section 110 (1) of the Customs Act, 1962 on reasonable belief that the impugned goods were liable to confiscation under Sections 113 (i) and 113 (ia) of the Customs Act, 1962.

#### **14.8 PENALTY OF EXPORTER:**

As discussed above, I find that there was sole intention of the noticee to export the impugned goods at a higher value and to avail higher drawback. The act of omissions and commissions done by the exporter was purposeful and with intent to get undue Drawback benefit and other export benefits by inflating the export price of low value 100% T-Shirts. However, when detected and intercepted by the department then the notices tried to make some lame excuses and challenged test report of Textile Committee and report of Chartered Engineer/Govt. approved valuer.

14.8.1 I find that the exporter has misdeclared the description & consequently misclassified the goods and inflated the value of low value garments to obtain undue and illegal the higher drawback by fraudulent means. I hold that, the goods covered under six shipping bills, mentioned in Annexure-A are liable for confiscation under Section 113(i) and Section 113(ia) of the Customs Act, 1962. The exporter M/s. Delta Agrotech Pvt. Ltd. is liable for penalty under Section 114(iii) of the Customs Act, 1962.

14.8.2 The exporter has intentionally mis-declared the description and value (overvalued) of the goods to avail the higher drawback; even at the time of investigation, instead of tendering statement and to assist the investigating officers, the exporter has tried to escape and avoid the investigation by not providing the requisite details/ records and adopted to delay the investigation. Even during the adjudication process they did not respond upto three dates of hearing. On fourth date of hearing, they requested for extension and again on fourth date of hearing, they asked for extension of the date. Thus, they have tried to delay the adjudication process also. I also find that in the written submission they have stated that they are producing the invoice of M/s. Shirdi Overseas Imports & Exports; however, they have supplied their own copies of export invoices. Thus they have failed to submit the proper documents promised by them. Thus, they have tried to purposefully with intent & design mis-lead the investigation and delay adjudication process by not producing proper documents. In view of the purposeful misdeclaration of description & value (overvaluation) & intentional misclassification with a view to garner higher drawback than due, I hold the exporter liable for penalty under section 114 (iii) of the Customs Act, 1962.

**14.9 DISCUSSION ABOUT ROLE OF SHRI PRAVEEN KUMAR RANA**  
**[Noticee No. 2]**

14.9.1 I find that during the investigation, Shri Praveen Kumar Rana (Noticee No. 2), Director of the exporter, in his statement dated 16.05.2018 admitted that he was looking after all the works related with the Sale and Purchase of the firm along-with Customs related work, that they have classified the exported goods under HS Code 6109 9090 for T-Shirts, singlets and other vests, knitted or crocheted, all goods of sale value exceeding Rs.1000 per piece and the Drawback Serial Number is 610902A with the applicable Drawback Rate is 9.6 % with Rs. 45/- as drawback cap per unit, that the HS Code and Description, as mentioned in the Test Results issued by Textile Committee, Mumbai in respect of Test Memo sent by this office are 610910 and Cotton Knitted T-Shirts respectively, that he was unable to produce the cost calculation sheet for the said item or details of cost of production, manufacturing or processing, transportation, design, brand, or amount towards profit margin etc. for the goods exported by the exporter, that he agreed with the Report No. IND/MUN/080518/DEL/CUS /OPE/PUB/LCL/GOP/CER/0356 dated 08.05.2018 issued by M/s. Valueguru Chartered Engineers & Valuers Pvt. Ltd., Mundra vide which the Net Total Price per T-Shirt (including 20% profit and transport charges) has been mentioned as Rs.220/-.

14.9.2 It is evident that Shri Praveen Kumar Rana, Director of M/s Delta Agrotech Pvt. Ltd., is instrumental in misdeclaration of description and value of the export T-shirts with a view to garner higher Drawback. The act of Shri Praveen Kumar Rana, as discussed above, made the goods liable for confiscation under section 113(i) and 113(ia) of the Act, therefore, Shri Praveen Kumar Rana, Director of the firm, is liable for penalty under Section 114(iii). Relevant text of section 114(iii) is as under:

*“SECTION 114. Penalty for attempt to export goods improperly, etc. - Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -*

*(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.”*

14.9.3 Further, I find that in the notice penalty has also been proposed under section 114AA of the Act. I reproduce below the relevant text of section 114AA of the Act:

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

14.9.4 I find that Shri Praveen Kumar Rana was handling all the Customs related work and was responsible for each and everything in respect of purchase and sale of the goods in

respect of export of T-Shirts, on his part that the act of purposeful misdeclaration of description, consequent mis-classification of T-Shirts and over-valuation of the goods which renders the goods to be liable for confiscation under Section 113 of the Customs Act, 1962. He knowingly and intentionally involved himself in the misdeclaration of description & misclassification and overvaluation of export goods and used false and incorrect material by filing the Shipping Bills to facilitate the impugned exports, produced false and incorrect declaration before the department and statements. His act for omission and commission and to facilitate the exports misdeclared for description & value; rendered himself for penalty under section 114AA of the Customs Act, 1962.


In view of the above, I pass the following order.

### ORDER

- (i) I reject the classification declared/ claimed by M/s. Delta Agrotech Pvt. Ltd. under Custom Tariff Head 6109 9090 for the export goods listed in Annexure-A to the show Cause Notice dated 31.07.2018 and I order to re-classify the said goods under CTH 6109 1000 of the Customs Tariff Act, 1975,
- (ii) I reject the FOB value declared as Rs.3,00,19,752/- (Rupees Three Crore Nineteen Thousand Seven Hundred and Fifty Two only) for the export goods listed in Annexure-A to the Show Cause Notice dated 31.07.2018 under the Clause (iii) of second proviso to Section 14(1) of the Customs Act, 1962 read with Rule 8 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and I order to re-determine the FOB value of goods listed in Annexure-A of the Show Cause Notice dated 31.07.2018 as Rs.1,41,50,400/- (Rupees One Crore Forty One Lakh Fifty Thousand and Four Hundred only) under Rule 5 of Customs Valuation (Determination of Value of Export Goods) Rules 2007 read with Section 14 of the Customs Act, 1962,
- (iii) I order confiscation of the goods listed in Annexure-A to the Show Cause Notice dated 31.07.2018 under Section 113 (i) & 113 (ia) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992.
- (iv) I order to assess finally the Shipping Bills as detailed in the Annexure-A to the Show Cause Notice dated 31.07.2018 in terms of (i) to (iii) above and order to restrict the Duty Drawback amount to Rs.10,75,430.40/-, Rebate of State Levies (ROSL) amount of Rs.55186.53/- and Merchandise Exports from India Scheme benefit to Rs. 2,83,008/- (Totaling = Rs. 14,13,624.96/-) as detailed in the Annexure-A to the Show Cause Notice dated 31.07.2018.
- (v) I impose penalty **Rs. 10,00,000/- (Rupees Ten Lakh only)** on M/s. Delta Agrotech Pvt. Ltd. under Section 114(iii) of the Customs Act, 1962.
- (vi) I impose penalty **Rs. 8,00,000/- (Rupees Eighty Lakh only)** on Shri Praveen Rana, Director of M/s. Delta Agrotech Pvt. Ltd. under Section 114(iii) of the Customs Act, 1962.



(vii) I impose penalty **Rs. 6,00,000/- (Rupees Six Lakh only)** on Shri Praveen Rana, Director of M/s. Delta Agrotech Pvt. Ltd. under Section 114AA of the Customs Act, 1962.

  
(Prashant Kaduskar)  
Additional Commissioner  
Custom House, Mundra

23/8/2019

F.No. VIII/48-22/Adj./ADC/MCH/18-19

Date: 23.08.2019

**By RPAD/ By Hand Delivery**

To,

1. M/s Delta Agrotech Private Limited,  
5/25, Ramesh Nagar, New Delhi-110015.
2. Shri Praveen Kumar Rana, Director,  
M/s Delta Agrotech Private Limited,  
5/25, Ramesh Nagar, New Delhi-110015.

**Copy to:**

- (i) The Principal Commissioner of Customs, Custom House, Mundra
- (ii) The Deputy Commissioner of Customs (RRA), Custom House, Mundra.
- (iii) The Deputy Commissioner of Customs (SIIB), Custom House, Mundra.
- (iv) The Deputy Commissioner of Customs (Export), Custom House, Mundra.
- (v) The Deputy Commissioner of Customs (Drawback), Custom House, Mundra.
- (vi) The Deputy Commissioner of Customs (TRC), Custom House, Mundra.
- (vii) The Deputy Commissioner of Customs (EDI), Custom House, Mundra.
- (viii) Guard File.