

 <p>सत्यमेव जयते</p>	<p>भारत सरकार/ Government of India वित्त मंत्रालय/ Ministry of Finance आयुक्त सीमा शुल्क एनएस-II का कार्यालय, केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन न्हावा शेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र- 400 707 OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA, DIST- RAIGAD, MAHARASHTRA-400707</p>	
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फ़ा.सं. /F. No.: S/10-116/2025-26/ADC/CEAC/NS-II/CAC/JNCH

Date of Order: 24.12.2025

द.प.सं./DIN NO: 20251278NT0000444DA9

Date of issue: 31.12.2025

SCN No. -336/2025-26/ADC/CEAC/NS-II/CAC/JNCH

Dated 23.06.2025

जारीकर्ता/Passed By: **Shri Raghv Kiran B.,**  
**Additional Commissioner of Customs,**  
**CEAC, NS-II, JNCH, Nhava Sheva.**

मूल आदेश सं./Order-In-Original No.: 1363/2025-26/ADC/CEAC/NS-II/CAC/JNCH

निर्यातक का नाम/Exporter's Name: **M/s. Mangalmurthi Impex (IEC: 0311063284)**

### मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला – रायगढ़ – ४०० ७०७, महाराष्ट्र को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

### ORDER-IN-ORIGINAL

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Tal: Uran, Dist.: Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, item 6 of the Court Fee Act, 1970.
3. Any person desirous of appealing against this decision or order shall, pending the appeal, make 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.

**BRIEF FACTS OF THE CASE**

M/s. Mangalmurthi Impex (IEC: 0311063284) having its registered office address at Flat No. 704, Gayatri Dham CHS- Plot No.16, Sec 29C, Rabale Gothivali-Navi Mumbai- 400701 (hereinafter also referred to as the “exporter”) had filed shipping bill no. 5818759 dated 30.11.2022 through their authorised Customs Broker M/s Apex Worldwide Logistics for export of “Readymade Garments and other accessories” under Scheme Code 60 with claim of Drawback, RoDTEP & RoSCTL. The details of the same are tabulated as under: -

**TABLE-I**

Sr. No.	SB No. & Date	RITC Code	Description	FOB (in Rs.)	DBK Claimed (in Rs.)	ROSCTL Claimed (in Rs.)	RODTEP Claimed (in Rs.)
1	5818759 dated 30.11.2022	62059090	RMG Mens Shirts Made of Linen	242636.07	5337.99	8501.41	0
		62059090	RMG Mens Shirts Made of Linen	291864.69	6421.02	10523.30	0
		62059090	RMG Mens Shirts Made of Linen	923317.61	17264.00	0	0
		62059090	RMG Mens Shirts Made of Linen	1533723.71	25844.00	0	0
		62052090	RMG Mens shirts made of cotton	172968.00	3406.00	8239.90	0
		62059090	RMG Mens Shirts Made of Linen	494012.22	8580.00	13612.21	0
		62034990	RMG Mens Trousers made of linen	2372698.37	41331.00	78528.9	0
		62059090	RMG Mens Kurta (shirts) made of linen	1203786.97	19344.00	32219.58	0
		62059090	RMG Mens Shirts Made of Linen	152443.03	2600.00	4171.53	0
		39269099	Bags	90122.87	-	-	901.23
		42033000	Belts	74377.68	-	-	892.53
		42023190	Wallet	14254.63	-	-	171.06
		62034290	RMG Mens Trousers made of cotton	206732.11	4212.00	9812.40	0
		62034990	RMG Mens trousers (jeans) made of cotton containing 1% or more by weight of lycra	305772.49	2821.00	13649.30	0
<b>Total</b>				<b>80,78,710/-</b>	<b>1,37,161.02/-</b>	<b>1,79,258.53/-</b>	<b>1,965.82/-</b>

2. On the basis of NCTC e-mail dated 01.12.2022 received, regarding export of suspicious consignment of M/s Mangalmurthi Impex (IEC: 0311063284) covered under Shipping bill No. 5818759 dated 30.11.2022 (hereinafter referred to as "Shipping Bill") (RUD-I) filed by authorised Customs Broker M/s. Apex Worldwide Logistics (11/2316) and the export goods were carted at JWR CFS. The subject goods were kept on hold vide Hold No. 47/202223-SIIB(X) dated 02.12.2022 for examination of the same as the supply chain of the exporter appeared to be fake/manipulated and the declared value of the goods appeared to be highly overvalued and mis-declared to avail illegitimate claim of drawback and other export incentives. Hence the case was taken up by SIIB(X) for detailed investigation.

3. Consequently, the subject goods pertaining to the above Shipping Bill were examined under panchanama dated 13.12.2022 (RUD-II) in the presence of two independent Panchas, representatives of Customs broker and Exporter. During the 100% examination, the subject goods were found as declared in the Shipping Bill, its corresponding invoice and Packing list w.r.t. declared quantity. Representative Sealed Samples (RSS) of the goods from the shipping bill were drawn for the purpose of testing. Thereafter, the goods covered under above shipping bill were handed over to the Custodian, JWR CFS for safe custody.

4. The representative sealed samples pertaining to the shipping bill were forwarded to DYCC, JNCH for testing. The DYCC, JNCH forwarded the test report to SIIB(X), JNCH. The details of the DYCC report (RUD-III) inter alia, are given below: -

TABLE-II

Shipping Bill No.	Item Sr. No.	Item Description	Lab No.	Report
5818759 dated 30.11.2022	1	Linen Men's Shirt	997/SIIB(X) dated 16.12.2022	The sample as received in the form of readymade garment article (Full sleeve white blue shirt) fitted with metallic buttons. Base fabric is made of woven fabric of yarn dyed (blue) on one side while other side is of whitish yarn. It is composed of linen.  Wt. Of sample (Shirt) = 326.7 gm Wt. Of base fabric = 309.0 gm Wt. Of metallic buttons = Balance

2	Cotton Shirt	Men's	998/SIIB(X) dated 16.12.2022	<p>The sample as received in the form of readymade garment described as Cotton Men's Shirt. Total wt. Of Sample = 252.2g</p> <p>It is Full sleeve made of white woven fabric designed with yarn dyed woven fabric on collar and front portion fitted with buttons on front and sleeves. It is composed of cotton on one side and filament yarn of polyester with spandex yarn another side. Composition of base woven fabric: Cotton = 64.3% Polyester = 33.5% Spandex yarn = Balance GSM (As such base fabric) = 144.3</p>
3	Linen Trousers	Men's	999/SIIB(X) dated 16.12.2022	<p>The sample as received in the form of readymade textile article (Men's trousers). It is made of greenish woven fabric stitched with a white liner inside with pockets and designed with buttons and zipper. Base fabric is composed of polyester together with linen. Pockets are made of woven fabric polyester filament yarns and woven fabric of inside of waist is made of cotton. Avg GSM of base fabric = 145.73 Avg GSM of inner Liner Fabric = 85.11 Avg GSM of pockets = 88.14</p> <p>% Composition: Total wt of sample = 376.1 gm Linen = 58.72% Polyester = 29.3% Cotton = 1.22% Decorative material (Zipper Buttons) = Balance.</p>
4	Linen Mens Kurati		1000/SIIB(X) dated 16.12.2022	<p>The sample as received in the form of yarn dyed woven readymade garment (Kurta) having buttons at sleeves &amp; front side. Base woven fabric is composed of spun yarns of linen. Lining woven fabric inside sleeves Cuff &amp; collar is composed of cotton yarns. Embroidery is made of glass bead, metallic yarns &amp; viscose filament yarn.</p> <p>Total wt of sample = 309 g Wt of fabric with &amp; embroidery = 300g Wt of lining fabric inside sleeves Cuff &amp; collar = 6.3g Wt of button = Balance GSM of base fabric 144.5 g</p>

5	Cotton Mens Trouser	1001/SIIB(X) dated 16.12.2022	<p>The sample is received is in the form of dyed woven readymade garment (pant). It is composed of dyed base woven fabric, Zip with slider, metallic buttons and printed woven fabric is composed of cotton yarn on one side and cotton yarns, cotton yarns with spandex on other side. Printed woven fabric lining of pocket is wholly composed of polyester.</p> <p>Total wt of sample = 530.8 g Wt. Of dyed woven base fabric lining = 17.7 g Wt. Of zip with sliders = 7.7 g Wt. Of metallic buttons = Balance</p> <p>Composition of dyed woven base fabric :</p> <p>Cotton = 98.01 % Spandex = Balance GSM of dyed woven base fabric as such = 310.6</p>
6	Cotton Men's Trouser Jeans	1002/SIIB(X) dated 16.12.2022	<p>The sample as received is in the form of yarns dyed woven readymade garments (Jeans). It is made of yarn dyed base woven fabric, Zip with sliders, Printed woven fabric lining in front packets, while woven fabric lining is back packets, and metallic button.</p> <p>Total wt. Of sample = 736.8 g Wt. Of base woven fabric = 700.79 g Wt. Of printed woven fabric lining = 20.7g Wt. Of white woven fabric lining = 4.22g Wt. Of metallic button = 3.67 g Wt. Of zip with sliders = balance.</p> <p>White woven fabric lining is wholly composed of polyester and printed woven fabric lining is composed of polyester filament yarns on one side and blended spun yarns of cotton &amp; polyester on other side. Yarn dyed base woven fabric is composed of cotton yarn on one side and cotton yarns with spandex on other side.</p> <p>% Composition of base woven fabric : Cotton Yarns = 97.85% Spandex = Balance GSM of base woven fabric = 496.04</p>

The DYCC test report confirmed that the goods are as per their declared description and composition.

**5. Rejection of declared value:**

It appeared that the declaration made by the exporter at the time of filing of the said shipping bills did not show correct and true details of the goods entered for export and as such they did not appear to represent true transaction value of the impugned goods. Hence, the declared value i.e. Rs. 80,78,710/- appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined as per the provisions of the said Rules. For the purpose of Customs Tariff Act, 1975, valuation of export goods is to be done in terms of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of value of Export Goods) Rules, 2007 (CVR). As per the provisions of Act/Rules, transaction value of the goods is to be accepted, subject to Rule 8 of Customs Valuation (Determination of value of Export Goods) Rules, 2007. Therefore, the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007.

**6. Re-determination of Valuation:**

Accordingly, as per Rule 3(3) *ibid*, since the value of the impugned goods could not be determined under the provisions of Sub Rule (1), the value was to be re-determined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

As the export goods were not standard goods, the export data in Export Commodity Data Base (ECDB) could not be used for comparing price of the goods of like kind and quality as required under Rule 4 of CVR, 2007. Further, the subject goods were not identified specifically with any brand, mark, style and other specifications, the goods of like kind and quality exported could not be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods could not be determined under the said Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

a) The Exporter had neither produced any cost of production details, manufacturing or processing of export details and correct transport details nor produced cost design or brand or an amount towards profit etc. to derive computed value of the goods. In absence of complete cost data details, value could not be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

a. As the provisions of Rule 4 & 5 *ibid*, are not applicable in the instant case, the value of the goods is required to be determined under the provisions of Rule 6 of the CVR 2007.

Rule 6 of the said Rules reads as under: -

RULE 6. Residual Method – “Subject to the provisions of rule 3, where the value of the export goods could not be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and the general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods”. As per the provisions of Rule 6 *ibid*, the assessable value of the goods was proposed

to be re-determined under Rule 6 ibid, i.e. as per the residual method.

7. To ascertain the prevailing market value of the goods, the market enquiry of the goods covered under the subject shipping bill was required to be conducted, therefore this office had requested to the exporter to represent them during the said market enquiry. Hence the market enquiry was conducted on 28.12.2022 (RUD-IV) along with the officers from CIU and authorised representative of the exporter. Value of the goods was taken from 3 different shops/dealers and average of their prices was taken as market value of the same. Considering transportation costs, taxes paid, profit margin of seller and other miscellaneous expenditures, 30% of average value was taken as assessable value for the goods. As per the market enquiry the value of the goods had been re-determined and accordingly the export incentives had also been re-determined. On the basis of Panchanama dated 13.12.2022 and Market Enquiry report dated 28.12.2022, it was observed that the subject goods had been mis-declared in terms of valuation. The re-determined FOB value of the goods and corresponding export incentives under the Shipping Bill no. 5818759 dated 30.11.2022 would be as below:

TABLE- III

Sr. No.	SB & D No.	Item S r. No.	Declared (in Rs.)				Re-determined (in Rs.)			
			FOB	DBK	RODT EP	ROSCTL	FOB	DBK	RODTE P	ROSCTL
1	5818759 dated 30.11.2022	1	242636	5338	0	8501.41	211351	4650	0	7969.97
		2	291865	6421	0	10523.3	258720	5692	0	9831.36
		3	923318	17264	0	26187	839960	17264	0	24770.32
		4	1533724	25844	0	41778	1397564	25844	0	39463.59
		5	172968	3406	0	8239.9	152091	3346	0	8625.23
		6	494012	8580	0	13612.21	467610	8580	0	13163.37
		7	2372698	41331	0	78528.9	2255235	41331	0	78529.1
		8	1203787	19344	0	32219.58	1131624	19344	0	30992.61
		9	152443	2600	0	4171.53	140100	2600	0	3961.7
		10	90123	0	901.23	0	51570	0	515.7	0
		11	74378	0	892.53	0	38634	0	463.608	0
		12	14255	0	171.06	0	7353	0	88.236	0
		13	206732	4212	0	9812.4	147108	3236	0	7438.15
		14	305772	2821	0	13649.3	261485	2821	0	13649.5
<b>TOTAL</b>			<b>80,78,710</b>	<b>1,37,161</b>	<b>1964.82</b>	<b>2,47,225</b>	<b>73,60,405</b>	<b>1,34,708</b>	<b>1,067.54</b>	<b>2,38,394.9</b>
<b>Total declared Export Benefits (in Rs.)</b>			<b>Total re-determined Export Benefits (in Rs.)</b>				<b>Difference (in Rs.)</b>			
3,86,351			3,74,171				12,180			

As could be seen from the table above, based on the report received by the DYCC, JNCH and market enquiry conducted on 28.12.2022, it appeared that the goods declared by the exporter in the Shipping Bill No. 5818759 dated 30.11.2022 had been mis-declared in terms of their value. The value of the goods was re-determined based on the market survey report dated 28.12.2022. The export incentive such as Drawback, RoDTEP & RoSCTL was also re-determined with respect to the new re-determined FOB of the goods as mentioned in the table above. Hence the declared value i.e. Rs. 80,78,710/- appeared to be liable for rejection in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and the value needs to be re-determined as per the provisions of the said Rules. For the purpose of Customs Tariff Act, 1975, valuation of export goods is to be done in terms of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of value of Export Goods) Rules, 2007 (CVR). As per the provisions of Act/Rules, transaction value of the goods is to be accepted, subject to Rule 8 of Customs Valuation (Determination of value of Export Goods) Rules, 2007. Prima facie on examination of the subject consignment, the declared value of the goods appeared to be on the higher side; the declared transaction value appeared liable for rejection under Rule 8 of the CVR and the said value is required to be re-determined by sequentially proceeding in terms of Rule 4 to 6 of the Customs Valuation Rules, 2007. In the instant case, the exporter is merchant exporter and hence, transaction value of the impugned goods under export could not be determined under Rule 4 & 5 of the Customs Valuation Rules, 2007. Hence the value of all the items could be ascertained from the wholesale market.

8. It could thus be seen that the goods were mis-declared in terms of their value to avail undue export incentive and thereby the goods covered under shipping bill no. 5818759 dated 30.11.2022 were seized vide seizure memo dated 05.01.2023 (**RUD-V**) under Section 110 of the Customs Act, 1962, on the reasonable belief that the detained goods are liable for confiscation under the provisions of Section 113(i), 113(ja), 113(jb) of the Customs Act, 1962.

9. Further, a letter dated 16.12.2022 was issued to DC/ Drawback, JNCH to withhold the export incentives of M/s Mangalmurthi Impex (IEC: 0311063284) till further investigation. The same had also been verified in the ICES System, the export incentives had not been scrolled out till date.

10. The exporter vide their letter dated 21.12.2022 requested for provisional release of the goods for export stating that due to the withholding of the export consignments, they were incurring demurrage charges and abnormal avoidable delay in shipment. Validity of the orders from the buyer was also at stake and if goods not received in time, then order may be cancelled. The request of the exporter was accepted by the adjudicating authority as per the provisions of Board Circular no.01/2011 dated 04.01.2011 and 30/2013 dated 05.08.2013 and the goods were released provisionally for export after execution of Bond to the full value of the goods (FOB value) and bank Guarantee of Rs. 1,00,000/- (One Lakh) with self-renewal clause.

11. During the investigation the exporter M/s Mangalmurthi Impex (IEC: 0311063284) had paid the drawback amount Rs. 2453/-, RoDTEP amount in Rs. 897.27/- and RoSCTL amount in Rs. 1465.92/- with interest vide challan no. HCM-1377 dated 16.01.2024 (for Rs. 5639.57/-) and HCM-

1378 dated 16.01.2024 (for Rs. 1,000/-) **(RUD-VI)**. The same will be appropriated at the time of adjudication proceedings.

12. To ascertain the verification of genuineness of supply chain of the exporter, Letter was sent to Jurisdictional CGST Commissionerate of the exporter M/s Mangalmurthi Impex and its suppliers M/s. Parin Clothiers & M/s. Deepak Enterprises on 04.01.2023, 05.10.2023 & 01.03.2024 to verify the genuineness of the exporter and to take the necessary action at their end, if any adversity is found. Response is still awaited. Further, the data was retrieved from GST portal wherein it is noticed that the GSTIN of the Exporter GSTIN is active and he has filed its GSTR3B regularly for the tax period from January, 2023 to October,2023.

13. During the course of investigation, statement of Shri Mohanan Velu Thamarassery, Proprietor of M/s Mangalmurthi Impex (IEC: 0311063284), residing at Flat No. 704, Plot No. 16, Sector-29C, Gothivali, Navi Mumbai-400708 was recorded under Section 108 of Customs Act, 1962 before the Superintendent of Customs, on 08.06.2023**(RUD-VII)**. In his statement, he inter alia stated following:

- On being asked regarding his company, he stated that the company was established in 2011 and he obtained IEC No. 0311063284. He is the proprietor at M/s Mangalmurthi Impex (IEC: 0311063284), which is a merchant exporter.
- On being asked regarding filing of the Shipping Bill No. 5818759 dated 30.11.2022, he stated that said Shipping Bill was filed by their authorized CHA M/s Apex Worldwide Logistics.
- On being asked how they got order for export, he stated that they have been doing business with the importer from the last 12 years since they got the IEC and started their export business. Further, they were to get the payment within 60 days as mentioned in the payment terms of shipping bill.
- On being asked regarding the supplier of the goods, he stated that the goods were purchased from M/s. Deepak Enterprises, Dadar, Mumbai, GSTIN: 27AACPK3966B1ZW & from M/s Parin Clothiers, Ghatkoper, Mumbai, GSTIN: 27ABVPS5882J1ZJ. He further stated that there is no agreement between the supplier and them. The supplier had agreed for the payment after they get the BRC from the buyer and the payment is to be made after that to the supplier by cheque.
- On being asked about the terms and conditions, it was stated that their goods were handed over to Custom Broker M/s Apex Worldwide Logistics, he stated that they agreed for payment of Rs. 4500/- per consignment to M/s Apex Worldwide Logistics.
- He agreed with the DYCC Lab test report shown to him during statement. He didn't agree that the goods were over-valued. Further, he stated that they were not doing that to claim undue export benefits; as per the quality of goods of their consignment and the buyer's approval of the price, he had priced the goods in the invoice; As per export incentives concern, they had claimed lower drawback rate in their shipping bill.
- On being asked about the staggered manner in which their firm has filed shipping bill, he stated that they have only one overseas client to whom they export their goods; whenever

there is a requirement on their client side, they receive an order and as per their requirement they file shipping bill and export their goods.

- On being asked about their exports are destined to risky countries and local supply chain is suspicious, he stated that their buyer is based in UAE, so all the consignments are destined to UAE; they have submitted tax invoices of the local purchases of their goods and the e-way bill of the goods for the above-mentioned shipping bill.
- On being asked whether they have received the payment for that consignment from their buyer, he replied positively and stated that they have received the payment for that export consignment under that shipping bill No. 5818759 dated 30.11.2022.
- On being asked if he has anything else to say he stated that he will submit all the requisite documents in support of the investigation such as ITR for 3 years, GSTR2A, 2B, Bank Account Statement, BRC, GSTR of supplier etc. within 15 days. However, the exporter has failed to submit the above-mentioned documents as he stated in his statement recorded on 08.06.2023.

14. From the above, it appeared that, the exporter has claimed Drawback, RoDTEP and RoSCTL in excess by attempting the export at inflated price on the basis of invoices. The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 73,60,405/- as against the declared FOB value of Rs. 80,78,710/-. By inflating the FOB value and mis-declaring the goods, the exporter was attempting to claim Drawback of Rs. 1,37,161/-, RoDTEP of Rs. 1,964.82/- and RoSCTL of Rs. 1,79,258.5/- whereas they were eligible for Drawback of Rs. 1,34,708/-, RoDTEP of Rs. 1,067.54/- and RoSCTL of Rs. 2,38,394.9/- respectively.

15. Further, on perusal of the past export data in respect of the subject exporter in 1.5 EDI system, the following shipping bills had been found wherein the foreign remittance had not been received as per FEMA regulations. The details of the shipping bills are as under:-

TABLE-IV

Sr. No.	Shipping Bil No.	Date	Declared FOB	Claim DBK	Claim ROSL
1	8199434	12.11.2019	6461195.67	122763	79969
2	2666865	07.12.2016	1603747.33	84335	30012
3	9792828	31.08.2016	696712.57	46937	0
4	8134555	07.06.2016	7314388.29	422613	0
5	6091781	25.02.2016	4440532.84	230691	0
6	4283321	24.11.2015	3999990	218130	0
7	2830456	04.09.2015	2435977.85	146595	0
8	1473027	29.06.2015	730448.12	37050	0
9	1275383	18.06.2015	3828879.6	237105	0

10	1275746	18.06.2015	2702918.4	193279	0
11	7779828	12.02.2015	855785.88	51822	0
12	6475169	05.12.2014	3433419.54	1418	0
13	9892552	05.02.2014	3902442.48	197089	0
14	7676904	26.09.2013	4254876.7	236769	0
15	6328316	06.07.2013	3734249.75	144179	0
16	6328388	06.07.2013	2939895	168949	0
<b>Total</b>			<b>5,33,35,460/-</b>	<b>25,39,724/-</b>	<b>1,09,981/-</b>

In the event of non-receipt of foreign remittance in the above Shipping Bills, the claimed export incentive i.e. Drawback, ROSL are liable to be demanded back along with applicable interest from the exporter.

**16. Relevant provisions of law applicable in this case**

(i) **Section 2(30) of the Customs Act, 1962:** Market price in relation to any goods means the wholesale price of the goods in the ordinary course of trade in India.

(ii) Section 50 of the Customs Act, 1962: Entry of goods for exportation. –

(1) The Exporter of any goods shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export [in such form and manner as may be prescribed]:

**Provided** that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner.] (2) The Exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The Exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:-

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

(iii) **SECTION 113(i) of the Customs Act, 1962:** 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 77, shall be liable to confiscation;

(iv) **Section 113(ia) of the Customs Act, 1962:** 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 the rate of drawback under Section 75, shall be liable to confiscation;

(v) **Section 113(ja) of the Customs Act, 1962:** Any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;

(vi) **Section 114(iii) of the Customs Act, 1962:** 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, 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;

**Section 114AA of the Customs Act, 1962:** 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 documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act, shall be liable to a penalty not exceeding five times of the value of goods.

(viii) **28AAA. Recovery of duties in certain cases--**(1) Where an instrument issued to a person has been obtained by him by means of -

(a) collusion; or

b) wilful mis-statement; or

(c) suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or any other law, or any scheme of the Central Government, for the time being in force, by such person] or his agent or employee and such instrument is utilised under the provisions of this Act or the rules or regulations made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.

(ix) **28AA Interest on delayed payment of duty -** (1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section. Interest at such rate not below ten per cent. and not exceeding thirty-

six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

Notwithstanding anything contained in sub-section (1), no interest shall be payable where, the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

**(x) Section 75A(2) of Customs Act, 1962:** Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made there under, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

**(xi) Section 18- Recovery of amount of Drawback where export proceeds not realised:** (1) Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-rule (5), be recovered

B. Customs and Central Excise Duties Drawback Rules, 2017:

**Rule 17:** Repayment of erroneous or excess payment of drawback and interest. Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962.

**Rule 18(1):** Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-rule (5), be recovered

C. Foreign Trade (Development and Regulation) Act, 1992:

**Section 11:**(1) No export or import shall be made by any person except in accordance with the

provisions of this Act, the rules and orders made there under and the foreign trade policy for the time being in force.

D. Foreign Trade (Regulation) Rules, 1993

**Rule 11:** *On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.*

E. Customs Valuation (Determination of Value of Export Goods) Rules, 2007

(A) **RULE 3 - Determination of the method of Valuation**

- (1) *Subject to rule 8, the value of export goods shall be the transaction value.*
- (2) *The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.*
- (3) *If the value cannot be determined under the provisions of sub-rule (1) and subrule (4), the value shall be determined by proceeding sequentially through rules 4 to 6.*

(B) **RULE 4. Determination of export value by comparison. –**

- (1) *“the value of the export goods shall be based on 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 or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).*
- (2) *In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including –*
  - (i) *Difference in the dates of exportation,*
  - (ii) *Difference in commercial levels and quantity levels,*
  - (iii) *Difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,*
  - (iv) *Difference in domestic freight and insurance charges depending on the place of exportation”.*

(C) **RULE 5. Computed value method. –** *“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”.*

**(D) RULE 6. Residual Method.** – “Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and the general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods”.

**(E) RULE 7. Declaration by the Exporter**– “The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf”.

**(F) RULE 8. Rejection of declared value –**

**(a)** “When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub- rule (1) of rule 3.

**(b)** At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provided a reasonable opportunity of being heard, before taking a final decision under sub-rule (1)”.

17. M/s Mangalmurthi Impex (IEC: 0311063284) having its registered office address at Flat No. 704, Gayatri Dham CHS- Plot No.16, Sec 29C, Rabale Gothivali Navi Mumbai- 400701 had filed shipping bill No. 5818759 dated 30.11.2022 filed by Customs Broker M/s Apex Worldwide Logistics for export of Readymade Garments under Export Promotion Scheme Code 60 with claim of Drawback, RoDTEP & RoSCTL. The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 73,60,405/- as against the declared FOB value of Rs. 80,78,710/-. By inflating the FOB value, the exporter was attempting to claim Drawback of Rs. 1,37,161/- RoDTEP of Rs. 1,964.82/- and RoSCTL of Rs. 2,47,225/-whereas they were eligible for Drawback of Rs. 1,34,708/- RoDTEP of Rs. 1,067.54/and RoSCTL of Rs. 2,38,394.9/- respectively. (as tabulated in Table-III above).

18. As, it can be seen from the Table-III, based on the market enquiry conducted on 28.12.2022, it appeared that the goods declared by the exporter in the Shipping Bill No. 5818759 dated 30.11.2022 had been mis-declared in terms of their value. During the market enquiry it was found that the value of the goods filed under the said Shipping Bill were inflated and hence needed to be re-determined under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The export incentive such as drawback, RoDTEP & RoSCTL were therefore re-determined with respect to the re-determined FOB as mentioned in the table-III above. It could thus be seen that the goods were mis-declared to avail undue export incentive and thereby rendering the goods liable for confiscation under section 113 (i), 113(ia) and 113 (ja) of the Customs Act, 1962.

19. The exporter has violated the provisions of Rule 11 of the Foreign Trade (Regulations), 1993 in as much, as they did not make a correct declaration of value of goods in the Shipping Bill filed by

them to the Customs authorities.

20. As the Exporter had not made declaration truthfully in the said Shipping Bill, they have violated the conditions of Section 50(2) of the Customs Act, 1962. Hence, it appeared that there was a deliberate mis-declaration, mis-statement and suppression of facts regarding the actual value of the impugned goods, on the part of the Exporter with mala-fide intention to claim undue export benefits not legitimately payable to them. The exporter had declared the FOB value in the shipping bill as Rs. 80,78,710/whereas the re-determined FOB value after conducting the Market Survey was Rs. 73,60,405/- only and hence higher Drawback, RoDTEP, RoSCTL and other export incentives were claimed. Thus, it appeared that the said goods were attempted to be exported in violation of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as exporter had furnished wrong declaration to the Custom Authorities.

21. Further, on perusal of ICES 1.5 system, it is seen that the foreign remittance in Shipping Bills filed by the exporter and mentioned at Table-IV above, had not been received by the exporter. Hence, the Drawback and other export incentive claimed by the exporter in these Shipping Bills are also liable to be demanded back from them along with applicable interest.

22. It is cogent and clear that the exporter M/s Mangalmurthi Impex (IEC: 0311063284) had mis-declared the impugned goods in terms of their value and attempted to defraud the Government by claiming undue higher amount of Drawback, RoDTEP & RoSCTL and thereby acted in a manner which rendered the said goods under Table-III above liable for confiscation in terms of the provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962.

23. It further appeared that the exporter M/s Mangalmurthi Impex (IEC: 0311063284) have rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of mis-declaration of value of the impugned goods and attempting to export improperly as their omission and commission has rendered the goods liable for confiscation u/s 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962.

24. Mr. MohananVelu Thamarassery, Proprietor of M/s Mangalmurthi Impex (IECNo. 0311063284), had knowingly & intentionally caused to sign & used the documents to provide the undue advantage to the exporter with malafide intent to avail undue/excess export benefits in form of Drawback, RoDTEP and other export benefits. Therefore, Mr. MohananVelu Thamarassery also liable for penalty u/s 114 AA of Customs Act, 1962 for this intentional mis-declaration.

25. Now, M/s. Mangalmurthi Impex (IEC No. 0311063284) having address as Flat no. Flat No. 704, Gayatri Dham CHS- Plot No.16, Sec 29C, Rabable Gothivali-Navi Mumbai- 400701 in respect of the said impugned export goods, was hereby called upon to Show Cause to the Additional Commissioner of Customs, CAC, NS-II, JNCH, having office at Jawaharlal Custom House, Nhava Sheva, Tal-Uran, Dist Raigad, Maharashtra, within 30 days of receipt of this notice as to why:

- i. The declared FOB value of Rs. 80,78,710/- covered under the Shipping Bill no. 5818759 dated 30.11.2022 should not be rejected and the same should not be re-determined to Rs. 73,60,405/-.
- ii. The said impugned export goods covered under the Shipping Bill no. 5818759 dated 30.11.2022 having total declared FOB value of Rs. 80,78,710/- should not be confiscated under the provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962.
- iii. The claimed Drawback of Rs. 1,37,161/- RoDTEP of Rs. 1,964.82/- and RoSCTL of Rs. 2,47,225/- covered under shipping bill no. 5818759 dated 30.11.2022 should not be rejected and re-determined to Drawback of Rs. 1,34,708/- RoDTEP of Rs. 1,067.54/- and RoSCTL of Rs. 2,38,394.9/- respectively. The total claimed drawback of Rs.1,37,161/- should not to be rejected and demanded back from the exporter under section 75 and 75 A of the Customs Act, 1962 read with Rule 18 of the drawback Rules, 2017. Further, the claimed ROSCTL amount of Rs. 2,47,225/- & claimed RoDTEP of Rs. 1,067.54/- should not be rejected and demanded back in terms of Section 28AAA read with Section 28AA of the Customs Act 1962 for the present shipping bill due to non-receipt of remittance.
- iv. The drawback amount of Rs. 25,39,724/- claimed in 16 Shipping Bills mentioned at Table-IV above should not be demanded back from the exporter along with applicable interest under Section 75 and 75A of the Customs Act 1962 read with Rule 18 of the drawback Rules, 2017.
- v. The RoSL amount of Rs. 1,09,981/- claimed in Shipping Bills mentioned at Table-IV above should not be demanded back from the exporter along with applicable interest under CBIC Notification 77/2021 NT. & 76/2021 NT. respectfully.
- vi. M/s. Mangalmurthi Impex (IEC No. 0311063284) should not be penalised under Section 114(iii) of the Customs Act, 1962.
- vii. Mr. MohananVelu Thamarassery, Proprietor of M/s. Mangalmurthi Impex (IEC No. 0311063284) should not be penalised under Section 114AA of the Customs Act, 1962.
- viii. The Bond to the full value of the goods (FOB value) should not be enforced and bank Guarantee of Rs. 1,00,000/-(Rupees One Lakh Only) vide DD016258 dated 06.01.23 vide Challan No. HCM-697 dated 09.01.23, should not be appropriated towards recoverable dues, applicable fine and penalty.

**26.**

**WRITTEN SUBMISSIONS OF THE EXPORTER**

Vide SCN dated 23.06.2025, the Exporter i.e M/s. Mangalmurthi Impex (IEC: 0311063284) was asked to submit written reply to the SCN within 30 days of receipt of the subject SCN, however, so far Exporter hasn't submitted any reply to the SCN.

**27.**

**RECORD OF PERSONAL HEARING**

In adherence of the Principles of Natural Justice the Exporter was granted an opportunity to appear before the Adjudicating Authority for Personal Hearing (PH) for giving oral submissions in their defence. Accordingly, PH Memos dated 12.09.2025, 29.09.2025 & 14.10.2025 were issued by the

Adjudicating Authority. However, neither the Exporter nor its authorized representative honored the said PH Memos and appeared before the Adjudicating Authority for PH.

28.

DISCUSSION AND FINDINGS

I find that in the instant case the Exporter did not participate in the present adjudication proceedings in spite of the servicing of PH Memos for Personal Hearings in terms of Section 153 of Customs Act, 1962 (as detailed in Paras 13 & 31.1 *supra*). Section 153 of the Customs Act, 1962 reads as under:

*Section 153. Modes for service of notice, order, etc. (1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely: -*

*(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorized representative, if any, at his last known place of business or residence;*

*(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*

*(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.*

**28.2.** Therefore, in terms of Section 153 of the Customs Act, 1962, it is observed that PH letters were duly sent to the Exporter at their known addresses (as mentioned in the SCN and export documents) through Registered Post. Further, these PH letters were also displayed on the Notice Board of this Office in compliance to the provision of section 153 (1)(e) of the Customs Act, 1962 as mentioned above. From the aforesaid facts, it is observed that sufficient opportunities have been given to the Exporter **but they had not responded at all to the Notices/Memos issued.** As the matter pertains to mis-classification and overvaluation of the export goods which allegedly resulted in claim of undue/excess export incentives, so even in absence of the Exporter from adjudication proceedings, I am compelled to decide the matter in time bound and logical manner.

**28.3.** In this regard, it is pertinent to refer to the case of *M/s. Sumit Wool Processors V/s. CC, Nhava Sheva [2014 (312) E.L.T. 401 (Tri.- Mumbai)]* wherein *Hon'ble CESTAT, Mumbai* has observed that natural justice not violated when opportunity of being heard given and notices sent to addresses given by the Noticee. If appellants fail to avail such opportunity, mistake lies on them - Principles of natural justice not violated.

"8.3 We do not accept the plea of Mr. Sanjay Kumar Agarwal and Mr. Parmanand Joshi that they were not heard before passing of the impugned orders

*and principles of natural justice has been violated. The records show that notices were sent to the addresses given and sufficient opportunities were given. If they failed in not availing of the opportunity, the mistake lies on them. When all others who were party to the notices were heard, there is no reason why these two appellants would not have been heard by the adjudicating authority. Thus, the argument taken is only an alibi to escape the consequences of law. Accordingly, we reject the plea made by them in this regard" 2014 (312) E.LT. 401 (Tri. - Mumbai)"*

28.4. Considering the aforesaid scenario and the fact that the Exporter has not participated in the adjudication proceedings, I take up this SCN dated 23.06.2025 for discussion on the merit of the case. With regard to proceeding to decide the case following the Principle of Natural Justice, reliance is placed on the decision of the **Hon'ble High Court of Allahabad in the case of M/s. Modipon Ltd. V/s. CCE, Meerut [reported in 2002 (144) ELT 267 (All)]** effectively dealing with the issue of natural justice and personal hearing. The extract of the observations of Hon'ble Court is reproduced herein below for reference:

*"Natural justice- Hearing- Adjournment- Adjudication- Principle of audi alteram partem does not make it imperative for the authorities to compel physical presence of the party for hearing and go on adjourning proceedings so long as party does not appear before them- What is imperative for the authorities to afford the opportunity- If the opportunity afforded is not availed of by the party concerned, there is no violation of the principles of natural justice. The fundamental principles of natural justice and fair play are safeguards for the flow of justice and not the instruments for delaying the proceedings and thereby obstructing the flow of justice.*

*Natural justice - Hearing - Adjudication - Requirement of natural justice complied with if person concerned afforded an opportunity to present his case before the authority - Any order passed after taking into consideration points raised in such application not invalid merely on ground that no personal hearing had been afforded, all the more important in context of taxation and revenue matters. [1996 (2) SCC 98 relied on] [para 22]"*

28.5 In view of the above, it is observed that sufficient opportunities have been given to the Exporter but they chose not to join the adjudication proceedings. Having complied with the requirement of the Principles of Natural Justice and having granted Personal Hearings, the adjudication proceeding is a time bound matter and cannot be kept pending indefinitely. I, therefore, proceed with the adjudication of the case *ex-parte*, on the basis of available evidences on record.

29. I find that the following issues are required to be decided in the instant case:

- i. Whether The declared FOB value of Rs. 80,78,710/- covered under the Shipping Bill no. 5818759 dated 30.11.2022 should be rejected and the same should not be re-determined to Rs. 73,60,405/- or not.

- ii. Whether the said impugned export goods covered under the Shipping Bill no. 5818759 dated 30.11.2022 having total declared FOB value of Rs. 80,78,710/- should be confiscated under the provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962 or not.
- iii. Whether the claimed Drawback of Rs. 1,37,161/- RoDTEP of Rs. 1,964.82/- and RoSCTL of Rs. 2,47,225/- covered under shipping bill no. 5818759 dated 30.11.2022 should be rejected and re-determined to Drawback of Rs. 1,34,708/- RoDTEP of Rs. 1,067.54/- and RoSCTL of Rs. 2,38,394.9/- respectively or not. The total claimed drawback of Rs.1,37,161/- should be rejected and demanded back from the exporter under section 75 and 75 A of the Customs Act, 1962 read with Rule 18 of the drawback Rules, 2017. Further, the claimed ROSCTL amount of Rs. 2,47,225/- & claimed RoDTEP of Rs. 1,067.54/- should be rejected and demanded back in terms of Section 28AAA read with Section 28AA of the Customs Act 1962 for the present shipping bill due to non-receipt of remittance or not.
- iv. Whether drawback amount of Rs. 25,39,724/- claimed in 16 Shipping Bills mentioned at Table-IV above should be demanded back from the exporter along with applicable interest under Section 75 and 75A of the Customs Act 1962 read with Rule 18 of the drawback Rules, 2017 or not.
- v. Whether RoScTL amount of Rs. 1,09,981/- claimed in Shipping Bills mentioned at Table-IV above should be demanded back from the exporter along with applicable interest under CBIC Notification 77/2021 NT. & 76/2021 NT or not.
- vi. Whether M/s. Mangalmurthi Impex (IEC No. 0311063284) should be penalised under Section 114(iii) of the Customs Act, 1962 or not.
- vii. Whether Mr. MohananVelu Thamarassery, Proprietor of M/s. Mangalmurthi Impex (IEC No. 0311063284) should be penalised under Section 114AA of the Customs Act, 1962 or not.
- viii. Whether The Bond to the full value of the goods (FOB value) should be enforced and bank Guarantee of Rs. 1,00,000/-(Rupees One Lakh Only) vide DD016258 dated 06.01.23 vide Challan No. HCM-697 dated 09.01.23, should be appropriated towards recoverable dues, applicable fine and penalty or not.

**30.** I find that M/s Mangalmurthi Impex (IEC: 0311063284) having registered office at Flat No. 704, Gayatri Dham CHS, Plot No.16, Sec 29C, Rabale Gothivali, Navi Mumbai-400701, filed Shipping Bill No. 5818759 dated 30.11.2022 through their authorised Customs Broker M/s Apex Worldwide Logistics for export of "Readymade Garments and other accessories" under Scheme Code 60 with claim of Drawback, RoDTEP & RoSCTL.

**30.1** I find that based on NCTC e-mail dated 01.12.2022, the consignment was suspected to be risky on account of a doubtful supply chain and suspected overvaluation/mis-declaration to avail illegitimate export incentives. Accordingly, the goods were kept on hold vide Hold No. 47/202223-SIIB(X) dated 02.12.2022 for detailed examination and investigation by SIIB(X), JNCH

**31.** I find that the goods were examined 100% under Panchanama dated 13.12.2022 in the presence of independent Panchas and representatives of the Customs Broker and exporter. During examination,

the goods were found as declared in the Shipping Bill/invoice/packing list with respect to quantity. Representative Sealed Samples (RSS) were drawn for testing and the goods were handed over to the custodian for safe custody.

**32.** I find that the exporter had declared FOB value of ₹80,78,710/- in respect of the goods covered under Shipping Bill No. 5818759 dated 30.11.2022 and that the investigation revealed the declared value to be abnormally high though the goods were found as per declared quantity and description. The DYCC Test Reports dated 16.12.2022 establish that the goods are ordinary readymade garments of linen, cotton and blended fabrics, without any special features warranting such high valuation. The Market Enquiry conducted on 28.12.2022, based on prices collected from three independent wholesale dealers, shows that the prevailing market prices of identical/similar goods were substantially lower than the declared value. The exporter, being a merchant exporter, failed to produce any contemporaneous export data, genuine purchase invoices, cost details, transport expenses or evidence of profit margin to substantiate the declared FOB value, despite being afforded opportunity. In these circumstances, the declared transaction value does not inspire confidence and is liable to be rejected under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Since the value could not be determined under Rules 4 and 5 for want of comparable data and cost details, the value is required to be determined under the residual method prescribed under Rule 6 of the said Rules. Accordingly, on the basis of the Market Enquiry Report and other evidence gathered during investigation, the FOB value is liable to be re-determined at ₹73,60,405/-.

**33.1.** I find that on exporter's request dated 21.12.2022, provisional release was permitted in terms of Board Circular 01/2011 dated 04.01.2011 and 30/2013 dated 05.08.2013, subject to execution of Bond to full FOB value and submission of Bank Guarantee of Rs. 1,00,000/- with self-renewal clause.

**33.2.** I further find that during investigation the exporter paid amounts towards drawback/RoDTeP/RoSCTL along with interest vide challan no. HCM-1377 dated 16.01.2024 (for Rs. 5639.57/-) and HCM-1378 dated 16.01.2024 (for Rs. 1,000/-). The same will be appropriated at the time of adjudication proceedings.

**34.** I find that the exporter had deliberately over-declared the FOB value of the export goods with intent to claim higher export incentives, which amounts to furnishing incorrect and false particulars in the Shipping Bill in contravention of Section 50(2) of the Customs Act, 1962 read with Rule 11 of the Foreign Trade (Regulation) Rules, 1993. The goods were entered for export under claim of Drawback, RoDTEP and RoSCTL, to which the exporter was not legitimately entitled on the basis of the inflated value, and therefore do not correspond in respect of value and material particulars with the declaration made. Accordingly, the impugned goods are liable to confiscation under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962.

**34.1** I find that export incentives are directly linked to the FOB value of the goods and that once the declared FOB value is rejected and re-determined to ₹73,60,405/-, the incentives originally claimed by the exporter in respect of Shipping Bill No. 5818759 dated 30.11.2022 cannot be sustained. As

brought out in the SCN, the admissible incentives on the basis of the re-determined FOB value work out to **Drawback of ₹1,34,708/-, RoDTEP of ₹1,067.54/- and RoSCTL of ₹2,38,394.90/-** as against the claimed amounts of ₹1,37,161/-, ₹1,964.82/- and ₹2,47,225/- respectively, resulting in excess claims of ₹2,453/-, ₹897.27/- and ₹8,830.10/-. **The exporter has already deposited ₹5,639.57/- and ₹1,000/- along with interest during investigation, which are liable to be appropriated.** Accordingly, the incentives claimed are liable to be re-determined and the excess amounts are recoverable in accordance with law.

**35.** I find that as per ICES 1.5 data, there are 16 past Shipping Bills (Table-IV) in respect of which foreign remittance had not been received as per FEMA regulations, with total declared FOB value of Rs. 5,33,35,460/-, drawback claimed of Rs. 25,39,724/- and RoScTL claimed of Rs. 1,09,981/-. It is also pertinent to mention that the prescribed timeline for realization and repatriation of export proceeds is nine months from the date of export, as stipulated in RBI Master Circular No. 14/2014-15 dated 01.07.2014, which states as under: *"It has been decided in consultation with the Government of India that the period of realization and repatriation of export proceeds shall be nine months from the date of export for all exporters including Units in SEZs, Status Holder Exporters, EOUs, Units in EHTPs, STPs, and BTPs until further notice."* Hence, in terms of Section 75A of the Customs Act, 1962 read with Rule 18 of the Drawback Rules, 2017, where sale proceeds are not realised, the drawback paid becomes recoverable along with applicable interest. The exporter has failed to produce any evidence of realisation of export proceeds for the said Shipping Bills. Accordingly, the drawback amount of ₹25,39,724/- is liable to be recovered along with interest..

**35.1** I find that RoSCTL benefits amounting to ₹1,09,981/- (Rupees One Lakh Nine Thousand Nine Hundred Eighty One only) were availed by the exporter M/s. Mangalmurthi Impex (IEC: 0311063284) in respect of past Shipping Bills mentioned in Table-IV of the SCN, for which the export proceeds have not been realised within the period prescribed under FEMA Therefore the same should be recovered in terms of Para 5 of Notification no-76/2021-Cus(N.T) dated 23.09.2021 & 25/2023-Cus(N.T) dated 01.04.2023 along with applicable interest under Section 28AA of Customs act 1962.

**36.** I find that by deliberately over-declaring the FOB value and attempting to export goods with a view to claim undue export incentives, M/s. Mangalmurthi Impex rendered the goods liable to confiscation under Section 113 of the Customs Act, 1962, and such acts and omissions squarely attract the provisions of Section 114(iii) of the said Act. Accordingly, the exporter is liable to penalty under Section 114(iii) of the Customs Act, 1962.

**37.** I find that from the statement of Shri Mohanan Velu Thamarassery, Proprietor of M/s. Mangalmurthi Impex, and the material brought on record during investigation, he knowingly and intentionally caused to make and use export documents containing inflated FOB values which were false and incorrect in material particulars, with intent to avail undue export benefits, thereby attracting the provisions of Section 114AA of the Customs Act, 1962. Accordingly, he is liable to penalty under the said section.

38. I find that the goods were provisionally released under Section 110A of the Customs Act, 1962 on execution of a bond for the full FOB value and furnishing of a Bank Guarantee of ₹1,00,000/-, and that in view of findings that the goods are liable to confiscation, that excess export incentives are recoverable and that penalties are imposable, the bond executed by the exporter is liable to be enforced and the Bank Guarantee is liable to be appropriated towards redemption fine, penalties and other recoverable dues arising out of this adjudication.

39. I find that, on the basis of the facts and circumstances mentioned herein above, the Exporter have knowingly and deliberately indulged themselves in wilful mis-statement and alleged suppression of facts with regard to Shipping Bills mentioned in SCN, with an intent to violate the provisions of Custom Act by their aforesaid acts of omission and commission have rendered the impugned goods liable for confiscation under Section 113 (i), 113 (ia) & 113 (ja) of the Customs Act, 1962. I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

*"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorized by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing the payment of the redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (i)."*

39.1 I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same have not been challenged by any of the parties in operation. Hence, I find that any goods improperly exported as provided in any sub-section of Section 113 of the Customs Act, 1962 are liable to confiscation and merely because the exporter was not caught at the time of clearance of the exported goods, can't be given differential treatment. In view of the above, I find that

the decision of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), which has been passed after observing the decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), is squarely applicable in the present case. Accordingly, I observe that the present case also merits the imposition of a Redemption Fine.

**39.2** In view of the above, I find that the present case also merits imposition of Redemption Fine under Section 125 of the Customs Act, 1962 in lieu of confiscation.

### ORDER

In view of the above discussions and findings, I pass the following order,

(i) I deny and reject the declared FOB value of ₹80,78,710/- in respect of the goods covered under Shipping Bill No. 5818759 dated 30.11.2022 in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, and order that the same be re-determined at ₹73,60,405/- under Rule 6 of the said Rules.

(ii) I order confiscation of the goods covered under Shipping Bill No. 5818759 dated 30.11.2022, having declared FOB value of ₹80,78,710/-, under Sections 113(i), 113(ia) and 113(ja) of the Customs Act, 1962. However, as the goods have already been provisionally released and exported, I impose a redemption fine of **Rs 5,00,000/-** (Rupees five Lakh only) under Section 125 of the Customs Act, 1962, in lieu of confiscation.

(iii) I deny and reject the export incentives claimed in respect of Shipping Bill No. 5818759 dated 30.11.2022, namely Drawback of ₹1,37,161/-, RoDTEP of ₹1,964.82/- and RoSCTL of ₹2,47,225/-, and order that the admissible incentives be re-determined as Drawback of ₹1,34,708/-, RoDTEP of ₹1,067.54/- and RoSCTL of ₹2,38,394.90/-. I further order that the excess amounts of ₹2,453/- (Drawback), ₹897.27/- (RoDTEP) and ₹8,830.10/- (RoSCTL) be recovered back in terms of Section 28AAA read with Section 28AA of the Customs Act 1962. The amounts already deposited by the exporter, namely ₹5,639.57/- and ₹1,000/- along with interest, are ordered to be appropriated against the said dues.

(iv) I order recovery of Drawback amounting to ₹25,39,724/- (Rupees Twenty Five Lakh Thirty Nine Thousand Seven Hundred Twenty Four only) in respect of the past Shipping Bills mentioned in Table-IV of the SCN, under Section 75 and Section 75A of the Customs Act, 1962 read with Rule 18 of the Drawback Rules, 2017, along with applicable interest.

(v) I order recovery of the RoSCTL amount of ₹1,09,981/- in terms of Notification 77/2021 NT. & 76/2021 NT along with applicable interest under Section 28AA of the Customs Act, 1962.”.

(vi) The Regional Authority, DGFT, Mumbai is requested to take necessary action for recovering the RoSCTL amount of ₹1,09,981/- (Rupees One Lakh Nine Thousand Nine Hundred Eighty One only)

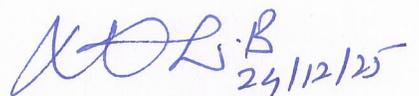
from the exporter M/s. Mangalmurthi Impex (IEC: 0311063284) in respect of the aforesaid past Shipping Bills, wherein foreign remittance has not been realised.

(vii) I impose a penalty of **Rs 1,00,000/-** (Rupees One lakh only) under Section 114(iii) of the Customs Act, 1962 on the exporter M/s. Mangalmurthi Impex for acts of omission and commission in overvaluation of the export goods, thereby rendering the goods liable to confiscation.

(viii) I impose a penalty of **Rs 1,00,000** (Rupees One lakh only) under Section 114AA of the Customs Act, 1962 on Shri Mohanan Velu Thamarassery, Proprietor of M/s. Mangalmurthi Impex, for knowingly and intentionally making and using declarations and documents which were false and incorrect in material particulars with regard to the value of the export goods, with intent to avail undue export incentives.

(ix) I order that the Redemption Fine and Penalties imposed under this Order shall be paid by the exporter into the Customs Treasury within the prescribed period. In the event of failure to make such payment, I further order that the bond executed at the time of provisional release of the goods shall be enforced and the Bank Guarantee of **₹1,00,000/-** (Rupees One Lakh only) furnished by the exporter shall be encashed and appropriated towards the dues arising out of this Order, including excess export incentives, applicable interest, redemption fine and penalties.

**40.** This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

  
**(RAGHU KIRAN B.)**

Additional Commissioner of Customs,  
CEAC, NS-II, JNCH

To,  
**M/s. Mangalmurthi Impex (IEC No. 0311063284)**  
Flat no. Flat No. 704, Gayatri Dham CHS- Plot No.16,  
Sec 29C, Rabable Gothivali-Navi Mumbai- 400701

**Mr. Mohanan Velu Thamarassery, Proprietor**  
M/s. Mangalmurthi Impex, Flat no. Flat No. 704, Gayatri Dham CHS- Plot No.16, Sec 29C,  
Rabable Gothivali-Navi Mumbai- 400701

**Copy to:**

1. The Commissioner of Customs, NS II, JNCH, Nhava Sheva.
2. The Dy./Asstt. Commissioner of Customs, SIIB (X), JNCH, Nhava Sheva

