
 <p>सत्यमेव जयते</p>	<p>भारत सरकार/ Government of India वित्तमंत्रालय / Ministry of Finance आयुक्त सीमाशुल्क एन.एस.-II कार्यालय Office of Commissioner of Customs NS-II जवाहरलाल नेहरू कस्टम हाउस, न्हावा शेवा, जिला- रायगढ़, महाराष्ट्र - 400 707 Jawaharlal Nehru Custom House, Nhava Sheva, Dist- Raigad, Maharashtra - 400 707.</p>	
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F. No. **S/6-GEN-01/MISC-2024-2025/CEAC**  
**SG/INV/-88/2023-24/SIIB(X) JNCH**

Date of Order : **10.09.2025**  
Date of Issue: **13.09.2025**

DIN:- **20250978NT000081856E**

Passed by: **SHRI RAGHU KIRAN BATCHALAI**  
**Additional Commissioner of Customs,**  
**CEAC (NS-II), JNCH, NHAVA SHEVA**

Order-in-Original No: **815 / 2025-26 / ADC / CRAC / NS-II / CAC / JNCH**  
**M/s. Caliber Exim (IEC: CESPC5971G)**

### 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, महाराष्ट्र- 400707 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 2.00 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 2.00 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 (Appeals), Jawaharlal Nehru Custom House, Sheva, Taluka: 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 annexed to the Customs (Appeals) Rules, 1982. The appeal should bear a Court Fee stamp of Rs.2.00 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. 2.00 only as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1870.
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 Caliber Exim (IEC: CESPC5971G ) having its office at S/F, SHOP-214, PLOT NO-1, LSC GAZIPUR, New Delhi, East Delhi, Delhi, 110092 has filed Shipping Bill NO 8436452 and 8437270 both dated 19.03.2024 (hereinafter referred to as “Shipping Bills”) through their Customs Broker M/s. JIT Shipping (License No. AFLPP4301F) at JWR CFS. The goods covered under Shipping Bills 8436452 and 8437270 both dated 19.03.2024 were declared as “RMG’s”, were put on hold vide Hold letter No. 292/2022-23/SIIB(X) dated 28.03.2024 issued vide F. No. CUS/SIIB/ALT/167/2024-SIIB(E) JNCH 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 very highly overvalued and mis-declared to avail illegitimate claim of drawback and other Export incentives.

2. The details of the Shipping Bills filed by M/s Caliber Exim along with description, quantity, FOB, DBK ROSCTL which were destined to UAE are Tabulated as follows:-

**TABLE-I**

SB No/ Date	Description	Quantity (PCS)	FOB (INR)	DBK (INR)	RoSCTL (INR)	IGST
8437270 dated 19.03.2024	KIDS 2 PCS SET KNITTED OF COTTON	3300	₹ 7,71,210.00	₹ 21,594.00	₹ 30,000.00	LUT
	KIDS 2 PCS SET KNITTED OF COTTON	15000	₹ 36,28,500.00	₹ 1,01,598.00	₹ 1,41,148.00	LUT
8436452 dated 19.03.2024	KIDS 2 PCS SET KNITTED OF COTTON	18000	₹ 42,06,600.00	₹ 1,17,785.00	₹ 1,63,636.00	LUT
<b>TOTAL</b>		<b>36300</b>	<b>₹ 86,06,310.00</b>	<b>₹ 2,40,977.00</b>	<b>₹ 3,34,784.00</b>	<b>LUT</b>

3. Consequently, the subject goods pertaining to Shipping Bills 8436452 and 8437270 both dated 19.03.2024 were examined 100% vide Panchanama dated 01.04.2024 in the presence of two independent Panchas, representatives of Customs Broker and Exporter. During the Examination, the subject goods were found as declared in the said Shipping Bills, their corresponding invoices and Packing lists w.r.t. declared quantity and description. However, it appeared that the valuation of the goods covered in above said Shipping Bills was overvalued. Representative Sealed Samples (RSS) of the goods from the Shipping Bills were drawn for the purpose of testing.

4. Further, The RSS were forwarded to DYCC, JNCH for testing in order to determine exact characteristics, nature and composition of the subject goods. DYCC tested the RSS and forwarded the test Report vide DYCC Report Nos. 292 & 293/SIIB(X) dated 05.04.2024. The details of test report are as under:

Item No	Item Description	Incentives Sr. No.	DYCC Test Report
1	KIDS 2 PCS SET KNITTED OF COTTON	611101B	The sample as received is in the form of a readymade garment (Kids 2 piece Set) - Round neck T-shirt & Short. Round neck T-shirt: It is made of knitted fabric composed of cotton yarns having white & red coloured knitted fabric (piping) stitched at the neck, sleeves ends and lower end made of polyester filament yarns. Weight of T-shirt = 37.7 gm Weight of cotton fabric = 30.1 gm Weight of polyester = Balance.



			Short: It is made of knitted fabric composed of cotton yarns having elastomeric strip at the waist. Weight of short = 18.2 gm Weight of cotton fabric = 17.1 gm Elastomeric strip = Balance.
2	KIDS 2 PCS SET KNITTED OF COTTON	611101B	The sample as received is in the form of a readymade garment (Kids 2 piece Set) - Round neck T-shirt & Short. Round neck T-shirt: It is made of knitted fabric composed of cotton yarns having white & red coloured knitted fabric (piping) stitched at the neck, sleeves ends and lower end made of polyester filament yarns. Weight of T-shirt = 37.7 gm Weight of cotton fabric = 30.1 gm Weight of polyester = Balance. Short: It is made of knitted fabric composed of cotton yarns having elastomeric strip at the waist. Weight of short = 18.2 gm Weight of cotton fabric = 17.1 gm Elastomeric strip = Balance.
3	KIDS 2 PCS SET KNITTED OF COTTON	611101B	The sample as received is in the form of a readymade garment (Kids 2 piece Set) - Round neck T Shirt & Short. <b>Round neck T Shirt</b> - It is made of knitted fabric composed of cotton yarns having white & orange coloured knitted fabric (piping) stitched at the neck, sleeves end and lower end made of polyester filament yarns. Wt of T-Shirt = 35.7 gm Wt of cotton fabric = 28.9 gm Wt of polyester = Balance. <b>Shorts</b> - It is made of knitted fabric composed of cotton yarns having elastomeric strip at the waist. Wt of short = 18.6 gm Wt of cotton fabric = 17.26 gm Wt of elastomeric strip = Balance.

In view of the above, the subject goods were found as mis declared in terms of composition, CTH and Drawback Sr. No. Hence, the eligible CTH and Drawback Serial Number is as below:

**Table-II**

Item No	Item Description	DECLARED						REDETERMINED					
		RITC	Drawback	Rate	RoSCTL	RATE		RITC	Drawback	Rate	RoSCTL	RATE	
						Stare	Centre					Stare	Centre
1	KIDS 2 PCS SET KNITTED OF COTTON	61112000	611101B	2.8	611101B	2.25	1.64	61119090	611102B	2.8	611102B	2.18	1.67
2	KIDS 2 PCS SET KNITTED OF COTTON	61112000	611101B	2.8	611101B	2.25	1.64	61119090	611102B	2.8	611102B	2.18	1.67
3	KIDS 2 PCS SET KNITTED OF COTTON	61112000	611101B	2.8	611101B	2.25	1.64	61119090	611102B	2.8	611102B	2.18	1.67

**5. Re-determination of Valuation**

**5.1** 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 cannot be identified to compare their transaction value with the declared value of the subject goods. Hence, value of the subject goods cannot be determined under the said Rule 4 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

**5.2** The Exporter has 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 cannot be determined as per Rule 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

**5.3** 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 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”.

As per the Provisions of Rule 6 *ibid*, the assessable value of the goods is proposed to be re-determined under Rule 6 *ibid*, i.e. as per the Residual Method. Accordingly, Market Survey was conducted by the officers of SIIB (Export) on 19.04.2024. Value of the goods was taken from 3 different shops/dealers and average of their prices was taken as Market value of the same. The details of the determination of the value is summarized in the Market Survey Report dated 19.04.2024.

**6.** Therefore, in order to ascertain prevailing Market Value of the goods, the Market Enquiry of the goods covered under the subject Shipping Bill was conducted with the request to the Exporter to represent them during the said Market Enquiry. The Market Enquiry was conducted on 19.04.2024 along with Authorized Representative of the Exporter. As per the Market Enquiry the value of the goods has been re-determined and accordingly the Export incentives have been re-determined. On the basis of Panchanama dated 01.04.2024 and Market Enquiry Report dated 19.04.2024, it is observed that the subject goods have been mis-declared in terms of valuation, CTH and drawback Sr. Number. The re-determined FOB value of the goods and corresponding Export incentives under the Shipping Bill would be as below:

**Table-III**

Sl No.	Shipping Bill No. & Date	Description of goods	Quantity (PCS)	Declared			Re-determined		
				FOB	Drawback	ROSCTL	FOB	Drawback	ROSCTL
1	8437270 dated 19.03.2024	KIDS 2 PCS SET KNITTED OF COTTON	3300	₹ 7,71,210.00	₹ 21,594.00	₹ 30,000.00	₹ 6,08,508.73	₹ 17,038.24	₹ 23,427.59
2		KIDS 2 PCS SET KNITTED OF COTTON	15000	₹ 36,28,500.00	₹ 1,01,598.00	₹ 1,41,148.00	₹ 27,72,727.27	₹ 77,636.36	₹ 1,06,750.00
3	8436452 dated 19.03.2024	KIDS 2 PCS SET KNITTED OF COTTON	18000	₹ 42,06,600.00	₹ 1,17,785.00	₹ 1,63,636.00	₹ 33,19,138.53	₹ 92,935.88	₹ 1,27,786.83
<b>TOTAL</b>			<b>36300</b>	<b>₹ 86,06,310.00</b>	<b>₹ 2,40,977.00</b>	<b>₹ 3,34,784.00</b>	<b>₹ 67,00,374.54</b>	<b>₹ 1,87,610.48</b>	<b>₹ 2,57,964.42</b>

**Table-IV**

Re-determined FOB (in Rs.)	Differential Drawback (in Rs.)	Differential ROSCTL (in Rs.)	Total excess Export benefits (in Rs.)
₹ 67,00,374.54	₹ 53,366.52	₹ 76,819.58	₹ 1,30,186.10



7. As can be seen from the Table above, based on the Report received by the DYCC, JNCH and Market Enquiry conducted on 19.04.2024, it appears that the goods declared by the Exporter in the Shipping Bills 8436452 and 8437270 both dated 19.03.2024 have been mis-declared in terms of their CTH, drawback Sr. No. and Value. The value of the goods has been re-determined on the basis of Market Enquiry Report dated 19.04.2024 and DYCC Reports. The Export incentive such as drawback & RoSCTL are therefore to be 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. ₹ 86,06,310.00 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. Past Exports:

In order to investigate past consignments, the data was retrieved from the date of issuance of IEC i.e. 17.04.2023 till 31.12.2024 for Exporter M/s. Caliber Exim (IEC: CESPC5971G). The Exporter had filed a total No. of 05 Shipping Bills in past. On perusal of the past Export data, no foreign remittance has been received as per FEMA regulations. The details of the Shipping Bill are as under where no BRC/foreign remittance has been realized yet against this IEC.

**Table-V**

Serial No.	SB No.	SB Date	LEO Date	Expected Realization Date	DBK	RoSCTL	FOB to be Realised (In FC)	FOB Actually Realised (In FC)	FOB(INR)
1	3165980	12-08-2023	18-08-2023	31-05-2024	₹ 48,416.00	₹ 1,39,196.00	28,092	0	₹ 23,00,761.83
2	3370135	22-08-2023	23-08-2023	31-05-2024	₹ 48,221.00	₹ 85,758.00	21,056	0	₹ 17,30,813.89
3	7274284	05-02-2024	06-02-2024	30-11-2024	₹ 89,901.00	₹ 1,24,897.00	39,060	0	₹ 32,10,732.00
4	7355507	07-02-2024	09-02-2024	30-11-2024	₹ 86,310.00	₹ 1,19,910.00	37,500	0	₹ 30,82,500.00
5	7363639	08-02-2024	09-02-2024	30-11-2024	₹ 78,300.00	₹ 1,08,782.00	34,020	0	₹ 27,96,444.00
<b>TOTAL</b>					<b>₹ 3,51,148.00</b>	<b>₹ 5,78,543.00</b>	<b>1,59,728</b>	<b>0</b>	<b>₹ 1,31,21,251.72</b>

As the prescribed timeline for realization of foreign remittance is 09 months as per RBI Master Circular No.14/2014-15 dated 01.07.2014, which states," 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 & BTPs until further notice. As per Table-V, there are only 05 Shipping Bills mentioned in the table above for which FOB has not been realized despite completion of expected realization time period as mandated by RBI. Accordingly, the Drawback is liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bill mentioned in Table-V under Section 75 and 75A of the Customs Act 1962 read with Rule 17 &18 of the drawback Rules, 2017 along with applicable interest. Also, ROSCTL & RoDTEP are liable to be demanded Back from the Exporter on account of non-receipt of foreign remittance in the Shipping Bill mentioned in Table-V in terms of Notification No. 76/2021-Cus (N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962. Total drawback claimed in 05 Shipping Bills in which FOB not realized despite completion of time period is Rs. 3,51,148/-, RoSCTL claimed is Rs. 5,78,543/-. An Alert was inserted to withhold the Export incentives against the Exporter M/s. Caliber Exim (IEC: CESPC5971G) during the investigation.

9. The Exporter vide their letter dated 29.03.2024 requested to release of the goods for **Export**. NOC dated 22.04.2024 was issued by SIIB(X) for the Provisional Release of the goods for Export. 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 under section 110A of the Customs Act, 1962 on execution of Bond of RS. 86,06,310/- (Eighty Six Lakh Six Thousand Three Hundred and Ten Rupees only) and on submission of Cash Guarantee amounting to Rs. 1,80,000/- (One lakh eighty thousand rupees only) vide cash challan No. 316 dated 29.04.2024.

10. Further, letters dated 24.05.2024, 10.07.2024, 26.09.2024, and 11.12.2024 were sent to the jurisdictional GSTO, Department of Trade and Taxes, Govt. of NCT of Delhi, Vyapar Bhawan, I.P. Estate, New Delhi - 110002, to verify the genuineness of the Exporter, M/s. Caliber Exim (GSTIN: 07CESPC5971G1Z5). Further, letters dated 20.11.2024, 11.12.2024 and 20.03.2025 were also sent to the jurisdictional GST office, Inland Container Dept, Sr. No. 129, Poondi Ring Road, Chettipalayam, Tirupur - 641652, for verification of the genuineness of the Supplier M/s. Pooja Garments (GSTN: 33FQLPP5452H1ZI). In addition to this, letters dated 20.11.2024, 11.12.2024, 04.03.2025 and 20.03.2025 were also sent to the jurisdictional GST office, for verification of the genuineness of the Supplier M/s. M/s. NATRPAVI KNIT FAB (L2) (GSTIN-33BPZPM9950G1Z4). However, no reply has been received through any means of communication.

#### **SUMMONS & STATEMENT**

11. Further, in order to record the statement of the Proprietor of M/s. Caliber Exim (IEC: CESPC5971G) under Section 108 of the Customs Act, 1962, summonses were issued in the name of the firm, directing appearance before the office of SIIB(X), 6th Floor, C-604, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka-Uran, District Raigad, Maharashtra - 400707. In this regard, in response to summons dated



15.01.2025 having DIN No. 20250178NT000055255C, the statement of Mr. Chahat Chugh, Proprietor of M/s. Caliber Exim, was recorded on 29.01.2025, wherein he, inter alia, stated that:

On being asked about his role in M/s. Caliber Exim, he stated that he was the Proprietor of the company and had appeared in response to the summons dated 15.01.2025 to provide his statement and seek the release of their Bond and Bank Guarantee (BG).

On being asked whether Shipping Bill Nos. 8436452 and 8437270, both dated 19.03.2024, had been filed by him, he stated that these shipping bills had been filed through their Customs Broker (CHA), M/s. JIT Shipping Services. However, it had been informed by the CHA that the shipping bills had been held by SIIB(X) for 100% examination.

On being asked whether he agreed with the 100% examination conducted under Panchanama dated 01.04.2024 and whether he had been present during the examination, he stated that the examination had been agreed to, and the goods had been declared correctly in terms of quantity and description. His authorized representative, Shri Sanjay Babaji Sawant, a G-card holder from M/s. JIT Shipping Services, had been present during the examination.

On being asked about the misdeclaration in terms of composition in the shipping bills, as verified by the DYCC reports, he stated that the goods had been ordered to be manufactured by M/s. Pooja Garments (GSTIN: 33FQLPP5452H1Z1), but the manufacturer had provided articles of different composition and quality. The goods had been delivered directly from the manufacturer to the port without verification of their composition and quality. However, he agreed with the department's view regarding misdeclaration in terms of composition.

On being asked about the overvaluation of goods as per the market enquiry dated 19.04.2024, he stated that since the goods had been brought directly from the place of manufacturing to the port of delivery, their genuineness could not have been verified. Unfortunately, the goods had been of different quality, composition, and value, as found during examination and market enquiry. Though it had been unintentional, the value re-determined as per market enquiry had been accepted.

On being asked whether he knew any person from M/s. JIT Shipping Services, he stated that Shri Sanjay Babaji Sawant, a G-card holder, had been known to him as a friend of his father.

On being asked whether anyone from CHA M/s. JIT Shipping Services had visited his place of business for KYC, he stated that KYC documents had been provided to the CHA, and Shri Sanjay Babaji Sawant, a G-card holder, had visited the place of business for this purpose.

On being asked about the number of consignments exported since obtaining his IEC in April 2023, he stated that a total of seven shipping bills had been filed till date.



On being asked whether he had brought tax invoices, GSTRs, and e-way bills related to the said shipping bills, he stated that the above-mentioned documents, including tax invoices, GSTR-2A, and e-way bills, had been brought and submitted. GSTR-3B had been provided via mail.

On being asked about exports from INNSA1 destined to risky countries, he stated that most buyers for ready-made garments (RMGs) had been based in risky countries, and the specific buyer for these transactions had also been from this region.

On being asked about the returned summons with remarks "No such person at the address" and "refused," he stated that the firm had been operating from the declared place of business, but no summons had been received via courier. Neither had any summons been refused. Due to the lack of specific address details, such as khasra number, the summons might not have been delivered. Information about the summons had been obtained via email.

On being asked whether he had been the actual owner of the goods in the said shipping bills or merely a frontman, he stated that he had been the actual owner of the goods.

On being asked whether he filed GSTR regularly and could submit GSTR-3B, he stated that GSTR had been filed regularly, and a physical copy of GSTR-2A had been submitted, while GSTR-3B had to be provided via mail.

On being asked about the payment terms with buyers and financing of purchases, he stated that goods had been purchased with an instant payment of approximately 30 lakhs, while the remaining amount had been on credit. The overseas buyer had provided a 180-day timeline for payment.

On being asked why the Bank Realization Certificates (BRCs) for past exports had not been realized, he stated that seven shipping bills had been filed to date. For Shipping Bill No. 3165980 dated 12.08.2023, a BRC of USD 18,826.00 instead of the FOB value of USD 28,092 had been realized, and a SWIFT copy had been provided. For the remaining amount of this shipping bill and for Shipping Bill No. 3370135 dated 22.08.2023, no BRC had been realized yet, but realization had been expected by the end of February as assured by the buyer. Three more shipping bills—SB No. 7274284 dated 05.02.2024, 7355507 dated 07.02.2024, and 7363639 dated 08.02.2024—had been filed, but no FOB had been realized, as the buyer had not made payment till date. A complaint regarding this had been filed in Karkardooma Court, East Delhi. For SB Nos. 8436452 and 8437270, both dated 19.03.2024, the last expected realization date had been 28.02.2025, as assured by the buyer.

On being asked to provide details of the case, he stated that they would be submitted within seven days as the relevant documents had not been brought.

On being asked how contact had been established with the consignee, he stated that the consignee had been introduced in Dubai by his father, who had been a friend of the consignee.



On being asked about the GST jurisdictional office not responding to letters, he stated that the firm had been compliant with GST and filed returns regularly. Relevant documents such as GSTR and e-way bills had been provided. A team from GST had visited the place of business for verification in May, but the reason for the lack of response from the GST office had not been known.

On being asked about the supplier from whom the goods had been procured, he stated that the goods had been purchased from M/s. Pooja Garments (GSTIN: 33FQLPP5452H1Z1), located at No. 5/225 T, Karukankadu Pudhur South, AVS Central School, Ettiveerampalayam, Tiruppur, Tamil Nadu-641666. The tax invoice had been submitted.

On being asked to provide invoices supporting the supply chain and the payment method for suppliers, he stated that the tax invoice had been submitted. The goods had been purchased partially through RTGS, while the remaining amount had been on credit. The remaining amount had not yet been paid.

On being asked whether he had been penalized by Customs, GST, or any government agency, he stated that no penalties had been imposed to date.

On being asked if he wished to add anything, he stated that the goods had been found to be declared accurately in terms of quantity and description during the examination. A lenient view was requested, and the release of the Bond and BG was sought. The firm had been willing to pay the fine and penalty as determined by the department.

## **12. RELEVANT LEGAL PROVISIONS**

### **A. Customs Act, 1962**

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

#### **Section 50: 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.



SECTION 113(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 77, shall be liable to confiscation;

**Section 113(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 the rate of drawback under Section 75, shall be liable to confiscation;

**Section 113(ja):** 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;

**Section 114(iii):** 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;

**114AA. Penalty for use of false and incorrect material. -**

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

**Section 114AC: Penalty for fraudulent utilisation of input tax credit for claiming refund. -**

Where any person has obtained any invoice by fraud, collusion, wilful misstatement or suppression of facts to utilise input tax credit on the basis of such invoice for discharging any duty or tax on goods that are entered for Exportation under claim of refund of such duty or tax, such person shall be liable for penalty not exceeding five times the refund claimed. For the purposes of this section, the expression "input tax credit" shall have the same meaning as assigned to it in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017).

**[114AB. Penalty for obtaining instrument by fraud, etc.—**Where any person has obtained any instrument by fraud, collusion, willful misstatement or suppression of facts and such instrument has been utilized by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

*Explanation.—*For the purposes of this section, the expression "instrument" shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.]

**Section 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) willful 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 utilized under the Provisions of this Act or the Rules or regulations made or notifications issued there under, by a person other than the person to whom the instrument was issued, the duty relatable to such utilization 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.

***Section 28AA of the Customs Act, 1962 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 there under, 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.

(2) 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.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) 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.

***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.

***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 utilized by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such Export goods have not been utilized 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 .

**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.

**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.

**Whereas, from the investigation, the following facts emerge that:**

**13.** M/s. Caliber Exim (IEC: CESPC5971G) having its registered office address at S/F, SHOP-214, PLOT NO-1, LSC GAZIPUR, New Delhi, East Delhi, Delhi, 110092 had filed Shipping Bills 8436452 and 8437270 both dated 19.03.2024 through their Customs Broker M/s. JIT Shipping (License No. AFLPP4301F).The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to ₹ 67,00,374.54 as against the declared FOB value of ₹ 86,06,310.00. By inflating the FOB value, the Exporter was attempting to claim Drawback of ₹ 2,40,977.00 and RoSCTL of ₹ 3,34,784.00 whereas they were eligible for Drawback of ₹ 1,87,610.48 and RoSCTL of ₹ 2,57,964.42 respectively. (as tabulated in Table-III above).

**13.2** As can be seen from the Table-III above, based on the DYCC Reports and Market Enquiry conducted on 19.04.2024, it appears that the goods declared by the Exporter in the Shipping Bills 8436452 and 8437270 both dated 19.03.2024 have been mis-declared in terms of their CTH, Drawback Sr. No. and value. During the Market Enquiry it was found that the value of the goods filed under the said Shipping Bills 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 & RoSCTL are therefore are re-determined with respect to the re-determined FOB as mentioned in the Table-III above. It is thus cogent and clear that the Exporter M/s. Caliber Exim (IEC: CESPC5971G) had mis-declared the impugned goods in terms of their value and attempted to defraud the Government by claiming undue higher



amount of Drawback and ROSCTL and thereby acted in a manner which rendered the said goods under Table-I above liable for confiscation in terms of the Provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962.

**13.3** 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.

**13.4** As the Exporter had not made declaration truthfully in the said Shipping Bills, they have violated the conditions of Section 50(2) of the Customs Act, 1962. Hence, it appears 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 Bills as ₹ 86,06,310.00 whereas the re-determined FOB value after conducting the Market Survey was ₹ 67,00,374.54 only and hence higher Drawback & 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.

**13.5** As the goods were attempted to be Exported by mis-declaration for which confiscation is proposed. Also, as per ICES 1.5 system, the drawback & RoSCTL claimed in the live Shipping Bills as mentioned in Table-I are claimed by the Exporter. The drawback & RoSCTL claimed in the live Shipping Bills as mentioned in Table-I are not liable to be demanded back from the Exporter since the goods were cleared for Provisional Export without disbursing the Export incentives to the Exporter.

**13.6** The description of the goods found were not in consonance with the Exporter's declaration with respect to value, as the Exporter had overvalued the goods on the basis of fake invoices. Hence, the declared value appeared to be rejected as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

**13.7** 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.

**13.8** 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 goods of like kind and quality Exported cannot 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.

**13.9** The Exporter has 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.

**13.10** The value of the impugned goods is, therefore to be re-determined under the residual Rule 6 of CVR (Export) Rules, 2007. This Rule stipulates that 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 general Provisions of these Rules. Therefore, in order to arrive at the correct value of the impugned goods the same was required to be done on the basis of Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Accordingly, the total value of the goods has been re-determined from ₹ 86,06,310.00 to ₹ 67,00,374.54 as per the DYCC Reports & Market Enquiry of the subject goods.

**13.11** Further, despite multiple letters dated 24.05.2024, 10.07.2024, 26.09.2024, and 11.12.2024 sent to the jurisdictional GST offices in Delhi for verification of the genuineness of M/s. Caliber Exim, no response has been received till date by any means of communication. In response to a summons dated 15.01.2025, the proprietor of M/s. Caliber Exim appeared and acknowledged filing Shipping Bill Nos. 8436452 and 8437270 through M/s. JIT Shipping Services. He confirmed the 100% examination conducted under the Panchanama dated 01.04.2024 and attributed the misdeclaration of composition to discrepancies in the goods supplied by M/s. Pooja Garments. He accepted the department's findings on overvaluation, citing an inability to verify the goods prior to export.

Also, the Exporter M/s. Caliber Exim (IEC: CESPC5971G) have rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of mis-declaration of value, description and classification of the impugned goods in case of live Shipping Bills. From the above facts, it is clear that the Exporter is a fly by night operator and was established only to Export inferior goods to claim higher export incentives. Therefore, it appears that the Exporter connived with their supplier to obtain invoice by fraud and collusion to utilize input tax credit on the basis of such invoice for discharging tax on goods which have been entered for exportation under the Shipping Bill filed by them.

The Exporter has 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, RoSCTL and other export benefits. Therefore, the Exporter also liable for penalty u/s 114 AA of Customs Act, 1962 for this intentional mis-declaration.



Thus, the ITC claimed appears wrongly claimed and claimed by fraud etc. since the FOB value of the said goods which were provisionally exported have been re-determined and also export incentives are re-determined, the IGST payable/the refund or ITC available to the exporter also gets re-determined. Further, the Exporter is non-existent and non-genuine. The ITC/IGST claimed is in question since there is no supply chain existing. Hence, the Exporter M/s. Caliber Exim (IEC: CESPC5971G) have rendered themselves liable to penalty in terms of Section 114AC of the Customs Act, 1962.

**13.12** As above discussed, the Exporter has claimed Drawback & RoSCTL by fraud, collusion, willful misstatement or suppression of facts without realizing the BRC for the live Shipping Bills mentioned in Table-V. Hence, it appears that the M/s. Caliber Exim (IEC: CESPC5971G) have rendered themselves liable to penalty in terms of section 114AB of the Customs Act, 1962 since the export incentives have been claimed without receipt of the foreign remittance in past Shipping Bills filed by the Exporter as mentioned at Table-V above.

**13.13** For the past Shipping Bill as mentioned in Table-V wherein foreign remittance have been not received by the Exporter as per ICES 1.5 and thereby in a manner which rendered the said goods liable for confiscation in terms of Provisions of Section 113(ia) & 113(ja) of the Customs Act, 1962. The Export incentive claimed by the Exporter in these Shipping Bill are also liable to be demanded from them in terms of Section 75 and 75A of the Customs Act 1962 read with Rule 18 of the drawback Rules, 2017 & Section 28AAA and Notification No. 76/2021-Cus(N.T) dated 23.09.2021, 77/2021-Cus (N.T) dated 24.09.2021 & 25/2023-Cus (N.T) dated 01.04.2023 along with applicable interest under section 28AA of the Customs Act, 1962.

**13.14** As above discussed, the Exporter has obtained Drawback & RoSCTL/RoDTEP by fraud, collusion, willful misstatement or suppression of facts without realizing the BRC for the Past Shipping Bills mentioned in Table-V. Hence, it appears that the M/s. Caliber Exim (IEC: CESPC5971G) have rendered themselves liable to penalty in terms of section 114AB of the Customs Act, 1962 on account of non-receipt of the foreign remittance in Shipping Bills filed by the Exporter as mentioned at Table-V above.

**13.15.** The exporter M/s Caliber Exim vide their letter dated 19.05.2025 requested waiver of the show cause notice and personal hearing in connection with the proceedings initiated against him. He also submitted that he is fully aware of the case and do not wish to contest the same. In order to expedite the adjudication process and to avoid unnecessary delay, he waived his right to receive a Show Cause notice and personal hearing in the matter and also stated that he undertakes to accept the outcome of the proceedings.

## **DISCUSSION AND FINDINGS**



14. I have carefully gone through the facts of the case, records available and submission made by the exporter during the course of the investigation. The exporter vide letter dated 19.05.2025 has voluntarily requested for waiver of the SCN and PH. Accordingly I take up the case for adjudication on merits on the basis of the evidence available on records.

15. I find that in the instant case, the Exporter M/s. Caliber Exim filed two Shipping Bills bearing numbers 8437270 and 8436452, both dated 19.03.2024, for the export of "KIDS 2 PCS SET KNITTED OF COTTON" to the United Arab Emirates. The total quantity exported under these Shipping Bills was 36,300 pieces, with a cumulative Free on Board (FOB) value of ₹ 86,06,310.00, declared Drawback (DBK) amount of ₹ 2,40,977.00, and RoSCTL benefits of ₹ 3,34,784.00. These exports were made under LUT (Letter of Undertaking) without payment of IGST.

16. I find that on basis of specific intelligence developed by the Officers of SIIB(X),JNCH, the consignments under above mentioned two Shipping Bills were kept on hold by the Officers of SIIB(X), JNCH for detail examination. I find that a 100% examination of the goods under the above-mentioned Shipping Bills was conducted on 01.04.2024, as documented in the Panchanama, in the presence of two independent Panchas, along with representatives from both the Customs Broker and the Exporter. The physical examination confirmed that the goods matched the declared quantity and description as per the Shipping Bills, invoices, and packing lists. However, *doubts were raised regarding the valuation of the goods*, prompting the drawing of Representative Sealed Samples (RSS) for testing to verify the exact composition and nature of the garments. The samples were forwarded to DYCC, JNCH, and test reports numbered 292 and 293/SIIB(X) dated 05.04.2024 were received. According to the DYCC reports, the garments in question — consisting of a Round Neck T-shirt and Shorts — were not made entirely of cotton as declared. Instead, the T-shirts were made of cotton knitted fabric but included polyester filament yarns in the form of piping, while the shorts contained an elastomeric strip at the waist, in addition to the cotton content. This compositional detail had not been disclosed in the declarations made under the Shipping Bills.

17. I find that as a result of this mis-declaration regarding the fiber content and material composition, the declared CTH (Customs Tariff Heading) and corresponding Drawback and RoSCTL Serial Numbers were found to be incorrect. The declared CTH was 61112000 with Drawback Sr. No. 611101B and RoSCTL rates accordingly. However, based on the DYCC test findings, the appropriate classification should be under CTH 61119090 with Drawback Sr. No. 611102B, which carries different rates for RoSCTL (both state and central components).

17.1 In conclusion, although the physical description and quantity of the goods were found to match the declarations, the misdeclaration in terms of the exact fiber composition has led to a re-determination of the CTH, Drawback Serial Number, and applicable RoSCTL rates. Accordingly, the incentives claimed by the exporter under the initially declared serial numbers and rates are not admissible, and benefits will be recalculated based on the re-determined classifications and rates as per Table-II. The



goods were more appropriately classifiable under CTH 61119090 with Drawback Sr. No. 611102B. This misclassification also affected the eligibility and quantum of RoSCTL benefits.

18. I find that in terms of valuation, it was determined that Rules 4 and 5 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 could not be applied, as the exporter failed to provide adequate details such as cost of production, brand, specifications, or profit margins. Accordingly, Rule 6 (Residual Method) was invoked. A market survey was conducted on 19.04.2024 with participation from the exporter's authorized representative. Prices from three different retail outlets were obtained and averaged to determine the re-assessed market value. Based on this, the re-determined FOB value of the goods was ₹67,00,374.54, which was significantly lower than the declared value. Consequently, the export incentives were also recalculated, resulting in an excess claim of ₹53,366.52 under Drawback and ₹76,819.58 under RoSCTL — totaling to ₹1,30,186.10 in excess export benefits.

19. I find that further scrutiny into the exporter's past export history (from IEC issuance on 17.04.2023 to 31.12.2024) revealed that five prior Shipping Bills had been filed, with total declared FOB of ₹1,31,21,251.72. However, no foreign remittance had been realized against any of these, despite the lapse of the prescribed realization period of 9 months as per RBI Circular No. 14/2014-15 dated 01.07.2014. Accordingly, the total drawback of ₹3,51,148.00 and RoSCTL amount of ₹5,78,543.00 claimed against these shipments are liable to be recovered with interest under the relevant provisions of the Customs Act, 1962 and associated Drawback Rules.

20. I find that in view of this apparent mis-declaration and over valuation of the goods, an alert was inserted in EDI System to withhold further export incentives for M/s. Caliber Exim. Despite repeated efforts through official letters, no response has been received from the jurisdictional GST offices concerning the verification of the exporter or their suppliers—namely M/s. Pooja Garments and M/s. NATRPAVI KNIT FAB.

21. I find that during the course of investigation, a statement under Section 108 of the Customs Act, 1962 was recorded from Mr. Chahat Chugh, Proprietor of M/s. Caliber Exim. He acknowledged the misdeclaration in terms of composition, attributing the discrepancy to reliance on the manufacturer (M/s. Pooja Garments), whose products were shipped directly to the port without quality checks. He accepted the findings from the market valuation and test reports, stating that the errors were unintentional. He confirmed his role as the actual owner of the goods and indicated willingness to comply with departmental directions, including paying fines or penalties. He further stated that some BRCs were partially realized, and others were pending, with legal action initiated against defaulting buyers.

22. I find that Provisional release of the goods in the instant case was granted under Section 110A of the Customs Act, 1962, against execution of a Bond RS. 86,06,310/- (Eighty Six Lakh Six Thousand Three Hundred and Ten Rupees only) and on submission



of Bank/Cash Guarantee amounting to Rs. 1,80,000/- (One lakh eighty thousand rupees only) vide cash challan No. 316 dated 29.04.2024, as per Board Circulars 01/2011 dated 04.01.2011 and 30/2013 dated 05.08.2013.

23. I find that It has been clearly established that M/s. Caliber Exim (IEC: CESPC5971G) wilfully mis-declared the Free on Board (FOB) value of the goods covered under Shipping Bills No. 8436452 and 8437270, both dated 19.03.2024. The declared FOB value of ₹86,06,310.00 was found to be grossly inflated as against the re-determined FOB value of ₹67,00,374.54, as ascertained through DYCC Reports and independent market enquiry conducted on 19.04.2024. This overvaluation was made with the intention of fraudulently claiming higher export incentives in the form of Drawback and RoSCTL. The admissible Drawback and RoSCTL were calculated to be ₹1,87,610.48 and ₹2,57,964.42 respectively, as against the inflated claims of ₹2,40,977.00 and ₹3,34,784.00. Hence, the Exporter attempted to defraud the exchequer. The Exporter has violated Section 50(2) of the Customs Act, 1962 by failing to make a truthful declaration of the contents of the Shipping Bills. Additionally, they have violated Rule 11 of the Foreign Trade (Regulation) Rules, 1993, and Section 11(1) of the Foreign Trade (Development & Regulation) Act, 1992, by not declaring the correct value, quality, and specification of the export goods. The goods are liable for confiscation under Sections 113(i), 113(ia), and 113(ja) of the Customs Act, 1962, as the mis-declaration of value, description, and classification constitutes material discrepancies aimed at claiming undue export incentives. However, in the present case, since the export incentives related to the live Shipping Bills (refer Table-I) were not disbursed owing to provisional clearance, no recovery is warranted under this head.

24. The re-determined value of the goods was assessed under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 after the value could not be established under Rules 4 and 5 due to lack of supporting documents from the exporter. The rejection of the declared value is also justified under Rule 8 of the said rules due to reliance on fake invoices. Further, the deliberate and intentional use of false documents to claim export benefits attracts penalty under Section 114AA of the Customs Act, 1962. Additionally, the Exporter is also found liable under Section 114AC for fraudulent utilization of input tax credit (ITC) used in the payment of taxes on goods entered for exportation. Given that the export incentives were claimed on the basis of false and collusive invoices, and in the absence of any genuine supply chain and proper verification from the GST jurisdiction, the ITC utilized is deemed to have been wrongly claimed by fraud, collusion, and suppression of facts. Hence, the Exporter is also liable for penalty under Section 114AB and the corresponding recovery provisions under Section 28AAA of the Customs Act, 1962.

25. I find that in respect of the past Shipping Bills (as per Table-V), the Exporter failed to realize foreign remittance within the permissible time frame under FEMA. Consequently, the Drawback and RoSCTL benefits availed against such Shipping Bills are liable to be recovered in terms of Section 75A(2) of the Customs Act, 1962 read with



Rule 18 of the Drawback Rules, 2017. The Exporter is also liable to pay interest under Section 28AA on the recoverable amount.

26. I find that M/s. Caliber Exim, vide their letter dated 19.05.2025, have voluntarily waived their right to receive a Show Cause Notice and personal hearing. The Exporter has admitted the mis-declaration and accepted the Department's findings. This indicates an unambiguous admission of guilt and a willingness to submit to the adjudication process without further contest.

27. The goods were provisionally released for export under Section 110A of the Customs Act, 1962, on execution of a Bond and submission of a Bank Guarantee, as per Board Circulars No. 01/2011 dated 04.01.2011 and 30/2013 dated 05.08.2013. This provisional release facilitated the export but does not absolve the exporter of liabilities arising from the mis-declarations and non-compliance.

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

**ORDER**

(i) I reject the declared FOB value of ₹86,06,310.00 (Rupees Eighty-Six Lakh Six Thousand Three Hundred Ten only) for the two Shipping Bills bearing numbers 8437270 and 8436452, both dated 19.03.2024, under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and redetermine the same to ₹67,00,374.54 (Rupees Sixty-Seven Lakh Three Hundred Seventy-Four and Fifty-Four Paise only) under Rule 6 *ibid*.

(ii) I order to confiscate the export goods covered under the Shipping bills no. 8436452 and 8437270 both dated 19.03.2024 having total declared FOB value of ₹86,06,310.00 (Rupees Eighty-Six Lakh Six Thousand Three Hundred Ten only) under section 113(i), 113(ia) and 113(ja) of Customs Act, 1962. However, I impose a Redemption Fine of Rs. 8,00,000/- (Rupees Eight Lakh only) upon the Exporter M/s. Caliber Exim, under the provisions of Section 125 of the Customs Act, 1962, in lieu of confiscation of the goods.

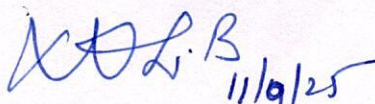
(iii) I reject the claim of Drawback amount of ₹2,40,977.00 and RoSCTL benefit ₹3,34,784.00 vide Shipping Bills No. 8436452 and 8437270, both dated 19.03.2024; and redetermine the same to ₹1,87,610.48 and ₹2,57,964.42 respectively as per FOB value of the shipping bills redetermined vide sub-para (i) above.

(iv) I impose a penalty of ₹ 2,00,000/- (Rupees Two Lakh Only) on the exporter M/s. Caliber Exim (IEC: CESPC5971G) under Section 114AB of the Customs Act, 1962, for claiming export incentives without realization of foreign remittance in connection with the live Shipping Bills detailed in Table-I.

(v) I impose a penalty of ₹ 5,00,000/- (Rupees Five Lakh Only) on the exporter M/s. Caliber Exim (IEC: CESPC5971G) under Section 114(iii) of the Customs Act, 1962.



- (vi) I impose a penalty of ₹ 5,00,000/- (Rupees Five Lakh Only) on the exporter M/s. Caliber Exim (IEC: CESPC5971G) under Section 114AA of the Customs Act, 1962.
- (vii) I further impose a penalty of ₹ 2,00,000/- (Rupees Two Lakh Only) on the exporter M/s. Caliber Exim (IEC: CESPC5971G) under Section 114AC of the Customs Act, 1962.
- (viii) I order to confiscate the goods pertaining to Shipping Bills mentioned in Table - V totally valued at Rs. 1,31,21,251.72 (Rupees One Crore Twenty one lakhs two hundred fifty one and seventy two paise only) under section 113(ia) and 113(ja) of the Customs Act, 1962. However, I impose a Redemption Fine of Rs. 10,00,000/- (Rupees Ten Lakh only) upon the Exporter M/s. Caliber Exim, under the provisions of Section 125 of the Customs Act, 1962, in lieu of confiscation of the goods.
- (ix) I order the recovery of the Drawback amount of ₹ 3,51,148.00 (Rupees Three Lakh Fifty-One Thousand One Hundred Forty-Eight only), claimed under the Shipping Bills mentioned in Table-V, due to non-realization of export proceeds, along with applicable interest under Sections 75 and 75A of the Customs Act, 1962 read with Rules 17 and 18 of the Customs and Central Excise Duties Drawback Rules, 2017.
- (x) I order the recovery of the RoSCTL amount of ₹5,78,543.00 (Rupees Five Lakh Seventy-Eight Thousand Five Hundred Forty-Three only), claimed in the Shipping Bills mentioned in Table-V, due to non-receipt of export remittances, in accordance with Notification Nos. 77/2021-Cus (N.T.) dated 24.09.2021, along with applicable interest under Section 28AA of the Customs Act, 1962.
- (xi) I impose a penalty of ₹ 5,00,000/- (Rupees Five Lakh Only) on the exporter M/s. Caliber Exim (IEC: CESPC5971G) under Section 114(iii) of the Customs Act, 1962.
- (xii) I impose a penalty of ₹ 5,00,000/- (Rupees Five Lakh Only) on the exporter M/s. Caliber Exim (IEC: CESPC5971G) under Section 114AA of the Customs Act, 1962.
- (xiii) I impose a penalty of ₹ 2,00,000/- (Rupees Two Lakh Only) on the exporter M/s. Caliber Exim (IEC: CESPC5971G) under Section 114AB of the Customs Act, 1962.
- (xiv) I order to appropriate the cash security amounting to ₹1,80,000.00 (Rupees One Lakh Eighty Thousand only) towards applicable fines, penalties, and any other liabilities, submitted at the time of provisional release of the goods via Cash Challan No. 316 dated 29.04.2024. Further, I order to enforce the bond submitted at the time of provisional release of the goods, in case the exporter fails to pay the applicable fines, penalties, and any other liabilities arising out of this order,

  
(RAGHU KIRAN BATCHALI)  
ADDL. COMMISSIONER OF CUSTOMS  
CEAC, NS-II, JNCH



To,

1. M/s. Caliber Exim (IEC: CESPC5971G)  
GROUND FLOOR, SHOP NO-01, H NO-387, DHUNDAN MOHALLA,  
Badarpur, BADARPUR VILLAGE, SOUTH DELHI, DELHI, 110044.

Copy to:

1. The Asstt. Commissioner of Customs,  
SIIB (X) & IRMC, JNCH / CRAC Section.
2. The Asstt. Commissioner of Customs, CAC Section, JNCH
3. The Asstt. Commissioner of Customs, CRRC Section, JNCH
4. The Asstt. Commissioner of Customs, DBK Section, JNCH
5. Supdt./CHS, JNCH for display on Notice Board.
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