



सीमाशुल्कआयुक्तकाकार्यालय, एनएस-II  
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II  
केंद्रीकृतनिर्यातआकलनकक्ष, जवाहरलालनेहरूसीमाशुल्कभवन  
CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL  
NEHRU CUSTOM HOUSE,  
न्हावाशेवा, तालुका-उरण, जिला -रायगढ़,महाराष्ट्र- 400707  
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-  
400707

F. No: CUS/SIIB/ALT/770/2024-SIIB(E)  
F. No: CUS/ASS/MISC/950/2025-CEAC  
S/6-GEN-01/Misc-296/2023-24/CEAC

Date of Order: 28.01.2026  
Date of Issue: 28.01.2026

DIN: 20260178NT000051515A

जारीकर्ता/Passed By: Shri Raghu Kiran B.,  
Commissioner of Customs(In-Situ),  
CEAC, NS-II, JNCH, Nhava Sheva.

मूल आदेश संख्या/Order-In-Original No.: 1531/2025-26/ADC/CEAC/NS-II/CAC/JNCH  
निर्यातककानाम/Exporter's Name: M/s Shiven Exports (IEC: AFGPJ0799A)

**मूल आदेश**

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमा शुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमा शुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमा शुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़ - 400 707, महाराष्ट्र को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमा शुल्क (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 लगाई 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।
- 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**

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, NhavaSheva, 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, items 6 of the Court Fee Act, 1970.
- 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**

1. On the basis of NCTC mail alert no. 507/EXP/2023-24 dated 21.09.2023, two (02) Shipping bills Nos. 4037579 and 4038773 both dated 20.09.2023 filed by exporter M/s. Shiven Exports (IEC: AFGPJ0799A) through their CB M/s. Matrix Forwarders (11/1739), wherein goods declared as 'Readymade garments' carted at JWR CFS, were put on hold vide Hold Letter No. 177/2022-23/SIIB(X) issued vide F.No. SG/Misc-101/2021-22/SIIB(E) JNCH dated 20.09.2023. The NCTC mail alerted that there were reasons to believe that the goods were overvalued to claim ineligible export benefits and the inward supply chain appeared dubious.

2. M/s. Shiven Exports (IEC: AFGPJ0799A) having its office at D-702, 7th Floor, Nandini-2, VIP Road, Vesu, Surat, Gujarat -395007, filed Shipping Bills Nos. 4037579 and 4038773 both dated 20.09.2023 filed through their Customs Broker M/s. Matrix Forwarders for export of goods declared as "Readymade Garments (RMGs)" destined to Mauritius with a declared FOB value of Rs. 96,74,940/-. The details of the goods covered under Shipping Bill Nos. 4037579 and 4038773, both dated 20.09.2023 and destined for Mauritius, are as follows:

**TABLE-I**

Sr. No.	Shipping Bill and date	Description of goods	FOB (INR)	DBK (INR)	RoSCTL (INR)	RoDTEP (INR)	IGST (INR)
1	4037579 dated 20.09.2023	RMG	37,72,980/-	49,879/-	36,595/-	10,698/-	3,08,962/-
2	4038773 dated 20.09.2023	RMG	59,01,960/-	85,890/-	42,432/-	37,618/-	4,47,419/-
<b>Total:</b>			<b>96,74,940</b>	<b>1,35,769</b>	<b>79,027</b>	<b>48,316</b>	<b>7,56,381</b>

### **3. EXAMINATION OF GOODS:**

The goods covered under Shipping Bills no. 4037579 and 4038773 both dated 20.09.2023 were examined 100% under Panchanama dated 05.10.2023 in presence of two independent panchas, authorised representatives of Exporter and CB. During the examination, goods covered under Shipping Bills no. 4037579 and 4038773 both dated 20.09.2023 were found as declared in terms of quantity and declared description as per checklist, invoice and packing list. Further, RSS were drawn for the purpose of further investigation.

### **4. TESTING OF THE GOODS:**

The representative sealed samples pertaining to the shipping bills were forwarded to DYCC, JNCH for testing vide letter dated 11.10.2023. The DYCC, JNCH forwarded the test Reports vide DYCC Report No. from 879/SIIB(X) to 883/SIIB(X) all dated 12.10.2023. The subject goods appeared to be correctly declared in terms of composition and declared RITC & Drawback Sr. No. in the above-mentioned Shipping Bills.

**5. RE-DETERMINATION OF VALUATION:**

Further, to ascertain prevailing market value of the goods, the market enquiry of the goods found covered under the subject shipping bill was required to be conducted, therefore the investigation agency had requested to the exporter to represent them during the said market enquiry. Hence the market enquiry was conducted on 12.10.2023 along with authorized representative of the exporter. During the market enquiry it was found that the goods, mentioned in Table-II below, were mis-declared in terms of value. A chart showing the market value of the items ascertained during the said market enquiry has been shown in following table.

**Table-II**

S. No.	Shipping Bill No. and Date	Item description	Shop 1	Shop 2	Shop 3	Avg Wholesale price	Re-determined PMV (Adding Misc. 20% costs)	Declared PMV
1	4037579 dtd 20.09.2023	IND Wov Girls Churidar (3 Pcs Set)	400	410	415	408	489.6	484.5
2	4038773 dtd 20.09.2023	IND Ladies Poly Sarees	1875	1900	1880	1885	2262	2003.96
		IND Ladies Lehanga (3 Pcs set)	7000	7250	7300	7183	8620	9899.96
		IND Ladies Poly Sarees	525	520	540	528	634	616.33
		IND Wov Ladies Churidaar (3 Pcs Set)	650	680	685	672	806	719.95

**5.1** In view of the above, as per the market enquiry, as per the market enquiry the value of the goods has been re-determined and accordingly the export incentives have been re-determined. The re-determined FOB value of the goods and corresponding export incentives under the Shipping Bills would be as below:

**Table-III**

Sl. No.	Shipping Bill No. & Date	Description of goods	Quantity	Declared ( ₹ )				Re-determined ( ₹ )			
				FOB	Draw back	ROS CTL	ROD TEP	FOB	Draw back	ROS CTL	ROD TEP
1	4037579 dated 20.09.2025	IND WOV LADIES KURTI WITH DUPATTA (RMG)	4	4,162	52	107	0	4,162	52	107	0

2		IND WOV LADIES POLY SAREES	796	17,11,944	17,687	0	10,6 98	17,11,944	17,68 7	0	10,69 8
3		IND WOV LADIES CHURID AAR (3 PCS SET) RMG	40	68,704	1,237	1,656	0	68,704	1,237	1,65 6	0
4		IND LADIES LEHAN GA (3 PCS SE T)	453	16,28,093	24,421	23,057	0	16,28,093	24,42 1	23,0 57	0
5		IND WOV LADIES PUNJAB I SUIT ( RMG)	336	2,86,081	5,149	8,962	0	2,86,081	5,149	8,96 2	0
6		IND WOV GIRLS CHURID AAR (3 P CS SET) (RMG)	168	73,996	1,332	2,812	0	62,312	1,122	2,36 8	0
7		IND WOV LADIES KURTI (RMG)	20	12,353	272	469	0	12,353	272	469	0
8		IND LADIES POLY SAREES	161 7	29,45,821	35,052	0	21,7 32	27,70,949	35,05 2	0	21,73 2
9	403877 3 dated 20.09.2 023	IND WOV LADIES CHURID AAR (3 PCS SET) RMG	238	2,73,719	4,927	7,557	0	2,73,719	4,927	7,55 7	0
10		IND LADIES LEHAN GA (3 PCS SE T)	50	4,49,998	6,750	2,545	0	3,26,500	4,898	2,54 5	0

11	IND WOV LADIES KURTI WITH P ANT (RMG)	28	23,211	418	737	0	23,211	418	737	0
12	IND LADIES POLY SAREES	118 2	6,62,270	15,232	0	15,8 86	5,67,356	13,04 9	0	13,61 7
13	IND WOV LADIES SHAPE WEAR P ETTICO AT (RMG)	130	31,201	468	1,076	0	31,201	468	1,07 6	0
14	IND LADIES LEHAN GA (3 PCS SE T)	539	14,30,083	21,451	27,435	0	14,30,083	21,45 1	27,4 35	0
15	IND WOV LADIES CHURID AAR (3 PCS SET) RMG	112	73,304	1,319	2,612	0	68,421	1,232	2,52 9	0
<b>TOTAL</b>		<b>57 13</b>	<b>96,74,9 40</b>	<b>1,35,7 67</b>	<b>79,025</b>	<b>48,3 16</b>	<b>92,65,0 89</b>	<b>1,31, 435</b>	<b>78,4 98</b>	<b>46,04 7</b>

5.2 The re-determined FOB value of the subject goods for which the market value was ascertained during the said market enquiry as mentioned in table-II above and corresponding export incentives under the Shipping Bills would be as below:

**Table-IV**

Sl. No.	Shipp ing Bill No .& Date	Description of goods	Quan tity	Declared ( ₹ )				Re-determined ( ₹ )			
				FOB	Drawb ack	ROSC TL	ROD TEP	FOB	Dra wb ack	ROSC TL	ROD T EP
1	4037 579 dated 20.09 .2025	IND WOVS GIRLS CHURIDAAR (3 P CS SET) (RMG) (Item No.6)	168	73,996	1,332	2,812	0	62,31 2	1,12 2	2,368	0
2	4038 773 dated 20.09 .2023	IND LADIES POLY SAREES (Item No.2)	1617	29,45, 821	35,052	0	21,7 32	27,70, 949	35,0 52	0	21,7 32
3		IND LADIES LEHANGA (3 PCS SET) (Item No.4)	50	4,49,9 98	6,750	2,545	0	3,26,5 00	4,89 8	2,545	0
4		IND LADIES POLY	1182	6,62,2 70	15,232	0	15,8 86	5,67,3 56	13,0 49	0	13,6 17

	SAREES (Item No.6)										
	IND WOV LADIES CHURIDAAR (3 PCS SET) RMG (Item No.9)							68,42 1	1,23 2	2,529	0
5		112	73,304	1,319	2,612	0					
<b>TOTAL</b>		<b>5713</b>	<b>42053 89</b>	<b>59,685</b>	<b>7,969</b>	<b>37,6 18</b>	<b>3795 538</b>	<b>55, 353</b>	<b>7,442</b>	<b>35,3 49</b>	

**5.3** On the basis of above discussion, the values of goods covered under above mentioned 02 Shipping bills for which the FOB was redetermined during the said market enquiry and their respective export incentives have been re-determined by combining Table-II and Table-IV. It is thus seen that the exporter attempted to claim undue export incentives which are summarized as under: -

**Table-V**

Claimed				Re-determined				Difference		
FOB (INR)	Drawb ack (INR)	ROS CTL (INR)	RoDT EP (INR)	FOB (INR)	Drawb ack (INR)	ROS CTL (INR)	RoDT EP (INR)	Drawb ack (INR)	ROS CTL (INR)	RoDT EP (INR)
4205389	59685	7969	37618	3795538	55353	7442	35349	4332	527	2269
<b>Total excess export benefits (INR)</b>								<b>7,128</b>		

**6.** As evident from the table above, and based on the report received by the DYCC, JNCH along with market enquiry conducted on 12.10.2023, it appears that the goods declared by the exporter in the Shipping Bill Nos. 4037579 and 4038773 both dated 20.09.2023 as mentioned in Table-IV above have been mis-declared in terms of their value. The value of the subject goods has been re-determined based on the market survey report dated 12.10.2023. Consequently, the export incentives such as Drawback, RoDTEP and RoSCTL are required to be recalculated with reference to the newly re-determined FOB value of the goods, as indicated in the table above. The originally declared value of the goods of Rs. 96,74,9 40/- thus appears liable for rejection under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, and the value needs to be re-determined in accordance with 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.

**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.

**7.1** 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.

**7.2** 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.

**7.3** 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 04.03.2023. 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 12.10.2023 mentioned above in table-II.

## **8. PROVISIONAL RELEASE OF GOODS:**

The Exporter vide their letter dated 12.10.2023 requested to release of the goods for Export purpose. 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 Purpose vide letter F.No. S/6-GEN-01/MISC-296/2023-24/CEAC dated 18.10.2023 having DIN-20231078NT0000881208 on execution of Bond No.In-GJ62516130386694V dated 19.10.2023 equivalent to 100% FOB value of the subject goods.

## **9. RECORDING OF THE STATEMENT:**

**9.1** The statement of Shri Rakesh Jayantilal Shah, Proprietor of M/s. Shiven Exports (IEC: AFGPJ0799A), was recorded under Section 108 of the Customs Act, 1962, in the Office of SIIB(X), JNCH, Nhava Sheva on 30.06.2025 wherein he inter-alia stated that :

- On being asked to introduce himself and his role in the company, he stated that he is Rakesh Jayantilal Shah, proprietor of M/s. Shiven Exports (IEC: AFGPJ0799A).
- On being asked about the Importer Exporter Code (IEC), he stated that the IEC was obtained on 25.08.2021 and a copy of the IEC certificate has been submitted.
- On being asked to explain the reason for dormancy in business operations from August 2021 to April 2022, he stated that after obtaining the IEC, there was a period of inactivity as the firm was new to the export industry and was in the process of understanding the market, identifying buyers, and establishing business networks, which caused delay in commencement of exports.
- On being asked whether he is a manufacturer or wholesale trader, he stated that his firm is engaged as wholesale traders. They do not manufacture goods but procure ready-made garments from suppliers and export the same.
- On being asked whether Shipping Bills no. 4037579 and 4038773 dated 20.09.2023 were filed by his firm, he stated that both the said Shipping Bills were filed by his firm through their appointed Customs Broker, M/s. Matrix Forwarders.
- On being asked the reason for choosing Mauritius as the country of export, he stated that during a personal visit to Mauritius for marketing purposes, he came across a potential client who showed interest in their products and placed an order, due to which Mauritius became their export destination.
- Clarification was sought, as per NCTC records, that inputs worth approximately ₹2.13 Crores had been procured, whereas the total value of exports was around ₹5.50 Crores, to which he stated that he is submitting copies of purchase orders, invoices, and e-way bills in support of procurement. He further clarified that the difference in values is not exactly as stated, and he has also submitted copies of his GSTR-1 and GSTR-2B returns showing actual details of sales and purchases during the relevant period.

**9.2** On the receipt of Summons CBIC-DIN-20250178NT0000006800 dated 20.01.2025, Shri Amit Joshi, G card holder of CHA firm M/s. Matrix Forwarders (11/1739) appeared before this office for recording of statement under Section 108 of the Customs Act, 1962 on 06.02.2025, wherein he inter-alia stated that:

- On being asked about his role in the Customs Broker firm, he stated that he is responsible for customs clearance work for export consignments filed by the CB.
- On being asked whether Shipping Bills Nos. 4037579 and 4038773 dated 20.09.2023 were filed by him, he stated that both the said Shipping Bills were filed by them on behalf of the exporter, M/s. Shiven Exports (IEC: AFGPJ0799A).

- On being asked how the documents for filing of Shipping Bills were received, he stated that the invoice, packing list, and CVR were received on their office email from the exporter for the purpose of filing.
- On being asked about the procedure followed for filing of Shipping Bills, he stated that they prepare a checklist on the basis of invoice and packing list and send the same to the exporter for confirmation. After receiving confirmation from the exporter, they proceed with filing of Shipping Bills in the ICEGATE system. On being asked whether they suggested the RITC, value, or DBK/RoSCTL/RoDTEP serial numbers for the goods mentioned in invoice and packing list, he stated that the exporter had already declared the RITC and DBK/RoSCTL/RoDTEP serial numbers and requested them to recheck. He further stated that after cross-verification they found the declarations coherent, which was then communicated to the exporter before filing.
- On being asked how they verified the exporter, he stated that their proprietor visited the exporter's address and obtained self-attested documents such as IEC copy, PAN card, Aadhaar card, and GST registration certificate. He further stated that since the exporter later shifted office to a rented premise, they again asked for updated KYC documents and rent agreement of the new office, which have been submitted.
- On being asked how and where the goods under Shipping Bills Nos. 4037579 and 4038773 dated 20.09.2023 were received, he stated that the goods packed in cartons were directly transported to JWR CFS from the exporter. After receiving the goods, they carted the same as per the Shipping Bills and registered them with Customs for export.
- On being asked if he had anything further to state, he stated that they also enquired with the exporter about the Bank Realization Certificates (BRCs) for the said exports. The exporter provided BRC copies auto-generated from the DGFT website, which are being submitted as proof.

## **10. CORRESPONDENCE WITH CGST AUTHORITIES**

**10.1 Exporter Verification:** As per reply received from the concerned GST Commissionerate vide letter F.No. R-II/D-II/Misc/2022-23 dated 13.03.2025, the exporter M/s. Shiven Exports (IEC: AFGPJ0799A) was found existent and functional at the registered Principal place of Business; that during the course of visit documents related to export, ledger account, invoices, e-way bills has been verified and found in order.

### **10.2 Supplier Verification:**

- As per reply received from the concerned GST Commissionerate vide letter F.No. R-II/D-II/Misc/2022-23 dated 13.03.2025, the supplier M/s. Manmohan Textiles (GSTIN-24AARPC5570G1ZP) was found to be genuine and active taxpayer; existing and functional at declared principal place of business; that the goods supplied by M/s. Manmohan Textiles (GSTIN- 24AARPC5570G1ZP) to M/s. Shiven Exports (GSTIN: 24AFGPJ0799A1ZQ) were found to be genuine.

- ii.** As per reply received from the concerned GST Commissionerate vide letter F.No. STO-4/Unit-61/Surat/GST/2024-25/O.w-2723 dated 20.11.2024, in respect of the supplier M/s. Kapil Gandhi and Co. (GSTIN-24ACSPG6132D1ZU) no discrepancy was found as per data available on the BOWeb portal and Spot visit report in terms of Returns being filed, Principal Business place and Input Tax Credit availed.
- iii.** As per reply received from the concerned GST Commissionerate vide letter F.No. CGST/WS0104/Preventive PV/2024-25 dated 29.07.2025, the supplier M/s. Sunny Textiles (GSTIN-24AEQFS4229F1ZV), is found existent and functional at the declared premises; that filed GST returns regularly; that the goods supplied by M/s. Sunny Textiles (GSTIN- 24AEQFS4229F1ZV) to M/s. Shiven Exports (GSTIN: 24AFGPJ0799A1ZQ) were verified.
- iv.** As per reply received from the concerned GST Commissionerate vide Ref: Unit-4/STO-3/RAHEJA TEXTFAB/2025-26/O.W. No. 2204/05/06 dated 02.08.2025, the supplier M/s. Raheja Texfab Pvt. Ltd. (GSTIN-24AAECR6517N2Z1), is currently operational at declared place of business and the genuineness of the taxpayer's business has been verified and the taxpayer is found to be genuine.
- v.** As per reply received from the concerned GST Commissionerate vide Ref: STO1/Bonny NX/Spot Visit Report/2025-26/O.W.No. 2184 dated 30.07.2025, the supplier M/s. BONNYS NX (GSTIN-24AATFB2023M1ZE), is currently existent and the taxpayer's business has been verified and the taxpayer is found to be genuine.
- vi.** As per reply received from the concerned GST Commissionerate vide letter F.No. AC/Unit-61/Deepak Gandhi &co/2025-26/o.w.no.-1019/20 dated 05.08.2025, the supplier M/s. Deepak Gandhi and Co. (GSTIN-24ACOPG1293R1Z1) is currently active at principal place of business premises ; taxpayer files return regularly; that during the spot verification, no stock was found at the declared principal place of business. It was stated that the stock is maintained at an additional place but place is not updated on portal, and no proof of additional place and stock was submitted.

In view of the above, it is found that the CGST authorities verified the exporter M/s Shiven Exports and confirmed that it is existent and functional at its registered principal place of business, with export documents, ledgers, invoices, and e-way bills found to be in order. Verification of suppliers revealed that M/s Manmohan Textiles, M/s Kapil Gandhi and Co., M/s Sunny Textiles, M/s Raheja Texfab Pvt. Ltd., and M/s BONNYS NX are genuine, active, and functional taxpayers, with regular return filing and no discrepancies found in their business operations or supplies made to M/s Shiven Exports. In the case of M/s Deepak Gandhi and Co., the taxpayer was found active and regularly filing returns; however, no stock was available at the declared principal place of business, and although it was stated that stock was kept at an additional place, such place was not updated on the GST portal and no supporting proof was submitted. In this regard, a letter has been issued to the concerned GST authorities of the exporter by the investigating agency for verification and investigation at their end.

11. In view of the above findings, it appears that, the exporter has illegally claimed Drawback and other export incentives by misdeclared goods as mentioned in table-IV in terms of value. By misclassifying the subject goods, the exporter was attempting to claim excess export benefits of Rs 7,128/- (Drawback + RoDTEP+ROSCTL).

**12. Past Exports:**

(i) As per the data available in the ICES 1.5 system, it has been observed that the exporter, M/s. Shiven Exports (IEC: AFGPJ0799A), has two shipping bills pertaining to earlier export consignments, for which the realization of export proceeds/receipt of foreign remittances is still pending.

**TABLE-IV**

Sr. No.	SB No.	Expected Realization Date	Invoice No.	DBK	RoSCTL	RoDTEP	FOB to be realized	FOB actually realized
1	3369906 dt 21.08.2024	31.05.2025	004EXP 2425	27,568	8,805	6,156	20,45,091	0
2	4616265 dt 05.10.2024	31.07.2025	005EXP 2425	30,998	23,259	14,542	23,25,138	0
<b>TOTAL:</b>				<b>58,566</b>	<b>32,064</b>	<b>20,698</b>	<b>43,70,22</b>	<b>0</b>

(ii) However, 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-IV, there are 02 Shipping Bills for which FOB has not been realized despite completion of expected realization time period as mandated by RBI. The exporter has also not submitted any evidence of extension of time limit for remittance. This fact of non remittance within time limit including extended time as per FEMA Act, 1999 was suppressed by the exporter.

(iii) During the course of the proceedings, the exporter subsequently furnished the Bank Realisation Certificates (BRCs) in respect of Shipping Bill No. 3369906 dated 21.08.2024 and Shipping Bill No. 4616265 dated 05.10.2024. In view of the submission of the BRCs, it is established that the export proceeds relating to the said shipping bills have been realized and that no foreign remittance in respect of past exports remains outstanding.

**13. RELEVANT LEGAL PROVISIONS:**

(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 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992:** 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 export and import policy (now termed as Foreign Trade Policy) for the time being in force.

**(iii) Section 50 (2) of the Customs Act, 1962:** The exporter of any goods, while presenting a Shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

**(iv) Section 113 (i) of the Customs Act, 1962:** Confiscation of goods attempted to be improperly exported, etc.- The following export goods shall be liable to confiscation- 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.

**(v) 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.

**(vi) 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;

**(vii) Section 114 (iii) of the Customs Act, 1962:** 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.

**(viii) 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.

**(ix) Section 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.]

**(x) Section 114AC: Penalty for fraudulent utilization of input tax credit for claiming refund.**- Where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilize input tax credit on 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 on goods that are entered for exportation under claim of the 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 (120 of 2017).

**(xi) 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 off acts,

For the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992, or any other law or scheme of the Central Government for the time being in force, where any instrument is misused by a person, or by his agent or employee, and such instrument is utilized under the provisions of this Act or the rules, regulations, or notifications issued thereunder by a person other than the one to whom it was issued, the duty relatable to such utilization shall be deemed never to have been exempted or debited, and such duty shall be recovered from the person to whom the 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.

**(xii) 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) Not with standing 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.

**(xiii) 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. If 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

**(xiv) Rule 11 of the Foreign Trade (Regulations), 1993:** stipulates that on the exportation of any goods from a customs port, whether dutiable or not, the owner of the goods shall, in the shipping bill or any other document prescribed under the Customs Act, 1962, state the value, quantity, and description of the goods to the best of his knowledge and belief, certify that the quality and specifications declared are in accordance with the terms of the export contract with the buyer or consignee, and subscribe a truthful declaration at the foot of such shipping bill or document.

**Notification No. 24/2023-Cus (N.T) dated 01.04.2023 and 25/2023-Cus (N.T) dated 01.04.2023:**

### **Para 3. Cancellation of duty credit.-**

(1) Where a person contravenes any of the provisions of the said Act or any other law for the time being in force or the rules or regulations made thereunder in relation to exports to which the duty credit relates, or in relation to the e-scrip, the Principal Commissioner of Customs or Commissioner of Customs having jurisdiction over the customs station of registration of the e-scrip may, after enquiry, pass an order to cancel the said duty credit or e-scrip.

(2) Where the e-scrip is so cancelled, the duty credit amount in the said e-scrip shall be deemed never to have been allowed and the proper officer of Customs shall

proceed to recover the duty credit amount used in such e-scrip or transferred from such e-scrip.

(3) The proper officer of Customs may, without prejudice to any other action that may be taken under the said Act or any other law for the time being in force, suspend the operation of the said e-scrip or the electronic duty credit ledger of such exporter or any duty credit transferred from such e-scrip, during pendency of the enquiry under sub-para (1).

**14. WHEREAS, FROM THE INVESTIGATION, THE FOLLOWING FACTS EMERGE THAT:**

**14.1** M/s. Shiven Exports (IEC: AFGPJ0799A) having its office at D-702, 7<sup>th</sup> Floor, Nandini-2, VIP Road, Vesu, Surat, Gujarat -395007, filed Shipping Bills Nos. 4037579 and 4038773 both dated 20.09.2023 filed through their Customs Broker M/s. Matrix Forwarders for export of goods declared as "Readymade Garments (RMGs)" destined to Mauritius with a declared FOB value of Rs. 96,74,940/-.

**14.2** Whereas, the goods covered under Shipping Bills Nos. 4037579 and 4038773 both dated 20.09.2023 were examined 100% vide Panchanama dated 05.10.2023 in the presence of two independent Panchas, Representative of Customs Broker and Exporter. During the Examination, the subject goods were found as declared in the said Shipping Bill in terms of quantity and description.

**14.3** On the basis of market enquiry conducted in presence of authorized representative of exporter on 12.10.2023, the re-determined FOB value of the goods as mentioned in table-II above covered under the above-mentioned 02 Shipping Bills comes to Rs. 92,65,091/- as against the declared FOB value of Rs. 96,74,940/-. By inflating the FOB value mentioned in Table-III above, the Exporter was attempting to claim Drawback of Rs. 1,35,769/-, RoSCTL of Rs. 79,027/- & RoDTEP of Rs. 48,316/- whereas they were eligible for reduced Drawback of Rs. 1,31,434/-, RoSCTL of Rs. 78,498/- & RoDTEP of Rs. 46,047/- respectively. (as tabulated in TABLE-III above).

**14.4** 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 description, value and classification of goods in the Shipping Bills filed by them to the Customs authorities.

**14.5** 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 overvaluation, on the part of the Exporter with mala-fide intention to claim undue export benefits not legitimately payable to them. Thus, it appeared that the said goods were attempted to be exported in violation of Section 50 of the Customs Act, 1962 read with Section 11(1) of the Foreign Trade (Development & Regulation) Act, 1992 and Rule 11 of the

Foreign Trade Rules, 1993, as the exporter had furnished wrong declaration to the Customs Authorities.

**14.6** It is thus clear that the exporters had mis-classified 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 manner which rendered the said goods liable for confiscation in terms of the provisions of sections 113(i), 113(ia) & 113(ja) of the Customs Act, 1962. Therefore, M/s Shiven Exports (IEC: AFGPJ0799A) is liable for penal action under section 114(iii) of the Customs Act, 1962 on account of mis-declaration of value of the impugned goods.

**14.7** The goods were attempted to be exported by mis-declaration in terms of valuation for which confiscation is proposed, also the drawback RoDTEP & RoSCTL claim in the live shipping Bills as mentioned in Table-IV are proposed to be re-determined, as the NOC for provisionally releasing the goods for export under section 110A of the Customs Act, 1962 on condition of execution of Bond equivalent to FOB value of the subject goods was given by competent authority.

**14.8** The total value of the goods attempted to be exported vide both the Shipping Bills Nos. 4037579 and 4038773 both dated 20.09.2023 has been re-determined from Rs. 96,74,940/- to Rs. 92,65,091/- as per the Market Enquiry of the subject goods.

**14.9** The Drawback amount of Rs. 1,35,769/- claimed by the exporter in the Shipping Bills as mentioned in Table-I is liable to be rejected and the excess drawback amount of Rs. 4,335/- as mentioned in Table-IV shall be demanded back from the exporter in terms of Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017 read with Section 75A(2) of the Customs Act, 1962 along with applicable interest in terms of Section 28AAA read with section 28AA of the Customs Act, 1962.

**14.10** Since the exporter has contravened the provisions of the Customs Act as detailed in aforementioned Paras, in relation to exports to which the duty credit relates, the RoDTEP & RoSCTL amounting to Rs. 48,316/- & Rs. 79,027/- claimed by the exporter in live Shipping Bills mentioned in Table-I above, is liable to be rejected and excess RoDTEP & RoSCTL amounting to Rs. 2,269/- & Rs. 529/- as mentioned in Table-IV shall be demanded back along with applicable interest in terms of Section 28AAA read with section 28AA of the Customs Act, 1962, and CBIC Notification No. 24/2023-CUS (N.T) dated 01.04.2023 and CBIC Notification No. 25/2023-CUS (N.T) dated 01.04.2023.

**14.11** Further, in respect of GST verification, while the exporter M/s. Shiven Exports (IEC: AFGPJ0799A) was found functional at the registered principal place of business, one of their suppliers, namely M/s. Deepak Gandhi & Co. (GSTIN: 24ACOPG1293R1Z1), though active and filing returns regularly, was found during spot verification to have no stock at the principal place of business. It was stated that

the stock was maintained at an additional location; however, the said additional place had not been updated on the GST portal, and no documentary proof of the additional place or the stock maintained therein was furnished as per the GST authorities. This casts doubt on the transparency of procurement and supply chain compliance of the exporter. It has been observed that M/s. Deepak Gandhi & Co. is one of the suppliers pertaining to Shipping bill no. 4038773 dated 20.09.2023. The use of such suppliers for procurement of goods casts serious doubt on the genuineness of the supply chain and the correctness of the export declaration. A letter has been issued to the concerned GST authorities of the exporter by the investigation agency for verification and investigation at their end.

**14.12** On verification of past export performance, as per ICES 1.5 data by the investigating agency, it has been observed that the exporter has two earlier Shipping Bills Nos. 3369906 dated 21.08.2024 and 4616265 dated 05.10.2024, for which realization of export proceeds remains pending despite the expiry of the nine-month time period stipulated under RBI Master Circular No. 14/2014-15 dated 01.07.2014. Subsequently, the exporter furnished the Bank Realization Certificates (BRCs) in respect of Shipping Bill No. 336990666 dated 21.08.2024 and Shipping Bill No. 4616265 dated 05.10.2024. In view of the submission of the BRCs, it is established that the export proceeds relating to the said shipping bills have been realized and that no foreign remittance in respect of past exports remains outstanding.

**14.13** Now, M/s. Shiven Exports (IEC: AFGPJ0799A) having its office at D-702, 7th Floor, Nandini-2, VIP Road, Vesu, Surat, Gujarat -395007 are hereby called upon to Show Cause to the Additional Commissioner of Customs, CEAC, 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. 96,74,940/- covered under the Shipping Bills Nos. 4037579 and 4038773 both dated 15.01.2024 filed by exporter M/s. Shiven Exports (IEC: AFGPJ0799A) should not be rejected and re-determined to Rs. 92,65,091/- under rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 200;
- ii. The goods pertaining to Shipping Bills Nos. 4037579 and 4038773 both dated 15.01.2024 of declared FOB value of Rs. 96,74,940/- should not be confiscated under the provisions of Section 113(i), 113(ia), and 113(ja) of the Customs Act, 1962 due to overvaluation of goods for claiming undue export incentives; and Penalty should not be imposed on M/s. Shiven Exports (IEC: AFGPJ0799A) under Section 114(iii) of the Customs Act, 1962
- iii. The Drawback amount of Rs. 1,35,769/- claimed by the exporter in the Shipping Bills as mentioned in Table-I should not be rejected and excess drawback amount of Rs. 4,335/- as mentioned in Table-IV should not be demanded back from the exporter in terms of Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017 read with Section 75A(2) of the Customs Act, 1962;

- iv. The RoDTEP & RoSCTL amounting to Rs. 48,316/- and Rs. 79,027/- claimed by the exporter in live Shipping Bills mentioned in Table-I above, should not be rejected and excess RoDTEP & RoSCTL amounting to Rs. 2,269/- and Rs. 529/- as mentioned above in Table-IV should not be demanded back along with applicable interest in terms of Section 28AAA read with section 28AA of the Customs Act, 1962, and CBIC Notification No. 24/2023-CUS (N.T) dated 01.04.2023 and CBIC Notification No. 25/2023-CUS (N.T) dated 01.04.2023;
- v. The goods valued at FOB of 43,70,229/-, pertaining to past exports covered under 02 Shipping Bills as detailed in Table-III, should not be confiscated under the provisions of Sections 113(ia) and 113(ja) of the Customs Act, 1962, on account of non-receipt of foreign remittance;
- vi. The duty drawback of 58,566/- claimed against the same 02 previous Shipping Bills as detailed in TABLE-IV should not be rejected and recoverable under Rule 18 of the Drawback Rules, 2017 alongwith interest applicable under Section 75A(2) of the Customs Act, 1962, from the date of disbursement until the date of recovery, due to non-receipt of the corresponding foreign remittance;
- vii. The RoDTEP amount of 20,698/- and RoSCTL amount of 32,064/- claimed against 02 previous Shipping Bills should not be suspended and recovered with interest, owing to non-realization of export proceeds, in terms of Section 28AAA read with Section 28AA, and CBIC Notifications No. 24/2023-Cus(N.T.) dated 01.04.2023 and 25/2023-Cus(N.T.) dated 01.04.2023;
- viii. Penalty should not be imposed on M/s. Shiven Exports (IEC: AFGPJ0799A) under Section 114AB of the Customs Act, 1962 for obtaining Export benefits viz. RoDTEP and RoSCTL by act of overvaluation and willful misstatement or suppression of facts that no foreign remittances has been realized;
- ix. Penalty should not be imposed on M/s. Shiven Exports (IEC: AFGPJ0799A) under Section 114AC of the Customs Act, 1962 for willful misstatement or suppression of facts to utilize input tax credit owing to non-realization of export proceeds.

15. Further, the exporter, M/s Shiven Exports (IEC: AFGPJ0799A), vide their letter dated 22.01.2026, has requested a waiver of the Personal Hearing and Show Cause Notice, expressing their willingness to pay any fine or penalty as directed. The exporter has also submitted the Bank Realization Certificates in respect of the live shipment as well as their past shipments

#### **DISCUSSION AND FINDINGS**

16. I find that in the instant case, the exporter, M/s. Shiven Exports (IEC: AFGPJ0799A) having its office at D-702, 7<sup>th</sup> Floor, Nandini-2, VIP Road, Vesu, Surat, Gujarat -395007, filed Shipping Bills Nos. 4037579 and 4038773 both dated 20.09.2023 filed through their Customs Broker M/s. Matrix Forwarders for export of goods declared as "Readymade Garments (RMGs)" destined to Mauritius with a declared total FOB value of Rs. 96,74,940/- under Export Promotion Scheme Code

60 (Drawback, RoDTEP & RoSCTL) for claim of total drawback benefit of Rs. 1,35,769/-, RoSCTL benefit of Rs. 79,027/- , RoDTEP benefit of Rs. 48,316/- and IGST benefit of Rs 7,56,381/-.

**17.** I have carefully gone through the facts of the case and evidences available on records. During the course of investigation 100% Examination conducted by the Investigating Agency and subsequent DyCC Test Reports and Market Enquiry conducted by the Investigating Agency which revealed the mis-declaration of value of the export goods which further resulted in mis-declaration of Drawback/RoSCTL in the subject two S/Bills Nos. 4037579 and 4038773 both dated 15.01.2024. The exporter had submitted the waiver of SCN and PH expressing their willingness to pay any fine or penalty as directed. Therefore, I proceed with the adjudication proceedings, on the basis of available facts and evidences on record.

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

- i. Whether the total declared FOB value of the said 02 S/Bills. Nos. 4037579 and 4038773 both dated 15.01.2024 of Rs. 96,74,940/- as mentioned at table-I above, should be rejected under Rule 8 of the CVR (X), 2007 and should be re-determined at Rs. 92,65,091/- under Rule 6 of the said Rules *ibid*?
- ii. Whether the goods covered under subject 02 S/Bills having declared FOB Value of Rs. 96,74,940/- should be re-assessed with re-determined FOB value of Rs. 92,65,091/- and export benefits as detailed at Table-III above?
- iii. Whether the goods vide subject 02 S/Bills having declared FOB Value of Rs 96,74,940/- as detailed at Table-I, should be confiscated u/s. 113 (i),113 (ia) and 113 (ja) of the Customs Act, 1962?
- iv. Whether the total export incentives of said 02 S/Bills, i.e. Drawback of Rs. 1,35,769/- should be rejected and re-determined to Rs. 1,31,434/-, also RoSCTL of Rs. 79,027/- should be rejected and re-determined to Rs. 78,498/- and RoDTEP of Rs. 48,316/- should be rejected and re-determined to Rs. 46,047/-?
- v. Whether penalty should be imposed upon the Exporter, M/s. Shiven Exports Industries u/s. 114 (iii) & 114AC of the Customs Act 1962 for omission and commission on the part of the Exporter for attempting to claim undue/excess export benefit.
- vi. The goods valued at FOB of 43,70,229/-, pertaining to past exports covered under 02 Shipping Bills as detailed in Table-III, should not be confiscated under the provisions of Sections 113(ia) and 113(ja) of the Customs Act, 1962, on account of non-receipt of foreign remittance;
- vii. The duty drawback of 58,566/- claimed against the same 02 previous Shipping Bills as detailed in TABLE-IV should not be rejected and recoverable under Rule 18 of the Drawback Rules, 2017 alongwith interest applicable under Section 75A(2) of the Customs Act, 1962, from the date of disbursement until the date of recovery, due to non-receipt of the corresponding foreign remittance;

- viii. The RoDTEP amount of 20,698/- and RoSCTL amount of 32,064/- claimed against 02 previous Shipping Bills should not be suspended and recovered with interest, owing to non-realization of export proceeds, in terms of Section 28AAA read with Section 28AA, and CBIC Notifications No. 24/2023-Cus(N.T.) dated 01.04.2023 and 25/2023-Cus(N.T.) dated 01.04.2023;
- ix. Penalty should not be imposed on M/s. Shiven Exports (IEC: AFGPJ0799A) under Section 114AB of the Customs Act, 1962 for obtaining Export benefits viz. RoDTEP and RoSCTL by act of overvaluation and willful misstatement or suppression of facts that no foreign remittances has been realized;
- x. Penalty should not be imposed on M/s. Shiven Exports (IEC: AFGPJ0799A) under Section 114AC of the Customs Act, 1962 for willful misstatement or suppression of facts to utilize input tax credit owing to non-realization of export proceeds.

**19.** I find that on the basis of specific intelligence from NCTC, it was suspected that the Exporter was attempting to export a risky consignment of goods and suspected mis-declaration of description, classification, value and availment of undue/excess export incentives thereof. Accordingly, the subject goods were kept on hold by the Officers of SIIB (X), JNCH for thorough examination of the same. I find that the goods were examined 100% under Panchanama dated 05.10.2023 in the presence of representative of Customs broker and exporter. During examination, it was noticed that number of packages & quantity were found as declared in the said 02 S/Bills, however, *prima facie* on visual inspection of the goods it appeared that owing to nature of the goods the same are not in conformity with declared composition of goods, therefore appeared mis-classified and also appeared grossly overvalued. Therefore, RSS were randomly drawn and sealed for the purpose of testing of declared description and valuation angle as well as to conduct Market Inquiry to ascertain Present Market Value of the goods.

**20.** I find that the RSS drawn were forwarded to DyCC, JNCH for testing purpose, reported that there is no difference in composition of the goods and therefore correctly declared in terms of composition and declared RITC & Drawback Sr. No.

**21.** I find that at the request of the Exporter, the Competent Authority has granted permission for provisional release of goods for taking the goods for export after execution of Bond equivalent to the declared FOB Value of the subject export goods. And accordingly, provisional release of goods was allowed for taking the goods for export.

**22.** I find that during the course of investigation, letters were forwarded to Jurisdictional CGST authorities to verify the genuineness of the exporter's supply chain. In response, the CGST Commissionerate, Division-II, Surat, vide letter received on 13.03.2025, confirmed that it is found that the CGST authorities verified the exporter M/s Shiven Exports and confirmed that it is existent and functional at its

registered principal place of business, with export documents, ledgers, invoices, and e-way bills found to be in order. Verification of suppliers revealed that M/s Manmohan Textiles, M/s Kapil Gandhi and Co., M/s Sunny Textiles, M/s Raheja Texfab Pvt. Ltd., and M/s BONNYS NX are genuine, active, and functional taxpayers, with regular return filing and no discrepancies found in their business operations or supplies made to M/s Shiven Exports. In the case of M/s Deepak Gandhi and Co., the taxpayer was found active and regularly filing returns; however, no stock was available at the declared principal place of business, and although it was stated that stock was kept at an additional place, such place was not updated on the GST portal and no supporting proof was submitted. Accordingly, the invoices issued in the name of this suppliers and the genuineness of the exporter's declared supply chain appear seriously compromised.

**23.** I find that being the goods mentioned in Table-II are found to be of not properly declared in terms of valuation in the export documents which could have been resulted in availment of undue & excess Drawback, RoSCTL & IGST Refund, however, timely interception of consignments and insertion of Alert in EDI System, the export incentives against said 02 S/Bills are withheld/suspended. Further, during the CGST verification, one of the supplier M/s Deepak Gandhi and Co. appear to be compromised. It appeared that the Purchase Invoices from this supplier appears manipulated & appears fraudulently obtained to substantiate the declared value of the goods in export documents. Therefore, the Investigating Agency proposed rejection of value of the impugned goods under the provisions of Rule 8 of CVR (X), 2007. I find that the Investigating Agency is right to re-determine the value of the goods conducted a Market Inquiry in presence of authorized representative of the Exporter. Accordingly, the Investigating Agency has obtained average wholesale price of the goods (as detailed in Table-II above). Accordingly, the Investigating Agency proposed re-determined value of the goods. I agree with the method adopted by the Investigating Agency to re-determine the value of the goods and subsequent proposal thereof.

**24.** I find that, based on the market enquiry, certain goods as mentioned in Table-II above have been found overvalued. Accordingly as detailed in Table-IV above, the declared FOB value of Rs. 42,05,389/- in respect of these goods should be rejected and re-determined to Rs. 37,95,538/- and the export incentives, Drawback of Rs. 59,685/- should be rejected and re-determined to Rs. 55,353/-, also RoSCTL of Rs. 7,969/- should be rejected and re-determined to Rs. 7,442/- and RoDTEP of Rs. 37,618/- should be rejected and re-determined to Rs. 35,349/-.

**25.** I find that the goods other than those mentioned in Table-IV above having a FOB value of Rs. 5469551/- and total export incentive of Rs.157836/- (Drawback of Rs. 76082/-, RoSCTL of Rs. 71,056 & RoDTEP of Rs. 10,698/-) have been correctly declared in terms of composition and valuation. Hence, no action is warranted on them.

**26.** I find that the exporter had not made declaration truthfully in the Shipping Bills No. 4037579 and 4038773 both dated 20.09.2023 and thus, they have violated the conditions 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. Hence, it appears that there is a deliberate mis-declaration in terms of the actual value of the impugned goods mentioned in Table-IV on the part of the exporter with mala-fide intention to avail undue export benefit not legitimately payable to them. Hence, the declared value i.e. Rs. 42,05,389/- 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 to Rs. 37,95,538/- as per Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.

- i.** I find that the exporter had inflated FOB value of Rs 42,05,389/-of the goods which are overvalued as mentioned in Table-II, covered under shipping bills No. 4037579 and 4038773 both dated 20.09.2023 and thereby illegally attempted to avail excess/undue export benefit and thereby acted in a manner which rendered the said goods is liable for confiscation in terms of the provisions of Section 113(i), 113(ia) & 113(ja) of the Customs Act, 1962.
- ii.** I find that the export incentives to the tune of Rs. 1,05,272/- (drawback benefit of Rs. 59,685/-, RoSCTL benefit of Rs. 7,969/- , RoDTEP benefit of Rs. 37,618/-) claimed under shipping bills No. 4037579 and 4038773 both dated 20.09.2023, is liable to be rejected and re-determined to Rs. 98,144/-(drawback benefit of Rs. 55,353/-, RoSCTL benefit of Rs. 7,442/-, RoDTEP benefit of Rs. 35,349/-).
- iii.** I find that the subject goods other than those mentioned in Table-IV above having a FOB value of Rs. 5469551/- and total export incentive of Rs.157836/- (Drawback of Rs. 76082/-, RoSCTL of Rs. 71,056 & RoDTEP of Rs. 10,698/-) have been correctly declared in terms of composition and valuation.
- iv.** In view of the discussion and findings above, I find that IEC holder of M/s Shiven Exports (IEC: AFGPJ0799A) is liable for penalty under Section 114(iii) and 114AC of the Customs Act, 1962 on account of inflated FOB value.

**27.** I find that on perusal of export data on ICES System pertaining to subject two S/Bills, it appeared that the total IGST Refund supposed to be claimed by the Exporter amounting to Rs. 7,56,381/-(Approx.) is at stake against subject two SBs, however, being an alert inserted in the EDI System, the same appears not been disbursed to the Exporter. Furthermore, being the goods has been exported, the said intended claim of IGST Refund is liable to be redetermined/rejected. However, it is a matter of fact that the Exporter has attempted to claim undue/excess IGST Refund on the basis of mis-declared value of the goods (overvaluation). Further, during the CGST verification, one of the supplier M/s Deepak Gandhi and Co. appear to be compromised, as the stock was maintained at additional location which had not been updated on the GST portal and no documentary proof of the additional place was

furnished. It appeared that the Purchase Invoices from this supplier appears manipulated & appears fraudulently obtained to substantiate the declared value of the goods in export documents.

**28.** In this regard, I find that the GST Circular No. 31/05/2018-GST dated 09.02.2018 assigns the Central Tax officers (Principal Commissioner/Commissioner of Central Tax, Additional/Joint Commissioner of Central Tax, Deputy/Assistant Commissioner of Central Tax, Superintendent and Inspector of Central Tax) to function as the Proper Officers in relation to the issue of show cause notices and orders under sections 73 and 74 of the CGST Act and section 20 of the IGST Act (read with sections 73 and 74 of the CGST Act), up to the monetary limits as mentioned in the said circulars. Thus, the proper officer as defined under section 2 (91) of the CGST Act 2017 and assigned functions vide Circular No. 31/05/2018-GST dated 09.02.2018 are to exercise powers under section 73 and 74 of the CGST Act 2017 and can issue notices and orders under the said Sections/Acts. Accordingly, this Order shall be forwarded to the concerned Central GST Unit for initiation of suitable action at their end for *mala fide* intention of the Exporter to avail undue/excess IGST Refund on the basis of overvaluation of the goods, which is legitimately not due to them. Therefore, it is required to refer this case to Jurisdictional CGST Authorities to make thorough enquiry into the GST payments of M/s. Shiven Exports and their suppliers and verify whether they have had made any GST Payment against the raised Invoices pertaining to exports of RMGs vide subject four S/Bills Nos. 4037579 and 4038773 both dated 20.09.2023 filed at JNPT and take necessary action in case any discrepancies or violations of CGST Act/Rules found.

**29.** On perusal of the facts of the case it is apparent that the Investigating Agency during examination of goods found that the goods were mis-declared in terms of valuation. I find that the SCN proposed confiscation of the goods u/s. 113 (i), 113 (ia) & 113 (ja) of the Customs Act, 1962 and proposed penal action on the Exporting firm u/s. 114 (iii) and penalty on the Exporting firm u/s. 114AC of the said Act *ibid*. I find that Shri Rakesh Jayantilal Shah, Proprietor of M/s. Shiven Exports was instrumental in making the declarations in the export documents, wherein, he suppressed the facts w.r.t. value etc. Therefore, I find that the acts of omission and commission on the part of the Exporting Firm, M/s. Shiven Exports rendered the goods liable for confiscation u/s. 113 (i), 113 (ia) & 113 (ja) of the Customs Act, 1962 and subsequently rendered themselves and the proprietor liable for penal action u/s. 114 (iii) and 114AC of the said Act *ibid*.

**30.** I find that on perusal of past export data on ICES System, it has been observed that during investigation, the exporter has two earlier Shipping Bills Nos. 3369906 dated 21.08.2024 and 4616265 dated 05.10.2024, for which realization of export proceeds remains pending. Subsequently, the exporter furnished the Bank Realisation Certificates (BRCs) in respect of Shipping Bill No. 336990666 dated 21.08.2024 and Shipping Bill No. 4616265 dated 05.10.2024. In view of the submission of the BRCs, it is established that the export proceeds relating to the

said shipping bills have been realized and that no foreign remittance in respect of past exports remains outstanding. Accordingly, I drop the proposal for imposition of penalty in respect of the past exports.

**ORDER**

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

- i. I deny and reject the declared value of Rs. 42,05,389/- of goods covered under Shipping Bills No. 4037579 and 4038773 both dated 20.09.2023 as mentioned in Table-IV in terms of Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 and re-determined to Rs. 37,95,538/- under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962.
- ii. I order confiscation of goods covered under above said 02 shipping bills having total FOB value of Rs. 42,05,389/- detailed as per Table-IV above, under the provisions of Sections 113(i), 113(ia) & 113(ja) of the Customs Act, 1962. I impose a Redemption Fine of Rs. 50,000/- (Fifty Thousand only) under Section 125 of the Customs Act, 1962, in lieu of confiscation.
- iii. I deny and reject the export incentives to the tune of Rs. 1,05,272/- (drawback benefit of Rs. 59,685/-, RoSCTL benefit of Rs. 7,969/-, RoDTEP benefit of Rs. 37,618/-) in respect of goods mentioned in Table-IV of Shipping Bills No. 4037579 and 4038773 both dated 20.09.2023. In the event any amount has been sanctioned or disbursed, the same shall be recoverable from the exporter along with applicable interest under Rules 17 of the Customs, Central Excise Duties and Service Tax Drawback Rule, 2017, read with the Section 75 of the Customs Act, 1962 & 75A (2) of the Customs Act, 1962 read with Section 28AA and Section 28AAA including the intended claim of IGST Refund amounting to Rs 7,56,381/-. The re-determined export incentives is Rs 98,144/- (Drawback amount is Rs. 55,353/- and RoSCTL amount is Rs 7,442/- and RoDTEP amount is Rs. 35,349/-) as detailed in Table-IV.
- iv. I hold that the goods, other than those covered under Table-IV, having a total FOB value of Rs. 54,69,551/- and export incentives amounting to Rs. 1,57,836/- (Drawback Rs. 76,082/-, RoSCTL Rs. 71,056/- and RoDTEP Rs. 10,698/-), are correctly declared in terms of composition and valuation and are accordingly released, with no further action warranted in respect thereof.
- v. The Regional Authority, DGFT, Mumbai is requested to take necessary action w.r.t. rejecting the benefit to the Exporter claimed under RoSCTL Scheme to the Exporter, M/s. Shiven Exports 02 S/Bills Nos 4037579 and 4038773 both dated 20.09.2023.
- vi. The jurisdictional CGST Authorities, Division-II, Surat requested to make thorough enquiry into the GST payments of M/s. Shiven Exports and their suppliers and verify whether they have had made any GST Payment against the raised Invoices pertaining to exports of RMGs vide two S/Bills Nos. 4037579 and 4038773 both dated 20.09.2023 filed at JNPT and take necessary action in case any discrepancies or violations of CGST Act/Rules found.

- vii. I impose a penalty of Rs. 25,000/- (Twenty Five Thousand only) under Section 114(iii) of the Customs Act, 1962 on the exporter M/s. Shiven Exports (IEC: AFGPJ0799A) for their acts of omission and commission to fraudulently claim ineligible export benefits by overvaluation of subject goods and thus rendering the subject goods liable for confiscation.
- viii. I impose penalty of Rs. 25,000/- (Twenty Five Thousand only) on Shri Rakesh Jayantilal Shah, proprietor of M/s. Shiven Exports (IEC: AFGPJ0799A) u/s. 114AC of the Customs Act, 1962.

**32.** 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 BATCHALI)**

**COMMISSIONER OF CUSTOMS (In-situ)**

**CEAC, NS-II, JNCH**

**To,  
Notices,**

1. M/s. Shiven Exports (IEC: AFGPJ0799A),  
D-702, 7th Floor, Nandini-2, VIP Road, Vesu, Surat, Gujarat -395007

**Copy to:**

1. The Additional Commissioner of Customs, CAC, NS-II, JNCH, Mumbai.
2. The Asstt. Commissioner of Customs, SIIB(X), JNCH
3. The Asstt. Commissioner of Customs, IRMC, JNCH
4. The Dy. Director, Additional Director General of Foreign Trade, Central Licensing Area (CLA), 'A' Wing I.P. Bhawan, I.P. Estate, New Delhi-110002 for necessary action w.r.t. disbursal of export benefit under RoSCTL Scheme.
5. The Assistant. Commissioner of GST, CGST, Surat Commissionerate, Division-II, Surat, 2<sup>nd</sup> floor, New GST bhavan, Opp. Bahumali Building Nanpura, Surat 395001 (To take Necessary action against Exporter for IGST Refund under the provision of CGST Act, 2017)
6. The Dy./Asstt. Commissioner of Customs, CRAC (X), JNCH, Nhava Sheva.
7. The Dy./Asstt. Commissioner of Customs, CRRC Cell, JNCH, Nhava Sheva
8. The Dy./Asstt. Commissioner of Customs, Drawback Section, JNCH, Nhava Sheva.
9. Supdt/CHS, JNCH for display on Notice Board.
10. Office copy