सीमाशुल्क आयुक्त का कार्यालय, एनएस-II
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
न्हावाशेवा, तालुका- उरण, जिला- रायगढ़, महाराष्ट्र-400 707
NHAVA SHEVA, TALUKA-URAN, DIST-
RAIGAD, MAHARASHTRA-400707

F. No.: CUS/ASS/MISC/242/2025-CEAC **Date: 23.07.2025**
SG/INV-90/2023-24/SIIB(X)/JNCH

SCN No.: 542/2025-26/ADC/CEAC/NS-II/CAC/JNCH

DIN: 20250778NT000000CCFC

Show Cause Notice issued under Section 124 of Customs Act,1962

M/s Glamour Traders (IEC No. NXXPS4874M) (hereinafter referred to as "the exporter"), having its registered office address at B-29/304, Dreamland, Shanti Nagar, CHS Ltd., Sector-11, Shanti Nagar, Mira Road East, Thane, Maharashtra-401107 (hereinafter referred to as the "exporter") had filed Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 through their Customs Broker M/s Perfecto Logistics (11/2690) for export of Readymade Garments. The details of the same are tabulated as under: -

TABLE-I

Sr. No.	SB No. & Date	Description	Declared FOB (in Rs.)	Claimed DBK (in Rs.)	ROSCTL Claimed (in Rs.)	IGST
1	2778435 dated 28.07.2023	Babies Garments of Cotton	97,99,540/-	2,05,790/-	3,81,202/-	LUT
2	2778402 dated 28.07.2023	Babies Garments of Cotton	85,50,360/-	1,79,558/-	3,32,609/-	LUT
		Total	**1,83,49,900/-**	**3,85,348/-**	**7,13,811/-**	

2. On the basis of specific intelligence, SIIB(X), JNCH, initiated investigation regarding export of suspicious consignment of **M/s Glamour Traders (IEC No. NXXPS4874M)** covered under Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 (hereinafter referred to as "Shipping Bill") **(RUD-I)** filed by Customs Broker M/s Perfecto Logistics (11/2690) at JWR CFS. The subject goods were kept on hold vide Hold No. 125/2023-24-SIIB(X) dated 31.07.2023 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.

3. Consequently, the subject goods pertaining to the above Shipping Bills were then examined under Panchanama dated 07.08.2023**(RUD-II)** in the presence of two independent Panchas, representatives of Customs broker and exporter. During the 100% examination, the subject goods were found as declared in the Shipping Bill, its corresponding invoice and Packing list w.r.t. declared quantity. Representative Sealed Samples (RSS) of the readymade garments from the shipping bills were randomly drawn for the purpose of testing and further investigation.

4. The representative sealed samples of the readymade garments pertaining to the shipping bills were forwarded to DYCC, JNCH for testing. The details of the DYCC report **(RUD-III)** inter-alia, are given below: -

TABLE-II

Shipping Bill No.	**Item Description**	**Lab No.**	**Report**
2778402 dated 28.07.2023	Babies Garment of Cotton	642/SIIB(X) dated 22.08.2023	Sample is in the form of readymade textile article (Baby Garment) made of dyed and printed base fabric having metallic buttons on bottom. Base fabric is wholly made of cotton yarns. Wt. of sample = 45.8 gm Wt. of base knitted fabric =44.6 gm Wt. of buttons = Balance

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

5. To ascertain prevailing market value of the goods, the market enquiry of the goods for which value of the goods appeared to be on higher side covered under the subject shipping bill was required to be conducted. Hence the market enquiry was conducted on

19.08.2023 along with the authorised representative of the exporter **(RUD-IV)**. On the basis of Market Enquiry report dated 19.08.2023, it is observed that some items have been mis-declared in terms of valuation. The re-determined FOB value of the goods covered under the subject shipping bills and corresponding export incentives under the Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 are as below:

TABLE- III

Sr. No.	SB & Date	Item Description	Declared (in Rs.)			Re-determined (in Rs.)		
			FOB	DBK	ROSCTL	Re-determined FOB Value= Declared FOB*(re-determined PMV/Declared PMV)	DBK	ROSCTL
1	2778435 dated 28.07.2023	Babies Garments of Cotton	97,99,540/-	2,05,790/-	3,81,202/-	59,46,764/-	1,24,881/-	2,31,329/-
2	2778402 dated 28.07.2023	Babies Garments of Cotton	85,50,360/-	1,79,558/-	3,32,609/-	52,11,818/-	1,09,448/-	2,02,740/-
Total			**1,83,49,900/-**	**3,85,348/-**	**7,13,811/-**	**1,11,58,582/-**	**2,34,329/-**	**4,34,069/-**

5.1 In view of above, the total re-determined FOB value of the goods covered under the above Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 and corresponding export incentives would be as below:

Table-IV

Total Declared FOB value (in Rs.)	Total Re-Determined FOB value (in Rs.)	Total declared Export Benefits (in Rs.)	Total re-determined Export Benefits (in Rs.)	Difference (in Rs.)
1,83,49,900/-	1,11,58,582/-	10,99,159/-	6,68,398/-	4,30,761/-

5.2 As can be seen from the table above, based on the market enquiry conducted on 19.08.2023, it appears that the some items declared by the exporter in Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 have been mis-declared in terms of their value. The value of the goods have been re-determined based on the market survey report dated 19.08.2023. 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. Rs. 1,83,49,900/-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.

6. <u>Re-determination of Valuation</u>

6.1 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.

6.2 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.

6.3 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.

6.4 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 19.08.2023. 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 19.08.2023.

7. It can thus be seen that the goods are mis-declared in terms of their value to avail undue export incentive and thereby the goods covered under Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 are liable for confiscation under the provisions of Section 113(i), 113(ia), 113(ja) of the Customs Act, 1962.

8. Further, an alert was inserted against the exporter to withhold the export incentives of M/s Glamour Traders (IEC No. NXXPS4874M) till further investigation.

9. The exporter vide their letter dated 08.08.2023 has requested for 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 on execution of Bond equivalent to FOB value of the subject goods and on

submission of Bank Guarantee of Rs 2,00,000/- vide challan No. HCM-131 dated 04.09.2023 **(RUD-V).**

10. To ascertain the verification of genuineness of supply chain of the exporter Letter was sent to Jurisdictional CGST Commissionerate of the exporter M/s Glamour Traders (IEC No. NXXPS4874M) on 22.08.2023 to verify the genuineness of the exporter. The Jurisdictional CGST Commissionerate, Mumbai vide letter dated 11.11.2023 (**RUD-VI)** informed that: -

i. premise verification of the exporter was conducted by concern range superintendent on 13.10.2023. The exporter was found to be non-existent at the registered premise i.e. 3rd Floor, Office No. B-29/304, Dreamland Shanti Nagar Chs Ltd, Sector-XI, Mira Road East, Thane Maharashtra-401107. And was not doing any business from the registered address. As the taxpayer was non-existent and appeared to be non-genuine. Hence, cancellation of GST registration has been initiated.

ii. as per records on AIO the last return was filed on 20.08.2023 for the month of july, 2023.

11. During the course of investigation, summons dated 15.04.2024, 15.05.2024, 16.01.2025 and 21.01.2025 has been sent exporter M/s Glamour Trader's IEC address to appear before the office of SIIB(X), 4th floor, B-403, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka-Uran, Dist: Raigad, Maharashtra-400707 to record statement u/s Section 108 of the Customs Act, 1962. However, all the summons sent via speed post and emailed **(RUD-VII).** It is observed that the letters were sent on address given in the IEC.

12. Further, since the exporter was found non-existent as per GST verification in respect of the ongoing investigations and had not appeared for statement after giving sufficient opportunity, the Customs Broker in the instant case M/s. Perfecto Logistics was summoned to appear before this office vide Summons dated 13.01.2025, 21.01.2025 and 24.01.2025 **(RUD-VIII)** through email. However, the CB has not presented themselves for deposing their statement.

13. From the above, it appears that, the exporter has illegally claimed Drawback and RoSCTL by exporting goods at inflated price on the basis of invoices. The re-determined

FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 1,11,58,582/- as against the declared FOB value of Rs. 1,83,49,900/-. By inflating the FOB value and mis-declaring the goods, the exporter was attempting to claim Drawback of Rs. 3,85,348/- and RoSCTL of Rs. 7,13,811/- whereas they were eligible for Drawback of Rs. 2,34,329/-, and RoSCTL of Rs. 4,34,069/- respectively.

14. Further, on perusal of the past export data in respect of the subject exporter in ICES 1.5 system, the following shipping bills have been found wherein foreign remittance has not been received as per FEMA regulation. The details of the shipping bills are as under: -

Table-V

Sr No.	S/B & Date	Declared FOB **(in Rs.)**	FOB to be realized **(in FC)**	Drawback (in Rs.)	ROSCTL (in Rs.)	FOB actual realized **(in FC)**
1	1551369 dated 06.06.2023	92,33,897/-	1,13,022/-	1,93,912/-	3,59,199/-	0
2	1551370 dated 06.06.2023	94,39,095/-	1,15,534/-	1,98,221/-	3,67,181/-	0
3	2034465 dated 27.06.2023	97,74,203/-	1,20,150/-	2,05,258/-	3,80,217/-	0
4	2034468 dated 27.06.2023	85,66,155/-	1,05,300/-	1,79,889/-	3,33,223/-	0
Total		**3,70,13,350/-**	**4,54,006/-**	**7,77,280/-**	**14,39,820/-**	

14 .1 In view of above, in the event of non –receipt of foreign remittance in the above shipping bills, the claimed export incentive i.e. Drawback & Rosctl are liable to be demand back from the exporter in terms of Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017 and section 28AAA read with section 28AA of the Customs Act, 1962 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 and section 28AAA read with section 28AA of the Customs Act, 1962.

15. RELEVANT PROVISIONS OF LAW APPLICABLE IN THIS CASE: -

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

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

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

Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner.]

(2) The Exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

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

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

(iii) SECTION 113(i)of the Customs Act, 1962: any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77, shall be liable to confiscation;

(iv) Section 113(ia) of the Customs Act, 1962: Any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the Exporter or manufacturer under this Act in relation to the fixation of the rate of drawback under Section 75, shall be liable to confiscation;

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

(vi) Section 114(iii)of the Customs Act, 1962:Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, in the case of any other goods, to a penalty not exceeding the value of the goods as

declared by the Exporter or the value as determined under this Act, whichever is the greater;

(vii) Section 114AA of the Customs Act, 1962: Penalty for use of false and incorrect material – If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or documents which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act, shall be liable to a penalty not exceeding five times of the value of goods.

(viii) Section 114AC: Penalty for fraudulent utilization 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 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).

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

(a) collusion; or
(b) wilful mis-statement; or
(c) Suppression of facts,

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

(xi) Section 28AA Interest on delayed payment of duty - (1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made 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

(xii) Section 75A(2)of the 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 authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999

(42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-rule (5), be recovered.

(xiii) Rule 11 of the Foreign Trade (Regulations),1993:Stipulates that on exportation out of any customs port of any goods, whether liable to duty or not, the owner of the such goods shall in the S/bill or any other documents prescribed under the Customs Act,1962, state the value, quantity and description of such goods to the best of his knowledge and belief and certify that the quality and specifications 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 truthful declaration of such statement at the foot of such Shipping bill or any other documents.

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

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

(1) Subject to rule 8, the value of export goods shall be the transaction value.

(2) The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.

(3) If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (4), the value shall be determined by proceeding sequentially through rules 4 to 6.

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

(1) "the value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).

(2) In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including –

(i) Difference in the dates of exportation,

(ii) Difference in commercial levels and quantity levels,

(iii) Difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,

(iv) Difference in domestic freight and insurance charges depending on the place of exportation".

***(C) RULE 5. Computed value method**. – "If the value cannot be determined under Rule 4, it shall be based on a computed value, which shall include the following: -*

(a) cost of production, manufacture or processing of export goods;

(b) charges, if any, for the design or brand;

(c) an amount towards profit".

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

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

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

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

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

(xi) Customs Brokers Licensing Regulations, 2018:

10. Obligations of Customs Broker. —A Customs Broker shall —

(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his

client at the declared address by using reliable, independent, authentic documents, data or information;

(q) Co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.

16. M/s Glamour Traders (IEC No. NXXPS4874M) having its registered office address at B-29/304, Dreamland, Shanti Nagar, CHS Ltd., Sector-11, Shanti Nagar, Mira Road East, Thane, Maharashtra-401107 (hereinafter referred to as the "exporter") had filed Shipping bills no. 2778435 and 2778402 both dated 28.07.2023through their Customs Broker M/s Perfecto Logistics (11/2690) for export of Readymade Garments. The re-determined FOB value of the said goods covered under the above-mentioned Shipping Bill comes to Rs. 1,11,58,582/- as against the declared FOB value of Rs. 1,89,49,900/-. By inflating the FOB value, the exporter was attempting to claim Drawback of Rs. 3,85,348/- and RoSCTL of Rs. 7,13,811/- whereas they were eligible for Drawback of Rs. 2,34,329/-, and RoSCTL of Rs. 4,34,069/- respectively.

16.1 As can be seen from above, based on the market enquiry conducted on 19.08.203, it appears that the goods declared by the exporter in the Shipping bills no. 2778435 and 2778402 both dated 28.07.2023have been mis-declared in terms of their value. During the market enquiry it was found that the value of the some items filed under the said Shipping Bill were inflated and hence needed to be re-determined under Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. The export incentive such as drawback & RoSCTL are therefore are re-determined with respect to the re-determined FOB as mentioned in the table-III above. It can thus be seen that the goods are mis-declared to avail undue export incentive and thereby rendering the goods liable for confiscation under section 113 (i), 113(ia) and 113 (ja) of the Customs Act, 1962.

16.2 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.

16.3 As the Exporter had not made declaration truthfully in the said Shipping Bill, they have violated the conditions of Section 50(2) of the Customs Act, 1962. Hence, it 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 bill as Rs. 1,83,49,900/- whereas the re-determined FOB value after conducting the Market Survey was Rs. 1,11,58,582/- 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. Hence, the goods are liable for confiscation under section 113 of the Customs Act, 1962.

16.4 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.

16.5 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.

16.6 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.

16.7 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.

16.8 The value of the impugned goods is, therefore, proposed 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 as Rs. 1,11,58,582/- as per the market enquiry conducted of the subject goods.

16.9 It is cogent and clear that the exporter M/s Glamour Traders (IEC No. NXXPS4874M) 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 other export benefits 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.

17. It further appears that the exporter M/s Glamour Traders (IEC No. NXXPS4874M) have rendered themselves liable to penalty in terms of Section 114(iii) of the Customs Act, 1962 on account of mis-declaration of value of the impugned goods. 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. Further, as per the verification of genuineness of the exporter M/s Glamour Traders (IEC No. NXXPS4874M) the exporter found non-existent, from the facts discussed above, it is certain that the exporter is fly by night operator, who had obtained GST and IEC merely to defraud the exchequer of undue export incentive. This establishes the fact that the exporter is a non-existent firm and currently not functioning at their place of business. 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. Hence, the exporter M/s Glamour Traders (IEC No. NXXPS4874M) have rendered themselves liable to penalty in terms of Section 114AC of the Customs Act, 1962.

18. Further, in terms of the Board Circular No: 171/03/2022-GST dated 06.07.2022, the clarification has been issued where the registered persons are found to be involved in issuing tax Invoices, without actual supply of goods or services or both in order to enable the recipients of such invoices to avail and utilize input tax credit fraudulently. The Board has laid down that if the recipient person has availed and utilized fraudulent ITC on the basis of the tax invoice, without receiving the goods or services or both in contravention of the provisions of Section 16(2) (b) of CGST Act, he shall be liable for the demand and recovery of the said Input Tax Credit along with the penal Action under the provisions of section 74 of the CGST Act along with applicable interest under the provisions of Section 50 of the said Act. Further, 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 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 IR/notice shall be forwarded to concerned Central GST Unit for initiation of suitable action for IGST/ITC recovery and/or investigation (if any) at their end.

19. The Custom Broker M/s Perfecto Logistics (11/2690) failed to ascertain the veracity and genuineness of the export firm M/s Glamour Traders (IEC No. NXXPS4874M). The regulation 10 (n) of the CBLR, 2018 has mandated that the CB has to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. In the instant case, the CB has neither presented any evidence of verifying the genuineness of the exporter nor has presented themselves during the investigation, dishonouring the 03 Summons issued to them. The CB has thereby violated regulation 10(n) and 10(q) of the CBLR, 2018 and have rendered themselves liable for penalty under section 114(iii) and 114AA of the Customs Act, 1962.

20. Further, for the past shipping bills in respect of M/s Glamour Traders (IEC No. NXXPS4874M) was retrieved from the ICEs 1.5 System wherein four shipping bills have been found wherein foreign remittance has not been received as per FEMA regulation. In the event of non –receipt of foreign remittance in the above shipping bills as mentioned Table-V, the goods covered under the said shipping bills are liable for confiscation and claimed export incentive i.e. Drawback & Rosctl are liable to be demand back from the exporter in terms of Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017 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 and section 28AAA read with section 28AA of the Customs Act, 1962.

21. As above discussion, it appears that the M/s Glamour Traders (IEC No. NXXPS4874M) have rendered themselves liable to penalty in terms of section 114AB of the Customs Act, 1962 on account of availment of scripts and non-receipt of the foreign remittance in Shipping Bills filed by the exporter as mentioned at Table-V above.

22. Now, therefore M/s Glamour Traders (IEC No. NXXPS4874M) having its registered office address at B-29/304, Dreamland, Shanti Nagar, CHS Ltd., Sector-11, Shanti Nagar, Mira Road East, Thane, Maharashtra-401107 are hereby called upon to show cause to the Additional Commissioner of Customs, CAC, NS-II, JNCH

having office at Jawaharlal Custom House, NhavaS heva, Tal-Uran, Dist Raigad, Maharashtra, **as to why:**

i. The declared value of impugned export goods covered under Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 is Rs. 1,83,49,900/- should not be rejected under Rule 8 and should not be re-determined same as Rs. 1,11,58,582/- under Rule 6 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

ii. The said impugned export goods covered under the Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 having total declared FOB value of Rs1,83,49,900/- appear to be mis-declared in terms of value should not be confiscated under the provisions of Section 113(i), 113(ia) and 113 (ja) of the Customs Act, 1962.

iii. The claimed drawback of Rs. 3,85,348/- and Rosctl amount of Rs. 7,13,811/- covered under Shipping bills no. 2778435 and 2778402 both dated 28.07.2023 should not be rejected on account of mis-declared the value and should not be re-determined as Drawback amount of Rs. 2,34,329/- and Rosctl amount of Rs. 4,34,069/- respectively.

iv. The goods value at **Rs. 3,70,13, 350/-** for the **past exported** goods covered under 04 shipping bills as mentioned in Table-V on account of non-receipt of foreign remittance should not be confiscated under the provisions of Section 113(ia) & 113(ja) of the Customs Act, 1962.

v. The Drawback amount of **Rs. 7,77,280/-** claimed in the **past shipping bills** as mentioned at Table-V above should not be recovered along with interest on account of the non-receipt of foreign remittance and should not be demanded from the exporter along with applicable interest under Section 75 and 75A of the Customs Act 1962 read with Rule 17 &18 of the drawback Rules, 2017 read with section 28AA of the Customs Act, 1962.

vi. The amount of RoSCTL amount of **Rs. 14,39,820/- c**laimed in the past shipping bills as mentioned at Table-V above should not be recovered on account of the non-receipt of foreign remittance and should not be demanded from the exporter along with applicable interest 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 and section 28AAA read with section 28AA of the Customs Act, 1962.

vii. Penalty should not be imposed upon the exporter M/s Glamour Traders (IEC No. NXXPS4874M) under Section 114(iii) and 114AA of the Customs Act, 1962.

viii. Penalty should not be imposed upon the exporter M/s Glamour Traders (IEC No. NXXPS4874M) under Section 114AC of the Customs Act, 1962 on account of non existent.

ix. Penalty should not be imposed upon the exporter M/s Glamour Traders (IEC No. NXXPS4874M) under Section 114AB of the Customs Act, 1962 on account for obtaining instrument by fraud etc. in past shipping bills.

x. The bond should not be enforced and cash security in form of Bank Guarantee of Rs 2,00,000/-(Vide Challan No.HCM-131 dated 04.09.2023) at the time of provisional release of the goods for export, should not be appropriated against export incentives, applicable interest, redemption fine and penalty etc. arising out of this order.

22.1 Further**,** M/s Perfecto Logistics (11/2690), F-120, 1st Floor, Haware Fantasia Business Park, Plot No. 47, Sector 30A, Vashi, Mumbai-400703 are hereby called upon to show cause to the Additional/Joint Commissioner of Customs, CAC, NS-II, JNCH, Nhava Sheva within 30 days of the receipt of this notice as to why Penalty should not be imposed upon them under Section 114(iii) and 114AA of the Customs Act, 1962 in violation of regulation 10(n) and 10(q) of CBLR, 2018.

23. The aforesaid noticees are to submit their written reply within 30 days before the adjudicating authority. In their reply, they should clearly state whether they wish to be

heard in person or not. In case no such request is made or they do not appear before the adjudicating authority on the date and time fixed, without any sufficient cause, the case will be decided ex-parte on the basis of available records without any further reference to them.

24. This show cause notice is issued only in respect of issues discussed in the show cause notice and the goods mentioned against the shipping bill discussed hereinabove.

25. The Department reserves its right to add, amend, modify, etc. this notice based on any fresh facts or evidence which may come to the notice of the Department after issue of this notice but prior to adjudication thereof.

26. This show cause notice is issued without prejudice to any other action that may be taken in respect of the impugned goods and/or the persons/company mentioned in the notice, under the provisions of the Customs Act, 1962 and/or any other law for the time being in force.

27. List of the documents relied upon in this notice (RUDs) are as per Annexure-A attached with this notice. It may be noted that all the relied upon documents and annexure enclosed with this show cause notice are an integral part of this show cause notice.

Digitally signed by
RAGHU KIRAN BATCHALI
Date: 25-07-2025
12:55:56

रघुकिरणबी / (BATCHALI RAGHU KIRAN)
अपरआयुक्त / Additional Commissioner,
CEAC, NS-II, JNCH

Enclosures: - Annexure-A-List of RUD's

By Speed Post/Regd. Post/E-mail/Hand Delivery

To,

1. M/s Glamour Traders (IEC No. NXXPS4874M),
B-29/304, Dreamland, Shanti Nagar, CHS Ltd.,
Sector-11, Shanti Nagar, Mira Road East,
Thane, Maharashtra-401107

2. **M/s. Perfecto Logistics (11/2690),**
F-120, 1st Floor, Haware Fantasia Business Park,
Plot No. 47, Sector 30A, Vashi,
Mumbai-400703

Copy to:

1. The Additional Commissioner of Customs, CAC, NS-II, JNCH, Mumbai.
2. The Asstt. Commissioner of Customs, SIIB(X), JNCH.
3. Supdt/CHS, JNCH for display on Notice Board.
4. Supdt/EDI, JNCH for uploading on website.
5. Office Copy

Annexure – A

Sr. No.	**List of Relied Upon Documents**
RUD-I	Copy of Shipping bills no. 2778435 and 2778402 both dated 28.07.2023
RUD-II	Copy of Panchanama dated 07.08.2023
RUD-III	TEST REPORT
RUD-IV	Copy of Market Enquiry report dated 19.08.2023
RUD-V	Copy of provisional release for export dated 23.08.2023
RUD-VI	GST report of Exporter
RUD-VII	Copy of summons dated 15.04.2024, 15.05.2024, 16.01.2025 and 21.01.2025 issued to exporter M/s Glamour Trader's to record statement u/s Section 108 of the Customs Act, 1962. However, exporter not turn up for statement
RUD-VIII	Copy of Summons issued to M/s. Perfecto Logistics was summoned to appear before this office vide Summons dated 13.01.2025, 21.01.2025 and 24.01.2025. However, CB not turn up for statement