



भारत सरकार/ **GOVERNMENT OF INDIA**  
सीमा शुल्क प्रधान आयुक्त का कार्यालय (पत्तन)  
**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (PORT)**  
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**DIN:**

**ORDER-IN-ORIGINAL NO: KOL/CUS/ADC/PORT/GR3/126/2025**

**File No:-GEN/ADJ/ADC/1724/2025-GR 3-O/O PR COMM-R-CUS-PORT-KOLKATA**

**Date of Order: 04.09.2025.**

**Date of issue:**

**Passed by:**

**Gautam Kumar, Additional Commissioner of Customs,  
Appraising Group (Group-III), Kolkata Customs (Port)**

मूल-आदेश

**ORDER-IN-ORIGINAL**

1. यह प्रति उस व्यक्ति के उपयोग हेतु निःशुल्क जारी की जाती है, जिसके लिए यह निर्गत की जाती है।  
This copy is granted free of charge for the use of the person to whom it is issued.
2. यदि कोई व्यक्ति इस आदेश से व्यथित हो, तो वह इस आदेश के विरुद्ध अपील सीमा शुल्क अधिनियम, 1962 की धारा 128 के अंतर्गत आयुक्त, सीमा शुल्क (अपील), सीमा शुल्क सदन, 15/1, स्ट्रैंड रोड, कोलकाता - 700001 के समक्ष अपील कर सकता है। यह अपील व्यक्तिगत या पार्टी के पास डाक द्वारा प्राप्त होने के 60 दिनों के भीतर दर्ज की जानी आवश्यक है। इसके साथ निम्न चीजें होनी चाहिए:

Any person deeming himself aggrieved by this order may, under Section 128 of the Customs Act, 1962 appeal against the order to the Commissioner of Customs (Appeals), Custom House, 15/1 Strand Road, Kolkata -700001. Such an appeal must be filed within Sixty (60) days from the date of receipt by the party and should be accompanied by-

3. अपील की प्रति।  
A Copy of the appeal.
4. आदेश की यह प्रति अथवा आदेश की अन्य प्रति के साथ निम्न कोर्ट फीस स्टैम्प होना आवश्यक है:  
This copy of the order or another copy of the order which must bear Court Fee stamps as below:
5. यदि विषय के मूल्य की राशि पचास रुपए या उससे कम हो, तो ₹0.40

If the amount of value of the subject matter is fifty rupees or less than fifty rupees – 0.40

6. यदि यह राशि या मूल्य ₹50 से अधिक हो, तो ₹0.75

If such amount or value exceeds fifty rupees - 0.75

7. यदि विभागीय रिकॉर्ड में किसी अन्य दस्तावेज़ की प्रति अथवा अपील के साथ वकालतनामा दाखिल किया गया हो, तो उस पर भी निम्न कोर्ट फीस स्टैम्प होना आवश्यक है:

If a copy of any other documents on the record of the Department or a Vakalatnama is filed with an appeal, it must bear Court Fee Stamps as bellow:

8. विभागीय रिकॉर्ड में दस्तावेज़ की प्रति के प्रत्येक 360 शब्दों या उसके अंश के लिए ₹1.50

A copy of documents on the record of the department for every 360 words or fraction thereof Rupees 1.50

9. आयुक्त अथवा उनके अधीनस्थ को वकालतनामा पेश किया जाए, तब उस पर ₹2.00

Vakalatnama when presented to the Commissioner of Customs (Appeals), or his subordinate, it should bear Court Fee Stamps of Rupees 2.00.

**Subject:Adjudication Order under section 122 of the Customs Act, 1962, in respect of import of prohibited goods in violation of Quality Control Order (QCO), 2024 dated 15.03.2024 under Bill of Entry No. 3844200 dated 12.08.2025 filed by the importer M/s Virisa Sports Private Limited (IEC-AAGCV3628L)-reg.**

#### **BRIEF FACTS OF THE CASE**

M/s Virisa Sports Private Limited (IEC: AAGCV3628L) (hereinafter referred to as 'the Importer') having registered address at Ground Floor, Unit No-004 Property, Shivaji Nagar, Bengaluru-560001 filed a B/E No.- 3844200 dated 12.08.2025 for clearance of goods for home consumption through their authorised Customs Broker (in short 'CB') M/s JMD Supplychain solution PVT LTD on self-assessment basis under section 17 of Customs Act, 1962.

Item wise details of the consignment is given below:

**Table-A- BE Summary**

BE No. and Date	3844200, Dated 12.08.2025.
Importer	M/s Virisa Sports Private Limited
IEC	AAGCV3628L
Supplier Name	Fujian Sanfer IMP&EXP Trading Co. Ltd.
Goods Description	As per Table-B
B/L No and Date	XMMX50653800, 26.07.2025.

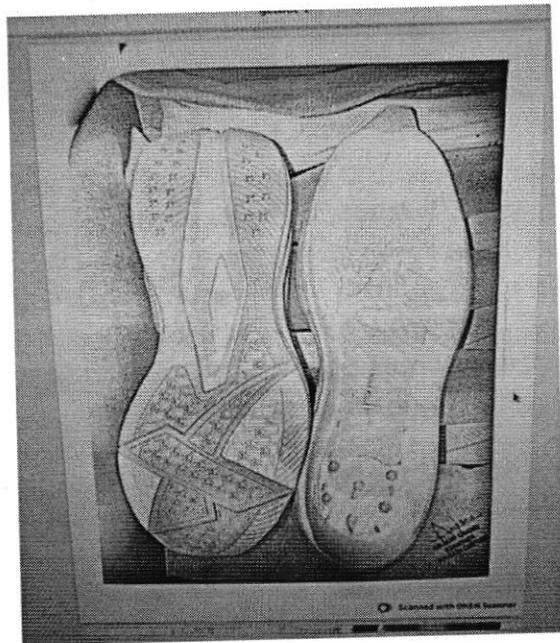
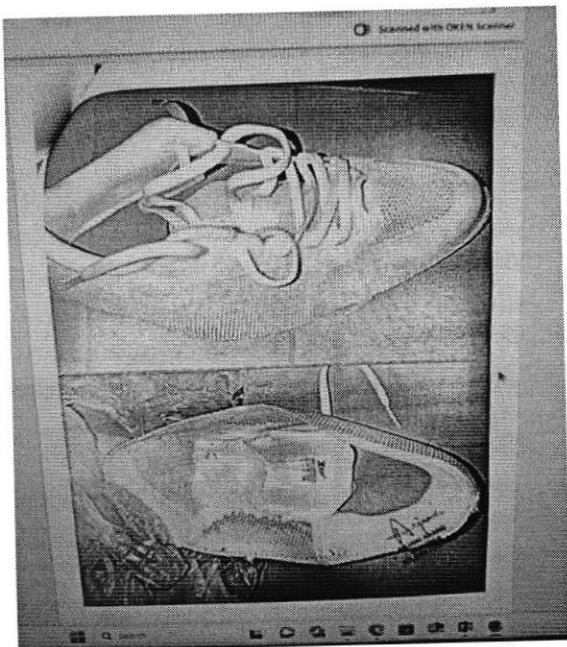
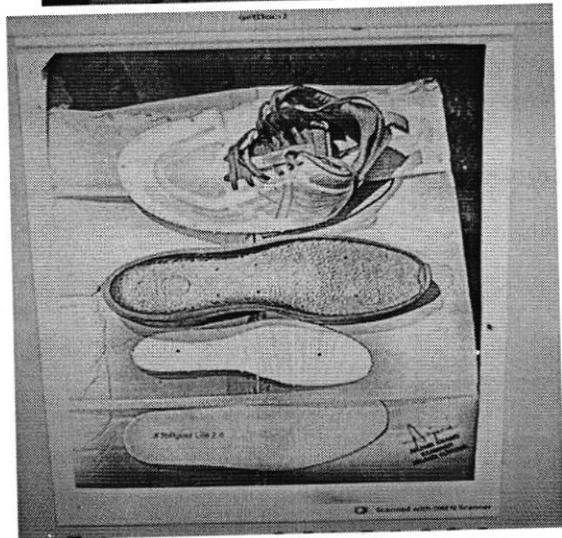
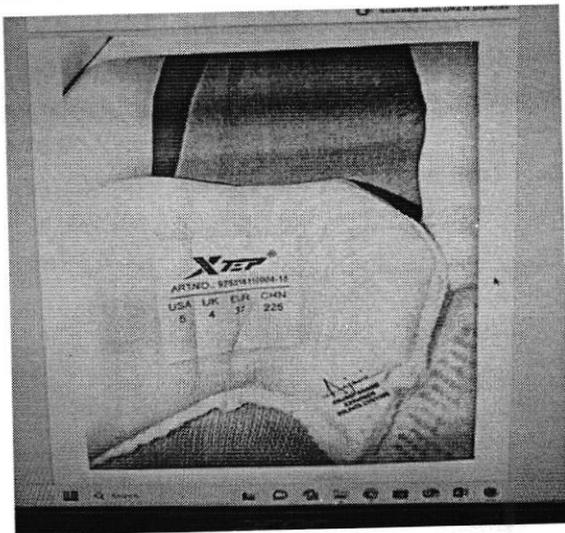
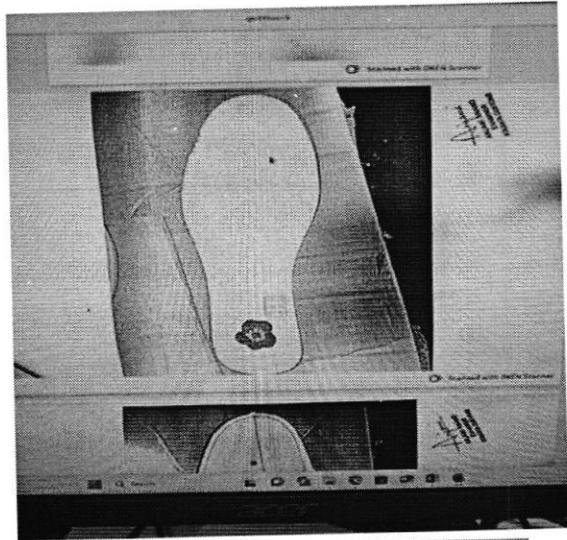
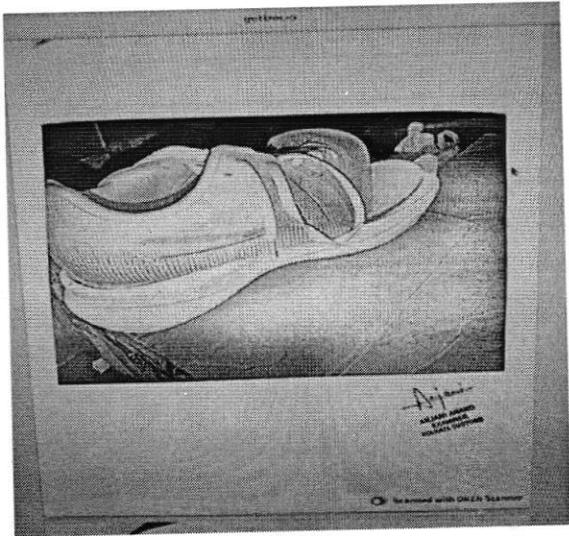
Invoice No and Date	XT20250414, 14.04.2025
Invoice Value (FOB)	USD 205073.76
Freight	USD 4500
Insurance	USD 223
Total Quantity	15864 Pairs
Exchange Rate (USD/INR)	88.6
Declared Assessable Value	Rs. 1,85,87,993/-
Total Declared Duty	Rs. 81,41,926/-

**Table-B Item wise Details (As declared in the subject BE)**

Sl. No.	CTH	Item Description	Assessable Value (In Rs.)	Duty
1	64061090	Upper Running Shoes 70% Textile + 30% Coated Textile (QTY 30936 PCS) (XTEP BRAND)	64,51,819.5	BCD 20%, SWS 10%, IGST 18%
2	64069090	Insole Running Shoes 80% Textile + 20% EVA (QTY 30936 PCS) (XTEP BRAND)	9,21,688.14	BCD 20%, SWS 10%, IGST 18%
3	64069090	Outsole Running Shoes 40% MD + 30% RB + 30% TPU (QTY 30936 PCS) (XTEP BRAND)	1,10,60,262.19	BCD 20%, SWS 10%, IGST 18%
4	48192090	Shoe Box Corrugated Paper (15468 PCS) (XTEP BRAND)	1,40,202.73	BCD 10%, SWS 10%, IGST 12%
5	48211090	Shoe Box Sticky Label Paper Label Sticker (15468 PCS) (XTEP BRAND)	14,020.28	BCD 10%, SWS 10%, IGST 18%
<b>Total</b>			<b>1,85,87,992.84</b>	

2. The subject Bill of Entry was RMS-facilitated, and accordingly, no assessment or examination was initially prescribed. However, during scrutiny of the declared description by the RMS Facilitation Centre, it was observed that the goods comprise 15,468 pairs of XTEP brand running shoes in CKD condition. In terms of GIR 2(a), such goods are to be treated as complete shoes and would attract the applicable policy restrictions, which appear not to have been complied with. Accordingly, the Bill of Entry was referred back to the Appraising Group for detailed examination, scrutiny, and further necessary action.

3. Subsequently, the Appraising Group instructed the Shed Officer to conduct a First Check examination. During 100% examination, in compliance with the Group's directions, it was found that the quantity of goods tallied with the declaration. However, the goods were observed to be in CKD condition of XTEP brand shoes, comprising shoe uppers, insoles, outsoles, shoe boxes, labels, and shopping bags bearing XTEP branding. Photographs of the goods were also taken during the examination, which are reproduced below:



**CLASSIFICATION**

4. As per Rule 1 of General Rules for the interpretation of the Harmonized System (GIR) Rules, Classification of goods in the nomenclature shall be determined according to the terms of the headings and relative Section or Chapter Notes. Accordingly, declared classification of all the items under the subject BE have been scrutinized in terms of the examination report and the same appears to be correct.

#### **VALUATION**

5. On scrutiny of the contemporary import data of identical/similar goods as available in NIDB, the declared value of the goods covered under the subject Bill of Entry No.3844200 dated 12.08.2025 appears to be adequate and transaction value under Section 14 of the Customs Act, 1962, read with CVR, 2007 appears acceptable.

#### **IMPORT POLICY**

**6.1 Note 2 of General Notes regarding Import Policy provides the following:**

2(A) Mandatory Indian Standards of Bureau of Indian Standards (BIS):

*Quality of the products that are subject to mandatory Indian Standards, as applicable to domestic goods, shall be required to comply with quality specified for the product as per same Indian Standards. For compliance of this requirement, all manufactures/exporters of these products to India shall be required to obtain BIS license for using Standards mark on their product. The present list of 'Items under mandatory BIS certification' is given in Appendix - III of this Schedule. As and when BIS notifies the quality specifications for new product(s) as an Indian Standards, the said Indian Standard would deemed to be part of Appendix - III from the date of implementation of the said Indian Standards for the said product(s) and the import of that product(s) shall conform to that sp specified Indian Standard from the date of implementation as specified for the said product(s) by BIS.*

**6.2 Further, Section 2(33) of the Customs Act, 1962, defines "Prohibited Goods" as:**

*"prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with:*

**6.3 Relevant portion from the Quality Control Order (QCO) dated 15.03.2024 has been produced below for reference:**

**2. Compulsory use of Standard Mark.**— Goods or articles specified in the column (2) of the Table shall conform to the corresponding Indian Standard specified in the column (3) of the said Table and shall bear the Standard Mark under a license from the Bureau as per Scheme-I of Schedule-II of Bureau of Indian Standards (Conformity Assessment) Regulations, 2018:

Provided that nothing in this Order shall apply to goods or articles meant for export:

Provided further that nothing in this Order shall apply to micro and small manufacturing units as defined in section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006) as amended from time to time:

Provided also that nothing in this Order shall apply to import of goods or articles specified in the Table below used in manufacturing of footwear in India for export only, namely:—

Sl. No.	Goods or Articles (Components)	Indian Standard	Title of Indian Standards
(i)	(ii)	(iii)	(iv)
1.	Moulded Rubber Outsoles	IS 5676:1995	Moulded Rubber Unit Outsoles — Specification
2.	Microcellular Rubber Sheets for Outsoles	IS 6664:1992	Microcellular Rubber Sheets for Outsoles — Specification
3.	Moulded PVC Outsoles	IS 6719:1972	Moulded PVC Unit Outsoles — Specification
4.	PU Outsoles	IS 13893:1994	Polyurethane Unit Outsoles — Specification

In view of the above provisions it appears that for importation of **item no. 3 of Table-B i.e. Moulded Rubber outsoles** shall be permitted freely when,

- they conform to the corresponding Indian Standard specified in the column (iii) of the said table above, and
- they bear Standard Mark under a license from BIS as per scheme-I of Schedule-II of Bureau of Indian Standards (Conformity Assessment), Regulations, 2018.

**Accordingly, the goods under Item No.3 of Table-B i.e. Outsole Running Shoes 40% MD + 30% RB + 30% TPU (QTY 30936 PCS) (XTEP BRAND) imported vide Bill of Entry No. 3844200 dated 12.08.2025 appears to be Prohibited in terms of Section 2(33) of the Customs Act, 1962 and therefore, the same appears to be liable for confiscation under the provisions of Section 111(d) of the Customs Act,1962.**

#### Legal Provisions:

##### 7.1 Section 17. Assessment of duty—

(1) An importer entering any imported goods under section 46, or an exporter entering

any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

**7.2 Section 46** of the Customs Act, 1962 inter alia states that:

**'Entry of goods on importation-**

—(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed

Provided.....

2. ....

3. ....

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to **the truth of the contents of such bill of entry** and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

(4A) The importer who presents a bill of entry 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.....**

**7.3 Section 2(33)** of Customs Act, 1962 defines '**Prohibited goods**' as—

"prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

**7.4 Section 111 Confiscation of improperly imported goods, etc.—**

The following goods brought from a place outside India shall be liable to confiscation: —

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

**7.5 Section 112 Penalty for improper importation of goods, etc.—**

Any person,—

(a) 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 111, or abets the doing or omission of such an act, or

.....

shall be liable,—

- i. in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

.....

#### **7.6 Section 122: Adjudication of confiscations and penalties. —**

In every case under this Chapter in which anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged, —

(a) without limit, by a Principal Commissioner of Customs or Commissioner of Customs or **a Joint Commissioner of Customs**

(b) up to such limit, by such officers, as the Board may, by notification, specify;

#### **7.7 Section 125 Option to pay fine in lieu of confiscation.—**

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit: Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply: Provided further that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.

(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending. Explanation. For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.

### **SCN & SUBMISSION OF THE IMPORTER**

8. The importer in his letter dated 02.09.2025 has submitted their clarification which are reproduced below:

A. That the goods were imported vide the subject shipment are not complete finished products and are not in CKD condition. The goods imported are meant for manufacture of running shoes.

B. That, a running shoe is a carefully engineered product made up of multiple layers and components. To manufacture one, several essential parts are required, each with distinct function for comfort, performance and durability.

C. That the manufacturing of complete shoe requires many other items to be fixed apart from the goods under import in the BOE. There are other items also which go into the manufacturing of a complete shoe product, like shoe lasts, welt, moccasin, strobel, high strength threads for sewing, etc. which do not form part of the goods imported in the present consignment. A "shoe lasts" are foot-shaped mold around which the shoe is built is an important element in the manufacture of shoe. Apart from the shoe lasts, there other small items like welt, moccasin, strobel etc which will be procured separately by them to complete the manufacturing of the shoe. Further there are certain consumables like rubber compounds, Adhesives, Specialised glues to bond mid sole, upper and outsole, which also has to be procured separately which is an essential part for the manufacturing. This alone makes it clear that the goods imported by them are not the complete set of items which go into the manufacturing of the complete shoe nor do they fulfil the basic condition of having the essential feature of a complete shoe.

D. That they have submitted, that the goods in question after including shoe lasts have to undergo fundamental manufacturing process to form a basic shoe. Therefore, the parts imported have to undergo various technical manufacturing procedure before the complete shoe is produced for purposes of sale.

E. That, the manufacturing process includes attaching the Sole to the Upper by using a specific glue. Thereafter the drying process is undertaken. Once the Cementing (Gluing with adhesives) of the upper sole with the glue is undertaken, the specialised process of Stitching of welt, moccasin, strobel is undertaken on the Cemented product to add strength. There is a process of Injection Direct attach wherein the sole is injected directly to upper (sports shoes).

F. That, further the following processes are undertaken before a complete shoe is manufactured:

- a. Finishing
- b. Trimming extra material.
- c. Buffing, polishing, brushing.
- d. Adding insoles, padding, laces.
- e. Applying waterproofing or protective coatings
- f. Quality Control

- g. Check for defects (stitching errors, glue marks, shape issues).
- n. Flexibility, abrasion resistance, comfort tests.
- i. Pairing left & right shoes properly.
- j. Packaging
- k. Tissue paper stuffing to keep shape.
- l. Box packing with silica gel (moisture control).
- m. Branding labels & barcodes.
- n. Ready for shipping.
- o. Labelling.

G. Citing the above-mentioned circumstances, they have argued that the goods imported by them vide above-mentioned BOE is nothing but parts of shoe and can by no means be considered as having the essential characteristic of a complete shoe.

H. To substantiate the same, they have drawn the reference of Rule 2(a) of GIR which says;

Rule 2(a) of the Harmonized System states that a heading referring to a specific article includes incomplete or unfinished versions of that article and unassembled or disassembled complete articles, provided they possess the essential character of the final product. This means an Incomplete item or a complete item presented in parts is classified as the final item if it already has the principal features of the finished goods.

1. The first part of Rule 2 (a), extends the scope of headings which refers to articles to also cover such articles when they are Incomplete or unfinished, provided that, as presented, they have the essential character of the complete or finished articles. This does not extend coverage to parts or sub-assemblies which are not yet identifiable as having the essential character of the complete finished articles.

2. The second part of Rule 2 (a), provides that complete or finished articles presented unassembled or disassembled, usually for reasons such as the requirements or convenience of packing, handling or transport, are to be classified in the same heading as the assembled articles.

3. The HSN Explanatory Notes define "articles presented unassembled or disassembled to mean "articles the components of which are to be assembled either by means of simple fixing devices (screws, nuts, bolts, etc.) or by riveting or welding, for example, provided only simple assembly operations are involved."

I. They have also stated that the parts imported at the outset do not constitute the complete parts required for the manufacture of the complete shoe as Shoe lasts and other small items are germane to manufacture the complete shoe. Therefore, the words "that article" used in the later part of the GIR would have to pass the test of the opening words of the clause "as presented, the incomplete or unfinished article has the essential character of the complete or finished article" is not fulfilled. Hence,

the parts imported does not fulfil the test of functionality of a complete finished product. Further as explained earlier, the major manufacturing operations are involved before the complete shoe product is manufactured. The goods imported being parts of shoes itself proves that the parts imported need major manufacturing process rather than being an item which can be assembled or disassembled by using a screw driver or a simple process like in the case of a Bicycle, mobile phone etc.

J. Now, based on the above, they have requested that clearance may be given for the subject consignment as individual parts as declared and self-assessed by them, since, the clearance of the goods is very urgent for them to fulfil a time limited order and any further delay will only cause them more penalties from the buyer. They have also submitted that they **do not require any personal hearing or show cause notice against them.**

### DISCUSSION AND FINDINGS

**9.1** I have carefully gone through the records of the case placed before me, the examination report, the submissions made by the importer, and the relevant statutory provisions under the Customs Act, 1962, as per Scheme-I of Schedule-II of Bureau of Indian Standards Act, (Conformity Assessment), Regulation 2018 and the Quality Control Order (QCO), 2024 regarding the Footwear made from All Rubber and all Polymeric Material and its Components. I find that the importer vide their submissions dated 02.09.2025 have requested for waiver of SCN and Personal hearing, and hence, the essential ingredients of principal of natural justice have been complied with.

**9.2** I further find that the importer M/s Virisa Sports Private Limited has imported goods as detailed in Table-B above, vide the subject Bill of Entry No. 3844200 dated 12.08.2025 having declared Assessable value of Rs. 1,85,87,993/- for home consumption, and the goods under the subject Bill of Entry were self-assessed to the duty by the importer under the respective CTH as mentioned in Table-B above under the Section 17(1) of the Customs Act, 1962.

**9.3** I further find that on scrutinizing the subject Bill of Entry, it appeared that the impugned goods listed at **item no. 3, i.e. Outsole Running Shoes 40% MD + 30% RB + 30% TPU (QTY 30936 PCS) (XTEP BRAND)** attracts mandatory BIS certification as per the Policy conditions laid down by the Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce & Industry, which was not submitted by the importer.

**9.4** I further find that the impugned consignment covered under the subject Bill of Entry was examined on 100% (first check) basis and the quantity and the description of goods were found as per declaration made in the Bill of Entry.

#### **9.5 Classification of the Goods:**

On perusal of the examination report, it is noted that the goods imported comprise *shoe uppers, outsoles, insoles, shoe boxes, labels, etc.*, of XTEP brand running shoes. The importer has classified these goods under various headings as per Table-B of the Bill of Entry.

The importer has explained in detail the various processes—like attaching soles to uppers,

cementing, stitching, finishing, quality control checks, packaging, etc.—that must be undertaken before the final product, i.e., a complete running shoe, emerges. The importer has also submitted that essential components like *shoe lasts*, welt, moccasin, strobels, adhesives, rubber compounds, etc., are not part of the present consignment and need to be procured separately.

Rule 2(a) of the General Rules for the Interpretation of the Harmonized System (GIR) provides that incomplete or unfinished articles having the *essential character* of the finished article shall be classified as the finished article. However, in the present case, given that several critical manufacturing processes and essential components are absent, the goods imported cannot be said to possess the essential character of a complete shoe in CKD condition.

**Therefore, I hold that the classification and declaration made by the importer under the respective tariff headings, as per Table-B of the Bill of Entry, are in order and do not warrant any change.**

#### **9.6 Import Policy and BIS Requirement:**

While classification under the Customs Tariff is held to be correct, import policy conditions are independently applicable.

As per *Note 2(A) of the General Notes Regarding Import Policy read with the Footwear made from All Rubber and all Polymeric Material and its Components (Quality Control) Order, 2024*, import of specified footwear or parts thereof, as notified by BIS, requires mandatory certification under *Scheme-I of Schedule-II of the BIS (Conformity Assessment) Regulations, 2018*.

Further, the *Gazette Notification dated 15.03.2024* explicitly mandates that moulded rubber outsoles and certain footwear parts must conform to the relevant Indian Standards and bear the *Standard Mark* under a valid BIS license.

Section 2(33) of the Customs Act defines “prohibited goods” as those whose import is subject to a prohibition under any law unless the conditions for import are complied with. Import without the prescribed BIS certification renders the goods as *prohibited* under Section 111(d) of the Act.

I find that item no.3 mentioned in Table-B amongst the imported goods, requires mandatory BIS certification under Scheme-I of Schedule-II of the BIS (Conformity Assessment) Regulations, 2018 read with (Quality Control) Order, 2024 issued thereunder, regarding Footwear made from All Rubber and all Polymeric Material and its Components, however the importer has submitted that they will not manufacture the final product by themselves rather it will be undertaken at their associated unit, **M/s Evertrade India**, which already holds a valid **BIS license No. CM/L-5200125377** under **IS 15844: Part 2:2023**.

**In view of the above findings, even though the goods are held to be parts rather than complete footwear, the BIS licensing requirement, as notified, remains applicable. The importer was thus required to obtain the BIS license before importation.** Since the finished product, when manufactured at the licensed facility, would conform to the prescribed Indian Standards and fall within the ambit of the BIS certification scheme, the disputed goods may be allowed for home consumption in lieu of redemption fine and penalty.

### **C. Confiscation under the Customs Act, 1962:**

In terms of Section 111(d) of the Customs Act, 1962, any goods imported contrary to any prohibition imposed under this Act or any other law for the time being in force are liable for confiscation. Since the BIS license requirement flows from the Bureau of Indian Standards Act, 2016 read with the Conformity Assessment Regulations, the goods in question are rendered prohibited under Section 2(33) of the Customs Act until compliance with BIS certification is met.

**Accordingly, I hold that the goods imported vide the subject Bill of Entry are liable for confiscation under Section 111(d) of the Customs Act, 1962.**

### **D. Option to Redeem the goods and Penalty:**

The subject goods do not specifically fall under prohibited category of goods and it became prohibited in absence of the mandatory BIS certification and the importer will not manufacture the final product by themselves rather it will be undertaken at their associated unit, **M/s Evertrade India**, which already holds a valid **BIS license No. CM/L-5200125377** under **IS 15844: Part 2:2023**. This indicates that the finished product, when manufactured at the licensed facility, would conform to the prescribed Indian Standards and fall within the ambit of the BIS certification scheme.

Further, **Outsole Running Shoes 40% MD + 30% RB + 30% TPU (QTY 30936 PCS) (XTEP BRAND)** (item no. 3 of above Table-B) is not directly sellable in the market before further processing.

In view of the above, and considering the provisions of **Section 125 of the Customs Act, 1962**, I am inclined to extend to the importer an **option to redeem the confiscated goods for home consumption** on payment of a redemption fine in lieu of confiscation. The redemption shall, however, be subject to the condition that the goods are utilized strictly for manufacture at the BIS-licensed premises and that due compliance with the BIS certification requirements is ensured prior to release of the finished product into the domestic market.

At the same time, since the goods were imported without production of a valid BIS license at the time of importation, such importation constitutes a contravention of the law. Accordingly, the importer is liable to penal action under **Section 112(a)(i) of the Customs Act, 1962**, for rendering the goods liable to confiscation.

### **ORDER**

**10.** In view of the foregoing discussion and findings, and in exercise of the powers conferred upon me under the provisions of the Customs Act, 1962, I hereby pass the following order:

**10.1** I order for confiscation of the goods namely **Outsole Running Shoes 40% MD + 30% RB + 30% TPU (QTY 30936 PCS) (XTEP BRAND)** (item no. 3 of Table-B) having Assessable Value of Rs. 1,10,60,262.19/- (Rupees One Cröre Ten Lakhs Sixty Thousand Two Hundred Sixty Two and Nineteen Paise only) under the provisions of Section 111 (d) of the Customs Act, 1962, for the reasons as discussed at Para 9 *supra*.

**10.2** I allow clearance of the remaining goods i.e. goods mentioned at Serial No. 1, 2 and 4

of above Table-B having their combined Assessable Value of Rs. 75,27,730.65/- as per declaration in the subject Bill of Entry for the reasons discussed *supra*.

**10.3** I impose a penalty of **Rs 1,00,000/-** (Rupees One Lakh only) on M/s Virisa Sports Private Limited (IEC: AAGCV3628L) under the provisions of Section 112(a)(i) of the Customs Act, 1962, for their act of omission and commission and for rendering the said goods liable for confiscation, as discussed *supra*.

**10.4** I allow the importer an option to redeem the confiscated goods for home consumption as held *supra* at para 9 on payment of redemption fine of **Rs. 2,00,000/-** (Rupees Two Lakh only) under the provisions of Section 125(1) of the Customs Act, 1962.

**11.** This order is passed without prejudice to the any other action which may be contemplated against the importer or any other person in terms of any provision of the Customs Act, 1962 and/or any other law for the time being in force.

(गौतम कुमार)  
[Gautam Kumar],  
अपर आयुक्त सीमाशुल्क (पत्तन)  
Additional Commissioner of Customs (Port),  
मूल्यांकन समूह- III / Appraising Group-III.

To,  
M/s Virisa Sports Private Limited (IEC: AAGCV3628L),  
Ground Floor, Unit No-004 Property,  
Shivaji Nagar, Bengaluru-560001.

Copy to:

1. The Deputy/ Asst Commissioner of Customs, Adjudication Cell (Port), Custom House, Kolkata.
2. The Deputy/ Asst Commissioner of Customs, Review Cell (Port), Custom House, Kolkata.
3. The Dy./Asst. Commissioner of Customs, EDI (Port), Custom House, Kolkata (For uploading on the website of Kolkata Customs).
4. Office Copy.