

		OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT -370421 PHONE : 02838-271426/271428 FAX :02838-271425	 सत्यमेव जयते
A	File No.	CUS/APR/BE/SO/152/2023-Gr 5-6-O/o Pr Commr- Cus-Mundra	
B	OIO No.	MCH/ADC/92/MK/2023-24	
C	Passed by	Mukesh Kumari, Additional Commissioner (Import), Custom House, Mundra.	
D	SCN No. & Date	Importer requested for waiver in PH/SCN vide their letter dated 18.05.2023	
E	Noticee / Party / Importer	M/s Shree Arham Electronics, 18-A, Rajaram market, Shop No.5, 1st Floor, Foolwali Road, Angoori Bagh, Delhi-110006	
F	DIN	20230671M000008664E1	

1. The Order – in – Original is granted to concern free of charge.
2. Any person aggrieved by this Order – in – Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. 1.

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road Ahmedabad-380009

3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs.5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) this copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs.5/- (Rupees Five Only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
5. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty or Penalty are in dispute, where penalty alone is in dispute.

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Brief Facts of the Case

Based on specific intelligence, 02 containers bearing Container No EMCU8555091 and TEMU3604360, both corresponding to BILL OF LADING No. 149300138253 dated 05.02.2023, and bearing item description as Electronic Goods, were put on hold by the SIIB, Mundra.

2. As per the MBL issued by the Shipping line M/s Evergreen against these containers, the name of the Consignee is given as M/s Rise Ventures, RU 34, Pitampura, Delhi-110034 and Notify Party is given as M/s ZIP ZAP Exim (P) Ltd, Address: Unit 2 Industrial Shed No. 163-164 CPWD, Phase 1 Sector 1 KASEZ, Gandhidham-370230 in the Bill of lading and the name of exporter is given as M/s Ningbo Xingtai International Logistics Co. Ltd, Room No. 3806, Block 11 of FSV N. 1679, Ningchuan Road, Yinzhou District, Ningbo, Zhejiang.

3. As per the HBL No. NBXTHW2301080 issued by the carrier M/s Ningbo Xingtai International Logistics Co. Ltd, the Shipper of the said consignment is M/s Yiwu Yongmo Import & Export Co. Ltd, Room No.302, Attached Building No. 04, B Tower, Duantou Village, Jiangdong Street, Yiew, Jinhua, Zhejiang and Consignee is M/s Zip Zap Exim Pvt ltd and notify party is M/s Rise Venture.

4. The examination of one of the containers, bearing container no. EMCU8555091 was carried out under panchanama dated 02.03.2023. On examination of the cargo, different types of electric/electronic items such as LED light roll, SMPS, Dynatone Microphones, CCTV camera parts etc. were found. A detailed list of the items found in the Container are as follows:

Table I

S. No.	Item Description	Items Per Box	No of Cartons
1	Wire with Connector	2400	2
2	Wire with Connector	2500	1
3	Wire with Connector	1000	1
4	Wire with Connector	2000	1
5	Wire with Connector	1800	1
6	Wire with Connector	1600	2
7	Speakers	1000	1
8	Speakers	400	8
9	Speakers	178	5
10	Speakers	600	5
11	Speakers	480	10
12	Speakers	340	1
13	Speakers	240	1
14	Speakers	100	1
15	Speakers	500	6
16	Earphone Cover	3000	3

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17	Earphone Cover	6000	1
18	Earphone PCB	7000	1
19	Earphone PCB	6000	1
20	Earphone Cover	10400	1
21	Earphone Ear Housing	10500	
22	Earphone Cover	10500	1
23	Earphone Ear Housing	10500	
24	Earphone Plastic Parts	5800	
25	Earphone mini wire	22400	
26	Earphone Cover	10400	1
27	Earphone Ear Housing	10400	
28	silica paste	11500	
29	Earphone Cover	10400	1
30	Earphone Ear Housing	10400	
31	Earphone Plastic Parts	5600	
32	mini speakers	16000	2
33	mini speakers	12400	1
34	earphone net	44000	
35	earphone magnet	21900	
36	earphone plastic band	3000	2
37	Earphone mini wire	6000	
38	Earphone Ear Housing	49000	1
39	Earphone Cover	6000	
40	Earphone mini wire	26000	1
41	Earphone Ear Housing	31000	1
42	USB Car Charger	1600	3
43	LED strips		10
44	LED strips		16
45	Microphone	30	34
46	Microphone	50	20
47	portable speaker	60	1
48	portable speaker	75	7
49	portable speaker	48	2
50	LED NEON Strip		351
51	LED NEON Strip		450
52	Power Supply	40	20
53	Power Supply	30	70
54	Rechargeable Battery		2
55	Rechargeable Battery		2
56	Rechargeable Battery		1
57	Rechargeable Battery		2
58	Resistor Strip		100
59	LED Bar		36
60	Audio Mixer Qubix	5	20
61	Audio Mixer Qubix	1	15
62	Audio Mixer Qubix	2	25
63	Laptop Charger	30	18
64	LED Power supply	30	104
65	LED Power supply	20	4

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66	LED Power supply	60	11
67	LED Power supply	48	6
68	LED Power supply	43	1
69	LED Power supply	40	25
70	LED Power supply	24	1
71	LED Power supply	10	1
72	CCTV Housing Parts	250	15
73	CCTV Housing Parts	200	7
74	CCTV Housing Parts	200	15
75	CCTV Housing Parts	680	2
76	CCTV Housing Parts	640	1
77	CCTV Housing Parts	450	4
78	CCTV Housing Parts	2000	1
79	CCTV PCB	1000	6
80	CCTV PCB	900	3
81	CCTV PCB	300	1
82	CCTV Housing Parts		
83	CCTV PCB		
84	CCTV Housing Parts		1
85	CCTV Housing Parts		1
86	neck band	2000	3
87	neck band	2260	1
88	neck band	2500	2
89	Stand base plate	5	6
		Total	1491

5. While the examination of the goods was being conducted, an email dated 02.03.2023 was received in SIIB, Mundra from the Shipping Line M/s Evergreen Shipping Agency (India) Pvt Ltd, Kandla vide which it was informed that as per their customer, the said cargo is High Seas Sale from HBL consignee: ZIP ZAP EXIM PVT LTD to SHREE ARHAM ELECTRONICS. Further, copies of High Sea Sales Agreement and letter from M/s Zip Zap Exim Pvt Ltd , both dated 16.02.2023 were attached with the email.

6.1. On perusal of the High Sea Sale Agreement and the letter from M/s Zip Zap Exim Pvt Ltd it was learnt that the subject consignment was dispatched in the name of M/s Zip Zap Exim Pvt Ltd by supplier M/s Yiwu Yongmo Import & Export Co. Ltd, Room No.302, Attached Building No. 04, B Tower, Duantou Village, Jiangdong Street, Yiew, Jinhua, Zhejiang by mistake and it was requested to transfer the goods to M/s Shree Arham Electronics , 18-A, Rajaram market, Shop No.5, 1st Floor, Foolwali Road, Angoori Bagh, Delhi.

6.2 The 'notify party' M/s Rise Venture has submitted No Objection vide letter dated 01.06.2023 informing that they are a Freight Forwarding company and for that particular cargo the original ownership of the goods was with M/S ZIP ZAP EXIM PVT LTD and the same was transferred via HSS to M/S Shree Arham Electronics vide HBL No NBXTHW2301080 and that they have no objection if the said shipment is cleared and the

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goods are delivered to M/s Shree Arham Electronics.

7. As per the HSS agreement between M/s M/s Zip Zap Exim Pvt ltd and M/s Shree Arham Electronics, 18-A, Rajaram market, Shop No.5, 1st Floor, Foolwali Road, Angoori Bagh, Delhi, all the right and title of the below mentioned goods are transferred by M/s Zip Zap Exim Pvt Ltd to M/S Shree Arham Electronics Pvt Ltd. The details of the goods are as follows:

Table II

DESCRIPTION OF GOODS :	ELECTRONIC GOODS
NO. OF PACKAGES :	2219 CARTONS.
NAME AND ADDRESS OF FOREIGN SUPPLIER	YIU YONGMO IMPORT & EXPORT CO. LTD. ROOM NO.302, ATTACHED BUILDING NO.4 TOWER, DUANTOU APARTMENT, DUANTOU VILLAGE, JIANGDONG STREET, YIEU, JINHUA, ZHEJIANG, CHINA.
INVOICE NO. AND DATE	YY5223 DATED 27.01.2023
B/L. NO. AND DATE	MBL. EGLV149300138253 DT.5.2.23 HBL.NBXTHW2301080 DT 5.2.23.
NEME OF VESSEL	ZIM EUROPE -V.75W
CONTAINER NO	EMCU-8555092 & TEMU-3604360

8. The importer, M/s Shree Arham Electronics vide letter dated 13.03.2023 addressed to DC, SIIB, Mundra requested for amendment of IGM and NOC to file Bill of Entry at INMUN1 port instead of through INKDL6 w.r.t. MBL NO MBL. EGLV149300138253 DT.5.2.23 and HBL.NBXTHW2301080 DT 5.2.23 which was subsequently permitted.

9. Subsequently, Bill of Entry No. 5449485 dated 10.04.22023 was filed by the importer M/s Shree Arham Electronics through their CHA M/s Lara Eximp Pvt Ltd.

10. The details filed in the Bill of Entry are as follows:

Table III

Sr. No	Item Description	CTH	Qty (No.s)	Unit price(USD)	BCD Rate (%)	SWS(%)	IGST(%)
1	Wires with Connectors L60 CMS for Computer (Mix assorted models & Size)	8529 9090	10300	0.01	15	10	18
2	Wire with connectors Flat type L 400MM for Computer (Mix assorted models)	8529 9090	5000	0.12	15	10	18
3	Mylar Speaker for TV (Mix Assorted Size and models)	8518 2290	639 Kgs	.676448	20	10	18
4	Spare Parts for hands free as per	8518	325200	0.000533	15	10	18

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	inv (Qty 325200 PCS)	9000					
5	USB car charger (Mix Assorted models)	8504 4030	4.80THD	40	20	10	18
6	LED 3 MM(Electronics Components) Mix Assorted colors)	8541 4100	6 THD	.20	0	10	18
7	Microphone with wire (Mix Assorted Models)	8518 2290	1468 kgs	0.328610	20	10	18
8	Portable Speaker Mini (Mix Assorted Models)	8518 2190	614.5 Kgs	0.182880	20	10	18
9	LED NEON Strip Light L 50M (BIS NO. R-41120219)	9405 4900	351	2	25	10	18
10	LED NEON Strip Light L 50M (BIS NO. R-41107867)	9405 4900	450	2	25	10	18
11	LED Power Supply (BIS NO. R-41083399)	8504 1090	2900	.20	7.5	10	18
12	Mini Rechargeable Battery 3.7V/150MAH (BIS NO. R-41166073)	8506 8090	2250.02 DOZ	.50	15	10	18
13	Electronic components Resistor ¼ W	8533 2119	40000 THD	0.004	0	10	18
14	LED BAR (Spare Parts)	9405 9900	548 KGS	0.656934	25	10	18
15	Audio Mixer Chinese Brand (Mix Model)	8543 7029	165	10.50	7.5	10	18
16	LED power Supply (Mix Assorted size and models)	8504 1090	5225	0.045001	7.5	10	18
17	Spare parts for CCTV (Hopusig , Front Cover, brackets, plastic parts, populated PCB, glass cover, screw, sponge	8529 9090	49950	0.002324	15	10	18
18	Neck Band earphone (Mix Assorted Models)	8518 3090	93.88 Kgs	35.311035	20	10	18
19	Que Stand base Plate (Qty 30 PCS)	8302 4900	129 Kgs	.90	15	10	18
20	Disco Moving Lights (Mix Models)	9405 4900	25	16	25	10	18
21	Disco Stage Ceiling Light	9405 4900	104	11	25	10	18
22	Moving Stage Ceiling Light	9405 4900	12	31	25	10	18
23	Decorative Spot Light	9405 4900	28	10	25	10	18
24	Decorative Disco Laser light (Small)	9405 4900	12	12	25	10	18
25	Disco Moving lights (Mix Models)	9405 4900	134	14	25	10	18
26	Spare parts for car AC Compressor (Valve) qty 5200 PCS	8415 9000	664 Kgs	0.647063	20	10	18
27	Mini main PCB Board for LED TV (M ix Assorted models)	8529 9090	3230	.024	15	10	18
28	Mini Button Cell (Mix Models)	8506 8010	12920 THD	0.60	15	10	18
29	Mini Coin cell	8506 8090	3120 THD	1.20	15	10	18
30	Laptop charger (Mix Assorted Models)	8504 4030	69.19 DoZ	2.499928	20	10	18
31	Shirts (free samples)	6109 9090	16	3.5	20/ Rs 50 UNIT	10	12

The declared Assessable value of the goods = INR 29,12,796/-

Total Customs Duty = 542968.50

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Total IGST Duty = 6,26,936.40

Total Duty payable: 11,69,905.00

11. The examination of second container bearing container no. TEMU3604360 was carried out under panchanama dated 15.04.2023 by the officer of SIIB. Mundra. On examination of the cargo, different types of electric/electronic items such as LED light roll, chargers, Disco lights of various kinds etc. were found. A detailed list of the items found in the Container are as follows:

Table IV

S. No.	Item Description	Items Per Box	No of Cartons
1	DISCO LIGHT	4	6
2	DISCO LIGHT	1	1
3	DISCO STAGE CEILING LIGHT	8	6
4	DISCO STAGE CEILING LIGHT	4	14
5	MOVING HEAD ELITE BEAM	4	2
6	MOVING HEAD ELITE BEAM	2	2
7	DECORATIVE SPOT LIGHT	2	14
8	DISCO LASER LIGHT SMALL	4	3
9	DISCO LIGHT	2	5
10	DISCO LIGHT	4	6
11	DISCO LIGHT	2	50
12	MICROPHONE WITH WIRE	20	23
13	MICROPHONE WITH WIRE	20	10
14	VALVE	50	104
15	PCB BOARD	30	107
16	PCB BOARD	20	1
17	MINI BUTTON CELL	5760	323
18	COIN CELL	11520	39
19	CHARGER	50	4
20	CHARGER	30	2
21	CHARGER	20	1
22	CHARGER	10	1
23	SHIRTS	16	1
	TOTAL		725

Valuation

12. Upon examination, it appeared that the value of the goods declared in the B/E do not appear to be commensurate with the quality of the goods in the consignment. Therefore, the opinion of empanelled Chartered Engineer cum valuer was taken to ascertain the prevalent value of the goods.

12.1. The empanelled chartered engineer cum valuer submitted valuation report bearing No. **CE/TZ/MUN/MAY-008/2023-24 dated 05.05.2023** based on the current market details gathered and visual inspection of goods. The suggested value, item-wise is reproduced below in Table V.

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Table V

S.no	Item Description	QTY	Declared invoice value in USD		Evaluated Value in USD	
			Unit Price	Total Price	Unit Price	Total Price
1	WIRE WITH CONNECTOR L 60 CMS FOR COMPUTER (MIX ASSORTED MODELS & SIZE)	10300 PCS	0.01	103	0.25	2,575.00
2.	WIRE WITH CONNECTOR FLAT TYPE L 400MM FOR COMPUTER (MIX ASSORTED MODELS)	5,000 PCS	0.012	60	0.5	2,500.00
3.	MYLAR SPEAKER FOR TV (MIX ASSORTED SIZE & MODELS)	639 KGS	0.676448	432.25	0.7	447.30
4.	SPARE PARTS FOR HANDS FREE AS PER INV (QTY 325200PCS)	325,200 PCS	0.000533	173.34	0.001	325.20
5.	USB CAR CHARGER (MIX ASSORTED MODELS)	4.8 THD	40	192	40	192.00
6.	LED 3MM (ELECTRONICS COMPONENTS) (MIX ASSORTED COLOURS)	3,440 THD	0.2	688	0.2	688.00
7.	MICROPHONE WITH WIRE (MIX ASSORTED MODELS)	1,468 KGS	0.32861	482.40	0.33	484.44
8.	PORTABLE SPEAKER MINI (MIX ASSORTED MODELS)	614.5 KGS	0.18288	112.38	1	614.50
9.	LED NEON STRIP LIGHT L 50M (BIS NO. R-41120219)	351 PCS	2	702	2	702.00
10.	LED NEON STRIP LIGHT L 50M (BIS NO. R-41107867)	450 PCS	2	900	2	900.00
11.	LED POWER SUPPLY (BIS NO. R- 41083399)	2,900 PCS	0.2	580	0.5	1,450.00
12.	MINI RECHARGEABLE BATTERY 3.7V/150MAH (BIS NO. R41166073)	2,250.02 DOZ	0.5	1,125.01	1	2,250.02
13.	ELECTRONIC COMPONENTS RESISTOR 1/4W	40,000 THD	0.004	160	0.01	400.00
14.	LED BAR (SPARE PARTS)	548 KGS	0.656934	360	0.66	361.68
15.	AUDIO MIXER CHINESE BRAND (MIX MODEL)	165 PCS	10.5	1,732.50	40	6,600.00
16.	LED POWER SUPPLY (MIX ASSORTED SIZE & MODELS)	5,225 PCS	0.045001	235.13	0.5	2,612.50
17.	SPARE PARTS FOR CCTV(HOUSING,FRONTCOVER,BRACKET, PLASTIC PARTS, POPULATED PCB, GLASSCOVER, SCREW, SPOUNGE)	49,950 PCS	0.002324	116.10	0.01	499.50
18.	NECK BAND EARPHONE (MIX ASSORTED MODELS)	93.88 KGS	35.311035	3,315	40	3,755.20

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19.	QUE STAND BASE PLATE (QTY 30 PCS)	129 KGS	0.9	116.10	1.05	135.45
20.	DISCO MOVING LIGHT (MIX MODELS)	25 PCS	16	400	55	1,375.00
21.	DISCO STAGE CEILING LIGHT	104 PCS	11	1,144	11	1,144.00
22.	MOVING STAGE CEILING LIGHT	12 PCS	31	372	75	900.00
23.	DECORATIVE SPOT LIGHT	28 PCS	10	280	40	1,120.00
24.	DECORATIVE DISCO LASER LIGHT (SMALL)	12 PCS	12	144	14.5	174.00
25.	DISCO MOVING LIGHT (MIX MODELS)	134 PCS	14	1,876	20	2,680.00
26.	SPARE PARTS FOR CAR AC COMPRESSOR (VALVE) (QTY 5200 PCS)	664 KGS	0.647063	429.65	1.12	743.68
27.	MINI MAIN PCB BOARD FOR LED TV (MIX ASSORTED MODELS)	3,230 PCS	0.24	775.20	0.5	1,615.00
28.	MINI BUTTON CELL (MIX MODELS)	12,920 T HD	0.6	7,752	0.6	7,752.00
29.	MINI COIN CELL	3,120 TH D	1.2	3,744	1.5	4,680.00
30.	LAPTOP CHARGER (MIX ASSORTED MODELS)	69.19 DOZ	2.499928	172.97	3	207.57
31.	SHIRTS (FREE SAMPLES)	16 PCS	3.5	56	3.5	56.00
TOTAL				28,731.03		49,940.04
Total (in INR)(@ 1 USD = Rs 82.85)				23,80,363/-		41,37,529/-

Compliance to Policy Conditions

13. As the consignment comprises of numerous article that fall under the purview of Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order 2021, as well as on which the provisions of the Extended Producers Responsibility (EPR) Authorization, in accordance with E-Waste Management Rules, 2022, are applicable, summons u/s 108 of the Customs Act, 1962 were issued to the importer to produce all the documents for the same. The summons was also issued for producing additional documents to justify the declared assessable value of the goods in the Bill of entry.

14. In response to the said summons, the importer vide letter dated 18.05.2023 informed that due to some unavoidable circumstances, the importer could not personally present himself before SIIB, Mundra and is giving his written submission vide the present letter. The importer has informed that he has seen the Chartered Engineer Certificate which was forwarded to him by his CHA and he is accepting the value of the goods as has been suggested by the Chartered Engineer in his certificate. With respect to the BIS, the importer has submitted that for those goods under import which require BIS, the importer has already mentioned the BIS no. in Invoice and Bill of entry and also submitted copy of BIS certificate. The importer has further informed that for any other item that requires BIS, but

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which does not have BIS Registration mark, the importer may be permitted to re-export the goods. Regarding EPRA Certificate, the importer has informed that they have already applied for the same. The importer has further submitted that they have an MSME certificate. On perusal of the MSME certificate bearing UAM NO. DL04D0006085, it is seen that the imported is registered as Micro Enterprise and as such EPR does not apply to micro enterprises as defined in MSME Development Act, 2006. Regarding evidence to justify the transaction value, the importer has informed that goods have been received on a credit basis. The importer has further added that the goods under import are sensitive in nature and may get damaged by the high temperature in the climate. So they have requested for an early release of the consignment and informed they do not want any Show Cause Notice or PH in this matter.

15. During the examination it was noticed that the certain items of the Bill of entry that are covered under the Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order 2021 were not having BIS registration mark on them as prescribed. The items are:

- a) Item at Sr. No. 08 of the Bill of Entry: Portable mini Speaker (Mix Assorted Models)
- b) Item at Sr. No. 18 of the Bill of Entry: Neckband Earphone (Mix Assorted models)

16. It was also noticed that the items at Sr. No. 28 of the Bill of entry: Mini Button cells (Mix Models) and item at Sr. No. 29 of the Bill of Entry: Mini Coin Cell do not have BIS registration per IS 16046(Part-1):2018/IEC 62133- 1:2017 for Nickel System and on Coin Cells as per IS 16046(Part-2):2018/IEC 62133-2:2017 for Lithium System under Compulsory Registration Scheme.

17. Legal Provisions

17.1 ITC (HS), SCHEDULE 1 – IMPORT POLICY

In terms of Paragraph 2.02 of the Foreign Trade Policy, all imported goods shall also be subject to domestic laws, acts, rules, orders, regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods.

The following General Notes apply to imported goods.

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2. Indian Quality Standards:

(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*

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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 be 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 specified Indian Standard from the date of implementation as specified for the said product(s) by BIS. To see the up-to-date list, visit Bureau of Indian Standards' website link <<http://www.bis.org.in/cert/man.pdf>> or search on website of the Bureau -<<http://bis.org.in/>>.

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C) Import policy for electronics and IT Goods: The import of Goods (new as well as second hand, whether or not refurbished, repaired or reconditioned) notified under the "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012, as amended from time to time, is prohibited unless they are registered with the Bureau of Indian Standards (BIS) and comply to the 'Labelling Requirements' published by BIS, as amended from time to time', or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification S.O. No. 3022 dated 11.09.2013. The importer shall re-export such prohibited Goods reaching Customs Ports else the Customs Authorities shall deform the goods beyond use and dispose of the goods as scrap under intimation to MeitY.

.....

Provisions of The Customs Act,1962

18.1. 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.

(2) The proper officer may verify the ² [the entries made under [section 46](#) or [section 50](#) and the self assessment of goods referred to in sub-section (1)] and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

³ [Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.]

⁴ [(3) For ⁵ [the purposes of verification] under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person

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shall produce such document or furnish such information.]

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

.....

18.2 Section 111 of The Customs Act, 1962

. 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;

.....

(m) ²[any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 ³ [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54];

Outcome of Investigation:

19. From the foregoing investigation, the following can be summarized in the present case.

19.1. Certain items of Bill of Entry No. 5449485 dated 10.04.2023 are being imported in violation of the provisions of General Policy of Import as per the Foreign Trade Policy. The details of such goods are as following:

Table VI

S.no of the Bill of Entry	Item Description	QTY	Declared invoice value in USD		Evaluated Value in USD	
			Unit Price	Total Price	Unit Price	Total Price
8	PORTABLE SPEAKER MINI (MIX ASSORTED MODELS)	614.5 KGS	0.18288	112.38	1	614.5
18	NECK BAND EARPHONE (MIX ASSORTED MODELS)	93.88 KGS	35.311035	3,315	40	3,755.20
28	MINI BUTTON CELL (MIX MODELS)	12,920 THD	0.6	7,752	0.6	7,752.00

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29	MINI COIN CELL	3,120 THD	1.2	3, 744	1.5	4,680.00
TOTAL				14,923.38		16,801.70
Total Value (In Rs.) (@1 USD = Rs 82.85)				12,23,402/-		13,92,021/-

19.2 Further, the Rule 12 of **Customs Valuation (Determination of value of Imported goods) Rules, 2007** which is for **Rejection of declared value**, states under point 1(iii)(e) of its Explanation that

(iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include –

....

(e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value;

....

As the value of the goods appeared to be low, reference was made to Empanelled Chartered Engineer to provide an opinion on the value of goods. The empanelled chartered engineer cum valuer submitted valuation report bearing No. **CE/TZ/MUN/MAY-008/2023-24 dated 05.05.2023** based on the current market details gathered and visual inspection of goods. The same value has been accepted by the importer vide his letter dated. 18.05.2023

20. Therefore, in light of the above investigation, the following is proposed

- i. The goods as mentioned in Table VI, having Value of **INR 13,92,021/- (Rupees Thirteen lakh Ninety-Two Thousand and Twenty-one only)** is liable for confiscation u/s 111(d) of the Customs Act, 1962
- ii. The goods under the Bill of Entry No. 5449485 dated 10.04.2023 having total value of **INR 41,37,529/- (Rupees Forty-One Lakh Thirty-Seven Thousand and Five Hundred and Twenty-Nine Only)**, as suggested by Chartered Engineer, is liable for confiscation u/s 111(m) of the Customs Act, 1962.
- iii. The Bill of Entry may be re-assessed u/s 17(4) of the Customs Act, 1962 as per the valuation report bearing No. CE/TZ/MUN/MAY-008/2023-24 dated 05.05.2023, as the same has been accepted by the importer vide his letter dated 18.05.2023. The tentative differential duty of approx. **INR 7,67,302/- (Rupees Seven Lakh Sixty-Seven Thousand Three Hundred and Two only)** may be collected accordingly.
- iv. The importer is liable for penalty u/s 112 (a) of the Customs Act, 1962.

21. The importer vide letter dated 18.05.2023 has informed that they do not want any Show Cause Notice or Personal Hearing in the matter.

RECORDS OF PERSONAL HEARING & WRITTEN SUBMISSION

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22. The importer Vide letter dated 07.06.2023, has requested for waiver of personal hearing.

DISCUSSION AND FINDINGS

23 . I have carefully gone through the Investigation Report dated 01.06.2023 received from SIIB, Mundra, case records and applicable provisions of law. Vide letter dated 07.06.2023, importer has already requested for waiver of personal hearing. I find that the condition of principle of natural justice under Section 122A of the Customs Act, 1962 has been complied with, Hence, I proceed to decide the case on the basis of facts and documentary evidences available on records. The following main issues are involved in Investigation Report, which are required to be decided:

- a. Whether, the confiscation of imported goods as mentioned in **Table VI**, having Value of INR 13,92,021/- u/s 111(d) of the Customs Act, 1962, is rightly proposed or otherwise. If yes, whether redemption fine is also imposable under Section 125 of the Customs Act, 1962.
- b. Whether, the confiscation of imported goods under the Bill of Entry No. 5449485 dated 10.04.2023 having total value of INR 41,37,529/- (Rupees Forty-One Lakh Thirty-Seven Thousand and Five Hundred and Twenty-Nine Only), as suggested by Chartered Engineer u/s 111(m) of the Customs Act, 1962, is rightly proposed or otherwise. If yes, whether redemption fine is also imposable under Section 125 of the Customs Act, 1962.
- c. Whether, the imposition of penalty on importer under Section 112(a) of the Customs Act, 1962 is legitimately proposed or otherwise.

24. I find that on specific intelligence, 02 containers bearing Container No EMCU8555091 and TEMU3604360, both corresponding to **BILL OF LADING No. 149300138253 dated 05.02.2023**, and bearing item description as Electronic Goods, were put on hold by the SIIB, Mundra; As per the MBL issued by the Shipping line M/s Evergreen against these containers, the name of the **Consignee is given as M/s Rise Ventures**, RU 34, Pitampura, Delhi-110034 and **Notify Party is given as M/s ZIP ZAP Exim (P) Ltd**, Address: Unit 2 Industrial Shed No. 163-164 CPWD, Phase 1 Sector 1 KASEZ, Gandhidham-370230 in the Bill of lading and the name of exporter is given as M/s Ningbo Xingtai International Logistics Co. Ltd, Room No. 3806, Block 11 of FSV N. 1679, Ningchuan Road, Yinzhou District, Ningbo, Zhejiang; As per the **HBL No. NBXTHW2301080 issued by the carrier M/s Ningbo Xingtai International Logistics Co. Ltd**, the

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Shipper of the said **consignment is M/s Yiwu Yongmo Import & Export Co. Ltd, Room No.302, Attached Building No. 04, B Tower, Duantou Village, Jiangdong Street, Yiew, Jinhua, Zhejiang and Consignee is M/s Zip Zap Exim Pvt ltd and notify party is M/s Rise Venture.**

25. Further, I find that on examination of one of the containers, bearing container no. EMCU8555091, different types of electric/electronic items such as LED light roll, SMPS, Dynatone Microphones, CCTV camera parts etc. were found. Details of the same are mentioned in **Table-I of the Para 4 Supra.**

26. Further, vide email dated 02.03.2023, Shipping Line M/s Evergreen Shipping Agency (India) Pvt Ltd, Kandla has informed that as per their customer, the said cargo is High Seas Sale from HBL consignee: ZIP ZAP EXIM PVT LTD to SHREE ARHAM ELECTRONICS.

26.1 On perusal of the High Sea Sale Agreement and the letter from M/s Zip Zap Exim Pvt ltd, it **was learnt that the subject consignment was dispatched in the name of M/s Zip Zap Exim Pvt ltd by supplier M/s Yiwu Yongmo Import & Export Co. Ltd, Room No.302, Attached Building No. 04, B Tower, Duantou Village, Jiangdong Street, Yiew, Jinhua, Zhejiang by mistake** and it was requested to transfer the goods to M/s Shree Arham Electronics , 18-A, Rajaram market, Shop No.5, 1st Floor, Foolwali Road, Angoori Bagh, Delhi.

26.2 Further, the 'notify party' M/s Rise Venture has submitted No Objection vide letter dated 01.06.2023 informing that they are a Freight Forwarding company and for that particular cargo the original ownership of the goods was with M/S ZIP ZAP EXIM PVT LTD and the same was transferred via HSS to M/S Shree Arham Electronics vide HBL No NBXTHW2301080 and that they have no objection if the said shipment is cleared and the goods are delivered to M/s Shree Arham Electronics.

26.3. In view of the above, I find that as per the HSS agreement between M/s M/s Zip Zap Exim Pvt ltd and M/s Shree Arham Electronics, 18-A, Rajaram market, Shop No.5, 1st Floor, Foolwali Road, Angoori Bagh, Delhi, all the right and title of the imported goods as mentioned **in Table -II of Para 7** supra are transferred by M/s Zip Zap Exim Pvt Ltd to M/S Shree Arham Electronics Pvt Ltd.

27. Further, the importer, M/s Shree Arham Electronics vide letter dated 13.03.2023 addressed to DC, SIIB, Mundra requested for amendment of IGM and NOC to file Bill of Entry at INMUN1 port instead of through INKDL6 w.r.t. MBL NO MBL. EGLV149300138253 DT.5.2.23 and HBL.NBXTHW2301080 DT 5.2.23 which was subsequently permitted. Subsequently, Bill of Entry No. 5449485 dated 10.04.2023 was filed by

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the importer M/s Shree Arham Electronics through their CHA M/s Lara Eximp Pvt Ltd. The details filed in the Bill of Entry are mentioned in Table-III of Para 10 supra and **total declared assessable value of the goods is Rs.29,12,796/-**.

28. Further, the examination of second container bearing container no. TEMU3604360 was carried out by the officer of SIIB. Mundra. On examination of the cargo, different types of electric/electronic items such as LED light roll, chargers, Disco lights of various kinds etc. were found. The details of the same is mentioned in Table-IV of para 11 **Supra**:

Valuation

29. Upon examination, the value of the goods declared in the B/E do not appear to be commensurate with the quality of the goods in the consignment. Therefore, the opinion of empanelled Chartered Engineer cum valuer was taken to ascertain the prevalent value of the goods.

29.1. The empanelled chartered engineer cum valuer submitted valuation report bearing No. CE/TZ/MUN/MAY-008/2023-24 dated 05.05.2023 based on the current market details gathered and visual inspection of goods. Wherein, he has increased the valuation of goods (as mentioned in Table-V of **Para 12.1 supra**). Therefore, as per CE valuation report, assessable value of the goods is Rs.41,37,529/-.

29.2 In view of above, I find that the importer has mis-declared the assessable value of the imported goods. Thus, the transaction values of the goods declared by the importer under Section 14 of the Customs Act, 1962 are liable to be rejected as per Rule 12 of the Customs Valuation (Determination of Value of Imported Goods), Rule, 2007 and the same are re-determined as per valuation report of Chartered Engineer. Therefore, the goods are liable for confiscation under section 111(m) of the Customs Act, 1962.

Compliance to Policy Conditions

30. Further, I find that as the consignment comprises of numerous article that fall under the purview of Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order 2021, as well as on which the provisions of the Extended Producers Responsibility (EPR) Authorization, in accordance with E-Waste Management Rules, 2022, are applicable. However, Importer has an MSME certificate. On perusal of the MSME certificate bearing UAM NO. DL04D0006085, I find that that the imported is registered as Micro

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Enterprise and as such EPR does not apply to micro enterprises as defined in MSME Development Act, 2006.

3 1 . Further, I find that the certain items of the Bill of entry that are covered under the requirements of compulsory registration as per order dated 18.03.2021 issued by the Ministry of Electronics and Information Technology, were not having BIS registration mark on them as prescribed and importer does not also have mandatory BIS certificates. The items are:

- a) Item at Sr. No. 08 of the Bill of Entry: Portable mini Speaker (Mix Assorted Models)
- b) Item at Sr. No. 18 of the Bill of Entry: Neckband Earphone (Mix Assorted models)
- c) Items at Sr. No. 28 of the Bill of entry: Mini Button cells (Mix Models)
- d) Item at Sr. No. 29 of the Bill of Entry: Mini Coin Cell

Table-VII

S.no of the Bill of Entry	Item Description	QTY	Declared invoice value in USD		Evaluated Value in USD	
			Unit Price	Total Price	Unit Price	Total Price
8	PORTABLE SPEAKER MINI (MIX ASSORTED MODELS)	614.5 KGS	0.18288	112.38	1	614.5
18	NECK BAND EARPHONE (MIX ASSORTED MODELS)	93.88 KGS	35.311035	3,315	40	3,755.20
28	MINI BUTTON CELL (MIX THD MODELS)	12,920	0.6	7,752	0.6	7,752.00
29	MINI COIN CELL	3,120 THD	1.2	3, 744	1.5	4,680.00
TOTAL				14,923.38		16,801.70
Total Value (In Rs.) (@1 USD = Rs 82.85)				12,23,402/-		13,92,021/-

31.1 In view of above, I find that importer does not have mandatory BIS

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certificate for the goods mentioned in Table-VII. Hence, the impugned goods mentioned in **Table -VII** have been imported without mandatory BIS certification. Therefore, the goods mentioned in Table-VII are liable for confiscation under Section 111(d) of Customs Act, 1962 and liable for penalty under section 112(a)(i) of the Customs Act, 1962.

31.2 As discussed above, since the impugned goods mentioned in **Table -VII** have been found to be prohibited and liable for confiscation, I find it appropriate to allow re-export of the impugned goods mentioned in Table-VII subject to redemption under section 125 of the Customs Act, 1962. Section 125 of the Customs Act, 1962 provides that whenever confiscation of any goods is authorized by the Customs Act, 1962, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under the 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 an option to pay in lieu of confiscation such fine as the said officer thinks fit. **However, in this case redemption of imported goods of Table-VII is being allowed only for re-export.**

32. Hence, in view of above discussion, I pass following order:

Order

33. I reject the declared assessable value of Rs.29,12,796/- of Bill of Entry No.5449485 dated 10.04.22023 under Rule 12 of the Customs Valuation (Determination of Price of imported Goods) Rules, 2007 and the same is re-determined as Rs. 41,37,529/- as per valuation report of Empaneled Chartered Engineer. I order to re-assess the above said Bill of Entry accordingly.

33.1.1 I order to confiscate the offended goods mentioned in **Table-VII** covered under bill of entry no. 5449485 dated 10.04.22023 having assessable value of Rs.13,92,021/- under section 111(d) & 111(m) of the Customs Act, 1962. However, I give an option to redeem the goods mentioned **in Table-VII** on payment of fine of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand Only) under Section 125 of Customs Act, 1962 for re-export purpose only. As per Section 125(3), If, the importer does not pay the fine within a period of one hundred and twenty days from the date of the order, such option to redeem the goods shall become void, unless an appeal against such order is pending and the said impugned goods mentioned in Table-VII would be liable for Disposal as per instructions and guidelines in CBIC disposal manual, 2019. The cost of destruction shall be borne by the importer.

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33.1.2 I impose a penalty of Rs 75,000/- (Rupees Seventy Five Thousand only) on the importer M/s. SHREE ARHAM ELECTRONICS under Section 112(a)(i) of the Customs Act, 1962.

33.2.1 I order to confiscate the goods of bill of entry no. 5449485 dated 10.04.22023 except goods mentioned in Table-VII having assessable value of Rs.27,45,508/- under section 111(m) of the Customs Act, 1962, however, I give option to the importer to redeem the confiscated goods on payment of Rs. 3,00,000/- (Rupees Three Lakh) under Section 125 of Customs Act, 1962.

33.2.2 I order to pay the differential duty of Rs.6,90,537/- on the remaining goods of bill of entry no. 5449485 dated 10.04.2023.

33.2.3 I impose a penalty of Rs 69,000/- (Rupees Sixty Nine Thousand only) on the importer M/s. SHREE ARHAM ELECTRONICS under Section 112(a)(ii) of the Customs Act, 1962.

34 This order is issued without prejudice to 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.

Signed by

Mukesh Kumari

Date: 22-06-2023 19:03:05

**Additional Commissioner of Customs
Custom House Mundra**

To,

**M/s Shree Arham Electronics,
18-A, Rajaram market, Shop No.5,
1st Floor, Foolwali Road, Angoori Bagh,
Delhi-110006**

Copy to:

- 1. The Dy. Commissioner of Customs, RRA, CH, Mundra**
- 2. The Dy. Commissioner of Customs, TRC, CH, Mundra**
- 3. The Dy. Commissioner of Customs, SIIB, CH, Mundra**
- 4. Guard file**