
	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा OFFICE OF THE PRINCIPAL COMMISSIONER, CUSTOM HOUSE, MUNDRA Port User Building (PUB), Mundra (Gujarat – 370421) ई-मेल/ E-Mail: group5-mundra@gov.in</p>	 सत्यमेव जयते
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A फा. सं./ FILE NO.	CUS/APR/BE/MISC/1607/2023-Gr 5-6-O/o Pr Commr-Cus-Mundra-Part(1)
B मूल आदेश सं. ORDER-IN-ORIGINAL NO.	MCH/ADC/ZDC/28/2026-27
C द्वारा पारित किया गया PASSED BY	Dipak Zala Additional Commissioner of Customs, Custom House, Mundra
D आदेश की तिथि DATE OF ORDER	13-04-2026
E जारी करने की तिथि DATE OF ISSUE	13-04-2026
F कारण बताओ नोटिस सं. एवं तिथि SCN NUMBER & DATE	SCN No. 16/2025-26/DC/ARK/Gr-5/MCH dated 17.04.2025 and Corrigendum dated 10.03.2026
G नोटिसी/पार्टी / आयातक NOTICEE/ PARTY/ IMPORTER	M/s. Avika INC (IEC: 0514023368), 3523/238 Second Floor, Balaji Market Haqim Baga, Delhi, North Delhi, Delhi-110006
H डिन/ DIN	20260471MO000000ABDC

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section

128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“सीमा शुल्क आयुक्त) अपील(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009”

“The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.
4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए -
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by -
5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं०-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।
The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.
8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

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 are in dispute, or penalty, where penalty alone is in dispute.

Brief Facts of the Case: -

M/s. Avika INC (IEC: 0514023368), located at 3523/238 Second Floor Balaji, Market Haqim Baga, Delhi, North Delhi, Delhi-110006 (hereinafter also referred to as 'the Importer' for the sake of brevity) had filed the Bill of Entry No. 7819856 dated 04.06.2020 through their CB M/s. SMG ICB Logistics for

importation of the item i.e. "Fog Spray Machine" by paying the IGST 12% (Schedule-II Sr. No.195B). The details of said goods are as under:

Table-A

BE No. & Date	Item No.	Description of goods	Classification	Assessable value (in Rs.)	IGST Sr. No. (@12%)
7819856 dated 04.06.2020	1	Fog Spray Machine	84242000	10,05,375	II195B

2. An analysis of data (ANALYTICS REPORT – 25/2022-23) in respect of Import of goods classified under the heading 8424 with regard to wrong claim of IGST rate @ 18% applicable for such goods under Schedule-III, Sr.No.325 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017, resulting in short levy of IGST, was carried out by the NCTC, Mumbai.

3. The said Importer had filed the Bill of Entry No. 7819856 dated 04.06.2020 for home clearance of the goods (as mentioned in Table-A) under Heading 8424 of the first schedule of the Customs Tariff Act, 1975. The Importer discharged the tax of IGST @ 12% in terms of Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate).

4. The relevant entries of the rate of IGST under Schedule-II and Schedule-III of IGST Notification 01/2017-IGST(Rate) dated 28.06.2017 for Sub-heading 84 are reproduced here under:

Table-B

Sr. No. of Schedule of IGST Notification 01/2017	IGST Rate	Chapter/Tariff item as per Schedule-I	Description of goods
II-195B	II (12%)	8424	Sprinklers; drip irrigation system including laterals; mechanical sprayers
III-325	III(18%)	8424	Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers)

5. From the above tables, it is amply clear that Sr.No. 325 of Schedule- III (III-325) levying IGST rate of 18%, excludes the description of goods “other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers)”. The impugned goods are covered under Schedule- III, III-325 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended).

6. Accordingly, it is noted that goods covered under Schedule-II, 195B of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), specifically meant for “Sprinklers; drip irrigation system including laterals; mechanical sprayers” could be potentially risky. The importer has wrongly claimed a lower IGST rate @ 12% for goods other than mentioned under Schedule-II, Sr. No. 195B, instead of paying a higher IGST rate @ 18% applicable for such goods under Schedule-III, Sr.No.325 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017.

7. The description of impugned item of Bill of Entry No. 7819856 dated 04.06.2020 claiming the benefit of IGST rate @ 12% under Sr.No.195AA & 195B of Schedule II of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended) have been further examined. This analysis revealed that none of the goods are Sprinklers; drip irrigation system including laterals; mechanical sprayers, as per the description mentioned in the said Bill of Entry, though they have been cleared at a lower IGST @ 12% under the aforementioned serial numbers of Schedule II, instead of paying a higher IGST rate @ 18% applicable for such goods under Schedule-III, Sr. No. 325 of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended).

8. In context of above provisions, item of Bill of Entry mentioned in Table-A that were cleared at @12% IGST rate against Sr. No. 195B of Schedule-II, instead of the applicable IGST rate 18% of Sr. No. 325 of Schedule- III, and short-levy of IGST @ 6% (i.e. 18% minus 12%), are calculated as below.

Table-C

Bill of Entry No.	BOE date	Item No.	DECLARED CTH	ASSESSABLE VALUE (Rs.)	Short levy of IGST Amount @6% (Rs).
7819856	04.06.2020	1	84242000	10,05,375	60,323
Total				10,05,375/-	60,323/-

The total amount of short paid IGST is Rs. 60,323/-.

9. In view of the above, it appears that the subject goods have claimed wrong IGST @ 12% rate under Sr. No. 195B of Schedule-II of IGST levy Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 instead of right IGST rate @18% under S.No.325 of Schedule-III.

10. Relevant Legal provisions, in so far as they relate to the facts of the case:-

A. Section 46 of the Customs Act, 1962 provides for filing of Bill of Entry

upon importation of goods, which casts a responsibility on the importer to declare truthfully, all contents in the Bill of Entry. Relevant portion of Section 46 (4) is reproduced below:-

“(i) 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”.

B. Section 28 (4) of the Customs Act, 1962 provides that “Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

- (a) collusion; or
- (b) any willful mis-statement; or
- (c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice”.

C . Section 28 (AA) of Customs Act, 1962 provides interest on delayed payment of duty-

(1) Where any duty has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-Section (2), or has paid the duty under sub-Section (2B), of Section 28, shall, in addition to the duty, be liable to pay interest at such rate not below ten percent and not exceeding thirty-six per cent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-Section (2), or sub-Section (2B), of Section 28, till the date of payment of such duty:

D. Section 114A of the Customs Act, 1962 deals with the penalty by reason of collusion or any willful mis-statement or suppression of facts. The relevant provision is reproduced below:-

114A - Penalty for short-levy or non-levy of duty in certain cases - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-Section (8) of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined: Provided that

where such duty or interest, as the case may be, as determined under sub-Section (8) of Section 28, and the interest payable thereon under Section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this Section shall be twenty-five per cent of the duty or interest, as the case may be, so determined: Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

11. It appears that the importer has willfully mis-stated the facts & wrongly paid IGST on lower side by categorizing its goods under Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) which prescribes IGST duty @ 12% whereas the goods attracts IGST @ 18% under Serial No. 325 of Schedule-III of Notification No. 01/2017 – Integrated Tax (Rate).

12. In the light of the documentary evidences, as brought out above and the legal position, it appears that a well thought out conspiracy was hatched by the importer to defraud the exchequer by adopting the modus operandi of mis-declaring the IGST Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) of the goods imported.

13. Whereas, it is apparent that the importer was in complete knowledge of the correct nature of the goods nevertheless, the importer claimed undue notification benefit for the said goods in order to clear the goods by wrongly availed Customs duty i.e. IGST on a lower side under Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) which prescribes IGST @ 12%. With the introduction of self-assessment under Section 17, more faith is bestowed on the importer, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As a part of self-assessment, the importer has been entrusted with the responsibility to correctly self-assess the duty. Therefore, it appears that the importer has wilfully violated the provisions of Section 17(1) of the Act in as much as importer has failed to correctly self-assessed the impugned goods and has also wilfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act. Therefore, the goods having assessable value of Rs. 10,05,375/- as detailed in Table-C, appears to liable for confiscation under Section 111(m) of the Customs Act, 1962.

14. It appears that the importer wilfully claimed undue notifications benefit for the impugned goods resulting into short levy of duty. Further, it appears that in respect of the Bill of Entry as detailed in above Table-A, such wrong claim of notifications benefit on the part of the importer has resulted into short levy of duty i.e. IGST of Rs. 60,323/- (Rupees Sixty Thousand Three Hundred Twenty Three Only) which is recoverable from the importer under the provisions of Section 28(4) of the Customs Act, 1962 along with interest as applicable under Section 28AA of the Act. For such act of omission and commission, the importer also appears to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.

15. Accordingly, M/s. Avika INC (IEC: 0514023368), located at 3523/238 Second Floor, Balaji Market Haqim Baga, Delhi, North Delhi, Delhi-110006 was called upon to show cause to the Additional Commissioner of Customs, Group-V, Custom House, Mundra, having office at Room No. 12 PUB Building, Mundra (Kutch) Gujarat 370 421, as to why:-

i. The goods having assessable value of Rs. 10,05,375/-covered under Bill of Entry as detailed in above Table-A, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

ii. the Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) on the goods should not be denied and the same should not be re-assessed at correct rate of IGST @18% under Sr. No. 325 of Schedule III of IGST Notification No. 01/2017;

iii. The differential duty i.e. IGST worked out to Rs. 60,323/- (Rupees Sixty Thousand Three Hundred Twenty Three Only) in respect of Bill of Entry as detailed in above table, should not be recovered under Section 28 (4) of the Customs Act, 1962 along with applicable interest thereon as per Section 28AA of the Customs Act, 1962, as applicable.

iv. Penalty should not be imposed upon them under Section 114A of the Customs Act, 1962.

16. It is observed that in Show Cause Notice No. 16/2025-26/DC/ARK/Gr-5/MCH dated 17.04.2025, the duty calculation reflected in Para 8 was incorrect, wherein the short-paid IGST was computed as Rs. 60,323/-. However, as per the correct computation presented in Table-D below, the total short-paid IGST works out to Rs. 65,229/-.

Table-D

BE NO. AND DATE	CTH	ITEM DESCRIPTION	ASSESSABLE VALUE	BASIC DUTY (7.5%)	SWS (10%)	APPLICABLE RATE (GST 18%)	PAID (GST 12%)	SHORT LEVY (GST 6%)
7819856 dated 04.06.2020	84242000	Fog Spray Machine	1005375	75403.1	7540.31	195897.3	130598.2	65299

PERSONAL HEARING AND SUBMISSIONS

17. After receiving the SCN, the importer has paid an amount of Rs. 1,22,029/- (short paid IGST = 65,299/- and Interest @15% = 56,730/-) vide challan no. 1991230519 dated 19.03.2026 and informed the department on 19.03.2026 vide letter dated 19.03.2026. The importer, vide said letter, further requested to waive the issuance of personal hearing and to decide the matter on merits.

DISCUSSION AND FINDINGS

18. I have carefully gone through the records of the case and the submissions made by the importer through their written submissions vide letter dated 19.03.2026. They have accepted the Department observation and paid the applicable amount and requested to waive the issuance of personal hearing. Thus, I find that the principles of natural justice as provided in

Section 122A of the Customs Act 1962 has been complied with, and therefore, I proceed to decide the case on the basis of the documentary evidence available on records. The issues to be decided by me are:

- i. Whether the goods having assessable value of Rs. 10,05,375/-covered under Bill of Entry No. 7819856 dated 04.06.2020, are liable for confiscation under Section 111(m) of the Customs Act, 1962;
- ii. Whether the differential duty, i.e., IGST amounting to Rs. 65,299/- (Rupees Sixty Five Thousand Two Hundred and Ninety Nine Only), in respect of Bill of Entry No. 7819856 dated 04.06.2020, is recoverable under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962;
- iii. Whether penalty is imposable upon them under Section 114A of the Customs Act, 1962.

19.1 Regarding the first issue, I find that Section 111(m) of the Customs Act, 1962 provides that goods which do not correspond in respect of value or any other particular with the declaration made in the Bill of Entry are liable for confiscation. In the present case, the importer has declared the impugned goods as "Fog Spray Machine" and claimed the benefit of concessional IGST rate @12% under Sr. No. 195B of Schedule-II of Notification No. 01/2017-IGST (Rate). However, from the description and nature of the goods, it is evident that the impugned goods do not fall under the category of "Sprinklers; drip irrigation system including laterals; mechanical sprayers" as specified under the said entry.

19.2 I find that by wrongly availing the benefit of a lower IGST rate, the importer has not correctly declared the applicable rate of duty in terms of the relevant notification, thereby rendering the self-assessment incorrect. Such incorrect declaration, resulting in short payment of duty, amounts to mis-declaration in terms of Section 111(m) of the Customs Act, 1962. Therefore, I hold that the goods covered under Bill of Entry No. 7819856 dated 04.06.2020 are liable for confiscation under Section 111(m) of the Customs Act, 1962.

19.3 Once the goods are held liable for confiscation, the next question before me is whether to allow the release of the impugned goods on Redemption Fine. I find sub-section (1) of Section 125 of the Customs Act, 1962 prescribes that:

"Wherever confiscation of any goods is authorized by this Act, the officer adjudicating 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."

19.4 Further, I find that the Hon'ble courts in various judicial pronouncements have held that the physical availability of the goods does not have any significance for imposition of redemption fine under Section 125 of the Act. In this regard, I place my reliance on the following judgments:

(i) In case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) regarding imposition of Redemption Fine in absence of

goods liable for confiscation, after observing decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc. reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), the Hon'ble Madras High Court held in para 23 of the judgment that "The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act...", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act."

(ii) In the case of Synergy Fertichem Pvt. Ltd. Vs State of Gujarat as reported in 2019(12) TMI 1213, the Hon'ble High Court of Gujarat, relying on the judgement of the Apex Court in the case of Weston Components Ltd. vs. Commissioner of Customs, New Delhi, has observed that "The per-requisite for making an offer of fine under Section 130 of the Act is pursuant to the finding that the goods are liable to be confiscated. In other words, if there is no authorisation for confiscation of such goods, the question of making an offer by the proper officer to pay the "redemption fine", would not arise. Therefore, the basic premise upon which the citadel of Section 130 of the Act rests is that the goods in question are liable to be confiscated under the Act. It, therefore, follows that what is sought to be offered to be redeemed, are the goods, but not the improper conduct of the owner to transport the goods in contravention of the provisions of the Act or the Rules."

19.5 It is amply clear from the said section that, where the confiscated goods are not prohibited for import, discretion has been vested in the adjudicating authority to decide the issue on the basis of the facts and circumstances involved. Accordingly, even though the goods are not physically available for confiscation as they have already been cleared for home consumption, I am empowered to impose redemption fine in lieu of confiscation.

20.1 Regarding the second issue, I find that Section 28(4) of the Customs Act, 1962 provides that where any duty has not been levied or paid or has been short-levied or short-paid by reason of collusion, willful mis-statement or suppression of facts by the importer, the proper officer shall, within five years from the relevant date, serve notice requiring payment of the short-levied/short-paid duty.

20.2 In the present case, I find that the importer has willfully mis-stated the

facts by wrongly declaring the subject goods under Sr. No. II-195B (at 12% rate) instead of the correct Sr. No. under III-325 (at 18% rate) of Notification No. 01/2017-IGST (Rate), thereby making short payment of IGST. This resulted in short payment of differential IGST amounting to Rs. 65,299/- as correctly computed in Table-D.

20.3 I find that the short payment of IGST amounting to Rs. 65,299/- was by reason of willful mis-statement of facts in the Bills of Entry. The Show Cause Notice was issued within the extended period of five years as provided under Section 28(4) of the Customs Act, 1962 for cases involving willful mis-statement. Accordingly, I confirm the differential duty demand of Rs. 65,299/- (Rupees Sixty Five Thousand Two Hundred and Ninety Nine only) as detailed in Table-D, supra, recoverable under Section 28(4) of the Customs Act, 1962 along with applicable interest thereon under Section 28AA of the Customs Act, 1962.

21.1 Regarding the third issue, I find that Section 114A of the Customs Act, 1962 provides for penalty where duty has been short-levied by reason of collusion or any willful mis-statement or suppression of facts. In the present case, I find that the importer has willfully mis-declared the imported goods under Sr. No. II-195B (at 12% rate) instead of the correct Sr. No. under III-325 (at 18% rate) of Notification No. 01/2017-IGST (Rate) and paid IGST at 12% when the applicable rate was 18%, resulted in short payment of IGST amounting to Rs. 65,299/-.

21.2 I further find that the importer, at the time of filing the Bill of Entry, was required to correctly self-assess the applicable rate of duty in terms of Section 17(1) of the Customs Act, 1962. The incorrect availment of exemption/concessional notification benefit has resulted in short-levy of duty. Such incorrect self-assessment, leading to non-payment of appropriate duty, attracts the provisions of Section 28(4) of the Customs Act, 1962, as the same involves mis-declaration of eligibility to the notification benefit.

21.3 I also find that the extended period under Section 28(4) is invocable in the present case, as the importer has wrongly claimed the benefit of a lower IGST rate, which was not legally admissible. The responsibility of correct declaration and proper assessment lies with the importer under the scheme of self-assessment, and failure to do so amounts to wilful suppression/mis-statement of facts with intent to evade payment of duty.

21.4 Accordingly, I confirm the demand of differential IGST amounting to Rs. 65,299/- (Rupees Sixty Five Thousand Two Hundred and Ninety Nine only) under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962.

22.1 Regarding the third issue, I find that Section 114A of the Customs Act, 1962 provides for penalty where duty has been short-levied by reason of collusion or any willful mis-statement or suppression of facts. In the present case, I find that the importer has willfully mis-classified the imported goods under Sr. No. II-195B (at 12% rate) instead of the correct Sr. No. under III-325 (at 18% rate) of Notification No. 01/2017-IGST (Rate) and paid IGST at 12% when the applicable rate was 18%, resulted in short payment of IGST amounting to Rs. 65,299/-.

22.2 The mis-classification amounts to a willful mis-statement of facts in the Bills of Entry. Considering the nature and gravity of the violation, the quantum

of duty evaded, the deliberate nature of the mis-classification, and the complete non-cooperation of the importer in the adjudication proceedings, I find it appropriate to impose a penalty under Section 114A of the Customs Act, 1962.

23. In view of the foregoing discussion and findings, I pass the following order:

ORDER

(i) I order confiscation of the goods covered under Bill of Entry No. 7819856 dated 04.06.2020 having assessable value of Rs. 10,05,375/- (Rupees Ten Lakh Five Thousand Three Hundred and Seventy Five Only) under Section 111(m) of the Customs Act, 1962 for incorrect availment of concessional IGST rate. However, I impose a Redemption Fine of Rs.50,000/- (Rupees Fifty Thousand only) under Section 125 of the Customs Act, 1962, in lieu of confiscation;

(ii) I confirm the demand of differential IGST amounting to Rs. 65,299/- (Rupees Sixty Five Thousand Two Hundred and Ninety Nine Only) under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. I appropriate the amount already paid by the importer vide challan no. 1991230519 dated 19.03.2026 towards the said demand and interest;

(iii) I impose a penalty of Rs. 65,299/- (Rupees Sixty Five Thousand Two Hundred and Ninety Nine Only) on the importer under Section 114A of the Customs Act, 1962. The importer shall, however, be eligible for the benefit of reduced penalty of 25% of the duty, subject to payment of such reduced penalty within 30 days from the date of communication of this order, in terms of the proviso to Section 114A of the Customs Act, 1962.

24. This order is issued without prejudice to any other action that may be taken against the importer or any other person(s) under the provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

25. Show Cause Notice No. 16/2025-26/DC/ARK/Gr-5/MCH dated 17.04.2025 stands disposed in above terms.

Zala Dipakbhai Chimanbhai
(Dipak Zala)
Additional Commissioner of Customs
Custom House, Mundra

To,

M/s. Avika INC (IEC: 0514023368),
3523/238 Second Floor,
Balaji Market Haqim Baga, Delhi, North Delhi, Delhi-110006

Copy to:

1. The Deputy Commissioner of Customs , Review Section, Custom House, Mundra.
2. The Deputy Commissioner of Customs, TRC, Custom House, Mundra.
3. The Deputy Commissioner of Customs, EDI, Custom House, Mundra
4. Office copy.