OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
CUSTOMS HOUSE, MP & SEZ
MUNDRA, KUTCH-GUJARAT -370421
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सत्यमेव जयते

A	**File No.**	CUS/APR/BE/AMND/2338/2024-Gr 4
B	**OIO No.**	MCH/ADC/ZDC/214/2026-27
C	**Passed by**	**Sh. Dipak Zala, Additional Commissioner of Customs (Import Assessment), Custom House, Mundra**
D	**Date of order**	**02.07.2026**
E	**Date of Issue**	**02.07.2026**
F	**SCN F. No. & Date**	CUS/APR/BE/AMND/2338/2024-Gr 4 dated 09.07.2025
G	**Noticee / Party/ Importer**	**M/s. Numu Standard Agribusiness & Pest Management India, D 13 LGF, Lajpat Nagar 1, New Delhi- 110024 (IEC Code:- AAGCN0814J)**

1. यह अपील आदेश संबन्धित को नि:शुल्क 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 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- 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-380 009

THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
4th Floor, HUDCO Building, Ishwar Bhuvan Road,
Navrangpura, Ahmedabad-380 009

3. उक्त अपील यह आदेश भेजने की दिनांक से 3 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 –

(i) उक्त अपील की एक प्रति और
A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं॰-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।
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. अपील ज्ञापन के साथ ड्यूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम,1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए ।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. 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 (A) 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 Case

M/s. Numu Standard Agribusiness & Pest Management India, D 13 LGF, Lajpat Nagar 1, New Delhi- 110024 (IEC Code:- AAGCN0814J) (hereinafter also referred to as "the Importer/the Noticee" for the sake of brevity") had filed the Bill of Entry through their CB M/s. Global Cargo Forwarders for importation of goods i.e***. "Bird Spike, Trap Cage and Multi catch Trap"*** by paying the IGST 12% (Schedule-II Sr. No.180). The details of said goods are as under:

Table-A

B/E NO.	B/E DATE	INV.S.NO.	ITEM S.NO.	ITEM DESCRIPTION	IGST_NSNO	CTH
8175563	7/15/2020	1	1	MULTI CATCH TRAP	II180	73269099
8175563	7/15/2020	1	3	TRAP CAGE	II180	73262090
8175563	7/15/2020	1	7	BIRD SPIKE	II180	73262090

2. An analysis of data (ANALYTICS REPORT – 40/2022-23) with regard to Wrong claims of a lower IGST rate @ 12% on the import of goods covered under CTH 7310 & 7326 vide Sr. No. 180 of Schedule-II instead of the correct IGST rate @18% under Sr.No.224 & 238 of Schedule-III of IGST Levy Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), resulting in short levy of IGST, was carried out by the NCTC, Mumbai.

3. The said Importer had filed the Bill of Entry No. 8175563 dated 15.07.2020, for home clearance of the goods (as mentioned in Table-A) under Heading 7326 of the first schedule of the Customs Tariff Act, 1975. The Importer discharged the tax of IGST @ 12% in terms of Serial No. 180 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 Heading 7310 & 7326 are reproduced here under:

Schedule-II

Sr. No. of Schedule of IGST Notification 01/2017	**Chapter/ Heading/ Sub-Heading/ Tariff item**	**Description of goods**	**IGST rate**
180	7310 or 7326	Mathematical boxes, geometry boxes and colour Boxes	12%

Schedule-III

Sr. No. of Schedule of IGST Notification 01/2017	**Chapter/ Heading/ Sub-Heading/ Tariff item**	**Description of goods**	**IGST rate**
224	7310	Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	18%
238	7326	Other articles of iron or steel	18%

5. From the above tables, it is amply clear that Sr.No.180 of Schedule-II (II-180) levying IGST rate of 12%, covers only **"Mathematical boxes, geometry boxes and colour Boxes".** As such, all the goods other than "Mathematical boxes, geometry boxes and colour Boxes" classified under CTH 7310 & 7326 are leviable to IGST @ 18% under Sr.No.224 & 238 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 as amended vide Notification No.43/2017-I.T (Rate) dtd.14.11.2017.

6. Accordingly, it is noted that goods covered under Schedule-II, Sr.No.180 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), specifically meant for **"Mathematical boxes, geometry boxes and colour Boxes"** could be potentially risky.

7. Import data related to CTH 7326 have been analyzed which has revealed that the Importer had cleared goods, other than the goods mentioned above under Schedule-II, claiming a lower IGST rate @ 12% under Sr. Nos. 180, instead of the applicable IGST rate @ 18% under Sr. No. 238 of Schedule III of Notification No. 01/2017—Integrated Tax (Rate) dated 28.06.2017 (as amended). The items that were cleared at @12% IGST rate against Sr.Nos.180 of Schedule-II, instead of the applicable IGST rate @18% of Sr.No.224 & 238 of Schedule-III, resulting in short-levy of IGST (18% - 12% = 6%) is calculated and mentioned below:-

Table-B

S.NO.	B/E NO.	B/E DATE	ITEM S.NO.	A.V (IN RS.)	IGST RATE	IGST_NOTN.	IGST_NSNO	Diff.IGST (In Rs.)
1	8175563	7/15/2020	1	914236.14	12	001/2017	II180	60888
2	8175563	7/15/2020	3	230248.73	12	001/2017	II180	15335
3	8175563	7/15/2020	7	118498.28	12	001/2017	II180	7892
TOTAL				1262983.15				**84115**

8. The short levy of IGST amounting to **Rs. 84,115**/-.

9. 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,-

i. collusion; or

ii. any willful mis-statement; or

iii. 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:

10. It appeared that the importer has willfully mis-stated the facts & wrongly paid IGST on lower side by categorizing its goods under Serial No. 180 of Schedule-II of IGST Notification 01/2017-IGST(Rate) which prescribes IGST duty @ 12% whereas the goods attracts IGST @ 18% under Serial No. 238 of Schedule-III of Notification No. 01/2017 – Integrated Tax (Rate).

11. 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. 180 of Schedule-II of IGST Notification 01/2017-IGST(Rate) of the goods imported.

12. Whereas, it is apparent that the importer/noticee 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 on a lower side under Serial No. 180 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 o f Rs. 12,62,983.15/- as detailed in above table, appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962.

13. It appeared that the importer wilfully claimed undue notification 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-B, such wrong claim of notifications benefit on the part of the importer has resulted in **short levy of duty of Rs. 84,115/-** (Rupees Eighty Four Thousand One Hundred and Fifteen 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.

14. Accordingly, M/s. Numu Standard Agribusiness & Pest Management India, D 13 LGF, Lajpat Nagar 1, New Delhi- 110024 (IEC Code:- AAGCN0814J) were called upon to show cause to the **Additional Commissioner of Customs, Import Assessment,** Custom House, Mundra, having office at 5B, First Floor, PUB Building, Adani Port, Mundra, as to why:-

i. The goods having assessable value of Rs. 12,62,983.15/- 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. 180 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. 238 of Schedule III of IGST Notification No. 01/2017;

iii. The differential duty worked out to Rs. 84,115/- (Rupees Eighty Four Thousand One Hundred and Fifteen 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.

15. I also take note of Corrigendum issued vide F.No **CUS/APR/BE/AMND 2338/2024-Gr 4-O/o Pr Commr-Cus-Mundra** dated 12.06.2026 under Section 154 of Customs Act, 1962 vide which adjudicating authority has been changed from Assistant Commissioner of Customs to the Additional Commissioner of Customs, Custom House, Mundra and differential duty demand has been corrected to Rs.84,115/-.

16. DEFENCE SUBMISSION & PERSONAL HEARING:

The importer was granted sufficient opportunities of personal hearing on 19.01.2026, 24.02.2026, 11.03.2026 and 19.06.2026. However, the importer neither appeared nor filed any written submissions. Accordingly, the case is being adjudicated **ex parte** on the basis of available records.

17. DISCUSSION AND FINDINGS:

17.1. I have gone through the Show Cause Notice, audit observations, and case records. Despite being given sufficient opportunities of hearing, the noticee has not availed the same. Therefore, I find that in the instant case, adequate opportunities have been provided to the importer to respond to the impugned demand notice. However, the importer has failed to file any defence, despite a considerable amount of time having been passed. I find that the importer failed to avail themselves of the opportunities for personal hearings provided to defend their case. Neither the noticee nor the authorized representative appeared for the personal hearing on any of the four dates given to present their case, nor have they submitted any reply to the allegations mentioned in the impugned Show Cause Notice (SCN). Thus, I find that sufficient time and opportunity have been given to the noticee, and therefore, the principles of natural justice have been complied with. I am of the considered opinion that sufficient opportunities have been offered to the Noticee in keeping with the principle of natural justice and there is no

prudence in keeping the matter in abeyance indefinitely.

17.2. Before proceeding further, I bring it to attention that the Hon'ble Supreme Court, Hon'ble High Courts, and Tribunals, in several judgments/decisions, have held that an ex-parte decision does not amount to a violation of the principles of natural justice when sufficient opportunities for personal hearing have been provided to defend the case.

In support of the same, I rely upon the following judgments/orders as under:

a) The Hon'ble Supreme Court in the matter of **Jethmal Versus Union Of India Reported In 1999 (110) E.L.T. 379 (S.C.),** the Hon'ble Court has observed as under;

" Our attention was also drawn to a recent decision of this Court in A.K. Kripak v. Union of India - 1969 (2) SCC 340, where some of the rules of natural justice were formulated in Paragraph 20 of the judgment. One of these is the well known principle of audi alteram partem and it was argued that an ex parte hearing without notice violated this rule. In our opinion this rule can have no application to the facts of this case where the appellant was asked not only to send a written reply but to inform the Collector whether he wished to be heard in person or through a representative. If no reply was given or no intimation was sent to the Collector that a personal hearing was desired, the Collector would be justified in thinking that the persons notified did not desire to appear before him when the case was to be considered and could not be blamed if he were to proceed on the material before him on the basis of the allegations in the show cause notice. Clearly he could not compel appearance before him and giving a further notice in a case like this that the matter would be dealt with on a certain day would be an ideal formality."

b) Hon'ble High Court of Kerala in the case of **United Oil Mills Vs. Collector Of Customs & C. Ex., Cochin Reported In 2000 (124) E.L.T. 53 (Ker.),** the Hon'ble Court has observed that: "Natural justice - Petitioner given full opportunity before Collector to produce all evidence on which he intends to rely but petitioner not prayed for any opportunity to adduce further evidence - Principles of natural justice

not violated"

c) Hon'ble High Court of Calcutta in the case of **Kumar Jagdish Ch. Sinha Vs. Collector Of Central Excise, Calcutta Reported In 2000 (124) E.L.T. 118 (Cal.) In Civil Rule No. 128 (W) Of 1961**, decided on 13-9-1963, the Hon'ble Court has observed that: " Natural justice - Show cause notice - Hearing - Demand - Principles of natural justice not violated when, before making the levy under Rule 9 of Central Excise Rules, 1944, the Noticee was issued a show cause notice, his reply considered, and he was also given a personal hearing in support of his reply - Section 33 of Central Excises & Salt Act, 1944. - It has been established both in England and in India [vide N.P.T. Co. v. N.S.T. Co. (1957) S.C.R. 98 (106)], that there is no universal code of natural justice and that the nature of hearing required would depend, inter alia, upon the provisions of the statute and the rules made there under which govern the constitution of a particular body. It has also been established that where the relevant statute is silent, what is required is a minimal level of hearing, namely, that the statutory authority must 'act in good faith and fairly listen to both sides' [Board of Education v. Rice, (1911) A.C. 179] and, "deal with the question referred to them without bias, and give to each of the parties the opportunity of adequately presenting the case" [Local Govt. Board v. Arlidge, (1915) A.C. 120 (132)]. [para 16]"

d) Hon'ble High Court of Delhi in the case of **Saketh India Limited Vs. Union Of India Reported In 2002 (143) E.L.T. 274 (Del.)**. The Hon'ble Court has observed that:

"Natural justice - Ex parte order by DGFT - EXIM Policy - Proper opportunity given to appellant to reply to show cause notice issued by Addl. DGFT and to make oral submissions, if any, but opportunity not availed by appellant - Principles of natural justice not violated by Additional DGFT in passing ex parte order - Para 2.8(c) of Export-Import Policy 1992-97 - Section 5 of Foreign Trade (Development and Regulation) Act, 1992. "

e) **The Hon'ble CESTAT, Mumbai in the case of Gopinath Chem Tech. Ltd Vs. Commissioner Of Central Excise, Ahmedabad-II Reported In 2004 (171) E.L.T. 412 (Tri. - Mumbai), the Hon'ble CESTAT** has

observed that; "Natural justice - Personal hearing fixed by lower authorities but not attended by appellant and reasons for not attending also not explained - Appellant cannot now demand another hearing - Principles of natural justice not violated. [para 5]"

f) The Hon'ble High Court of Jharkhand in **W.P.(T) No. 1617 of 2023 in case of Rajeev Kumar Vs. The Principal Commissioner of Central Goods and Service Tax & The Additional Commissioner of Central GST & CX**, 5A Central Revenue Building, Main Road, Ranchi pronounced on 12.09.2023 wherein Hon'ble Court has held that-

"Accordingly, we are of the considered opinion that no error has been committed by the adjudicating authority in passing the impugned Order-inOriginal, inasmuch as, enough opportunities were provided to the petitioner by issuing SCN and also fixing date of personal hearing for four times; but the petitioner did not respond to either of them. 8. Having regard to the aforesaid discussions and admitted position with regard to non-submission of reply to the SCN, we failed to appreciate the contention of the petitioner that principle of natural justice has not been complied in the instant case. Since there is efficacious alternative remedy provided in the Act itself, we hold that the instant writ application is not maintainable. 9. As a result, the instant application stands dismissed. Pending I.A., if any, is also closed."

17.2.1. Hence, I proceed with the ex-parte finalization of the adjudication proceedings, based on the facts and evidence available on record.

17.3. In the instant case, I find that the main issues that are to be decided are:

i. Whether the goods having assessable value of Rs. 12,62,983.15/- covered under Bill of Entry as detailed in above Table-A, are liable for confiscation under Section 111(m) of the Customs Act, 1962;

ii. Whether the benefit of Serial No. 180 of Schedule-II of IGST Notification 01/2017-IGST(Rate) on the goods should be denied and the same be re-assessed at correct rate of IGST @18% under Sr. No. 238 of Schedule III of IGST Notification No. 01/2017;

iii. Whether the differential duty worked out to be Rs. 84,115/- (Rupees Eighty Four Thousand One Hundred and Fifteen Only) in respect of Bill of Entry as detailed in above table, is recoverable 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. Whether penalty should be imposed upon them under Section 114A of the Customs Act, 1962.

17.4. I find that the impugned goods imported by the noticee are "Multi Catch Trap", "Trap Cage" and "Bird Spike", classifiable under CTH 73269099 and 73262090. The records reveal that the importer claimed the benefit of Serial No.180 of Schedule-II of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and discharged IGST at the concessional rate of 12%. Therefore, the first issue that requires determination is whether the imported goods are covered under the scope of Serial No.180 of Schedule-II of the said notification.

17.5. On perusal of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017, as amended, I find that Serial No.180 of Schedule-II specifically covers only "Mathematical boxes, geometry boxes and colour boxes" falling under headings 7310 or 7326 and attracts IGST at the rate of 12%. The entry is a specific description-based exemption/concessional entry and is not applicable to all goods falling under Chapter Headings 7310 or 7326. It is a settled principle of classification and exemption that where the description of goods is specific, the benefit is restricted only to those goods expressly mentioned therein.

17.6. I find that the imported goods namely "Multi Catch Trap", "Trap Cage" and "Bird Spike" are pest-control and bird-control articles made of iron or steel and bear no resemblance whatsoever to mathematical boxes, geometry boxes or colour boxes. Therefore, the impugned goods do not satisfy the description prescribed under Serial No.180 of Schedule-II of Notification No. 01/2017-Integrated Tax (Rate). Consequently, the importer was not eligible for the concessional rate of IGST @ 12% claimed by them.

17.7. I further find that in respect of goods classifiable under Heading 7326, the applicable entry is Serial No.238 of Schedule-III of Notification No. 01/2017-Integrated Tax (Rate), which covers "Other articles of iron or steel" and attracts IGST at the rate of 18%. Since the imported goods are admittedly articles of iron and steel falling under Heading 7326 and are not covered by any specific concessional entry, the applicable rate of IGST is correctly 18%.

17.8. The audit analysis and import documents on record establish that against the assessable value of Rs.12,62,983.15/-, the importer discharged IGST at the rate of 12% instead of the applicable rate of 18%, resulting in short payment of IGST amounting to Rs.84,115/-. The calculation of differential duty, as detailed in Table-B of the Show Cause Notice, has remained unrebutted by the noticee. Since no contrary evidence has been produced, I find no reason to differ from the duty computation made in the Show Cause Notice.

17.9. I observe that under the self-assessment regime introduced under Section 17 of the Customs Act, 1962, the responsibility to correctly classify the goods and assess the applicable duties rests upon the importer. Further, Section 46(4) of the Customs Act casts an obligation upon the importer to make a true and correct declaration in the Bill of Entry. In the present case, the importer claimed the benefit of a notification entry which was clearly inapplicable to the goods imported by them. Such incorrect claim resulted in short-payment of IGST and consequent loss of revenue.

17.10. I find that the importer was fully aware of the nature and description of the imported goods. The description of the goods as declared in the import documents itself establishes that they were neither mathematical boxes nor geometry boxes nor colour boxes. Therefore, the importer could not have entertained a bona fide belief regarding the applicability of Serial No.180 of Schedule-II. The wrong availment of the concessional rate was not due to any ambiguity in the notification but arose due to an incorrect declaration and claim made by the importer at the time of filing the Bill of Entry.

17.11. In these circumstances, I find that the ingredients of wilful mis-statement and suppression of material facts are attracted. Had the records

not been subjected to audit scrutiny, the short-paid duty would have escaped detection. Accordingly, I hold that the extended period of limitation invoked under Section 28(4) of the Customs Act, 1962 has been rightly invoked for recovery of the short-paid duty.

17.12. Therefore, I hold that the differential IGST amounting to Rs.84,115/- (Rupees Eighty Four Thousand One Hundred and Fifteen Only) is rightly recoverable from the importer under Section 28(4) of the Customs Act, 1962. I further hold that the importer is liable to pay applicable interest on the said amount under Section 28AA of the Customs Act, 1962 from the due date till the date of actual payment.

17.13. Coming to the proposal for confiscation under Section 111(m) of the Customs Act, 1962, I find that the importer had cleared the goods by wrongly claiming the benefit of a concessional IGST entry by mis-declaring the applicable notification serial number. Such incorrect declaration has rendered the goods liable to confiscation under Section 111(m) of the Customs Act, 1962. I find that the goods imported vide the impugned Bills of Entry are not available for confiscation. However, I rely upon the order of the Hon'ble Madras High Court in the case of *M/s Visteon Automotive Systems India Limited* reported in 2018 (9) G.S.T.L. 142 (Mad.), wherein the Hon'ble Court held in para 23 as below:

"23. 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 regularized, 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 authorized by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III 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 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. We accordingly answer question No. (iii).”

17.14. I further find that the above view of the Hon’ble Madras High Court in *M/s Visteon Automotive Systems India Limited* (supra), has been followed by the Hon’ble Gujarat High Court in *M/s Synergy Fertichem Pvt. Ltd.* reported in 2020 (33) G.S.T.L. 513 (Guj.), and the same has not been challenged by any of the parties concerned. Hence, I find that any goods improperly imported as provided under Section 111 of the Customs Act, 1962 are liable to confiscation, and merely because the importer was not caught at the time of clearance, they cannot be treated differently merely because the goods were already cleared. In view of the above, I find that the decision of the Hon’ble Madras High Court in *M/s Visteon Automotive Systems India Limited* (supra), which also relied upon the decision of the Hon’ble Bombay High Court in *M/s Finesse Creations Inc.* reported in 2009 (248) ELT 122 (Bom.), upheld by the Hon’ble Supreme Court in 2010 (255) ELT A.120 (S.C.), is squarely applicable in the present case. Accordingly, I conclude that in the present case, redemption fine in lieu of confiscation of the goods under Section 125 of the Customs Act, 1962 is required to be imposed.

17.15. As regards penalty under Section 114A of the Customs Act, 1962, I find that the differential duty has become recoverable under Section 28(4) on account of wilful mis-statement and suppression of facts. Therefore, the provisions of Section 114A are squarely attracted. The noticee has not adduced any evidence to establish bona fide conduct or reasonable cause for the incorrect claim. Accordingly, I hold that the importer is liable to penalty equal to the duty determined under Section 114A of the Customs Act, 1962.

18. In view of above discussions and findings supra, I pass the following order.

ORDER

(i). I order to confiscate the goods having assessable value of ₹12,62,983.15/- under Section 111(m) of the Customs Act, 1962. I also note that the goods have already been cleared and are not available physically for confiscation; however, in view of the discussions made in above paras, I impose redemption fine of **₹ 12,000/- (Rupees Twelve Thousand only)** under Section 125(1) of the Customs Act, 1962, in lieu of confiscation.

(ii). I reject the benefit of Serial No. 180 of Schedule-II of IGST Notification 01/2017-IGST(Rate) on the goods and order the Bill of Entry to be assessed at correct rate of IGST @18% under Sr. No. 238 of Schedule III of IGST Notification No. 01/2017 & I confirm the demand and order to recover the short-levied duty amounting to **₹84,115/- (Rupees Eighty Four Thousand One Hundred and Fifteen only)** from the importer under Section 28(4) of the Customs Act, 1962.

(iii). I order to demand and recover interest at the appropriate rate on the short-paid duty of **₹84,115/-** under Section 28AA of the Customs Act, 1962.

(iv). I order to impose penalty of **₹ 84,115/- (Rupees Eighty Four Thousand One Hundred and Fifteen only)** under Section 114A of the Customs Act, 1962. However, in case the said importer pays the duty along with interest within 30 days of the communication of the order, the amount of penalty payable shall be reduced to **25% of the penalty amount**, as per provisions of Section 114A of the Customs Act, 1962.

19. This Order-in-Original is issued without prejudice to any other action that may be taken against the importer under the Customs Act, 1962 or any other law for the time being in force.

20. The Show Cause Notice issued vide F.No. CUS/APR/BE/AMND/2338/2024-Gr4-O/oPrCommr-CusMundra dated

09.07.2025 stands disposed of in above terms.

Digitally signed by Dipakbhai Zala
Date: 03-07-2026 16:53:40

Dipak Zala,
Additional Commissioner of Customs
Import Assessment, Custom House,
Mundra

To,
M/s. Numu Standard Agribusiness & Pest Management India,
D 13 LGF, Lajpat Nagar 1,

New Delhi- 110024

Copy to:

1. The Addl. Commissioner (RRA), Custom House, Mundra.
2. The Assistant Commissioner (TRC/EDI), Custom House, Mundra.
3. Guard File