		कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, **सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421** **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,** **CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT& SPL ECONOMIC ZONE, MUNDRA-370421**
A. File No.	:	GEN/ADJ/COMM/668/2025-Adjn-O/o-Pr.Commr-Cus-Mundra
B. Order-in-Original No.	:	MUN-CUSTM-000-COM-36-2026-27
C. Passed by	:	Nitin Saini Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue	:	29.10.2026 29.10.2026
E. SCN No. & Date	:	32/2025-26/COMM/N.S/Adjn/MCH dated 02.12.2025
F. Noticee(s)/Co-noticee(s)		M/s Adani Green Energy Limited

1. यहअपीलआदेश 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 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए-3में 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 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

   "**केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ**, 2nd **फ्लोर, बहुमालीभवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद**-380 004"

   "Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench,2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004."

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. उक्तअपीलकेसाथ1000/- रूपयेकाशुल्कटिकटलगाहोनाचाहिएजहाँशुल्क ,व्याज, दंड या शास्ति रूपये पाँच लाख या कम माँगा हो -/5000 रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क ,व्याज ,शास्ति या दंड पाँच लाख रूपये से अधिक किंतु पचास लाख रूपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क ,दंड व्याज या शास्ति पचास लाख रूपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बेंचआहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।Appeal should be

accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत -/5 रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं॰ 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 paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटि/ 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.अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए। While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 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, न्यायाधिकरण के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।An appeal against this order shall lie before the Tribunal 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. Adani Green Energy Limited (IEC No. 0816920249) ("the noticee"), 30 GW Khavda RE Park, Near Karim Shahi, Khavda, Kachchh, Gujarat, was selected for Premises Based Audit ("PBA") by the Directorate General of Audit, Indirect Taxes and Customs, New Delhi, to gauge compliance with the laws, regulations and procedures applicable to the noticee.

2. During scrutiny of the Bills of Entry filed by the noticee at Mundra SEZ Port for home consumption, as listed in Annexure-A to the Show Cause Notice, it was noticed that the noticee had imported goods declared as "Battery – Parts of Robotic Module Cleaning System" (RMCS) (3,355 units), having an assessable value of Rs. 2,65,79,161/-. The goods were classified under CTI 8479 8999 and cleared on payment of duty of Rs. 73,71,730/- (BCD @ 7.5% + SWS @ 10% of BCD + IGST @ 18% vide Sl. No. 366 of Schedule II to Notification No. 01/2017-IT dated 01.07.2017).

3. The Audit Commissionerate, Mumbai-I was of the view that the subject goods do not merit consideration as "parts" of machines falling under CTH 8479 in terms of Note 2(a) to Section XVI of the Customs Tariff, which provides:

"2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8546 or 8547) are to be classified according to the following:

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;"

4. "Battery", being a separate article/good in itself, is specifically covered under CTH 8507. On that basis it appeared that the goods declared as "Battery – Parts of Robotic Module Cleaning System" and cleared under CTI 8479 8999 could not be considered parts of RMCS but were more appropriately classifiable under CTI 8507 8000. The short-levy of Customs duty on account of the alleged mis-classification, in respect of Bill of Entry No. 8910499 dated 24.11.2023, Bill of Entry No. 9359610 dated 22.12.2023 and Bill of Entry No. 9359612 dated 22.12.2023, was worked out at Rs. 72,25,332/-. Consultative Letter No. 3378 dated 12.03.2024 (RUD-1) was accordingly issued to the noticee. In response, the noticee, vide letter dated 03.05.2024 (RUD-2), submitted its reply and forwarded three Demand Drafts towards payment of the differential duty under protest. The amounts were deposited in the Cash Section, New Custom House, Mumbai on 07.05.2024, vide TR-6 Challan Nos. 26, 27 & 28, all dated 07.05.2024 (RUD-3).

5. The noticee's submissions before the Audit Commissionerate were, in brief: (a) complete RMCS units were procured in CKD condition; (b) the batteries are specifically designed and custom-engineered for the RMCS and form an integral, essential part thereof; (c) RMCS is regularly procured along with such batteries; (d) shipment of the batteries was delayed on account of registration requirements under the Battery Waste Management Rules, 2022; (e) the other RMCS parts (CKD) had already been imported and cleared through Mundra SEZ; (f) reliance was placed on judicial precedent concerning CKD import of cars/dredgers/boilers; and (g) identical RMCS batteries have historically been cleared under CTH 8479 without objection.

6. The Department's position, as recorded in the Show Cause Notice, was, in brief: (a) none of the import documents (Bills of Entry, invoices, Bill of Lading, Certificate of Origin) declare the goods as RMCS

in CKD condition or as part of an earlier CKD consignment; the Purchase Orders for the respective invoices are distinct, indicating separate ordering; (b) the case law relied upon is inapplicable since the noticee did not declare the goods as "Machine" in CKD condition but as "BATTERY", itself a separate article under CTH 8507; (c) Rule 3(a) of the General Rules for Interpretation ("GRI") requires the more specific heading to be preferred over the general one; and (d) Note 2(a) to Section XVI excludes "Battery" from being treated as a "part". It thus appeared that the impugned goods were correctly leviable to BCD @ 15% and IGST @ 28% under CTI 8507 8000, resulting in short-levy of Rs. 72,25,332/-, recoverable under Section 28(1) read with Section 28AA of the Customs Act, 1962. It further appeared that the incorrect declaration of the Customs Tariff Heading contravened Section 46(4) and 46(4A) of the Customs Act, 1962, rendering the goods liable to confiscation under Section 111(m) and the noticee liable to penalty under Section 112 of the Customs Act, 1962. It further appeared that the amount of Rs. 72,25,332/- already paid by the noticee was liable for appropriation towards the short-paid duty.

PRE-NOTICE CONSULTATION

7. In terms of the proviso to Section 28(1)(a) of the Customs Act, 1962, this office, vide letter dated 14.11.2025, granted an opportunity of pre-notice consultation to the noticee on 19.11.2025. The noticee neither appeared for the consultation nor made any submission in that regard.

SHOW CAUSE NOTICE

8. In view of the foregoing, the noticee was called upon, vide Show Cause Notice No. 32/2025-26/COMM/N.S/Adjn/MCH dated 02.12.2025 (F.No. GEN/ADJ/COMM/668/2025-Adjn), to show cause as to why: (i) the declared classification under CTI 8479 8999 should not be rejected and the goods re-classified under CTI 8507 8000; (ii) differential duty of Rs. 72,25,332/- should not be demanded and recovered under Section 28(1)(a) along with interest under Section 28AA; (iii) the amount of Rs. 72,25,332/- paid under protest should not be appropriated against the duty liability; (iv) the goods, having an assessable value of Rs. 3,37,86,910/-, already cleared and unavailable for seizure, should not be held liable to confiscation under Section 111(m); and (v) penalty should not be imposed under Section 112(a)(ii) of the Customs Act, 1962.

9. The noticee was directed to indicate whether a personal hearing was desired before the case was decided, and was informed that in the absence of a reply/representation, the case would be decided on the basis of the record.

10. As the Show Cause Notice could not be adjudicated within the six-month period stipulated under Section 28(9) of the Customs Act, 1962, the Chief Commissioner of Customs, Gujarat Zone, in exercise of powers under the said Section, extended the said period by a further six months and the same was communicated to the noticee vide this office letter dated 16.06.2026.

PERSONAL HEARING

11. Advocate Paritosh R. Gupta appeared for personal hearing on 17.09.2026 and reiterated the submission dated 16.09.2026 and requested to drop the proceedings.

WRITTEN SUBMISSION

12. The noticee filed a detailed written submission dated 16.09.2026, along with Annexures A to H. The submission, in brief, contends: (a) the SCN impermissibly re-opens a final, unchallenged self-assessment; (b) the imported goods are not standalone "Battery" but an RMCS-specific "Battery Control Box / Battery Electric Cabinet Component", as established by the supplier's invoices, packing lists, Bills of Lading, catalogue and installation manual (Annexures A–E); (c) classification must be of the goods "as presented", and Note 2(a) cannot be invoked without first establishing that the complete imported article is itself an "electric accumulator"; (d) in the alternative, Rule 2(a) GRI applies since the goods form an unassembled part of the RMCS procured in CKD condition; (e) the separate shipment of the batteries was on account of registration requirements under the Battery Waste Management Rules, 2022 (Annexures F–H), and not a separate commercial transaction; (f) differing Purchase Order references are immaterial to classification; (g) the classification adopted was a bona fide, fully disclosed self-assessment, consistent with historical practice; (h) the demand, interest and appropriation are consequential upon the classification issue; (i) confiscation under Section 111(m) is not attracted since there is no misdeclaration, only a classification dispute, for which extensive case law is cited; (j) penalty under Section 112(a)(ii) is unsustainable absent mens rea/malafide; (k) the SCN mechanically reproduces the audit objection without independent application of mind; and (l) the classification claimed by the noticee should, in any event, be preferred having regard to India's renewable-energy policy objectives. Each of these contentions is examined below.

DISCUSSION AND FINDINGS

13. I have carefully gone through the Show Cause Notice, the written submission dated 16.09.2026 filed by the noticee together with Annexures A to H thereto, and all other evidence available on record.

14. The issues that arise for determination are:

(i) Whether the declared classification of the impugned goods under CTI 8479 8999 is liable to be rejected and the goods re-classified under CTI 8507 8000?

(ii) Whether the differential Customs duty of Rs. 72,25,332/- is liable to be demanded and recovered under Section 28(1)(a), along with interest under Section 28AA?

(iii) Whether the amount of Rs. 72,25,332/- already paid under protest is liable to be appropriated against the duty so confirmed?

(iv) Whether the impugned goods are liable to confiscation under Section 111(m) of the Customs Act, 1962?

(v) Whether the noticee is liable to penalty under Section 112(a)(ii) of the Customs Act, 1962?

15. Before going into the merit of the case, I examine the noticee's submission that the assessment of Bill of Entry has already been finalized and the same has not been challenged by the Department. Therefore, re-opening of assessment by way of Show Cause Notice under Section 28 without challenging the assessment is bad in law and deserves to be dropped on this ground alone. In this regard, they have relied on *Bimal P. Shah v. Commissioner of Customs (Preventive), Mumbai*, 2025 (394) ELT 523 (Tri.-Mumbai), affirmed in *Commissioner of Customs (Preventive), Mumbai v. Bimal P. Shah*, 2025 (394) ELT 451 (SC), and on *ITC Ltd. v. Commissioner of Central Excise, Kolkata-IV*, 2019 (9) TMI 802 (SC-LB).

16. I find that in ITC case, issue for consideration before Hon'ble Court was claim of refund of duty filed by ITC who subsequent to assessment of duty, found that they were eligible to benefit of Notification 6/2000CE dated 01.03.2000 granting complete exemption from duty upto certain specified quantity of finished goods manufactured by using unconventional raw materials. As per them, duty was paid but exemption was available to them under a Notification, hence, they filed the refund claim. In these facts, Hon'ble Supreme Court held that unless assessment is challenged by way of filing an appeal and there is an appellate order to that effect, refund will not arise. Para 44 of the said decision amplifies this proposition in following words: *"44. The provisions under Section 27 cannot be invoked in the absence of amendment or modification having been made in the bill of entry on the basis of which self-assessment has been made. In other words, the order of self-assessment is required to be followed unless modified before the claim for refund is entertained under Section 27. The refund proceedings are in the nature of execution for refunding amount. It is not assessment or reassessment proceedings at all. Apart from that, there are other conditions which are to be satisfied for claiming exemption, as provided in the exemption notification. Existence of those exigencies is also to be proved which cannot be adjudicated within the scope of provisions as to refund. While processing a refund application, re-assessment is not permitted nor conditions of exemption can be adjudicated. Re-assessment is permitted only under Section 17(3)(4) and (5) of the amended provisions. Similar was the position prior to the amendment. It will virtually amount to an order of assessment or reassessment in case the Assistant Commissioner or Deputy Commissioner of Customs while dealing with refund application is permitted to adjudicate upon the entire issue which cannot be done in the ken of the refund provisions under Section 27. In Hero Cycles Ltd. v. Union of India - 2009 (240) E.L.T. 490 (Bom.) though the High Court interfered to direct the entertainment of refund application of the duty paid under the mistake of law. However, it was observed that amendment to the original order of assessment is necessary as the relief for a refund of claim is not available as held by this Court in Priya Blue Industries Ltd. (supra)."*

17. The present matter involves non-payment of duty on account of mis-classification of the imported goods during self-assessment, thus the issue in hand is related to duty demand governed by the provisions of Section 28 of the Customs Act, 1962 and not by refund provisions. During subsequent premises based audit and scrutiny of documents, department found that customs duty was payable and therefore, it exercised its right under Section 28 of the Customs Act, 1962 by issuing the show cause notice. The provisions of Section 28 of the Customs Act, dealing with recovery of duties of customs not levied or not paid, are entirely different than the refund provisions under Section 27 arising out of any assessment or reassessment order. I am supported by the two recent decisions-

(i) 2026 (9) TMI 1678 - CESTAT AHMEDABAD Famous Steel Versus Commissioner of Customs - Mundra Customs-

"5.3 The present matter involves non payment of Anti-dumping duty and IGST thereon, during self-assessment of goods and therefore, the issue in hand is related to duty demand governed by the provisions of Section 28 of the Customs Act, 1962 and not by refund provisions. During subsequent scrutiny of documents, department found that Anti-dumping duty and IGST thereon, was not paid on the goods during self-assessment, and therefore, it exercised it's right under Section 28 of the Customs Act, 1962 by issuing show cause notice. The provisions of Section 28 of the Customs Act dealing with recovery of duties of customs not levied or not paid…… are entirely different than the refund provisions under Section 27 arising out of any assessment or reassessment order. We also note that similar issue came up for decision before Hon'ble Supreme Court in the case of Jain Shudh Vanaspati Ltd. 1996 (86) ELT 460 (SC) which in para 6 of said decision, held as under:-

> *"**6**. The case of the appellants in the show cause notices is that the stainless steel containers in which the said oil was imported were banned, that the stainless steel containers were deliberately camouflaged by painting them to resemble mild steel containers, and that this was done with a view to enabling their clearance. A clearance order under Section 47 obtained by fraudulent means such as this (if it, in fact, be so) cannot debar the issuance of a show-cause notice for confiscation of goods under Section 124. Fraud, if established, unravels all. An order under Section 47 obtained by the employment of fraudulent methods does not have to be set aside by the exercise of revisional powers under Section 130 before the ill-effects of the fraud can be set right by initiation of the process of confiscation of the fraudulently cleared goods under Section 124."*

5.4 Similar issue also came up for consideration before CESTAT Mumbai in the case of Asia Motors Works where customs duty was demanded by issuing demand cum show cause notice without challenging the assessment order. The Tribunal in their order reported at 2020 (371) ELT 729 (T) held as under:

> *"**6**. It has been argued by the Ld. Counsel for AMW that since the assessment has not been challenged, demand under Section 28 cannot be raised. In this regard Ld. AR had relied on decision of Ld. Apex Court in case of Jain Shudh Vanaspati Ltd. (supra) wherein it has been held that the demand can be raised under Section 28 even if challenging assessment. Consequently this argument of Ld. Counsel for AMW is rejected."*

In view of above judicial pronouncements, we are of the view that there is no bar in issuance of show cause notice by the department under Section 28 of the Customs Act for demanding differential customs duty without challenging self-assessment of goods."

(ii) Hon'ble Tribunal in the matter of Rissala Electric Motors (P) Ltd. Versus Principal Commissioner of Customs, ICD TKD New Delhi (CESTAT New Delhi)- 2026 (10) TMI 986 - CESTAT NEW DELHI, order dated 13.10.2026, wherein the Hon'ble Tribunal held that the existence of self-assessment did not bar issuance of a notice for recovery of differential duty and differential duty could be demanded under Section 28 without prior challenge to self-assessment, against the assessee.

IDENTITY OF THE GOODS-

18. The noticee's principal contention is that the imported goods are not a standalone "Battery" but an engineered and enclosed "Battery Control Box", which is also described as a "Battery Electric Cabinet Component". In support of this contention, the noticee relies upon the supplier's commercial invoices and packing lists, which describe the goods as "Parts of Robotic Module Cleaning System (Battery Control Box)". It also relies upon the Bills of Lading, the photographs in the supplier's catalogue and the manufacturer's installation manual, which describes the component as a "Battery Electric Cabinet Component (Battery inside of the box)". These documents have been placed on record as Annexures A to E to the written submission dated 16.09.2026.

19. I have carefully examined these documents. Far from supporting the noticee, they establish that the essential character of the imported goods is that of an electric accumulator. The installation manual itself records that the "Battery is inside of the box to provide current to motors on robotic cleaning system and enable robot to run on module tables". The only function of the box is therefore to store electrical energy and to supply it to the motors of the machine, which is precisely the function of an electric accumulator. The supplier's catalogue at Annexure E is titled "Sol-Bright Robot Battery

Catalog". It offers the very same box in variants of 12 Ah, 14 Ah, 16 Ah, 20 Ah and 24 Ah, and the variant is chosen according to the length of the row of solar modules to be cleaned. An article which is catalogued, specified and selected by its ampere-hour capacity is, by its very nature, a battery. The notice itself, in its letter dated 03.05.2024 (Annexure G), described the goods as a "25.6 Volt (16 Ah, 20 Ah, 24 Ah, 28 Ah) high-performance self-powered solar power battery". The Bill of Lading for the consignment covered by Bill of Entry No. 9359610 (Annexure C) declares the cargo as dangerous goods of IMO Class 9 under UN Number 3480, which is the number assigned to lithium-ion batteries.

20. The enclosure, the wiring harness and the mounting arrangement do not alter the essential character of the imported goods, which remains that of batteries, that is, electric accumulators. They merely house and protect the accumulator and enable it to be fitted to the lower end plate of the machine. In this regard, I note that Note 3 to Chapter 85 categorically addresses this issue. The same is reproduced below for ease of reference:-

[*3. For the purposes of heading 8507, the expression "electric accumulators" includes those presented with ancillary components which contribute to the accumulator's function of storing and supplying energy or protect it from damage, such as electrical connectors, temperature control devices (for example, thermistors) and circuit protection devices. They may also include a portion of the protective housing of the goods in which they are to be used.****]***

21. From the above Note 3 to Chapter 85 it is clear that accumulators remain classifiable in that heading when they are presented with ancillary components which contribute to their function of storing and supplying energy or which protect them from damage, such as electrical connectors, temperature control devices, circuit protection devices and a portion of protective housing of the goods. The "Battery Control Box" imported by the noticee is an accumulator presented with ancillary components. The nomenclature adopted in the supplier's commercial documents cannot override the true nature of the goods. The noticee has further stated that the import of these goods required registration as a producer under the Battery Waste Management Rules, 2022. That requirement could have arisen only because the goods were batteries.

22. Thus, in view of the above discussion and findings, it is evident that the imported goods are batteries/electric accumulators and the description "Parts of Robotic Module Cleaning System (Battery Control Box)" adopted in the commercial documents is only a trade description indicating the machine for which the goods were intended. It cannot alter the identity of the goods, which must be determined according to the terms of the headings and the relevant Section Notes under Rule 1 of the General Rules for the Interpretation of the Import Tariff.

MODUS OF IMPORT

23. The noticee next contends that the goods were an unassembled part of RMCS units procured in CKD condition, and that they were shipped separately only because of the Battery Waste Management Rules, 2022. I find no support for this contention in the documents presented to Customs at the time of import. The goods were imported under three Bills of Entry, namely No. 8910499 dated 24.11.2023, No. 9359610 dated 22.12.2023 and No. 9359612 dated 22.12.2023. In each of them, the goods were declared as "BATTERY (PARTS OF ROBOTIC MODULE CLEANING SYSTEM)". None of these three Bills of Entry declares that the goods form part of an RMCS imported in CKD or SKD condition. None of them refers to the earlier Bills of Entry under which the other components of the RMCS were cleared. The commercial invoices, packing lists, Bills of Lading and Certificates of Origin are equally silent on

this point. The noticee did not seek provisional assessment under Section 18 of the Customs Act, 1962. It also made no declaration that these consignments were to be assessed together with any earlier or later consignment. The link now asserted between the batteries and the earlier RMCS consignments was put forward for the first time in the noticee's letter dated 03.05.2024, after the Audit had raised its objection.

24. The documents further show that the batteries were procured under purchase orders distinct from the purchase order for the RMCS. In its letter dated 03.05.2024, addressed to the Assistant Commissioner of Customs, Circle-A1, New Custom House, Mumbai-400001, the noticee stated that it had placed a single Purchase Order No. 5310000460 on M/s Langfang Sol-Bright New Energy Technology Co. Ltd. for 814 complete RMCS units "for a single, consolidated price". According to the noticee, the batteries were to be supplied under that order. The documents relating to the three Bills of Entry show otherwise. The three Bills of Entry cover three separate invoices, namely Invoice No. BSXS20231025001 dated 25.10.2023, Invoice No. BS-XS-20231113-00001 dated 13.11.2023 and Invoice No. BS-XS-20231010-006 dated 10.10.2023. Invoice No. BS-XS-20231113-00001 and the corresponding Certificate of Origin refer to Purchase Order No. AGEL/LSPTCL/C/PO/VG/758/23 dated 01.05.2023, which is also referenced as No. 5310000304. Invoice No. BS-XS-20231010-006 and the corresponding Certificate of Origin state that the goods are supplied as per Purchase Order No. 5310000331, which is dated 28.06.2023. None of these purchase orders is Purchase Order No. 5310000460, under which the noticee says the complete RMCS units were ordered.

25. The noticee has accepted in its written submission that the purchase orders are different, and contends that different purchase order reference appearing in the import documents is wholly immaterial and does not advance the department's case. They further argued that the three Bills of Entry covered by the notice pertain to supplies made for distinct project requirements. I am unable to accept this contention. It is noteworthy that the noticee itself made the purchase order the foundation of its case. In its letter dated 03.05.2024, the noticee contended that the batteries were correctly classified as parts of the RMCS because it had placed a single Purchase Order No. 5310000460 for complete RMCS units in CKD condition, at a single price, under which the batteries were to be supplied. Having relied upon the purchase order to establish a link between the batteries and the RMCS, the noticee cannot now contend that purchase orders are immaterial once the documents show that the batteries were ordered under different purchase orders. The noticee cannot rely on the purchase order when it supports its case and then call purchase orders irrelevant when they go against it. In its written submission, the noticee now explains that the purchase orders differ because they relate to different projects. This explanation is itself inconsistent with the earlier assertion that all the batteries were supplied under the single purchase order placed for the complete RMCS. If the batteries were ordered under separate project-wise purchase orders, it follows that they were not ordered under Purchase Order No. 5310000460. Further, the noticee's own letter dated 03.05.2024 also lists Bill of Entry No. 2085653 dated 10.02.2024 as one of the four Bills of Entry under which the other RMCS components were cleared. That consignment was cleared after all three battery consignments had already been cleared. This contradicts the explanation that the RMCS components had been fully imported and that only the batteries were held back on account of the Battery Waste Management Rules, 2022. The noticee asserts that the batteries formed part of a single CKD supply of the RMCS, so the burden of establishing that fact lies on the noticee, and it has not discharged that burden.

26. Further, the manufacturer's installation manual records that each RMCS machine comprises one battery electric cabinet component. The noticee has stated that Purchase Order No. 5310000460 was for 814

RMCS units. The three Bills of Entry in question alone cover 4,208 battery units, namely 3,355 units under Bill of Entry No. 8910499, 440 units under Bill of Entry No. 9359610 and 413 units under Bill of Entry No. 9359612. The batteries imported are thus more than five times the number of machines said to have been ordered under the single purchase order. The goods therefore cannot be regarded as the battery component of the 814 RMCS units said to have been imported in CKD condition.

CORRECT CLASSIFICATION IN TERMS OF NOTE 2 TO SECTION XVI-

27. Having determined the identity of the goods and the manner in which they were presented, I now take up their classification. Rule 1 of the General Rules for the Interpretation of the Import Tariff provides that the titles of Sections, Chapters and sub-Chapters are for ease of reference only. It further provides that, for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. The relevant Section Note in the present case is Note 2 to Section XVI, which governs the classification of parts of machines falling under Chapters 84 and 85. The said Note is reproduced below.

"2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules :

(a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529;

(c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548."

28. Clause (a) of Note 2 provides that parts which are goods included in any of the headings of Chapter 84 or Chapter 85, other than the headings specifically excluded in that clause, are ***"in all cases"*** to be classified in their respective headings. Heading 8507, which covers electric accumulators, is not one of the excluded headings. It follows that an electric accumulator, even when it is imported as a part of a machine, must be classified under heading 8507 and not with the machine. I have already held in paragraph 22 above that the imported goods, are electric accumulators. The goods therefore fall squarely within clause (a) of Note 2.

29. The noticee has contended that the imported goods were specifically designed and custom-engineered for the RMCS, that they were used only with the RMCS, and that they were therefore classifiable as parts of the RMCS. This argument, in substance, is that the goods are suitable for use solely or principally with a particular kind of machine. That is precisely the test laid down in clause (b) of Note 2 to Section XVI. Clause (b), however, applies only to "other parts", that is, parts which are not covered by clause (a). The scheme of Note 2 is therefore sequential. A part must first be examined under clause

(a), and only if it is not covered there does the question of its sole or principal use arise under clause (b). In the present case, the imported goods are electric accumulators, which are specifically covered by heading 8507 of Chapter 85. Heading 8507 is not one of the headings excluded under clause (a). The goods therefore fall squarely within clause (a), which requires that such parts be classified in their respective headings "***in all cases***". The words "in all cases" mean that this rule applies without any exception. Once the goods are covered by clause (a), there is no occasion to apply clause (b), and the test of sole or principal use becomes irrelevant. The extent to which the accumulator has been engineered, housed or mounted for use with the RMCS has no bearing on its classification. I therefore hold that the imported goods, being electric accumulators, are to be classified under heading 8507 by virtue of clause (a) of Note 2 to Section XVI, notwithstanding that they are used as parts of the RMCS.

30. This conclusion rests on the settled principle that the Section and Chapter Notes have primacy in matters of classification, and that they must be applied before any other Rule of Interpretation. The Hon'ble Supreme Court in Commissioner of Central Excise v. Simplex Mills Co. Ltd., 2005 (181) ELT 345 (SC), held that Rule 1 gives primacy to the Section and Chapter Notes, and that the subsequent Rules are to be applied only if the headings and the Notes do not clearly determine the classification. The relevant excerpt of the decision is reproduced below.

> *"11. The rules for the interpretation of the Schedule to the Central Excise Tariff Act, 1985 have been framed pursuant to the powers under Section 2 of that Act. According to Rule 1 titles of Sections and Chapters in the Schedule are provided for ease of reference only. But for legal purposes, classification "shall be determined according to the terms of the headings and any relevant section or Chapter Notes". If neither the heading nor the notes suffice to clarify the scope of a heading, then it must be construed according to the other following provisions contained in the Rules. Rule-I gives primacy to the Section and Chapter Notes along with terms of the headings. They should be first applied. If no clear picture emerges then only can one resort to the subsequent rules."*

31. The same principle was reiterated by the Hon'ble Supreme Court in Salora International Ltd. v. Commissioner of Central Excise, (2012) 9 SCC 662 = 2012 (284) ELT 3 (SC), wherein it was held as follows.

> *"20. Therefore, as clearly specified by the above rule, resort must first be had only to the particular tariff entries, along with the relevant Section and Chapter Notes, to see whether a clear picture emerges. It is only in the absence of such a picture emerging, that recourse can be made to the Rules for Interpretation."*

32. In Commissioner of Central Excise v. Aldec Corporation, 2005 (188) ELT 241 (SC), the Hon'ble Supreme Court held that the coverage of the chapter headings has to be determined in the light of the Section Notes and Chapter Notes. The relevant excerpt is reproduced below.

> *"9. ……. Further, whether an article as envisaged by Section 2(f) has been manufactured or not solely depends on whether the article in question satisfies the test as laid down in the relevant chapter heading or sub-heading and is known as such in the commercial community. The coverage of the respective chapter headings has to be determined in the light of the section notes and chapter notes. Further, when an article is specified with reference to the raw material like "Articles of Aluminium", the general use to which an article is capable of will be relevant.*

[See : Airgrill Industries v. Commissioner of Central Excise reported in 2001 (132) E.L.T. 646 (T) affirmed by this Court in 2002 (141) E.L.T. A90]…"

33. Further, in Collector of Central Excise v. Subash Photographics, 1993 (66) ELT 3 (SC), the Hon'ble Supreme Court emphasised that a Chapter Note is a part of the statute itself. The relevant excerpt is reproduced below.

> "5. The expression "industrial plant" is not defined in the Customs Tariff Act, 1975 or, for that matter, in the Customs Act, 1962. Chapter Note (2) of Chapter 98, which it must be emphasised is a part of statute itself, says that the expressions used in Heading No. 98.01 shall have the meaning assigned to them by the regulations made under Section 157 of the Customs Act and further that Heading No. 98.01 shall apply to all goods which are imported in accordance with such regulations."

34. In view of the above judicial pronouncements, it is unambiguous that Section and Chapter Notes are binding statutory provisions and not mere aids to interpretation. They are to be applied first, and recourse to the subsequent Rules of Interpretation is permissible only where the headings and the Notes do not resolve the classification. A description adopted in commercial documents, or a claim based on the end use of the goods, cannot prevail over them. In the present case, Note 2(a) to Section XVI by itself settles the classification of the imported goods, so there is no need to resort to any other Rule of Interpretation.

35. The principle that a taxing statute must be construed strictly according to its plain terms was affirmed by the Constitution Bench of the Hon'ble Supreme Court in Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Co., 2018 (361) ELT 577 (SC). That principle applies with full force to the Section Notes of the Customs Tariff. The plain words of Note 2(a) to Section XVI require that electric accumulators be classified under heading 8507 in all cases, even when they are imported as parts of a machine of Chapter 84.

36. The noticee has further contended that the classification adopted by it was a bona fide and fully disclosed self-assessment, and that identical RMCS batteries have been cleared under heading 8479 since 2022 without any objection from Customs. I find that this contention does not affect the correctness of the classification. The earlier imports were cleared on the basis of the noticee's own self-assessment under Section 17 of the Customs Act, 1962. The noticee has not shown that the classification of these goods was ever examined and decided on merits by any speaking order of the proper officer or any appellate authority. Goods cleared on the basis of the importer's own self-assessment, without any reasoned decision on merits by the proper officer, do not bind the Department to accept that classification in future. It also confers no right on the importer to continue with an incorrect classification.

Applicability of Rule 2(a)-

37. The noticee has argued that Rule 2(a) of the General Rules for the Interpretation of the Import Tariff statutorily recognises that an article presented incomplete, unfinished, unassembled or disassembled may nevertheless be classified as the complete or finished article, where it possesses the essential character thereof. In order to address this argument, it is necessary to examine the text of Rule 2(a), which consists of two clauses. The first clause reads as follows.

"Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article."

The second clause reads as follows.

"It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled."

38. Both clauses of Rule 2(a) operate on a reference in a heading to "an article", and both speak of "that article", meaning the very article named in the heading. The Rule therefore does not extend a heading to anything other than that article. It only enlarges the forms in which the article itself may be presented before Customs. Under the first clause, the article may be presented in an incomplete or unfinished state, provided that, *"as presented",* it has the essential character of the complete article. Under the second clause, the article may be presented complete but in an unassembled or disassembled state. In either case, the intention of the Rule is clear. What is presented before Customs at the time of import must be the article itself, whether finished or unfinished, assembled or unassembled. The words "as presented" make it clear that the test is to be applied to the goods actually presented for assessment, and not to those goods together with other goods imported at some other time.

39. In the present case, this is not what happened. The noticee imported the other components of the RMCS under separate Bills of Entry in October 2023 and February 2024. It imported the batteries in November and December 2023 under the three Bills of Entry in question. It now seeks to connect these distinct imports and to treat the batteries as part of the RMCS imported under the other Bills of Entry. Rule 2(a) does not contemplate that an article, whether finished or unfinished, assembled or unassembled, may be split across distinct imports made over a period of time, and that the separate consignments may later be joined together for the purpose of classification. Each consignment is presented to Customs on its own, and must be classified as presented. What was presented under each of the three Bills of Entry was batteries alone. A battery, however specifically designed for the RMCS, neither cleans solar modules nor traverses the module tables. A consignment of batteries alone therefore cannot have the essential character of a robotic cleaning machine, and the first clause does not apply. Nor were the batteries a complete RMCS presented in unassembled form, since none of the other components of the machine was presented with them, so the second clause also does not apply. The batteries were only one component of the RMCS, presented on their own, and Rule 2(a) has no application to them.

40. The decisions relied upon by the noticee do not assist it. These are Collector of Customs, Bangalore v. Maestro Motors Ltd., 2004 (174) ELT 289 (SC), National Marine & Infrastructure India Pvt. Ltd. (Final Order Nos. A/12545-12546/2018), CCE, Pune-I v. Thermax Babcock & Wilcox Ltd., 2005 (182) ELT 336 (Tri.-Mumbai) and Bharat Heavy Electricals Ltd. v. CCC(A), Hyderabad, 2009 (243) ELT 92 (Tri.-Bang.). In each of these cases, the different consignments were shown on evidence to make up a single unassembled article, and they were treated as such at the time of clearance. In Thermax Babcock & Wilcox, the Tribunal specifically noted that the assessee had a contract to erect and commission a boiler and had been disclosing this fact to the Department. In the present case, no such disclosure was made at the time of import. The goods were ordered under separate purchase orders and declared simply as batteries. The decision of the Hon'ble Supreme Court in Commissioner of Customs, New Delhi v. Sony India Ltd., 2008 (231) ELT 385 (SC), also supports this view that the essential character must be found in the goods as presented. Relevant excerpt of the decision is as given below:-

*"**16.** Our attention was invited to a very interesting decision reported in Modi Xerox Ltd. v. CCE, New Delhi [1998 (103) E.L.T. 619] which was confirmed by this Court in 2001 (133) E.L.T. A91 (it must be noted that the decisions in Woodcraft Products is specifically confirmed in this decision). In this case, the Tribunal had relied on Tara Chand's case as also the CC v. Mitsuny Electronics Works [1987 (30) E.L.T. 345 (Cal. HC)] which we have made reference in the earlier part of this judgment. The Tribunal had held that the fax machine in completely knocked down condition imported by the appellant being not a fax machine but part thereof, the benefit of exemption under Notification No. 59/88/Cus., dated 1-3-1988 would not be available. Very interestingly, it was claimed by the importer that it had imported the fax machine and not the components obviously because the duty payable on the components was more. The Tribunal came to the conclusion that in view of Section Note 2 to Section XVI Rule 2(a) would not apply and confirmed the import of goods as components. While interpreting Explanatory Note to Rule 2(a), the Tribunal had held that this Rule would apply only when the imported articles presented in unassembled or disassembled can be put together by means of simple fixing device or riveting or welding. It came to the conclusion that fax machines were not the type of goods which were normally traded or transported in knocked down condition and therefore, the imports were that of the components and not of fax machines. Shri Lakshmikumaran also invites our attention to the fact that Chapter 64 dealing with footwear does not have a note similar to Note 2 in Section XVI. Thus this position would render support to the proposition that Rule 2(a) would apply only when the imported articles presented unassembled or disassembled can be put together by means of simple fixing device or by riveting or welding. We have already pointed out in the earlier part of our judgment that the complicated process would be required for the user of those parts."*

41. In view of the above, I hold that the imported goods are electric accumulators. They were presented for assessment as batteries alone, under purchase orders separate from the purchase order for the RMCS, and not as part of an RMCS in CKD condition. By virtue of Note 2(a) to Section XVI, read with Rule 1 of the General Rules for the Interpretation of the Import Tariff, they are correctly classifiable under CTI 8507 8000 and not under CTI 8479 8999.

DIFFERENTIAL DUTY AND INTEREST-

42. Consequent upon the reclassification of the impugned goods under CTI 8507 8000, the goods were leviable to Basic Customs Duty at the rate of 15%, Social Welfare Surcharge at the rate of 10% of the Basic Customs Duty and Integrated Tax at the rate of 28%. The noticee had paid duty at the rate of 7.5% Basic Customs Duty, 10% Social Welfare Surcharge and 18% Integrated Tax under CTI 8479 8999. Under the scheme of self-assessment introduced by Section 17 of the Customs Act, 1962, the obligation to correctly classify the goods and to pay the correct duty rests on the importer. The incorrect self-assessment by the noticee has resulted in a short-levy of Customs duty. The short-levy amounts to Rs. 56,83,954/- in respect of Bill of Entry No. 8910499 dated 24.11.2023, Rs. 7,95,034/- in respect of Bill of Entry No. 9359610 dated 22.12.2023 and Rs. 7,46,343/- in respect of Bill of Entry No. 9359612 dated 22.12.2023. The total is Rs. 72,25,332/- (Rupees Seventy Two Lakh Twenty Five Thousand Three Hundred Thirty Two Only), as detailed in Annexure-A to the Show Cause Notice. The short-levy is recoverable from the noticee under Section 28(1)(a) of the Customs Act, 1962, and I accordingly confirm the demand of differential duty of Rs. 72,25,332/-. The noticee, has paid the amount of Rs. 72,25,332/-, which is required to be appropriated.

43. Section 28AA of the Customs Act, 1962 provides that a person liable to pay duty in accordance with Section 28 shall, in addition to such duty, be liable to pay interest at the rate fixed under that Section, whether such payment is made voluntarily or after determination of the duty under Section 28. Interest is therefore compensatory in nature and follows automatically upon the confirmation of the duty demand. The noticee deposited the differential duty under protest on 07.05.2024, vide TR-6 Challan Nos. 26, 27 and 28. The noticee is therefore liable to pay interest under Section 28AA on the differential

duty confirmed above, from the date on which the duty ought to have been paid till 07.05.2024, being the date of deposit of the said amount.

CONFISCATION AND PENALTY-

44. The Show Cause Notice has proposed that the incorrect declaration of the Customs Tariff Heading in the Bills of Entry contravened Sections 46(4) and 46(4A) of the Customs Act, 1962. It accordingly proposes that the impugned goods, having an assessable value of Rs. 3,37,86,910/-, be held liable to confiscation under Section 111(m), even though they have already been cleared and are not available for seizure. The noticee, on the other hand, contends that there is no misdeclaration of any material particular. It submits that the nature and description of the goods, together with their linkage to the RMCS, were disclosed on the face of the Bills of Entry themselves as "BATTERY (PARTS OF ROBOTIC MODULE CLEANING SYSTEM)". According to the noticee, the dispute is at most one of tariff classification, which is a matter of opinion and cannot attract Section 111(m). In support of this contention, the noticee relies upon Northern Plastic Ltd. v. Collector of Customs and several decisions of the Tribunal, including Om Sai Ram Trading, Samsung India Electronics, Challenger Cargo Carriers and Vivo Mobile India.

45. Section 111(m) of the Customs Act, 1962 renders liable to confiscation any goods which do not correspond in respect of value or in any other material particular with the entry made under the Act. Under Section 46(4), the importer, while presenting a Bill of Entry, is required to make and subscribe to a declaration as to the truth of its contents. Under Section 46(4A), the importer is required to ensure the accuracy and completeness of the information given in the Bill of Entry and the authenticity and validity of the documents supporting it. Since the introduction of self-assessment under Section 17, the importer is no longer a passive declarant whose entry is verified by the proper officer in every case. The importer is responsible for the correctness of every particular in the Bill of Entry, including the description of the goods on which the classification and the rate of duty depend. The expression "any other particular" in Section 111(m) is wide. It is not confined to value, quantity or physical description, and it extends to every material particular declared in the entry.

46. In the present case, the noticee did not merely claim a classification. In each of the three Bills of Entry, it declared the goods as "BATTERY (PARTS OF ROBOTIC MODULE CLEANING SYSTEM)," this description, the noticee represented that the batteries were parts of the RMCS procured by it. This representation was the very basis on which the goods were classified under CTI 8479 8999 at a lower rate of duty. The findings recorded above show that it did not correspond with the facts.

47. The noticee has relied upon Northern Plastic Ltd. v. Collector of Customs, 1998 (101) ELT 549 (SC), and the decisions following it, to contend that a claim to a particular classification cannot amount to a misdeclaration. In Northern Plastic, the importer had correctly and fully disclosed the description and other particulars of the goods, and had only claimed a classification and an exemption on the basis of its own understanding. The Hon'ble Supreme Court held that such a claim did not amount to a misdeclaration. That principle has no application where, as here, the particulars declared in the Bill of Entry are themselves not true to the facts. The noticee's declaration of the goods as parts of the RMCS, was a statement of fact and not a claim of classification. It was this statement which enabled the goods to be classified under the heading for the machine, and it has been found to be incorrect.

48. In view of the above, I hold that the impugned goods, having an assessable value of Rs. 3,37,86,910/-, did not correspond in material particulars with the entries made in the Bills of Entry. They are therefore liable to confiscation under Section 111(m) of the Customs Act, 1962.

49. As the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962, it becomes necessary to examine whether redemption fine under Section 125 of the Act is imposable in lieu of such confiscation. In this regard, it is noted that the subject goods are no longer physically available for confiscation, as they were cleared in the past and are not presently within the custody or control of Customs. However, I note that the Hon'ble CESTAT, Ahmedabad, in the case of M/s. Van Oord India Pvt. Ltd. vs. Commissioner of Customs, Ahmedabad [Customs Appeal No. 10679 of 2024-DB], has held that redemption fine can be imposed even when the goods are not physically available for confiscation. Further, this issue has already been settled in case of Judgment dated 11.08.2017 of Hon'ble High Court of Madras in C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT, Chennai [2018 (9) G.S.T.L. 142 (Mad.)]. Para 23 of the said Judgment is as follows:

" 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 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."

50. I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of 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, from the above discussion and relying on the above judgements. I find that goods are liable for confiscation and redemption fine can be imposed.

51. I have held above that the impugned goods are liable to confiscation under Section 111(m) of the Customs Act, 1962, and therefore liable to penalty under Section 112(a)(ii). The goods are dutiable goods other than prohibited goods, so the penalty may not exceed ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher.

52. In view of the discussion and findings recorded above, I hereby pass the following order.

ORDER

(i) I reject the declared classification of the impugned goods under CTI 8479 8999, as detailed in Annexure-A to the Show Cause Notice, and order that the said goods be re-classified under CTI 8507 8000 of the First Schedule to the Customs Tariff Act, 1975.

(ii) I determine and confirm the differential Customs duty amounting to Rs. 72,25,332/- (Rupees Seventy Two Lakh Twenty Five Thousand Three Hundred Thirty Two Only) and order to recover the same from M/s Adani Green Energy Limited under Section 28(1)(a) of the Customs Act, 1962, alongwith interest under Section 28AA of the Customs Act, 1962.

(iii) I order appropriation of the amount of Rs. 72,25,332/- (Rupees Seventy Two Lakh Twenty Five Thousand Three Hundred Thirty Two Only) already paid by M/s Adani Green Energy Limited, vide TR-6 Challan Nos. 26, 27 & 28, all dated 07.05.2024, against the duty confirmed at (ii) above.

(iv) I hold that the goods, valued at Rs. 3,37,86,910/-, are liable for confiscation under Section 111(m) of the Customs Act, 1962. However, in terms of the findings given in Para 49 and 50 above, I impose a Redemption fine of Rs. 10,00,000/- (Rupees Ten Lakhs only) under Section 125(1) of the Customs Act, 1962.

(v) I impose a penalty of Rs. 5,00,000/- (Rupees Five Lakhs only) upon M/s Adani Green Energy Limited under Section 112(a)(ii) of the Customs Act, 1962.

53. This order is issued without prejudice to any other action that may be taken against the noticee or any other person under the provisions of the Customs Act, 1962 or any other law for the time being in force.

Digitally signed by
Nitin Saini
Date: 29-10-2026
15:00:13

(Nitin Saini)
Commissioner of Customs,
Custom House, Mundra.

F. No. GEN/ADJ/COMM/668/2025-Adjn

To,

M/s Adani Green Energy Limited (IEC No. 0816920249),
30 GW Khavda RE Park, Near Karim Shahi,
Khavda, Kachchh, Gujarat-370510.

Copy to:-

(i) The office of Chief Commissioner, Customs Zone Gujarat, Ahmedabad for Review.

(ii) The Office of Commissioner of Customs (Audit), New Custom House, Bapu Jamadar Chowk, Ballard Estate, Mumbai-400001.

(iii) The Assistant Commissioner, Group, Custom House, Mundra.

(iv) The Assistant Commissioner, PCA, Custom House, Mundra.

(v) The Superintendent (EDI), Custom House, Mundra, for uploading on the website.