



प्रधान आयुक्त कार्यालय, सीमा शुल्क, अहमदाबाद

सीमा शुल्क भवन, ऑल इंडिया रेडियो के पास, नवरंगपुरा, अहमदाबाद 380009

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निबन्धित पावती डाक द्वारा / By SPEED POST A.D.

फा. सं./F. No.: VIII/10-17/Commr./O&A/2023-24

DIN- 20251171MN0000222DEO

आदेश की तारीख/Date of Order : 19.11.2025

जारी करने की तारीख/Date of Issue : 19.11.2025

द्वारा पारित :-

शिव कुमार शर्मा, प्रधान आयुक्त

Passed by :-

Shiv Kumar Sharma, Principal Commissioner

मूलआदेशसंख्या :

Order-In-Original No: AHM-CUSTM-000-PR.COMMR-33-2025-26 dated 19.11.2025 in the case of M/s. Zen Exim Private Limited (IEC-0801004845), Shakti-404 [SF], Devang Soc., Opposite Patel Farm, S.G. High Way, Thaltej Cross Road, Bodakdev, Ahmedabad -380054.

1. जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।
1. This copy is granted free of charge for private use of the person(s) to whom it is sent.
2. इस आदेश से असंतुष्ट कोई भी व्यक्ति इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार, सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, दुसरी मंज़िल, बहुमाली भवन, गिरिधर नगर पुल के बाजु में, गिरिधर नगर, असारवा, अहमदाबाद-380 004 को सम्बोधित होनी चाहिए।
2. Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Asarwa, Ahmedabad - 380004.
3. उक्त अपील प्रारूप सं. सी.ए.3 में दाखिल की जानी चाहिए। उसपर सीमा शुल्क (अपील) नियमावली, 1982 के नियम 3 के उप नियम (2) में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियों में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। अपील से सम्बंधित सभी दस्तावेज भी चार प्रतियों में अग्रेषित किए जाने चाहिए।

3. The Appeal should be filed in Form No. C.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Customs (Appeals) Rules, 1982. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.
4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं, चार प्रतियों में दाखिल की जाएंगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएंगी (उनमें से कम से कम एक प्रमाणित प्रति होगी)।
4. The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)
5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।
5. The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.
6. केंद्रिय सीमा शुल्क अधिनियम, 1962 की धारा 129 ऐ के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।
6. The prescribed fee under the provisions of Section 129A of the Customs Act, 1962 shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.
7. इस आदेश के विरुद्ध सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण में शुल्क के 7.5% जहां शुल्क अथवा शुल्क एवं जुरमाना का विवाद है अथवा जुरमाना जहां शीर्फ जुरमाना के बारेमें विवाद है उसका भुक्तान करके अपील की जा शकती है।
7. 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".
8. न्यायालय शुल्क अधिनियम, 1870 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर उपयुक्त न्यायालय शुल्क टिकट लगा होना चाहिए।
8. The copy of this order attached therein should bear an appropriate court fee stamp as prescribed under the Court Fees Act, 1870.

Sub: Show Cause Notice No. VIII/10-17/Commr./O&A/2023-24 dated 13.10.2023 issued by the Principal Commissioner of Customs, Ahmedabad to M/s. Zen Exim Private Limited (IEC-0801004845), Shakti-404[SF], Devang Soc., Opposite Patel Farm, S.G. High Way, Thaltej Cross Road, Bodakdev, Ahmedabad - 380054.

BRIEF FACTS OF THE CASE:

M/s. Zen Exim Private Limited (IEC-0801004845) having registered office at Shakti-404[SF], Devang Soc., Opposite Patel Farm, S.G. High Way, Thaltej Cross Road, Bodakdev, Ahmedabad – 380 054 (hereinafter referred as “Importer” for the sake of brevity) is engaged in the business of importing Access Points, Campus Ethernet switches, Security appliances and software such as application delivery controllers. The Company was incorporated as a limited Company under the Companies Act, 2013 (CIN: U30007GJ2002PTC040770). The Directors of the Company are Shri Mukesh Maganbhai Majithia, Shri Nikhilbhai Mohanlal Majithia, Shri Rashmin Mohanlal Majithia and Shri Jay Maganlal Majithia.

2. The Directorate of Revenue Intelligence, Chennai Zonal Unit developed a specific intelligence to the effect that the Importer imported “Access Points of various Models with MIMO Technology” which fall under the Customs Tariff Item 85176290 attracting BCD @20%, by wrongly availing the duty benefit under Serial No. 20 of Notification No.57/2017-Customs, dated 30.06.2017, as amended.

2.1 It appeared that the goods falling under Customs Tariff Item 85176290, which is a MIMO product is not eligible for duty benefit under Serial No. 20 of Notification No.57/2017-Customs dated 30.06.2017, as amended for the period from 30.01.2019 onwards.

2.2 From the preliminary analysis of the import data available, it was noticed that the Importer had imported “Access Points of various models with MIMO Technology” by availing the duty benefit under Serial No. 20 of Notification No.57/2017-Customs dated 30.06.2017, as amended, during the period 30.01.2019 to 02.02.2021. The Importer had not availed any duty benefit under Serial No.20 of Notification No.57/2017-Customs dated 30.06.2017, as amended, for the import of “Access Points of various models with MIMO Technology” post the Notification No.03/2021-Customs dated 01.02.2021.

3. Based on the above intelligence, an investigation was initiated against the Importer by the DRI, Chennai Zonal Unit.

3.1 A summons dated 20.10.2021 was issued to the Importer to furnish documents pertaining to the import of “Access Points” such as Model

numbers of the Access Points imported for the period 2019-2021, Technical literature of the said products and the details of imports made during the period 2019-2021, etc.

3.2 Further summons dated 15.11.2021 was issued to the Importer to appear before the Senior Intelligence Officer, DRI, Chennai Zonal Unit to tender statement under Section 108 of the Customs Act, 1962.

3.3 The Importer vide letter dated 25.11.2021 submitted the details of the Bills of Entry filed by them during the period January, 2019 to October, 2021 along with the technical specification of "Access Points with MIMO" imported by them.

3.4 A statement of Shri Mukesh M. Majathia, Technical Director, M/s. Zen Exim Private Limited was recorded on 02.12.2021 wherein he stated that:

- M/s. Zen Exim Private Limited is a distributor of data communication equipment and Data Security Solutions from leading vendors such as Ruckus Wireless, Cambium Networks, F5 Networks, and Arista Networks. The Company was founded in 2000. The Company is registered under ROC in Ahmedabad. The GSTIN of the Company is 24AACZ1599C1ZD. At present there were four Directors in their Company viz. Shri Nikhil Majathia, Rashmin Majathia, Jai Majathia, and himself.
- In the year 2000, he along with his family members started a firm by the name M/s. Zen Solution, a Partnership Company. Later the company was renamed to M/s. Zen Exim Private Limited and converted into a private limited Company and he had been working in the capacity of Technical Director since then.
- As a Technical Director, he identifies the product lines and vendors that they should distribute the products to and also looks after the Software Development and Technical Consulting.
- The products imported by M/s. Zen Exim Private Limited are Access Points, Campus Ethernet switches, Security appliances and softwares such as application delivery controllers.
- Access points provide connection to Wi-Fi clients using various WI-FI standards and connect Wi-Fi clients to wired ethernet network.
- A Router is a device which facilitates data communication between a public IP network (Internet) and a Private IP Network. It employs various routing protocols such as network address translation, OSPF, RIP V2 or

BGT (Border Gateway protocol). Whereas an Access Point connects WI-FI clients to Private IP network using bridging protocols.

- MIMO is a wireless communication technology which uses multiple antennas (more than 2) for sending and receiving data over the air.
- MIMO technology allows for faster data communication using multiple spatial stream (improved speed) and provides better error correction algorithms.
- MIMO technology is used by many wireless communication standards such as Wi-Fi (802.11), LTE (FDD or TDD), Bluetooth or even long-distance satellite communications.
- MIMO can be used by Mobile phones, Tablets, Laptops, LTE base stations, WIFI access points, Bluetooth devices and Satellite to Earth communication devices. MIMO technology, because of the advantages it offers is being used now by various wireless communication standards including WIFI, LTE, Millimetre wave, Lora and many other standards.
- All Wi-Fi standards are drafted under IEEE 802.11 standards. Under 5 GHz 802.11ac and 802.11ax protocols conform to Wi-Fi standards using MIMO. For 802.11n WI-FI device (both 2.4GHz and 5GHz) is SISO (Single Input Single Output) if the over the air speed is 150 Mbps. But if the over the air speed is 300 Mbps it would be a WI-FI MIMO device.
- When there is a minimum of 2 spatial stream antennae for over the air communication, then the device is called a MIMO device. “nxn” indicates “n” antennae and “n” spatial streams.
- The function of the antenna is to convert an electrical signal to a radio wave signal for over the air communication. An antenna has the capability to both send a signal and receive a signal. More the number of antennae, faster the speed and better error correction.
- There are two types of antennae, internal integrated antenna and External antenna.
- Internal antennae are mounted either on the Printed Circuit Board or within the housing. External antennae can be mounted on a pole, tower or housing external to the access point.
- They import various Wi-Fi 5 model access points like Ruckus R510 (2x2), Ruckus R 610(3x3) and Ruckus R710(4x4) etc.
- They also import Wi-Fi 6 access points like Ruckus R550(2x2), Ruckus R650(3x3), Ruckus R750(4x4) etc.
- They distribute different access points based on Wi-Fi protocol (WIFI 5 or 6) and number of spatial streams of the Access Points (2x2, 3x3, 4x4 or 8x8).
- They are presently importing around 80 different models of Wi-Fi access

points and that all the Wi-Fi access points imported by their Company are “MIMO enabled”.

- They have availed benefit of the Customs Notification No.57/2017 Sl.No.20 item(h) for the import of the Wi-Fi access points for the period 30.06.2017 till 01.02.2021.
- On 01.02.2021 there was an amendment to the Customs Notification No.57/2017 Sl.No.20 item (h) dated 30.06.2017 vide Customs Notification No.03/2021 wherein Multiple Input/Multiple Output (MIMO) devices were exempted from the benefit of said Notification and they have not been availing the benefit of said Notification since then, in respect of the import of “Wi-Fi access points”.
- The Wi-Fi access points imported by them do not belong to the product category “MIMO and LTE” i.e., MIMO technology deployed conforming to LTE standards and their product is MIMO and Wi-Fi meaning MIMO conforming to Wi-Fi (802.11) standards.
- They did the research in the market and also came across products like having MIMO and LTE and no Wi-Fi, having MIMO, LTE and Wi-Fi. As their product does not fall under the product category of “MIMO and LTE” they have availed the benefit of the Customs Notification No.57/2017 (Sl.No.20 item(h)) dated 30.06.2017 in respect of the import of WIFI access points.
- When shown the “TRU letter D.O.F.No.334/02/2020-TRU dated 01.02.2021 which explains the budgetary amendments made in respect of Sl.No.20 of Customs Notification No.57/2017 dated 30.06.2017 vide Notification No.03/2021-Customs dated 01.02.2021 and clarifying the scope of item no. (h) under S.No.20 of unamended Customs Notification No.57/2017 - wherein it is mentioned in para 21 that, item (h) i.e. “Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) products ”was consequently separately mentioned as two different items [(h)- Multiple Input / Multiple Output (MIMO) products and (i) Long Term Evolution (LTE) products and that the above items continue to attract 20% BCD, as before” and asked to comment, he stated that it’s a D.O letter which he is not legally competent to offer comments on and he will seek legal advice and revert back on the same.

3.5 Searches were conducted on 06.04.2022 at the business premises of the Importer at No.404, Shakti. S.G. Highway, Thaltej, Ahmedabad and at No.1476, Moti Bhayan, Old Arvind Mill Compound, Gandhinagar - 382 721 by the Officers of DRI, Chennai Zonal Unit and DRI, Ahmedabad Zonal Unit.

During the course of the said search proceedings, nothing incriminating were recovered by the Officers.

3.6 Further summons dated 06.04.2022 was issued to the Importer seeking clarification about the Bill of Entry No.4923880 dated 19.09.2019 filed in Ahmedabad Air Cargo Port (INAMD4) by the Importer, wherein the duty benefit under Serial No.20 of Customs Notification No.57/2017 was denied and also about the earlier Customs Duty evasion case against the Importer wherein the Additional Commissioner of Customs, Audit Commissionerate (Circle-A1), JNCH, Nhava Sheva issued a Show Cause Notice against the Importer in respect of the Import of “Access Points with MIMO” availing the benefit of a similar Duty exemption Notification No.24/2005 dated 01.03.2005, as amended.

3.6.1 In response to the summons dated 06.04.2022, Shri Mukesh M. Majathia, Technical Director, M/s. Zen Exim Private Limited appeared before the Investigating Officer on 07.04.2022 and tendered his voluntary statement wherein he stated that:

- The “TRU letter D.O.F.No.334/02/2020-TRU dated 01.02.2021 which explains the budgetary amendments made in respect of Sl.No.20 of Customs Notification No.57/2017 dated 30.06.2017 and clarifying the scope of item no. (h) under S.No.20 of unamended Customs Notification No.57/2017” is meant for an internal communication within the Customs Department and it is not binding on their Company.
- When inquired about the “Bill of Entry No.4923880 dated 19.09.2019 filed in Ahmedabad Air Cargo Port (INAMD4), for the item declared as “PC1-R310-WW02 R310-WW, 802.11AC DUAL BAND INDORR AP, 2X2” wherein the duty benefit under Sl.No.20 of Customs Notification No.57/2017 was denied, he stated that he was aware that such a thing has happened earlier but he was not able to recollect the exact details and he would get back to this office on the said issue, once he goes through the office records and that the goods were imported through Air Cargo, Ahmedabad and bill was assessed @ 20% on MIMO products.
- When shown and asked to comment on the “Letter No.528/15/2018-S.T.O (T.U) dated 24.07.2018 issued by the STO (Tariff Unit),CBIC to The Technology Distribution Association of India (TDAI), Mumbai, wherein it was clarified that the Duty benefit under a similar Customs Notification No.24/2005-Customs dated 01.03.2005 (as amended) is not available to “Access Points which have MIMO functionality”, he stated

that their Company is not a member of The Technology Distribution Association of India (TDAI) and he was not aware of the contents of the letter presented.

- Further he stated that they have availed the benefit under Sl.No.13 of Customs Notification No.24/2005 dated 01.03.2005 (as amended) wherever it was applicable.
- They had received a Show Cause Notice from JNPT Customs in connection for having availed the benefit under Sl.No.13 of Customs Notification No.24/2005 for the import of "Access Points" and they had contested the Order in Original which confirmed the demand and they had not made any differential Duty payment in the said issue.
- As part of the investigation, he is submitting two Demand Drafts No.59440 dated 07.04.2022 amounting to Rs.1,50,00,000/- and No.59441 dated 07.04.2022 amounting to Rs.50,00,000/- (under protest) in favour of the Commissioner of Customs totalling Rs.2,00,00,000/- for payment towards differential duty pertaining the import of "Access Points" by availing the benefit of Customs Notification No.57/2017 dated 30.06.2017 (as amended) for the period January 2019 – January 2021.

3.7 Further summons dated 28.04.2023 was issued to the Importer seeking clarification about the Bill of Entry No.4923880 dated 19.09.2019 filed in Ahmedabad Air Cargo Port (INAMD4) by the Importer and the Circular No.08/2023 in F.No 524/11/2022-STO(TU) dated 13.03.2023 issued by the OSD-Tariff Unit, CBIC.

3.7.1 Statement of Shri Mukesh M. Majathia, Technical Director, M/s. Zen Exim Private Limited dated 08.05.2023 was recorded wherein he stated that:

- When enquired about the status of the "Bill of Entry No.4923880 dated 19.09.2019 filed in Ahmedabad Air Cargo Port (INAMD4), for the item declared as "PC1-R310-WW02 R310-WW, 802.11AC DUAL BAND INDORR AP, 2X2" wherein the Duty benefit under Sl.No.20 of Customs Notification No.57/2017 was denied, he stated that they had paid 20% Duty in respect of the said Bill and had not contested the Department's stand.
- When shown his earlier statements dated 02.12.2021 and 07.04.2022 and asked to offer comments on the stand taken by their Company in respect of the Notification benefit in respect of import of "Access Points"

imported by their Company, he reiterated his earlier statements and stand therein.

- When shown the letter No.528/15/2018-S.T.O (T.U) dated 24.07.2018 issued by the STO (Tariff Unit),CBIC to The Technology Distribution Association of India (TDAI), Mumbai, which consists of major companies such as M/s. Savex Computer Limited, M/s. Reddington India Limited, M/s. Ingram Micro India Limited, M/s. Rashi Peripherals Private Limited as its members, wherein it was clarified that the Duty benefit under a similar Notification No.24/2005-Customs dated 01.03.2005 (as amended) is not available to "Access Points which have MIMO functionality and asked to offer comments, he stated that he had clarified the same in his earlier statements and stands by the same.
- The benefit under Customs Notification No.57/2017 dated 30.06.2017 as amended by Customs Notification No.02/2019 dated 29.01.2019 availed by their Company in respect of import of "Access Points" is correct.

4. Investigation Findings:

4.1 **ACCESS POINTS:** A Wireless Access Point (WAP) or Access Point (AP) is a hardware device or configured node on a local area network (LAN) that allows wireless capable devices to connect through a wireless standard. WAPs feature radio transmitters and antennae, which facilitate connectivity between devices and the Internet / network. An Access Point connects directly to a wired local area network, typically Ethernet, and the Access Point then provides wireless connections using wireless LAN technology, typically Wi-Fi, for other devices to use that wired connection. WAPs support the connection of multiple wireless devices through their one wired connection. Wireless Access Points employ two types of technologies MIMO and SISO.

4.2 **MIMO** stands for Multiple Input Multiple Output. In a MIMO system, multiple antennas are used for transmission and reception. MIMO systems achieve much higher data rates because of a technique used to transmit data simultaneously across multiple antenna. This technique is called spatial multiplexing. The use of multiple antennas in a MIMO system provides other benefits. The ability to make use of multiple antennas, each one at a slight angle, provides increased performance and resilience. Whereas, in a SISO (Single Input and Single Output) system, a single antenna is used for transmission and reception.

4.3 The Access Points are classifiable under the Customs Tariff Item 85176290 as their function involves reception and transmission of data.

The heading note of the Customs Tariff Heading (CTH) reads as follows: -

Heading 8517: Telephone sets, including Telephones for Cellular Networks or for other Wireless Networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528.

8517.62: Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus.

8517 62 10 --- PLCC equipment

8517 62 20 --- Voice frequency telephony

8517 62 30 --- Modems (modulators-demodulators)

8517 62 40 --- High bit rate digital subscriber line system (HDSL)

8517 62 60 --- Synchronous digital hierarchy system(SDH)

8517 62 70 --- Multiplexers, statistical multiplexers

8517 62 90 --- Other

Further, from the Tariff Schedule and relevant Notification, the applicable Duty structures are briefly summarized below:

Tariff Item	BCD	IGST	Remarks
85176290	20%	18%	Tariff rate
85176290 (With benefit of Sl.20 of Notification No.57/2017)	10%	18%	Benefit available only for products which are not enabled by MIMO and LTE.

4.4 Product specific data sheets were obtained from M/s. Zen Exim Private Limited in respect of the "Access Points of various models" imported by them. On perusal of the said data sheets, it is seen that the said imported "Access Points" are MIMO enabled.

4.5 Further, vide voluntary statements dated 02.12.2021, 07.04.2022 and 05.08.2023, Shri Mukesh M. Majithia, Technical Director of M/s. Zen Exim India Pvt. Ltd, had stated that all the "Access Points" imported by their Company are "MIMO enabled".

5. Analysis of Basic Customs Duty Notification No. 57/2017-customs dated 30.06.2017, as amended:

5.1 Vide Notification No.57/2017-Customs dated 30.06.2017, certain electronic goods with specific description falling under the Customs Tariff Item 85176290 were made eligible for duty benefit from the levy of Basic Customs Duty. Relevant serial number of the said Notification is reproduced hereunder:

Table

S. No.	Chapter or Heading or sub- heading or tariff item	Description of goods	Standard rate	Condition No.
(1)	(2)	(3)	(4)	(5)
8	Any Chapter	<p>Inputs or raw material for use in manufacture of following goods namely: -</p> <ul style="list-style-type: none"> (i) Other machines capable of connecting to an automatic data processing machine or to a network (8443 32 90) (ii) Ink cartridges, with print head assembly (8443 99 51) (iii) Ink cartridges, without print head assembly (8443 99 52) (iv) Ink spray nozzle (8443 99 53) (v) Base stations (8517 61 00) (vi) All goods falling under tariff item 8517 62 90 (vii) All goods falling under tariff item 8517 69 90 	Nil	1

5.2 Vide Notification No.75/2018- Customs dated 11.10.2018, the said Notification was amended as under:

Table

S. No.	Chapter or Heading or sub- heading or tariff item	Description of goods	Standard rate	Condition No.
(1)	(2)	(3)	(4)	(5)
20	8517 62 90	<p>All goods other than following goods, namely: -</p> <ul style="list-style-type: none"> (a) Wrist wearable devices (commonly known as smart watches) (b) Optical transport equipment (c) Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS) (d) Optical Transport Network (OTN) products (e) IP Radios 	10%	--
21	8517 69 90	All goods other than following goods, namely: -	10%	--

		<ul style="list-style-type: none"> (a) Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers (b) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching-Transport Profile (MPLS-TP) products (c) Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) products 		
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5.3 Further amendment was made to the said Notification No.57/2017-Customs dated 30.06.2017, vide Notification No. 02/2019-Customs dated 29.01.2019. Serial No.20 of the amended Notification is as under:

V. for serial number20 and the entries relating thereto, the following serial number and entry shall be substituted, namely: -

S. No.	Chapter or Heading or sub- heading or tariff item	Description of goods	Standard rate	Condition No.
(1)	(2)	(3)	(4)	(5)
20	8517 62 90 or 8517 69 90	<p>All goods other than the following goods, namely: -</p> <ul style="list-style-type: none"> (a) Wrist wearable devices (commonly known as smart watches); (b) Optical transport equipment; (c) Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS); (d) Optical Transport Network (OTN) products; (e) IP Radios; (f) Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers; (g) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS-TP) products; (h) Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) products 	10%	--

5.4 Further, vide Notification No.03/2021-Customs dated 01.02.2021, Serial No.20 was further amended to clarify the scope of the item(h) under the entry of above Notification. Consequently, item (h) i.e., "Multiple Input Multiple Output (MIMO) and Long Term Evolution (LTE) products" was separately

mentioned as two different items viz. item (h) Multiple Input/Multiple Output (MIMO) products and item (i) Long Term Evolution (LTE) products.

5.5 Vide Para No.21 of the TRU letter D.O.F.No.334/02/2020-TRU dated 01.02.2021 issued by the Central Board of Indirect Taxes and Customs, which explains the budgetary amendments made in respect of various Notifications which included the above Notification No.03/2021-Customs dated 01.02.2021, it was mentioned that the “Serial No. 20 of Notification No. 57/2017-Customs, is being amended to clarify the scope of the item (h) under the said entry. Consequently, item (h), i.e. “Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) products” is being separately mentioned in two different items (h) Multiple Input/Multiple Output (MIMO) products and (i) Long Term Evolution (LTE) products. These amendments are only clarificatory in nature. These items continue to attract 20% BCD, as before.”

5.6 Further, as per Serial No. 13 of similar Notification No. 24/2005-Cus dated 01.03.2005, as amended, existed earlier, the goods classifiable under Customs Tariff Heading 8517 were exempted from the payment of Basic Customs Duty, which was amended vide Notification No. 11/2014 dated 11.07.2014, wherein this benefit was disallowed to the following goods namely:

- (i) *Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers;*
- (ii) *Optical transport equipment, combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS), Optical Transport Network (OTN) products, and IP Radios*
- (iii) *Carrier Ethernet Switch, Packet Transport Node (PTN products, Multiprotocol Label switching Transport Profile (MPLS-TP) products;*
- (iv) *Multiple input / Multiple output (MIMO) and Long-Term Evolution (LTE)*

5.7 In the context of the above Notification, a letter No.528/15/2018-S.T.O (T.U) dated 24.07.2018 was issued by the STO (Tariff Unit), CBIC to The Technology Distribution Association of India (TDAI), Mumbai, wherein it was clarified that the duty benefit under the above said Notification No.24/2005-Customs dated 01.03.2005, as amended, is not available to “Access Points which have MIMO functionality” in response to the representation seeking clarification on the liability of Customs Duty on Access Point classifiable under

Customs Tariff Heading 8517 requested by the Technology Distribution Association of India (TDAI), Mumbai.

5.8 Thus, it appeared that, a reading of Serial No.20, Item (h) of Notification No.57/2017-Customs, as amended in conjunction with the clarification issued by the Board vide the above mentioned TRU letter, it becomes quite clear that the exemption of the Notification benefit is denied for two types of products i.e., MIMO Products and LTE products separately.

5.9 It also appeared that the above assertion is further strengthened by the clarification issued by the letter dated 24.07.2018 issued by the STO (Tariff Unit), CBIC to The Technology Distribution Association of India (TDAI), Mumbai, wherein it was clarified that the duty benefit under Notification No. 24/2005-Customs dated 01.03.2005, as amended, is not available to "Access Points which have MIMO functionality.

5.10 From the above, it appeared that the benefit of exemption Notification No.57/2017-Customs dated 30.06.2017, as amended, is not applicable for two types of products i.e., MIMO Products and LTE products.

5.11 Further, when the details of the imports pertaining to the said Importer were verified, it is found that the Importer had imported "Access Points of various models with MIMO technology" availing the benefit of the Notification No.57/2017-Customs dated 30.06.2017, as amended, during the period July' 2017 to December' 2018 mostly through Nhava Sheva, Mumbai and Air Cargo, Bombay. Thereafter, from January' 2019 onwards, it is seen that the Importer started importing "Access Points of various models with MIMO" through Air Cargo Complex, Ahmedabad, and ICD Sabarmati.

6. On further analysis of the said import data, it is seen that several Bills of Entry filed by the Importer were re-assessed. The details of the said re-assessed Bills of Entry as gathered from ICES database is as follows:

6.1 In respect of the Bill of Entry No.9340706 dated 20.12.2018 filed by the Importer through Air Cargo, Bombay, on perusal of ICES database it is seen that the items (i) NETWORKING EQUIPMENT E430W INDOOR (ROW) 802.11AC WAVE 2, 2X2, WALL PLATE WLAN AP WITH SINGLE GANG WALL BRACKET (ITEM NO. and (ii) NETWORKING EQUIPMENT E501S (ROW) OUTDOOR 2X2 INTEGRATED 11ACACCESS POINT (ITEM NO. PL-501S000A-RW)(SR-2018100286) were reassessed denying the exemption benefit under

Notification No.57/2017-Customs dated 30.06.2017, as amended. The Importer had paid the differential duty under protest.

6.2 Similarly in respect of the Bill of Entry No. 9427533 dated 20.12.2018 filed by the Importer through Air Cargo, Bombay, on perusal of ICES database it is seen that the item "NETWORKING EQUIPMENT E430W INDOOR (ROW) 802.11AC WAVE 2, 2X2, WALL PLATE WLAN AP WITH SINGLE GANG WALL BRACKET (ITEM NO." was reassessed denying exemption benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended. The Importer had paid the differential duty under protest.

6.3 In respect of the Bill of Entry No.9498830 dated 02.01.2019 filed at Air Cargo, Bombay, on perusal of ICES database it is seen that the items (i) AIRFIBER 5X, EU (AF-5X-EU) (NETWORKING EQUIPMENT) (WPC LICENSE NO. IMP(SR)/CAP.-4162/6725 DT. 05.11.2018), (ii) AIRGRID M5, 23DBI EU (AG-HP-5G23 EU) (NETWORKING EQUIPMENT)(WPC LICENSE NO. IMP(SR)/CAP.-4162/6725 DT. 05.11.2018), (iii) AIRGRID M5, 27DBI EU (AG-HP-5G27 EU) (NETWORKING EQUIPMENT)(WPC LICENSE NO. IMP(SR)/CAP.-4162/6725 DT. 05.11.2018) (iv) LITEBEAM 5AC, 23DBI, EU (LBE-5AC-23-EU) (NETWORKING EQUIPMENT) (WPC LICENSE NO. SR-2018100077/7089 DT. 15.11.2018) (v) LITEBEAM M5, 23DBI, AIRMAX CPE, EU (LBE-M5-23-EU)(NETWORKING EQUIPMENT) (WPC LICENSE NO. 19150 DT. 03.08.2018) and (vi) POWERBEAM M5, 400MM, EU (PBE-M5-400-EU) (NETWORKING EQUIPMENT) (WPC LICENSE NO. IMP(SR)/CAP.-4162/6725 DT. 05.11.2018) were re-assessed denying exemption benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended. Further, the Importer had requested to assess the said Bill of Entry on merit and paid 20% Duty.

6.4 Further, the Bill of Entry No.4923880 dated 16.09.2019 filed at Air Cargo Complex, Ahmedabad for import of the item "9C1-R310-WW02 R310-WW, 802.11AC DUAL BAND INDOOR AP,2X2:2, BEAMFLEX, 1-PO (WIRELESS NETWORKING ACCESS POINT) WR-2018105295" was re-assessed denying the exemption benefit under Serial No.20 of Notification No.57/2017-Customs dated 30.06.2017, as amended. The Importer vide his voluntary statement dated 08.05.2023 given under the provisions of the Customs Act, 1962 had stated that he had not contested the Department's stand and had paid the duty voluntarily.

6.5 Further, it also appeared that the following Bills of Entry filed at Arshiya - SEZ, Panvel (INPNV6) were re-assessed denying the exemption

benefit under Serial No.20 of Notification No.57/2017-Customs dated 30.06.2017, as amended.

Table-1

S. No	Bill of Entry No.	Date	Item description
1	2001781	25-02-2019	RUCKUS H320 802.11AC WAVE 2 DUAL-BAND CONCURRENT 2.4 GHZ (1X1:1) & 5 GHZ (2X2:2), WIRED/WIRELESS WALL SWITCH, MU-MIMO, BEAMFLEX+, 1 10/100/1000 & 2 10/100 ETHERNET ACCESS PORTS, POE IN. DOES NOT INCLUDE DC POWER SUPPLY.
2	2027730	16-12-2019	(NETWORKING ACCESS POINT) (WPC LIC NO. WR-2018105919 DT.22.08.2019, LIC SR NO.2) ITEMNO:C050900C471A, EPMP 1000: 5 GHZ FORCE 180 INTEGRATED (ROW) (INDIA CORD) COO: CHINA
3	2000978	15-01-2020	(NETWORKING ACCESS POINT) (WPC LIC NO. WR-2018106925 DT.23/09/2019 LIC SR NO.1) ITEMNO:C050910C401A, EPMP 5 GHZ FORCE 300-25 HIGH GAIN(ROW) (INDIA CORD) COO: CHINA

6.6 From the above, it can be seen that for certain Bills of Entry in respect of import of “Access Points of various models with MIMO”, the Importer was denied exemption benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended by the Notification No.75/2018-Customs dated 11.10.2018 and Notification No.02/2019-Customs dated 29.01.2019 and in all these cases, the Importer had paid the duty on merit rate. This only indicates the awareness of the Importer about the issue of the ineligibility of the duty benefit of Notification No.57/2017-Customs dated 30.06.2017, as amended, in respect of the import of “Access Points of various models with MIMO”.

7. Change of port of import:

7.1 On analysis of the past import data of the Importer, it is also seen that there were substantial imports of “Access Points of various models with MIMO technology” availing the benefit of Notification No.57/2017-Customs dated 30.06.2017, as amended during the period July, 2017 to December, 2018 through Nhava Sheva, Mumbai and Air Cargo, Bombay.

7.2 As discussed above, the importer was denied benefit of Notification No.57/2017-Customs dated 30.06.2017, as amended, in respect of several

Bills of Entry by the Customs Authorities of Nhava Sheva, Mumbai and Air Cargo, Bombay.

7.3 It is further seen that a Show Cause Notice No.885/2019-20/PCAO/CAC/JNCH dated 16.10.2019 was issued to the Importer by the Additional Commissioner of Customs, Audit Commissionerate (Circle-A1), JNCH, Nhava Sheva in respect of the Import of “Access Points with MIMO” availing the benefit of Notification No.24/2005-Customs dated 01.03.2005, as amended, through Nhava Sheva Port, Mumbai for the period 15.07.2015 to 13.10.2016. As mentioned above, Shri Mukesh M. Majithia, Technical Director of M/s. Zen Exim India Pvt. Ltd vide his voluntary statement dated 07.04.2022 has stated that they had received a Show Cause Notice from JNPT Customs in connection with availment of duty benefit under S.No.13 of Notification No.24/2005-Customs for the import of “Access Points”; that they had contested the said Show Cause Notice and that they had not made any differential Duty payment in the said issue.

7.4 Thereafter, from January' 2019 onwards it appeared that the Importer started importing “Access Points of various models with MIMO” mostly through Air Cargo Complex, Ahmedabad and ICD Sabarmati.

7.5 As already discussed above, the Importer was denied benefit of Notification No.57/2017-Customs dated 30.06.2017, as amended, in respect of Bill of Entry No.4923880 dated 16.09.2019 filed at Air Cargo Complex, Ahmedabad which was not contested by the Importer.

7.6 In this regard, it is pertinent to mention that majority of the Bills of Entry filed by the importer at Air Cargo Complex, Ahmedabad, and ICD Sabarmati for the import of “Access Points with MIMO” have been cleared through RMS under self-declaration.

7.7 Thus, it appeared that the Importer while having knowledge of the ineligibility of the benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended, for the import of “Access Points of various models with MIMO” despite various clarifications by the CBIC Board, STO (Tariff Unit), CBIC and TRU, tried different ports of Import with malafide intention to evade payment of Customs Duty.

8. From the foregoing discussion, the following points emerge:

8.1 The Importer appeared to be importing “Access Points of various models with MIMO” by wrongfully claiming duty benefit which they knew they were not eligible for and tried to suppress the said fact while they tried to hop to new ports of import, once the violations were made out at their existing place of imports.

8.2 The above findings become apparent in view of the fact that in respect of certain Bills of Entry pertaining to import of “Access Points of various models with MIMO”, the Importer was denied exemption benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended. Further, in respect of one such Bill of Entry (Bill of Entry No.9498830 dated 02.01.2019 filed at Air Cargo, Bombay), the Importer if he believed that the “Wi-Fi Access Points with MIMO technology” imported by them are eligible for the said benefit as he is claiming, he would not have accepted the re-assessment on merit and paid full 20% duty.

8.3 During January, 2019, the Importer appeared to have decided to stop importing from Nhava Sheva, Mumbai and Air Cargo, Bombay ports and started importing mainly from ICD Sabarmati and Air Cargo, Ahmedabad, as the duty benefit was denied in respect of the import of “Access Points of various models with MIMO at Nhava Sheva, Mumbai and Air Cargo, Bombay ports.

8.4 The Bill of Entry No.4923880 dated 16.09.2019 filed at Air Cargo Complex, Ahmedabad for import of the item “9C1-R310-WW02 R310-WW, 802.11AC DUAL BAND INDOOR AP,2X2:2, BEAMFLEX, 1-PO (WIRELESS NETWORKING ACCESS POINT) WR-2018105295” was re-assessed and the benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended, was denied. The Importer vide his voluntary statement dated 08.05.2023 given under the provisions of the Customs Act, 1962 had stated that he had not contested the Department’s stand and had paid the Duty voluntarily.

8.5. The Bills of Entry filed at Arshiya SEZ, Panvel, as mentioned in Table-1 above were re-assessed and the benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended, was denied. It appeared that the Importer had not contested the Department’s stand and had paid the Duty voluntarily.

8.6 Thus it appeared that the Importer had wrongly availed the benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended,

knowingly as evident from shifting the port of import as well as not contesting the re-assessment of Bills of Entry where the said Notification benefit was denied at different ports as mentioned above. Further, the Importer appeared to have blatantly reverted back to claiming benefit under the said Notification for the import of the subject goods even after accepting the denial of the said Notification by the Department on earlier occasions.

8.7 Further, during the current investigation being done by DRI, CZU for the period January 2019 to February 2021, the Importer despite shown with various clarifications on the said issue, had adamantly insisted that they are eligible for the duty benefit as his goods do not belong to the product category "MIMO and LTE", without any legal support to his argument. This further indicates their malafide intentions to evade duty despite knowing pretty well that they are ineligible for the said duty benefit and also without having any legal support.

8.8 Therefore, in light of the discussions in preceding paragraphs, the case appeared to be fit for invocation of extended period of 5 years under the provisions of Section 28(4) of the Customs Act, 1962.

9. In view of the above discussion, it appeared that the Importer, M/s. Zen Exim Private Limited (IEC : IEC-0801004845) had deliberately and wrongfully availed the duty benefit under Serial No. 20 of Notification No.57/2017-Customs dated 30.06.2017, as amended, in respect of the import of "Access Points with MIMO" with malafide intention to evade payment of Customs Duties. By doing so, the Importer appeared to have violated the provisions of the Customs Law as discussed below:

(i) As discussed in detail in Paras 4.1 to 7.7, it appeared that the Importer has imported the goods "Wi-Fi Access Points of various models with MIMO technology" by wrongly availing the benefit under the Serial No.20(h) of Notification No.57/2017-Customs dated 30.06.2017, as amended, by virtue of which lower Customs Duty has been paid by the Importer. Thus, it appeared that the subject imported goods which were imported by wrongly availing the benefit under the Notification No.57/2017-Customs dated 30.06.2017, as amended, do not correspond with the entry/declaration made while filing the Bills of Entry under the Customs Act, 1962 in as much as MIMO products are not eligible to be imported utilising the benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended. In view of the same, the subject goods imported vide the Bills of Entry mentioned in the Annexure-A to

Annexure-D appeared liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

(ii) In view of Sl. (i) above, it appeared that the Importer, by rendering the subject imported goods liable for confiscation under Section 111(m) of the Customs Act, 1962, had also made themselves liable for penalty under Section 112(a) of the Customs Act, 1962.

(iii) In view of the discussion in detail in Paras 8.1 to 8.8, it appeared that the duty, with respect to the import of the subject goods in question has been short paid by the Importer, by reasons of wilful wrong availment of duty benefit as well as suppression of facts that had come into light during investigation, and therefore, the Importer being liable to pay the outstanding duty, also appeared liable for penalty under Section 114A of the Customs Act, 1962.

(iv) In view of the above discussions, it appeared that the Importer had prior knowledge about the ineligibility of the benefit under the Serial No.20(h) of Notification No.57/2017-Customs dated 30.06.2017, as amended, in respect of the subject goods so much so that he had changed the ports of Import. Further, he had also agreed with the re-assessment of few Bills of Entry wherein the benefit under the Serial No.20(h) of Notification No.57/2017-Customs dated 30.06.2017, as amended, was denied in respect of the subject goods and paid the duty voluntarily. Further, it also appeared that the Importer had already received a Show Cause Notice dated 16.10.2019 for misuse of a similar Notification benefit in respect of the import of "Wi-Fi Access Points with MIMO technology of various models" from Additional Commissioner of Customs, Audit Commissionerate (Circle-A1), JNCH, Nhava Sheva. Despite giving many opportunities during the Investigation, the Importer did not provide any legal backing towards their claim till date. In view of the same, it appeared that the Importer knowingly and intentionally made false declaration so as to wrongly avail the duty benefit in order to evade duty payment and thereby had made themselves liable for penalty under Section 114AA of the Customs Act, 1962.

(v) Shri Mukesh M Majathia, being the Technical Director of M/s. Zen Exim Private Limited is the person having full knowledge about the technical aspects of the impugned goods imported by his Company and also is responsible for looking after the identification of the product lines and vendors who distribute their products. Further, it appeared that he has full knowledge

about the import of the subject goods by wrongly availing the benefit under the Notification No.57/2017-Customs dated 30.06.2017, as amended, having himself receiving a Show Cause Notice for a similar issue. In view of the same, it appeared that Shri Mukesh M Majathia has made himself liable for penalty under Section 112(a) and Section 114AA of the Customs Act, 1962.

10. Quantification of duty:

10.1 Based on the discussion supra and documents and details gathered during the investigation, it appeared that the Importer has wrongly availed the benefit under Serial No.20 of Notification No.57/2017-Customs dated 30.06.2017, as amended, for the import of “Access Points with MIMO Technology”.

10.2 The details in respect of the import of “Access Points with MIMO Technology” were obtained from the Importer for the period 01.02.2019 to 29.01.2021 and found that all the said imports were cleared through Air Cargo Complex, Ahmedabad, ICD Sabarmati, Arshiya SEZ, Panvel, Nhava Sheva Mumbai, Air Cargo Complex, Bombay and Air Cargo Complex, Delhi.

10.3 The impugned goods that were imported by wrongfully availing the benefit under Notification No.57/2017-Customs dated 30.06.2017, as amended, for the above said period were taken up for investigation and quantification of Duty.

10.4. A Show Cause Notice No. VIII/10-34/Commr/O&A/2022-23 dated 01.02.2023 proposing demand of Rs.8,84,38,134/- has been issued by Commissioner of Customs, Ahmedabad and Show Cause Notice No. VIII/10-78/ICD-Khodiyar/O&A/HQ/ dated 28.09.2022 proposing demand of Rs. 17,57,172/- has been issued by Additional Commissioner of Customs, Ahmedabad to M/s. Zen Exim Private Ltd. (IEC: 0801004845) in respect of imports made through Air Cargo Complex, Ahmedabad and ICD Sabarmati respectively on a similar issue.

10.5 In respect of the above said imports, and taking into account the above mentioned Show Cause Notices already issued to the Importer, the applicable BCD @20% was calculated along with the applicable SWS @10% and IGST@18% and the total Differential Customs Duty payable in respect of the said imports works out to Rs.3,11,07,446/- (Rupees Three Crore, Eleven Lakh, Seven Thousand, Four Hundred and Forty Six only) as detailed in the

Annexures-A, B, C and D to the Show Cause Notice and summarized as below in Table-2 to Table-5:

Table-2 (Differential BCD Calculation)

S. No.	Place of import	Total Assessable Value (in Rs.)	BCD paid @10%(in Rs.)	BCD payable @20% (in Rs.)	Total Differential BCD Payable (in Rs.)
1	ICD, Sabarmati (INSBI6)	17,63,53,353	1,76,35,335	3,52,70,670	1,76,35,335
2	Arshiya SEZ, Panvel (INPNV6)	6,15,73,543	61,57,354	1,23,14,709	61,57,354
3	Air Cargo Complex, Bombay (INBOM4)	17,29,856	1,72,986	3,45,971	1,72,986
	TOTAL	23,96,56,752	2,39,65,675	4,79,31,350	2,39,65,675

Table-3 (Differential SWS Calculation)

S. No.	Place of import	Total Assessable Value (in Rs.)	SWS paid @10%(in Rs.)	SWS payable @20% (in Rs.)	Total Differential SWS Payable (in Rs.)
1	ICD, Sabarmati (INSBI6)	17,63,53,353	17,63,534	35,27,067	17,63,533
2	Arshiya SEZ, Panvel (INPNV6)	6,15,73,543	6,15,735	12,31,471	6,15,735
3	Air Cargo Complex, Bombay (INBOM4)	17,29,856	17,299	34,597	17,299
	TOTAL	23,96,56,752	23,96,568	47,93,135	23,96,567

Table-4 (Differential IGST Calculation)

S. No.	Place of import	Total Assessable Value (in Rs.)	IGST paid @18%(in Rs.)	IGST payable @18% (in Rs.)	Total Differential IGST Payable (in Rs.)
1	ICD, Sabarmati (INSBI6)	17,63,53,353	3,52,35,400	3,87,27,196	34,91,796
2	Arshiya SEZ, Panvel (INPNV6)	6,15,73,543	1,23,02,394	1,35,21,550	12,19,156
3	Air Cargo Complex, Bombay (INBOM4)	17,29,856	3,45,625	3,79,877	34,251
	TOTAL	23,96,56,752	4,78,83,419	5,26,28,623	47,45,203

Table-5 (Differential Duty Calculation)

S. No.	Place of import	Total Assessable Value (in Rs.)	Total Duty Paid (in Rs.)	Total Duty payable (in Rs.)	Total Differential Duty Payable (in Rs.)
1	ICD, Sabarmati (INSBI6)	17,63,53,353	5,46,34,269	7,75,24,934	2,28,90,665
2	Arshiya SEZ, Panvel (INPNV6)	6,15,73,543	1,90,75,484	2,70,67,729	79,92,246
3	Air Cargo Complex, Bombay (INBOM4)	17,29,856	5,35,909	7,60,445	2,24,535
	TOTAL	23,96,56,752	7,42,45,662	10,53,53,108	3,11,07,446

11. The Importer submitted two Demand Drafts No.59440 dated 07.04.2022 for Rs.1,50,00,000/- and No.59441 dated 07.04.2022 for Rs.50,00,000/- (under protest) in favor of the Commissioner of Customs, Ahmedabad, totalling to Rs.2,00,00,000/- (Rupees Two Crore only) for payment towards differential duty pertaining to the import of "Access Points" by availing the benefit of Customs Notification No.57/2017-Customs dated 30.06.2017, as amended, for the period January, 2019 to January, 2021. The same were deposited into the account of the Commissioner of Customs, Ahmedabad vide TR-6 Challan dated 16.04.2022.

12. In the present case, the amount of duty evaded by the Importer in respect of imported goods cleared through, ICD Sabarmati, Arshiya SEZ, Panvel, and Air Cargo Complex, Bombay, the duty in respect of imported goods cleared through ICD Sabarmati is the highest. Therefore, the Commissioner of Customs, Ahmedabad having jurisdiction over ICD Sabarmati is the proper authority for issuing the Show Cause Notice in terms of Section 110AA of the Customs Act, 1962 read with Notification No.28/2022-Customs (N.T.) dated 31.03.2022, issued by CBIC.

13. Therefore, a Show Cause Notice bearing F.No. VIII/10-17/Commr./O&A/2023-24 dated 13.10.2023 was issued to the Importer viz. M/s. Zen Exim Private Limited (IEC-0801004845), Shakti-404[SF], Devang Soc., Opp. Patel Farm, S.G. High Way, Thaltej Cross Road, Bodakdev, Ahmedabad-380 054 asking them to Show Cause to the Principal Commissioner, Customs House, Ahmedabad, having his office at 1st Floor, Custom House, Navrangpura, Ahmedabad, Gujarat 380009, as to why:

(i) the Bills of Entry, as mentioned in Annexure-A to D to the Show Cause

Notice, filed for import of "Access Points with MIMO of various models" during the period February 2019 to January 2021 should not be reassessed and the benefit of Notification No. 57/2017-Customs dated 30.06.2017, as amended, should not be denied;

- (ii) the differential Duty, as mentioned in Annexure-A to D to this Show Cause Notice, amounting to Rs. 3,11,07,446/- (Rupees Three Crore, Eleven Lakh, Seven Thousand, Four Hundred and Forty Six only) should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 alongwith applicable interest under Section 28AA ibid and as to why the amount of Rs.2,00,00,000/- (Rupees Two Crore only) paid by them under protest should not be appropriated and adjusted towards the Duty liability as mentioned above;
- (iii) the goods i.e. "Access Points with MIMO of various models" imported under Bills of Entry, as mentioned in Annexure-A to D to the Show Cause Notice, having declared assessable value of Rs.23,96,56,752/- (Rs. Twenty Three Crore, Ninety Six Lakh, Fifty Six Thousand, Seven Hundred and Fifty Two only) should not be held liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962;
- (iv) penalty should not be imposed upon them under Section 112(a) of the Customs Act, 1962 for the goods mentioned at (iii) above;
- (v) penalty should not be imposed upon them under the provisions of Section 114A of the Customs Act, 1962 and
- (vi) penalty should not be imposed upon them under the provisions of Sections 114AA of the Customs Act, 1962.

14. The Show Cause Notice bearing F.No. VIII/10-17/Commr./O&A/2023-24 dated 13.10.2023 was also issued to Shri Mukesh M. Majithia, Technical Director of M/s. Zen Exim Private Limited (IEC-0801004845), Shakti-404[SF], Devang Soc., Opp. Patel Farm, S.G. High Way, Thaltej Cross Road, Bodakdev, Ahmedabad-380054 asking him to Show Cause to the Principal Commissioner, Customs House, Ahmedabad, having his office at 1st Floor, Custom House, Navrangpura, Ahmedabad, Gujarat 380009, as to why penalty should not be imposed on him under Section 112(a) & Section 114AA of the Customs Act, 1962.

15. Thereafter, the above show cause notice dated 13.10.2023 was transferred to Call Book, as the Customs Appeal No. 38/2023 filed by the department in an identical issue in the case of Commissioner of Customs, AIR, Chennai-VII Comm'te Vs. M/s. Ingram Micro India Pvt. Ltd. was pending before the Hon'ble High Court of Delhi for decision. The information regarding transferring of the subject show cause notice to Call Book was also intimated to the Importer vide letter dated 23.10.2023. The Hon'ble High Court of Delhi vide Judgment dated 13.01.2025 has dismissed the appeal filed by the department. Therefore, the show cause notice dated 13.10.2023 is retrieved from call book for adjudication.

DEFENCE:

16. M/s. Zen Exim Private Limited, Ahmedabad vide letter dated 30.11.2023 have submitted their defence reply to the above show cause notice dated 13.10.2023, under which they have interalia submitted that: -

16.1 They have always claimed the benefit under Notification No. 57/2017-Cus and non challenging the assessment in stray case does not tantamount accepting that the benefit of Serial No. 20 of Notification No. 57/2017 is not available to the Access Points With only MIMO. It may please be appreciated that claiming exemption under a Notification is their legal right, as per their understanding and claiming an exemption after issuance of a show cause notice does not make the act malafide. In fact, the fact of issue of show cause notice in 2019 shows that department is aware of the dispute between them and the department about interpretation of clause "MIMO and LTE Products". Therefore, extended period of limitation is not invocable, nor goods are liable to confiscation nor penalty is imposable.

16.2 Moreover, Additional Director General (Adjudication) DRI, New Delhi has accepted the fact vide Order-in-Original No. 05/VKP/ADG (Adj)/DRI/N. Delhi/2019-20 dated 28.11.2019 in respect of Brightstar Telecommunication India Ltd. that Access Points having only MIMO Technology but without LTE standard are eligible for the benefit of Notification.

16.3 Further, the issue has been set at rest by the Hon'ble Tribunal in the case of Commissioner of Customs (AIR) Chennai Vs. Ingram Micro India Pvt. Ltd. 2022-TIOL-882-CESTAT-DEL by dismissing the appeal filed by Revenue against Order-in-Original dated 23.12.2019 passed by ADG (Adj), DRI, New Delhi and by holding that Exclusion Clause uses the conjunction "and"

the word “product” is not used after the words “MIMO”. The Tribunal decided that “Thus the term Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) Products means products which contain both MIMO & LTE”.

16.3.1 The Tribunal has observed that Exclusion clause (iv) uses the conjunction “and” and, therefore, it can be urged that the scope of clause (iv) can be restricted to those products that have MIMO & LTE both and that the product that only has MIMO technology may, therefore, be not covered by this exclusion clauses.

16.3.2 The Tribunal has, further, observed that “and” is a conjunctive and is used to connect and join. Moreover, the word “products” is not used after the words “Multiple Input/Multiple Output (MIMO)”.

16.3.3 Admittedly Wireless Access Points imported by them are having only MIMO Technology and not having LTE Standard. Further, the Exclusion clause is similarly worded. Therefore, the decision of the Hon’ble Tribunal is squarely applicable to the import of Wireless Access Points imported by them and the benefit of Notification No. 57/2017-Cus dated 30.06.2017 [Sl. No. 20] is available. The Exclusion clause (h) is not applicable as Wireless Access Point, imported by them, works on MIMO technology and does not support LTE Standard.

16.4 The Hon’ble Tribunal, again in the case of Commissioner of Customs (Import), A.C.C., Mumbai Vs. Beetal Teletech Ltd., has dismissed the Department’s Appeals vide Final Order No. 51447-51448/2023 dated 30.10.2023 holding that Wireless Access Points with only MIMO Technology are not excluded from the benefit of exemption notification. The Tribunal has held that “the term ‘Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) Products, means products which contain both MIMO and LTE.”

16.4 It is reiterated that clause (h) excludes MIMO and LTE products only. It is, thus, apparent that only if imported product consists of both MIMO technology and LTE standard, then such product will be not eligible for concessional rate of duty. If the imported product consists only MIMO technology and not LTE standard, the exclusion clause would not apply. This view is strengthened from the fact that in clause (h), word “AND” has been used which clearly shows that the imported product must have both MIMO technology and LTE standard.

16.5 It is evident that amending Notification No. 3/2021-Customs dated 01.02.2021 has substituted clause (h) and has not added any Explanation to clause (h) to the effect that the amending notification is a clarificatory one. In absence of any mention in Notification that the substitution is of clarificatory nature, the department cannot claim that the amendment is only clarificatory.

16.6 Moreover, the amending Notification No. 3/2021 comes into force on 02.02.2021, as per para 2 of the said Notification. In view of such specific declaration in the Notification itself, it cannot be applied retrospectively to goods imported prior to issuance of Notification.

16.7 It is not in dispute, that all the bills of entry involved were assessed and duty was deposited and goods were cleared out of the customs charge. The Assessment Order had not been challenged by the department by filing appeal under Section 128 of the Customs Act. Therefore, the assessment of all bills of entry have attained finality and the same cannot be re-opened by issuing a show cause notice under Section 28 of the Customs Act. In this regard they have relied on the judgment of the Supreme Court in the case of ITC Ltd. Vs. CCE [2019 (368) ELT 216 (S.C.)].

16.8 The contention in show cause notice that in self assessment, onus is on them to determine the tax liability correctly is without any substance. It may please be appreciated that the self assessment is subject to verification by the Proper Officer who has the power to reassess the goods under Section 17 (4) of the Customs Act. Further claiming a particular classification or claiming exemption under a Notification is a matter of belief of the importer.

16.9 No Notification/Order issued by the Board under Section 5 has been mentioned in show cause notice assigning the functions performed under Customs Act in respect of Arshiya SEZ Panvel and Air Cargo Complex, Mumbai. For want of assignment of functions under Customs Act in respect of these two areas to the Adjudicating Authority by the Board, it is submitted that show cause notice demanding duty in respect of clearance of goods at Arshiya SEZ, Panvel and A.C.C. Mumbai is beyond the jurisdiction of the present Adjudicating Authority.

16.10 Non-filing of appeal in one or two stray cases, does not mean that they did not believe about the eligibility of Notification in respect of Access Points. They have been claiming exemption since long at every port of import and filed appeal even before the Appellate Tribunal. Above all, the quasi

judicial Authority in DRI and Appellate Tribunal have held that benefit of notification is available to Access Points with only MIMO Technology and not having LTE Standard.

16.11 The entire show cause notice is hit by time limit specified in Section 28(1) of the Customs Act since the notice has been issued on 13.10.2023 in respect of assessment Orders on Bills of Entry for the period February, 2019 to January, 2021. The entire demand of duty is beyond the normal period and extended period of limitation is not invocable as neither there was any wilful mis-statement nor any suppression of facts.

16.12 The Department has issued show cause notices No. (1) VIII/10-34/Commr/O&A/2022-23 dated 01-02-2023 and (2) VIII/10-78/ICD/Khod/O&A/HQ/2022-23 dated 28-09-2022 for denying the concessional duty in respect of Wireless Access Point imported by the Importer during the same period from Air Cargo Complex, Ahmedabad and I.C.D. Khodiyar, Ahmedabad respectively. It is well settled position of law that the show cause notice for the same period for the same issue can not be issued invoking the extended period.

16.12.1 The Hon'ble Supreme court has held in case of Nizam Sugar Factory Vs Collector of Central Excise A.P. -2006 (197) ELT 465 (SC) "When the first SCN was issued all the relevant facts were in the knowledge of the authorities. Later on, while issuing the second and third show cause notices the same/similar facts could not be taken as suppression of facts on the part of the assessee as these facts were already in the knowledge of the authorities."

16.13 It is settled law that when the department is aware of the facts, wilful mis-statement and suppression of facts cannot be alleged. The Supreme Court has held in Pushpam Pharmaceuticals Company Vs. CCE, 1995 (78) ELT 401 (S.C.) that "when facts are known to both the parties, the omission by one to do what he might have done and not that he must have done, does not render it suppression of facts."

16.14 They have bona fide belief that the impugned goods imported by them are eligible for the benefit of concessional rate of duty. This belief has been upheld by the Hon'ble Tribunal and Quasi Judicial Authorities in the department. It is settled law that when the assessee holds the bona fide belief, mala-fide intention cannot be alleged. The Supreme Court has held in Chamundi Die-Casting (P) Ltd. Vs. CCE, 2007 (215) ELT 169 (S.C.) that there is

no intent to evade duty as the assessee acted on bona fide belief that these goods were covered by exemption notification.

16.15 The goods imported by them are not liable for confiscation under Section 111(m) of the Customs Act since there was no mis-statement and suppression of facts with regard to classification of goods. There was no submission of false declaration and the benefit of concessional duty under Serial No. 20 of Notification No. 57/2017 has been rightly and legally availed of. The stand taken by them has been found to be correct by the Hon'ble Tribunal and by the Quasi-judicial authorities in department.

16.16 Penalty under Section 112(a) can be imposed only if the goods are liable to confiscation. Since provisions of Section 111(m) are not applicable in the present matter as both description of goods and value of the goods have been declared correctly, penalty under Section 112(a) is not imposable. Further claiming an exemption would not amount to a false declaration under Section 114AA of the Act.

16.17 It is settled law that when issue involved is one of interpretation, penalty is not imposable. The Supreme Court in Uniflex Cables Ltd. Vs. CCE, 2011 (271) ELT 161 (S.C.), has held that in a case of interpretational natures, no penalty could be and is liable to be imposed upon the Appellants.

16.18 The penalty under Section 112(a) and Section 114AA of the Customs Act is not imposable on Shri Mukesh M. Majathia, Director. The DRI Chennai which has investigated the present matter, is fully aware of the fact that an Adjudicating Authority in DRI [i.e. ADG, DRI, New Delhi] has allowed the benefit of duty exemption to Wireless Access Points only with MIMO Technology and the said Order has been upheld by the Tribunal. In view of these facts, there is no substance in claiming that the Director of the Importer was aware about the ineligibility of said duty exemption and made intentionally false declaration. Once the issue has been settled in favour of them, the bonafide belief of them is affirmed, no malafide can be attributed to the Director.

16.19 Since the goods imported by them are not liable to confiscation under Section 111(m) of the Customs Act, provisions of Section 112(a) are not applicable.

16.20 In view of the above submissions and in view of the decisions of the Hon'ble Tribunal, they have prayed that the show cause notice may please be vacated and all further proceedings against them and Director may please be dropped. The Importer and Director both wished to be heard before the adjudication of show cause notice.

PERSONAL HEARING:

17. Personal hearing was held on 09.10.2025 wherein Shri V.K. Agrawal, Advocate appeared for personal hearing virtually (online mode) on behalf of both the Importer and Shri Mukesh M. Majithia, Technical Director. He reiterated the contents of their written submission dated 30.11.2023 and requested to consider the said submissions. He further submitted that he would send copy of the judgements passed by the Hon'ble Delhi High Court in respect of the product Wireless Access Point, wherein the Hon'ble High Court has dismissed the appeals filed by the Department. Accordingly, the importer vide email dated 16.10.2025 has submitted copy of the following judgments passed by the Hon'ble High Court of Delhi in respect of the product Wireless Access Point:

- (i) Commissioner of Customs, AIR Chennai-VII Commissionerate Vs. Ingram Micro India Pvt. Ltd. [(2025) 26 Centax 347 (Del.)]
- (ii) Commissioner of Customs, AIR Chennai-VII Vs. Redington (India) Ltd. [(2025) 28 Centax 173 (Del.)]
- (iii) Commissioner of Customs (Import) Vs. Beetal Teletech Ltd. [(2025) 29 Centax 52 (Del.)]
- (iv) Principal Commissioner of Customs Vs. Go Ip Global Services Pvt. Ltd. [(2025) 29 Centax 319 (Del.)]
- (v) Commissioner of Customs, AIR Chennai-VII Vs. Compuage Infocom Ltd. [(2025) 31 Centax 131 (Del.)]

FINDINGS:

18. I have carefully gone through the show cause notice dated 13.10.2023, defence reply submitted by the Importer and relevant case records.

19. The core issues before me for decision in the present case are as under:

- (i) Whether the Bills of Entry, as mentioned in Annexure-A to D to the Show Cause Notice, filed for import of "Access Points with MIMO of various models" during the period February 2019 to January 2021 should be reassessed and the benefit of Notification No. 57/2017-Customs dated 30.06.2017, as amended, should be denied?
- (ii) Whether the differential Duty, as mentioned in Annexure-A to D to this Show Cause Notice, amounting to Rs. 3,11,07,446/- (Rupees Three Crore, Eleven Lakh, Seven Thousand, Four Hundred and Forty Six only) should be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962 alongwith applicable interest under Section 28AA ibid and whether the amount of Rs.2,00,00,000/- (Rupees Two Crore only) paid by them under protest should be appropriated and adjusted towards the Duty liability as mentioned above?
- (iii) Whether the imported goods i.e. "Access Points with MIMO of various models" imported under Bills of Entry, as mentioned in Annexure-A to D of the Show Cause Notice, having declared assessable value of Rs.23,96,56,752/- (Rupees Twenty Three Crore, Ninety Six Lakh, Fifty Six Thousand, Seven Hundred and Fifty Two only) is liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962?
- (iv) Whether penalty should be imposed upon the Importer under Section 112(a), Section 114A and Section 114AA of the Customs Act, 1962?
- (v) Whether penalty should be imposed upon Shri Mukesh M. Majithia, Technical Director of the Importer under Section 112(a) and Section 114AA of the Customs Act, 1962?

20. The brief issue involved in the instant case is that the Directorate of Revenue Intelligence, Chennai Zonal Unit, on a specific intelligence, initiated an inquiry against the Importer for wrong availment of concessional rate of duty under Serial No. 20 of Notification No.57/2017-Customs, dated 30.06.2017, as amended. The investigation revealed that the Importer had imported "Access Points of various models with MIMO Technology" falling under Customs Tariff Item 85176290 of the Customs Tariff Act, 1975, by wrongly availing the benefit of concessional rate of duty under Serial No. 20 of Notification No.57/2017-Customs, dated 30.06.2017, as amended, during the

period 30.01.2019 to 02.02.2021. The Importer filed Bills of Entry, as mentioned in Annexure-A to Annexure-D to the show cause notice, at various ports viz. ICD, Sabarmati (INSBI6), Arshiya SEZ, Panvel (INPNV6) and Air Cargo Complex, Bombay (INBOM4), and got cleared the imported goods on payment of Basic Customs Duty at the concessional rate of 10% by wrongly availing the duty benefit under Serial No. 20 of Notification No.57/2017-Customs, dated 30.06.2017, as amended. As per Item (h) of Serial No. 20 of Notification No.57/2017-Customs, dated 30.06.2017, as amended, the benefit of concessional rate of BCD is not available to "Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) products". Therefore, it was alleged that the imported goods viz. "Access Points of various models with MIMO Technology" is not eligible for concessional rate of BCD and the importer is required to pay BCD @ 20% in respect of the Bills of Entry, as mentioned in Annexure-A to Annexure-D of the show cause notice.

20.1 However, the importer has contented that Wireless Access Points imported by them are having only MIMO Technology and not having LTE Standard; that the Item (h) of Serial No. 20 of Notification No.57/2017-Customs, dated 30.06.2017, as amended, excludes MIMO and LTE products only i.e. the products which contain both MIMO and LTE, therefore, the exclusion clause (h) is not applicable to their imported product viz. Wireless Access Point, as their product works on MIMO technology and does not support LTE Standard.

20.2 I find that Serial No. 20 of Notification No.57/2017-Customs, dated 30.06.2017, was amended vide Notification No.03/2021-Customs dated 01.02.2021 and under the said Notification, "**Item (h) Multiple Input Multiple Output (MIMO) and Long Term Evolution (LTE) products**" was substituted with two different items viz. "**Item (h) Multiple Input/Multiple Output (MIMO) products**" and "**Item (i) Long Term Evolution (LTE) products**". Therefore, the Importer has stopped availing the benefit of concessional rate of BCD under Serial No.20 of Notification No.57/2017-Customs dated 30.06.2017, as amended, in respect of the imported goods viz. "Access Points of Various Models with MIMO Technology" post the said Notification No.03/2021-Customs dated 01.02.2021.

21. Now, I proceed to examine the issues to be decided by me one by one in the light of the records of the case and the submissions made by the Importer.

21.1 I find that in the instant case, the Importer has imported various models of Access Points (AP) or Wireless Access Points (WAP) with MIMO Technology which do not support LTE. It would, therefore, be appropriate to describe about WAP, MIMO and LTE:

- (i) WAP or AP : Wireless Access Point (WAP) or Access Point (AP) is a networking device that creates a wireless local area network (WLAN) by broadcasting a wireless signal, allowing Wi-Fi-enabled devices like laptops and smart phones to connect to a wired network without cables.
- (ii) MIMO: Multiple-Input Multiple-Output (MIMO), is a wireless communication technology that uses multiple antennas at both the transmitter and receiver to improve signal quality, increase network capacity, and boost data rates. This increases the chances of the data reaching the receiver without being corrupted by fading, leading to a higher signal-to-noise ratio, lower error rates, and a more reliable and faster connection.
- (iii) LTE: Long-Term Evolution (LTE) is a standard for wireless broadband communication for cellular mobile devices and data terminals. The main goal of LTE is to provide a high data rate, low latency and packet optimized radio access technology supporting flexible bandwidth deployments.

Notification No. 24/2005-Customs as amended by Notification No. 11/2014-Customs

21.2 I find that in an identical issue, the Additional Director General, DRI, Bangalore Zonal Unit had issued a Show Cause Notice dated 13.12.2018 to M/s. Ingram Mirco India Pvt. Ltd. (M/s. IMIPL) after conducting an investigation. In the said case, M/s. IMIPL had imported Wireless Access Points with MIMO facility availing the benefit of exemption under Serial No. 13 of Notification No. 24/2005-Customs dated 01.03.2005, as amended by Notification No. 11/2014-Customs. As per exclusion clause (iv) of Serial No. 13 of Notification No. 24/2005-Customs, as amended, "*Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) Products*" are not eligible for exemption of BCD. Therefore, it was alleged that the imported goods viz. Wireless Access Points with MIMO facility falls under the said exclusion clause (iv) and hence the said goods are not eligible for the exemption benefit of BCD under Serial No. 13 of Notification No. 24/2005-Customs dated 01.03.2005, as amended. However, M/s. IMIPL contended that their product Wireless Access Points works on MIMO technology, but does not support Long Term Evolution (LTE), therefore, the said product does not fall under the exclusion clause (iv). The said Show Cause Notice dated 13.12.2018 was adjudicated by the Additional Director General (Adjudication), DRI, New Delhi, vide Order-in-Original dated 23.12.2019 wherein the proceedings initiated against M/s. IMIPL under the Show Cause Notice was dropped. The adjudicating authority

in the said Order-in-Original has held that the WAPs imported by M/s. IMIPL, which solely utilized the MIMO technology, were eligible for exemption under Serial No. 13, Exclusion Entry (iv), of Notification No. 24/2005-Customs dated 01.03.2005, as amended. The adjudicating authority observed that the language of the exclusion clause was clear and unambiguous, and the phrase "MIMO and LTE products" referred exclusively to products that used both the technologies together. The Adjudicating Authority also acknowledged that M/s. IMIPL had provided all the necessary information in its declarations and bills of entry, which clearly identified the imported WAPs as MIMO-enabled products, therefore, rejected the allegations of willful suppression of facts or misrepresentation by M/s. IMIPL.

21.3 The aforesaid Order-in-Original dated 23.12.2019 was reviewed by the Committee of Chief Commissioners, New Delhi vide Review Order No. 20/2019-20 dated 18.03.2020. Accordingly, the department filed an appeal before the Hon'ble CESTAT, New Delhi, inter alia contending that the word "and" used in the exclusion entry (iv) of Serial No. 13 should be interpreted disjunctively, thereby denying exemptions to products operating either on MIMO technology or LTE standards and that the expression "products" appearing after LTE has to be read with MIMO as well since the expression "products" is a common factor for both MIMO and LTE. The Hon'ble CESTAT, New Delhi, vide Final Order No. 50831/2022 dated 12.09.2022 [2023 (383) E.L.T. 455 (Tri.-Del)] dismissed the appeal filed by the department and upheld the Order-in-Original dated 23.12.2019 passed by the Additional Director General (Adjudication), DRI, New Delhi. The Hon'ble CESTAT, New Delhi under the said Final Order observed that the word "and", as used in exclusion entry (iv) of Serial No. 13, is conjunctive and must be interpreted strictly to refer to products employing both MIMO and LTE technologies together. The relevant paras of the Final Order No. 50831/2022 dated 12.09.2022 are reproduced as under:

"16. A bare perusal of the exclusion clause (iv) under SI. No. 13 of notification shows that it covers MIMO and LTE products. The sole dispute in this appeal is whether this exclusion clause covers products having only MIMO technology and not working on LTE standard. Exclusion clause (iv) uses the conjunction 'and' and, therefore, it can be urged that the scope of clause (iv) can be restricted to those products that have MIMO and LTE both and that the product that only has MIMO technology may, therefore, not be covered by this exclusion clause and, therefore, may not be excluded from the scope of Serial No. 13.

17. The contention of the Department is that 'and' should be read as 'or' in clause (iv) so that it would cover MIMO products or LTE products. The contention advanced on behalf of Ingram Micro is that since the exclusion clause (iv) uses the conjunction 'and' its scope would be restricted to those

products that have both MIMO and LTE. Thus, according to *Ingram Micro* a product that has only MIMO technology would not be covered by the exclusion clause and, therefore, would not be excluded from the scope of Serial No. 13 (iv).

18. The submission advanced by learned counsel for the respondent deserves to be accepted. 19. It needs to be remembered that 'and' is a conjunctive and is used to connect and join. The dictionary meaning of 'and' is as follows.

"The New International Webster's Comprehensive Dictionary of the English Language: And: Also; added to; as well as; a particle denoting addition, emphasis, or union, used as a connective between words, phrases, clauses, and sentences; shoes and ships and sealing wax..."

Or: Introducing an alternative: stop or go: red or white.

Oxford Dictionary of English, Third Edition: And: Used to connect words of the same part of speech, clauses or sentences, that are to be taken jointly; bread and butter they can read and write a hundred and fifty.

Or: Used to link alternatives: a cup of tea or coffee are you coming or not either take taxis or walk everywhere...

Collins Cobuild English Dictionary for Advanced Learners: And: You can use and to link two or more words, groups, or clauses. When he returned, she and Simon had already gone...

Or: You can use 'or' to link two or more alternatives. Tea or coffee?...

Cambridge Advanced Learners Dictionary, Fourth Edition: And: Used to join two words, phrases, parts of sentences, or related statements together: Ann and Jim; Boys and Girls; Knives and Forks And/ or used to mean that either one of two things or both of them is possible: Many pupils have extra classes In the evenings and/or at weekends. Or: Used to connect different possibilities. is it Tuesday or Wednesday today?"

20. It is also seen that the word 'products' is not used after the words 'Multiple Input/Multiple Output (MIMO)'. In fact, 'and' is used after the words 'Multiple Input/Multiple Output (MIMO)'. It is seen that in entry (iii) of the same Serial No. 13 of notification, every technology is followed by the word 'products':

"Cartier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching-transport Profile (MPLS-TP) products;"

21. Learned special counsel for the appellant contended that clause (iv) would effectively mean and cover two categories of products, namely, (i) Multiple Input/multiple Output (MIMO) products and (II) Long Term Evolution (LTE) products and that MIMO products and LTE products are products which have distinct identities. Learned special counsel also contended that the expression 'Multiple Input/Multiple Output (MIMO)' appearing before 'and' does not, by itself, mean anything unless it is followed by expressions like 'technology' or 'products'. Since the exception carved out has to be 'goods', this expression has to be interpreted to connote products based on MIMO technology. Thus, the expression 'products', appearing after 'LTE' has to be read with 'MIMO' to mean and cover MIMO products. Further, 'products' being the common factor for both MIMO technology and LTE standard, the expression 'and' has been used in a conjunctive way to cover individually MIMO products and LTE products. Learned special counsel, therefore, contended that as there are only two types of products at Serial No. 13 (iv), the conjunctive 'and' has been used without using the term

'products' twice. There is, therefore, no ambiguity and the expression 'Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) Products" denotes Multiply Input/Multiple Output (MIMO) products on the one hand and Long Term Evolution (LTE) products on the other. There is, therefore, no need to refer to the World Trade Organisation ITA.

22. Though it is correct that clause (iv) would effectively mean include two categories of products namely MIMO and LTE and that they have distinct identities, but it is not possible to accept the Contention advanced by learned special counsel for the Department that MIMO does not by itself mean anything unless it is followed by the expressions 'technology' or 'products' and, therefore, since the exception carved out has to be 'goods', this expression has to be Interpreted to connote products based on MIMO technology. 23. What needs to be remembered is that MIMO is a technology and cannot be treated as an independent product. If the intention was to exclude even products having only MIMO technology, then the word 'products' should have been used after MIMO as well as after LTE. It, therefore, follows that the scope of 'products' excluded by entry (iv) would be products which use both MIMO and LTE. Thus, the term 'Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) Products' means products which contain both MIMO and LTE. This view finds support from the following decisions.

27. This apart, what also needs to be noted is that India is a signatory to the Information Technology Agreement 18 dated 13.12.1996 by the World Trade Organization. The ITA requires each participant to eliminate and bind customs duties at zero for all products specified in the Agreement. India signed the Agreement on 01.07.1997. Pursuant to ITA, India introduced the notification. At the time of introduction, all goods falling under CTH 8517 were exempted from payment of duties. In 2014, on specified telecommunication products that were not covered under the ITA, the Government imposed customs duties by notification dated 11.07.2014. The Finance Minister's Budget Speech for the year 2014-15 and Tax Research Unit letter dated 10.07.2014 clarify that BCD on specified telecommunication products not covered under the ITA was being increased from NIL to 10%. As WAP is an Information Technology product and is specifically covered under the ITA as 'Network Equipment' in Attachment B, the intention was clearly not to exclude WAP imported by Ingram Micro. The Network Equipment as defined in Annexure-B includes LAN and Wide Area Network 19 apparatus, including those products dedicated for use solely or principally to permit the interconnection of automatic data processing machines and units thereof for a network that is used primarily for the sharing of resources such as central processor units, data storage devices and input or output units - including adapters, hubs, in- line repeaters, converters, concentrators, bridges and routers, and printed circuit assemblies for physical incorporation into automatic data processing machines and units thereof. Imported WAP is a networking equipment working in LAN connecting Wi-fi enabled devices such as laptops, smart phones, tablets, etc. to a wired network. Thus also, imported WAP is entitled to the exemption from the whole of the customs duties under the ITA.

29. It has been stated that the investigation by the DRI was not only against Ingram Micro but few other importers of these goods also and the proceedings initiated against other importers was dropped but appeals have not been filed by the Department.

30. The aforesaid discussion leads to be inevitable conclusion that WAP imported by the appellant works on technology and does not support LTE standard. Ingram Micro was, therefore, justified in claiming exemption from the whole of the customs duty under Serial No. 13(iv) of the notification.

There is, therefore, no infirmity in the order dated 23.12.2019 passed by the Additional Director.

31. Such being the position, it would not be necessary to examine the other contentions raised by the learned counsel for the respondent, including the submission relating to the invocation of the extended period of limitation.

32. The appeal filed by the Department, therefore, deserves to be dismissed and is dismissed..."

21.4 Being aggrieved by the above Final Order No. 50831/2022 dated 12.09.2022 passed by the Hon'ble CESTAT, New Delhi, the department filed an appeal before the Hon'ble High Court of Delhi, challenging the Hon'ble CESTAT's interpretation of the exclusion entry (iv) of Serial No. 13 of the amended Notification No. 24/2005 and its findings on the eligibility of the imported MIMO-enabled WAPs for exemption from customs duty. The Hon'ble High Court of Delhi, vide Order dated 13.01.2025 [(2025) 26 Centax 347 (Del.)] dismissed the appeal filed by the department and upheld the Final Order No. 50831/2022 dated 12.09.2022 passed by the Hon'ble CESTAT, New Delhi. The Hon'ble High Court of Delhi under the said order held that "MIMO and LTE Products" in Serial No. 13(iv) of the amended Notification No. 24/2005 applies solely to products combining MIMO technology and LTE standards, accordingly, the WAPs imported by M/s. IMIPL, which employ MIMO technology but not the LTE standards, are entitled to the exemption from Basic Customs Duty. The relevant paras of the said order are reproduced hereunder:

"36. The phrase „MIMO and LTE Products” is at the heart of the dispute, specifically the interpretation of the word ‘and’. The disagreement is whether the said phrase means and includes:

- (i) only the products combining both MIMO technology and LTE standard; or*
- (ii) the products using either MIMO technology or LTE standard, independently.*

37. A closer examination of Serial No. 13 of the amended Notification No. 25/2005 reveals that wherever the Central Government intended to specify products individually, the terms such as "products", "equipment" or the nomenclature of a specific product have been mentioned after the respective technology or feature. In this regard, we may again take note of the four exclusion entries in Serial No. 13, which are as under:

- (i) soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers;*
- (ii) optical transport equipments, combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS), Optical Transport Network (OTN) products, and IP Radios;*
- (iii) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching- Transport Profile (MPLS-TP) products;*

(iv) *Multiple Input/Multiple Output (MIMO) and Long Term Evolution (LTE) Products.*

38. For instance, the entry (i) of Serial No. 13 pertains to 'equipment' which have both 'soft switches' and 'Voice over Internet Protocol'. It is followed by a list of such products that includes (1) VoIP phones, (2) media gateways, (3) gateway controllers and (4) session border controllers. Thus, it is to be noted that the word 'and' has been used between 'soft switches' and 'Voice over Internet Protocol', followed by the word 'equipment', to refer to one class of products.

39. In entry (ii) of Serial No. 13, four categories of products have been mentioned. These are:

- (1) Optical Transport Equipment
- (2) POT Product(s) or POT Switch(es)
- (3) OTN Products
- (4) IP Radios

40. Therefore, every technology or feature is followed by words such as 'equipment' or 'product(s)' or specific products such as 'radios'. The word 'or' has been specifically used in the same entry, while referring to either Packet Optical Transport Product(s) or Packet Optical Transport Switch(es).

41. Further, the entry (iii) of Serial No. 13 pertains to three categories of products which are as under:

- (1) Carrier Ethernet Switch
- (2) PTN Products
- (3) MPLS-TP Products

42. Thus, again, every technology or feature is followed by words such as 'products' or a specific product such as 'switch'.

43. It is clear from the aforesaid that the Central Government has appropriately and purposefully used terms such as 'and', 'or', 'products' and 'equipment', along with commas, to ensure precise and unambiguous categorization.

44. In this background, when entry (iv) of Serial No. 13 – which refers to "MIMO and LTE Products" – is examined, we note that there is a clear absence of word 'products' after 'MIMO', as the same has been put after the word 'LTE'. To put it differently, the word 'products' has been put after the words 'MIMO and LTE', thereby indicating that "MIMO and LTE Products" includes those products which work on both MIMO technology and LTE standard.

45. The interpretation advanced by the Revenue is that the phrase "MIMO and LTE Products" includes three categories – (i) products using MIMO but not LTE, (ii) products using LTE but not MIMO, and (iii) products using both MIMO and LTE. In the written submissions filed on behalf of the Revenue, it has been asserted that the grammatically, the only possible way to fulfil this intention was to add the word 'and' between 'MIMO' and 'LTE' and then suffix the term 'products' after 'MIMO and LTE' as the same would have the meaning of 'MIMO product and LTE product'.

46. However, in our opinion, the aforesaid contention is unmerited. If the intention of the Central Government was to include products utilizing either MIMO technology or LTE standard or both, the phrase 'MIMO or LTE Products' could have been used. The use of the conjunction 'or' would have

naturally encompassed all products with either of the two technologies/standards, and also those products which combine both. There would have been no need to use 'and' in place of 'or', as the latter would inherently fulfill the purpose of including all such categories. To explain in simpler terms, the phrase "MIMO or LTE Products" would mean – products having MIMO technology or products having LTE standard. A product having MIMO technology can have many other technologies, standards, etc., which may also include LTE standard. Similarly, a product having LTE standard can have many other technologies, standards, etc., which may also include MIMO technology. Thus, the phrase 'MIMO or LTE Products' would have included the categories of products, which the Revenue is projecting before this Court.

47. Moreover, in earlier entries of the same notification, such as Serial No. 13 (ii) and (iii), the word 'or' has been used wherever appropriate to denote alternatives. Similarly, commas have also been employed to demarcate distinct categories of products. Had the intention been to use 'and' in a disjunctive manner in entry (iv) of Serial No. 13, the phraseology could also have been easily drafted as follows: 'MIMO Products and LTE Products', or 'MIMO Products and/or LTE Products', or 'MIMO Products or LTE Products'. These products could also have been separated by use of commas, such as by drafting the same as 'MIMO Products, LTE Products' or 'MIMO Products, and LTE Products'. However, the same has not been done in the exclusion entry in question.

48. As noted in the preceding discussion, MIMO is a technology and LTE is a standard. Concededly, the case of Revenue is that "MIMO and LTE Products", *inter alia*, includes "products which work on LTE standard and have MIMO technology". Thus, it is not disputed that there exist products which embody both MIMO technology and LTE standard.

49. At this juncture, we note that as a general rule of interpretation, when the words of a statute are clear, plain and unambiguous, it is necessary to expound those words in their natural and ordinary sense. Further, it is also well-settled that a taxing statute has to be interpreted in light of what is clearly expressed. In this regard, it would be apposite to take note of some observations of the Hon'ble Supreme Court in *Union of India & Ors. v. Ind-Swift Laboratories Limited*: (2011) 4 SCC 635, which are as under:

"20. A taxing statute must be interpreted in the light of what is clearly expressed. It is not permissible to import provisions in a taxing statute so as to supply any assumed deficiency. In support of the same we may refer to the decision of this Court in *Commissioner of Sales Tax, U.P. v. Modi Sugar Mills Ltd.* reported in (1961) 2 SCR 189 wherein this Court at Para 10 has observed as follows: -

"11. In interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed: it cannot imply anything which is not expressed; it cannot import provisions in the statutes so as to supply any assumed deficiency."

21. Therefore, the attempt of the High Court to read down the provision by way of substituting the word "OR" by an "AND" so as to give relief to the assessee is found to be erroneous. In that regard the submission of the counsel for the appellant is well-founded that once the said credit is

taken the beneficiary is at liberty to utilize the same, immediately thereafter, subject to the Credit rules."

(Emphasis added)

50. *The Hon"ble Supreme Court in Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Co and Ors. (supra), held as under:*

"21. The well settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the Courts are bound to give effect to the said meaning irrespective of consequences. If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the Legislature.

* * *

25. At the outset, we must clarify the position of „plain meaning rule or clear and unambiguous rule" with respect of tax law. „The plain meaning rule" suggests that when the language in the statute is plain and unambiguous, the Court has to read and understand the plain language as such, and there is no scope for any interpretation. This salutary maxim flows from the phrase "cum in verbis nulla ambiguitas est, non debet admitti voluntatis quaestio". Following such maxim, the courts sometimes have made strict interpretation subordinate to the plain meaning rule, though strict interpretation is used in the precise sense. To say that strict interpretation involves plain reading of the statute and to say that one has to utilize strict interpretation in the event of ambiguity is self-contradictory.

* * *

44. In Hansraj Gordhandas v. CCE [hereinafter referred as 'Hansraj Gordhandas Case' for brevity], wherein this Court was called upon to interpret an exemption notification issued under the Central Excise Act. It was held that a taxing legislation should be interpreted wholly by the language of the notification.

45. The relevant observations are: (Hansraj case, AIR p. 759, para 5)

"It is well established that in a taxing statute there is no room for any intendment but regard must be had to the clear meaning of the words. The entire matter is governed wholly by the language of the notification. If the taxpayer is within the plain terms of the exemption it cannot be denied its benefit by calling in aid any supposed intention of the exempting authority. If such intention can be gathered from the construction of the words of the notification or by necessary implication therefrom, the matter is different, but that is not the case here. In this connection we may refer to the observations of Lord Watson in Salomon vs. Salomon & Co., (AC p. 38):

"Intention of the Legislature" is a common but very slippery phrase, which, popularly understood may signify anything from intention embodied in positive enactment to speculative opinion as to what the legislature probably would have meant, although there has been an omission to enact it. In a Court of Law or Equity, what the Legislature intended to be done or not to be done can only be legitimately ascertained from that which it has chosen to enact, either in express words or by reasonable and necessary implication.

*It is an application of this principle that a statutory notification may not be extended so as to meet a *casus omissus*. As appears in the judgment of the Privy Council in *Crawford v. Spooner*.*

'... we cannot aid the Legislature's defective phrasing of the Act, we cannot add, and mend, and, by construction, make up deficiencies which are left there.'

The learned Counsel for the respondents is possibly right in his submission that the object behind the two notifications is to encourage the actual manufacturers of handloom cloth to switch over to power looms by constituting themselves in cooperative Societies. But the operation of the notifications has to be judged not by the object which the rule making authority had in mind but by the words which it has employed to effectuate the legislative intent.'

(Emphasis added)

51. Further, the term "and" is a conjunction, commonly understood to connect and join words, clauses, or phrases. Dictionaries and linguistic principles affirm that "and" denotes addition or combination, unless there is ambiguity or absurdity arising from its literal interpretation.

52. In this regard, it would be relevant to take note of the following passage from G.P. Singh's *Principles of Statutory Interpretation* (15th Edn.):

"The word "or" is normally disjunctive and "and" is normally disjunctive but at times they are read as vice versa to give effect to the manifest intention of the Legislature"

53. In the present case, there is no such ambiguity or absurdity. In our view, when all the four entries of Serial No. 13 are analysed, it would lead to only one conclusion that the word "and" is to be read in conjunctive manner only, and the phrase "MIMO and LTE Products" would refer to only those products which have both MIMO technology and LTE standard.

54. As far as the argument of the Revenue that in the year 2021, the Notification No. 25/2005, and one Notification No. 57/2017-Customs were amended and the phrase "MIMO and LTE Products" were substituted with '(i) MIMO products; (ii) LTE products', and that these amendments were clarificatory in nature, is concerned, notably, an amendment in the Notification No. 57/2017-Customs was brought *vide Finance Act, 2021* which is clarificatory in nature, and, clarifies Serial No. 20 of the said notification. It states that the subject entry will now be read as '(i) MIMO products; (ii) LTE products'. Similar change was brought in Notification No. 25/2005 by virtue of Notification No. 05/2021-Customs.

55. Thus it is clear that the aforesaid amended entries in the concerned Notifications, in their clarificatory form, will be applicable only from the date of coming into force of these amendments i.e. 02.02.2021. As a natural consequence, the cases, which are in dispute *qua* the exclusion entry in question, which are pending adjudication or were adjudicated prior to the amendment brought about by clarifications, will be amenable to interpretation and adjudication as it stood prior to the aforesaid clarification and amendment.

56. It would, therefore, mean that in cases involving disputes over interpretation of the subject entry, the amendment brought about through later clarification cannot put fetters on the powers of the Courts or adjudicating authorities, dealing with disputes prior to the amendment so

as to have a binding effect on such authorities or on the Courts to hold as correct the clarification as the guiding principle to decide the entry which stood prior to such amendment in its original form.

57. We are of the view that the clarification is brought about in the Statute when there is ambiguity and disputes arise due to such ambiguities. The fact that a clarification is needed to be brought about in the subject entry by the Finance Act, 2021 would point out towards the inherent ambiguity experienced in its interpretation and application which prompted and necessitated the subject amendment and clarification. In the light of this observation and the facts of the present case as well as the judicial precedents in similarly situated cases, we are of the opinion that exclusion clause (iv) of Serial No. 13 of the amended Notification No. 24/2005, which reads as 'MIMO and LTE products', would have to be read in its original form applying the law and rules of interpretation of statutes, especially as applicable in cases of taxation.

58. While adjudicating cases of disputes over an entry attracting or not attracting customs duty, the first and foremost rule to be followed is reading it as it stands by giving it the meaning that can be understood by reading the plain language of the entry in question.

59. Coming back to the facts of the case and applying the above principle, we note that the word 'and' is suffixed with the word 'MIMO' and prefixed with the word 'LTE' and there is no punctuation mark or comma after the word 'MIMO' and before the word 'and'. Further, 'MIMO and LTE' are followed by the word 'products'. Therefore, as a common rule of English language, the word 'and' would clearly, and in unambiguous terms, be read conjunctively.

60. To reiterate, the amendments as discussed above were introduced in the year 2021, whereby "MIMO and LTE products" were changed to "(i) MIMO products; (ii) LTE products". The word 'and' has been totally taken out from the new entry and the same is absent from the entry altogether. The absence of word 'and' between the word 'MIMO' and 'LTE', as it existed prior to the amendment brought as clarification, rather speaks and explains by its absence, about the presence of intention to read 'MIMO' and 'LTE' as conjunctive and not disjunctive.

61. In light of the above, we hold that the phrase "MIMO and LTE Products" in Serial No. 13(iv) of the amended Notification No. 24/2005 applies solely to products combining MIMO technology and LTE standards. The exclusion clause cannot be stretched to encompass products featuring either one of the two technologies. Accordingly, the WAPs imported by the respondent, which employ MIMO technology but not the LTE standards, are entitled to the exemption from Basic Customs Duty.

62. In view thereof, we are of the opinion that the order of the learned CESTAT does not suffer from any infirmity or error and, is, therefore upheld.

63. The Question of Law is accordingly answered in favour of the assessee, and against the Revenue.

64. The appeal is accordingly dismissed."

21.5 The above Order dated 13.01.2025 passed by the Hon'ble High Court of Delhi, has been accepted by the department, as transpired from letter dated 26.05.2025 of the Additional Director, I/c. of Customs, ACC, Chennai,

addressed to the Additional Commissioner of Customs, NS-IV, Nhava-Seva, received under email dated 13.11.2025 from Legal & Review Cell, Chennai VII Commissionerate, Air Cargo Complex, Meenambakam, Chennai, in reply to this office letter dated 07.11.2025.

21.6 The Hon'ble High Court of Delhi, based on the above judgment, has also dismissed the appeals filed by the department in the following identical cases, wherein the Hon'ble High Court has held that the WAPs imported by the respective respondent, which employ MIMO technology but not the LTE standards, are entitled to the exemption from Basic Customs Duty under Serial No. 13(iv) of the amended Notification No. 24/2005:

- (i) Commissioner of Customs, AIR Chennai-VII Vs. Redington (India) Ltd. [(2025) 28 Centax 173 (Del.)]
- (ii) Commissioner of Customs (Import) Vs. Beetal Teletech Ltd. [(2025) 29 Centax 52 (Del.)]
- (iii) Principal Commissioner of Customs Vs. Go Ip Global Services Pvt. Ltd. [(2025) 29 Centax 319 (Del.)]
- (iv) Commissioner of Customs, AIR Chennai-VII Vs. Compuage Infocom Ltd. [(2025) 31 Centax 131 (Del.)]

21.7 The ratio of the above judgments passed by the Hon'ble High Court of Delhi is squarely applicable to the present case on hand. I, therefore, find that the issue involved in the instant case has attained finality and the same is no more *res-integra*. Moreover, the above judicial rulings on the subject issue are having binding precedents on all lower judicial/quasi judicial authorities as held by the Hon'ble Supreme Court in case of M/s. Kamlakshi Finance Corporation Ltd. as reported in 1991 (55) ELT 433 (S.C.).

21.8 In view of the settled legal position of the issue involved in this case, I hold that the importer is eligible for concessional rate of BCD available under Serial No. 20 (h) of Notification No. 57/2017-Customs, dated 30.06.2017, as amended, in respect of the product 'Access Point of various models with MIMO facility' imported under the Bills of Entry mentioned in Annexure-A to Annexure-D to the show cause notice.

22. Since the allegations levelled against the importer in the show cause notice issued to them are not sustainable on merits alone, there is no question of going into the other issues of confiscation of goods, imposition of penalty, interest and imposition of penalty on the Technical Director of the importer.

23. In view of my findings in the paras supra, I pass the following order:

ORDER

I drop the proceedings initiated against M/s. Zen Exim Private Limited (IEC-0801004845), Shakti-404[SF], Devang Soc., Opposite Patel Farm, S.G. High Way, Thaltej Cross Road, Bodakdev, Ahmedabad -380 054, under Show Cause Notice bearing F. No. VIII/10-17/Commr./O&A/2023-24 dated 13.10.2023.



19.11.2025

(Shiv Kumar Sharma)

Principal Commissioner of Customs

F. No. VIII/10-17/Commr./O&A/2023-24

Date: 19.11.2025

DIN- 20251171MN0000222DE0

By Speed Post/E-Mail/By Hand

To:

(1) M/s. Zen Exim Private Limited,
Shakti-404[SF], Devang Soc.,
Opposite Patel Farm, S.G. High Way,
Thaltej Cross Road, Bodakdev,
Ahmedabad -380 054.

(2) Shri Mukesh M. Majithia, Technical Director,
M/s. Zen Exim Private Limited,
Shakti-404[SF], Devang Soc.,
Opposite Patel Farm, S.G. High Way,
Thaltej Cross Road, Bodakdev,
Ahmedabad -380 054.

Copy to:

- (1) The Chief Commissioner of Customs, Ahmedabad Zone
- (2) The Additional Director General, Directorate of Revenue Intelligence, Zonal Unit, CZU, 27, G.N (Chetty) Road, T. Nagar, Chennai – 600 017 for information please.
- (3) The Additional Commissioner, Customs, TRC, HQ, Ahmedabad.
- (4) The Deputy Commissioner of Customs, ICD Sabarmati, Ahmedabad for information please.

- (5) The Deputy Commissioner of Customs, Air Cargo Complex, Ahmedabad for information please.
- (6) The Deputy Commissioner of Customs, Air Cargo Complex, Mumbai for information please.
- (7) The Deputy Commissioner of Customs, Arshiya SEZ, Panvel, Mumbai
- (8) The Superintendent (System), Customs HQ., Ahmedabad for uploading on the Official website of Customs Commissionerate, Ahmedabad.
- (9) Guard File.