

		प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात - 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT - 370421 EMAIL: group5-mundra@gov.in		 आज़ादी का अमृत महोत्सव	
		A	File No.	CUS/APR/MISC/1386/2025-Gr	5-6-O/o
B	Order-in-Original No.	MCH/ADC/ZDC/03/2026-27			
C	Passed by	Dipak Zala, Additional Commissioner of Customs, Custom House, Mundra			
D	Date of Order	02-04-2026			
E	Date of issue	02-04-2026			
F	SCN No. & Date	SCN No. 02/2025-26/DC/ARK/GR-V/MCH dated 03-04-2025 & Corrigendum to SCN dated 11-03-2026			
G	Noticee/Party/ Importer/ Exporter	M/s. Winbell Compressors Private Limited (IEC- AACCW4596N) having address at 99, Panchratna Industrial Estate-2, Ahmedabad-382425			
H	DIN No.	20260471MO000000E416			

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

**“ सीमा शुल्क आयुक्त (अपील),
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380
009”**

**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

- i. उक्त अपील की एक प्रति और

A copy of the appeal, and

- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम,1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए ।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. Winbell Compressors Private Limited (IEC-AACCW4596N) having address at 99, Panchratna Industrial Estate-2, Ahmedabad-382425 (hereinafter also referred to as "the importer" for the sake of brevity") has filed Bill of Entry No. 9526237 dated 04-01-2024 for the import of goods i.e. Axial Fan covered under CTH 84144090 for home consumption.

The details are as below:

Table:1

BE No.	BE Date	CTH	Item No.	Item Description	Unit/Qty	Assess Val	Duty paid @ 27.735% (BCD 7.5% SWS 10% of BCD and IGST 18%)
9526237	04-01-24	84144090	8	AXIAL FAN FOR COMPRESSOR [A4E450S-5DM]	100 NOS	251,329.59	69,706.30
9526237	04-01-	84144090	38	CENTRIFUGAL FAN FOR COMPRESSOR [B6D500-254A-	20 NOS	223,288.69	61,929.20

	24			AT03]			
9526237	04-01-24	84144090	7	AXIAL FAN FOR COMPRESSOR [A4E400S-5DM]	100 NOS	220,865.40	61,257.00
9526237	04-01-24	84144090	6	AXIAL FAN FOR COMPRESSOR [A4E350S-5DM]	100 NOS	195,767.06	54,296.00
9526237	04-01-24	84144090	5	AXIAL FAN FOR COMPRESSOR [A4E300S-5DM]	100 NOS	147,474.39	40,902.10
9526237	04-01-24	84144090	34	AXIAL FAN FOR COMPRESSOR [A4E300B-5DM]	100 NOS	147,474.39	40,902.10
9526237	04-01-24	84144090	13	AXIAL FAN FOR COMPRESSOR [A4D450S-5DM]	50 NOS	125,664.80	34,853.20
9526237	04-01-24	84144090	15	AXIAL FAN FOR COMPRESSOR [A4D550S-5DM]	30 NOS	111,592.42	30,950.10
9526237	04-01-24	84144090	17	AXIAL FAN FOR COMPRESSOR [A4D630S-5DM]	20 NOS	97,208.47	26,960.80
9526237	04-01-24	84144090	16	AXIAL FAN FOR COMPRESSOR [A4D600S-5DM]	20 NOS	96,533.41	26,773.50
9526237	04-01-24	84144090	28	AXIAL FAN FOR COMPRESSOR [A4D600B-5DM]	20 NOS	96,533.41	26,773.50
9526237	04-01-24	84144090	39	CENTRIFUGAL FAN FOR COMPRESSOR [B4D400-147A-AN03]	20 NOS	95,200.60	26,403.80
9526237	04-01-24	84144090	4	AXIAL FAN FOR COMPRESSOR [A4E250S-5DM]	60 NOS	79,449.23	22,035.30
9526237	04-01-24	84144090	37	AXIAL FAN FOR COMPRESSOR [A4E450B-5DM]	30 NOS	75,398.88	20,911.90
9526237	04-01-24	84144090	27	AXIAL FAN FOR COMPRESSOR [A4D550B-5DM]	20 NOS	74,394.94	20,633.50
9526237	04-01-24	84144090	14	AXIAL FAN FOR COMPRESSOR [A4D500S-5DM]	20 NOS	67,073.15	18,602.70
9526237	04-01-24	84144090	26	AXIAL FAN FOR COMPRESSOR [A4D500B-5DM]	20 NOS	67,073.15	18,602.70
9526237	04-01-24	84144090	12	AXIAL FAN FOR COMPRESSOR [A4D400S-5DM]	30 NOS	66,259.62	18,377.10
9526237	04-01-24	84144090	36	AXIAL FAN FOR COMPRESSOR [A4E400B-5DM]	30 NOS	66,259.62	18,377.10
9526237	04-01-24	84144090	33	AXIAL FAN FOR COMPRESSOR [A4E250B-5DM]	50 NOS	66,207.69	18,362.80

	24			5DM]			
9526237	04-01-24	84144090	35	AXIAL FAN FOR COMPRESSOR [A4E350B-5DM]	30 NOS	58,730.12	16,288.90
9526237	04-01-24	84144090	11	AXIAL FAN FOR COMPRESSOR [A4D350S-5DM]	20 NOS	39,153.41	10,859.20
9526237	04-01-24	84144090	9	AXIAL FAN FOR COMPRESSOR [A4E500S-5DM]	10 NOS	33,536.58	9,301.30
9526237	04-01-24	84144090	3	AXIAL FAN FOR COMPRESSOR [A2E300S-5DM]	20 NOS	29,494.88	8,180.40
9526237	04-01-24	84144090	32	AXIAL FAN FOR COMPRESSOR [A2E300B-5DM]	20 NOS	29,494.88	8,180.40
9526237	04-01-24	84144090	29	AXIAL FAN FOR COMPRESSOR [A4D630B-5DM]	6 NOS	29,162.54	8,088.20
9526237	04-01-24	84144090	18	AXIAL FAN FOR COMPRESSOR [A6D800S-7DM]	2 NOS	27,694.72	7,681.10
9526237	04-01-24	84144090	25	AXIAL FAN FOR COMPRESSOR [A4D450B-5DM]	10 NOS	25,132.96	6,970.70
9526237	04-01-24	84144090	24	AXIAL FAN FOR COMPRESSOR [A4D400B-5DM]	10 NOS	22,086.54	6,125.70
9526237	04-01-24	84144090	2	AXIAL FAN FOR COMPRESSOR [A2E250S-5DM]	15 NOS	19,862.31	5,508.90
9526237	04-01-24	84144090	23	AXIAL FAN FOR COMPRESSOR [A4D350B-5DM]	10 NOS	19,576.71	5,429.60
9526237	04-01-24	84144090	1	AXIAL FAN FOR COMPRESSOR [A2E200S-7DM]	15 NOS	16,993.31	4,713.10
9526237	04-01-24	84144090	10	AXIAL FAN FOR COMPRESSOR [A4D300S-5DM]	10 NOS	14,747.44	4,090.20
9526237	04-01-24	84144090	21	AXIAL FAN FOR COMPRESSOR [A2D300B-5DM]	10 NOS	14,747.44	4,090.20
9526237	04-01-24	84144090	22	AXIAL FAN FOR COMPRESSOR [A4D300B-5DM]	10 NOS	14,747.44	4,090.20
9526237	04-01-24	84144090	20	AXIAL FAN FOR COMPRESSOR [A2D250B-5DM]	10 NOS	13,241.54	3,672.50
9526237	04-01-24	84144090	31	AXIAL FAN FOR COMPRESSOR [A2E250B-5DM]	10 NOS	13,241.54	3,672.50
	04-			AXIAL FAN FOR			

9526237	01- 24	84144090	19	COMPRESSOR [A2D200B-7DM]	10 NOS	11,328.87	3,142.10
9526237	01- 24	84144090	30	AXIAL FAN FOR COMPRESSOR [A2E200B-7DM]	10 NOS	11,328.87	3,142.10
Total						2,815,351	780,838

2. 11328.87 2815351 3142.1 780838 During the analysis of the data of import made at Custom House, Mundra for the period Oct 2023 to March 2024, Audit observed that the importers M/s UMAPATI OVERSEAS and M/s WINBELL COMPRESSORS PRIVATE LIMITED have filed Bills of Entry No. 8163339 dated 05 Oct 2023 and 9526237 dated 04 Jan 2024 for import of EXHAUST FAN and AXIAL FAN under CTH 8414 8090 and 8414 4090 respectively. The importers have paid duty at the rate of 27.735% (BCD 7.5% SWS .75% and IGST 18%).

3. It is observed that imported goods were EXHAUST FAN and AXIAL FAN. Therefore, it should have been classified under CTH 8414 59 90 which is applicable to other goods under Fan (other than Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125. Chapter 8414 59 90 covers other goods under Fan (other than table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W). CTH 8414 40 covers 'Air compressors mounted on a wheeled chassis for towing'. Further, CTH 8414 40 90 covers 'other' and CTH 8414 80 covers 'other' goods. Therefore, the imported goods "AXIAL FAN", should be classified under CTH 84145990 where duty is applicable @ 30.98% (BCD 10% SWS 10% of BCD and IGST 18%), instead of CTH 84144090.

4. The Heading under CTH 8414 is as under:

84.14 - Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; gas-tight biological safety cabinets, whether or not fitted with filters.

8414.10 - Vacuum pumps

8414.20 - Hand- or foot-operated air pumps

8414.30 - Compressors of a kind used in refrigerating equipment

8414.40 - Air compressors mounted on a wheeled chassis for towing

- Fans :

8414.51 - - Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W

8414.59 - - Other

8414.60 - Hoods having a maximum horizontal side not exceeding 120 cm

8414.70 - Gas-tight biological safety cabinets

8414.80 - Other

8414.90 - Parts

5. It appears that imported goods Axial Fans are rightly classifiable under CTH 84145990 instead of 84144090. It appears that importer has wrongly classified the goods under CTH 84144090 and paid duty @27.735% (BCD 7.5% SWS 10% of

BCD and IGST 18%,) whereas the goods are rightly classifiable under CTH 84145990 wherein duty is applicable @ 30.98% (BCD 10% SWS 10% of BCD and IGST 18%). This has resulted in short payment of duty of Rs. 91,358/-.

Details are as below:

Table:2

BE No.	BE Date	CTH	Item No.	Item Description	Qty	Unit	Assess Val	Duty paid @ 27.735% (BCD 7.5% SWS 10% of BCD and IGST 18%)	Duty applicable 30.98%(BCD 10% SWS 10% of BCD and IGST 18%)	Diff. duty payable
9526237	04-01-24	84144090	8	AXIAL FAN FOR COMPRESSOR [A4E450S-5DM]	100	NOS	251329.59	69706.3	77861.91	8156
9526237	04-01-24	84144090	38	CENTRIFUGAL FAN FOR COMPRESSOR [B6D500-254A-AT03]	20	NOS	223288.69	61929.2	69174.84	7246
9526237	04-01-24	84144090	7	AXIAL FAN FOR COMPRESSOR [A4E400S-5DM]	100	NOS	220865.4	61257	68424.1	7167
9526237	04-01-24	84144090	6	AXIAL FAN FOR COMPRESSOR [A4E350S-5DM]	100	NOS	195767.06	54296	60648.64	6353
9526237	04-01-24	84144090	5	AXIAL FAN FOR COMPRESSOR [A4E300S-5DM]	100	NOS	147474.39	40902.1	45687.57	4785
9526237	04-01-24	84144090	34	AXIAL FAN FOR COMPRESSOR [A4E300B-5DM]	100	NOS	147474.39	40902.1	45687.57	4785
9526237	04-01-24	84144090	13	AXIAL FAN FOR COMPRESSOR [A4D450S-5DM]	50	NOS	125664.8	34853.2	38930.96	4078
9526237	04-01-24	84144090	15	AXIAL FAN FOR COMPRESSOR [A4D550S-5DM]	30	NOS	111592.42	30950.1	34571.33	3621
9526237	04-01-24	84144090	17	AXIAL FAN FOR COMPRESSOR [A4D630S-5DM]	20	NOS	97208.47	26960.8	30115.18	3154
9526237	04-01-24	84144090	16	AXIAL FAN FOR COMPRESSOR [A4D600S-5DM]	20	NOS	96533.41	26773.5	29906.05	3133
9526237	04-01-24	84144090	28	AXIAL FAN FOR COMPRESSOR [A4D600B-5DM]	20	NOS	96533.41	26773.5	29906.05	3133
9526237	04-01-24	84144090	39	CENTRIFUGAL FAN FOR COMPRESSOR	20	NOS	95200.6	26403.8	29493.15	3089

	24			[B4D400-147A-AN03]						
9526237	04-01-24	84144090	4	AXIAL FAN FOR COMPRESSOR [A4E250S-5DM]	60	NOS	79449.23	22035.3	24613.37	2578
9526237	04-01-24	84144090	37	AXIAL FAN FOR COMPRESSOR [A4E450B-5DM]	30	NOS	75398.88	20911.9	23358.57	2447
9526237	04-01-24	84144090	27	AXIAL FAN FOR COMPRESSOR [A4D550B-5DM]	20	NOS	74394.94	20633.5	23047.55	2414
9526237	04-01-24	84144090	14	AXIAL FAN FOR COMPRESSOR [A4D500S-5DM]	20	NOS	67073.15	18602.7	20779.26	2177
9526237	04-01-24	84144090	26	AXIAL FAN FOR COMPRESSOR [A4D500B-5DM]	20	NOS	67073.15	18602.7	20779.26	2177
9526237	04-01-24	84144090	12	AXIAL FAN FOR COMPRESSOR [A4D400S-5DM]	30	NOS	66259.62	18377.1	20527.23	2150
9526237	04-01-24	84144090	36	AXIAL FAN FOR COMPRESSOR [A4E400B-5DM]	30	NOS	66259.62	18377.1	20527.23	2150
9526237	04-01-24	84144090	33	AXIAL FAN FOR COMPRESSOR [A4E250B-5DM]	50	NOS	66207.69	18362.8	20511.14	2148
9526237	04-01-24	84144090	35	AXIAL FAN FOR COMPRESSOR [A4E350B-5DM]	30	NOS	58730.12	16288.9	18194.59	1906
9526237	04-01-24	84144090	11	AXIAL FAN FOR COMPRESSOR [A4D350S-5DM]	20	NOS	39153.41	10859.2	12129.73	1271
9526237	04-01-24	84144090	9	AXIAL FAN FOR COMPRESSOR [A4E500S-5DM]	10	NOS	33536.58	9301.3	10389.63	1088
9526237	04-01-24	84144090	3	AXIAL FAN FOR COMPRESSOR [A2E300S-5DM]	20	NOS	29494.88	8180.4	9137.51	957
9526237	04-01-24	84144090	32	AXIAL FAN FOR COMPRESSOR [A2E300B-5DM]	20	NOS	29494.88	8180.4	9137.51	957
9526237	04-01-24	84144090	29	AXIAL FAN FOR COMPRESSOR [A4D630B-5DM]	6	NOS	29162.54	8088.2	9034.55	946
9526237	04-01-24	84144090	18	AXIAL FAN FOR COMPRESSOR [A6D800S-7DM]	2	NOS	27694.72	7681.1	8579.82	899
	04-			AXIAL FAN FOR						

9526237	01-24	84144090	25	COMPRESSOR [A4D450B-5DM]	10	NOS	25132.96	6970.7	7786.19	815
9526237	04-01-24	84144090	24	AXIAL FAN FOR COMPRESSOR [A4D400B-5DM]	10	NOS	22086.54	6125.7	6842.41	717
9526237	04-01-24	84144090	2	AXIAL FAN FOR COMPRESSOR [A2E250S-5DM]	15	NOS	19862.31	5508.9	6153.34	644
9526237	04-01-24	84144090	23	AXIAL FAN FOR COMPRESSOR [A4D350B-5DM]	10	NOS	19576.71	5429.6	6064.86	635
9526237	04-01-24	84144090	1	AXIAL FAN FOR COMPRESSOR [A2E200S-7DM]	15	NOS	16993.31	4713.1	5264.53	551
9526237	04-01-24	84144090	10	AXIAL FAN FOR COMPRESSOR [A4D300S-5DM]	10	NOS	14747.44	4090.2	4568.76	479
9526237	04-01-24	84144090	21	AXIAL FAN FOR COMPRESSOR [A2D300B-5DM]	10	NOS	14747.44	4090.2	4568.76	479
9526237	04-01-24	84144090	22	AXIAL FAN FOR COMPRESSOR [A4D300B-5DM]	10	NOS	14747.44	4090.2	4568.76	479
9526237	04-01-24	84144090	20	AXIAL FAN FOR COMPRESSOR [A2D250B-5DM]	10	NOS	13241.54	3672.5	4102.23	430
9526237	04-01-24	84144090	31	AXIAL FAN FOR COMPRESSOR [A2E250B-5DM]	10	NOS	13241.54	3672.5	4102.23	430
9526237	04-01-24	84144090	19	AXIAL FAN FOR COMPRESSOR [A2D200B-7DM]	10	NOS	11328.87	3142.1	3509.68	368
9526237	04-01-24	84144090	30	AXIAL FAN FOR COMPRESSOR [A2E200B-7DM]	10	NOS	11328.87	3142.1	3509.68	368
Total							2815351	780838	872195.74	91358

6. Relevant Legal Provisions, in so far related to the facts of the case are as under:

Section 17. Assessment of duty.

1. An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods

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

Section 28. 1[Recovery of 2[duties not levied or not paid or short levied or short- paid] or erroneously refunded.

(4) *Where any duty has not been 10[levied or not paid or has been short levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,*

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

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 11[so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

[Section 28AA. Interest on delayed payment of duty.

(1) *Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section*

(2), *whether such payment is made voluntarily or after determination of the duty under that section. (2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.*

Section 46. Entry of goods on importation.

(4) *The importer while presenting a bill of entry shall 12 [* * *] make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, 13 [and such other documents relating to the imported goods as may be prescribed].*

14 [(4A) *The importer who presents a bill of entry shall ensure the following, namely:*

- (a) *the accuracy and completeness of the information given therein;*
- (b) *the authenticity and validity of any document supporting it; and*
- (c) *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]*

Section 111. Confiscation of improperly imported goods, etc. (m)

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

section (1) of section 54;

Section 112. Penalty for improper importation of goods, etc.-

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b)..... shall be liable,

2 [(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher.

[Section 114A. Penalty for short-levy or non-levy of duty in certain cases. -

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has 2 [****]been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under 3 [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:

[Section 125: Option to pay fine in lieu of confiscation.]

(i) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

7. With the introduction of self-assessment under Section-17, more faith is bestowed on the importer, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As a part of self-assessment by the importer, they have been entrusted with the responsibility to correctly self-assess the duty. However, in the instance case, the importer intentionally abused this faith placed upon them by the law of the land. Therefore, it appears that the importer has wilfully violated the provisions of Section 17(1) of the Act in as much as Importer has failed to correctly self-assess the duty on the impugned goods and has also wilfully violated the provisions of sub-section (4) and (4A) of Section 46 of the Act. Therefore, the goods having assessable value of Rs. 28,15,351/- (Twenty eight lakh fifteen thousand three hundred fifty one Only) imported vide the Bill of Entry No. 9526237 dated 04-01-2024 appears liable for confiscation under Section 111(m) of the Customs Act, 1962.

8. Whereas it appears that the Importer has not paid the applicable duty which has resulted into short payment of duty of Rs. 91,358/- (Ninety one thousand three hundred fifty eight Only) which is required to be recovered from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Act. For such act of omission and commission, the importer has rendered themselves liable to penalty under Section 114A of the Customs Act,

1962.

9. Accordingly, a Show Cause Notice vide SCN No. 02/2025-26/DC/ARK/GR-V/MCH dated 03-04-2025 and its Corrigendum dated 11-03-2026 vide File No. CUS/APR/MISC/1386/2025-Gr 5-6-O/o Pr Commr-Cus-Mundra were issued to M/s. Winbell Compressors Private Limited (IEC-AACCW4596N), calling upon them to show cause as to why:

I. The above said goods having assessable value of Rs. 28,15,351/- (Twenty eight lakh fifteen thousand three hundred fifty one Only) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

II. Differential duty amounting to Rs. 91,358/- (Ninety one thousand three hundred fifty eight Only) for the said goods imported vide above said Bill of Entry should not be recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

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

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PERSONAL HEARING AND WRITTEN SUBMISSIONS

10. Personal Hearing in the matter was held on 20.03.2026; Shri Hardik Patel, Director, Winbell Compressors Pvt. Ltd. has appeared for the personal hearing and he reiterated his written submission dated 06.05.2025. Vide their submission dated 06.05.2025 they have submitted the following:

“

We respectfully submit the following detailed explanation and justification for the classification of the goods, highlighting that the classification made under CTH 8414 4090 is correct and in full compliance with the provisions of the Customs Tariff Act, 1975, the Harmonized System Explanatory Notes (HSEN), and relevant judicial precedents.

Product Specifications and Technical Details

The goods in question are industrial axial flow fans and centrifugal blowers, specifically designed for industrial applications such as cooling, ventilation, dust collection, exhaust systems, and integrated within air compressors. The key specifications of the imported products are as under:

(a) Motor Capacity: Each unit is equipped with a self-contained electric motor with an output exceeding 200W, well beyond the 125W threshold required for classification under CTH 8414 4090.

(b) Industrial Use: These fans are built to withstand the rigors of continuous operation in demanding industrial environments, far exceeding the capabilities of household or general-purpose ventilation fans.

(c) *Intended Use: The fans are not intended for residential or general ventilation but are integral components of industrial systems such as cooling towers, HVAC systems, and air compressors.*

(d) *Product Documentation: Product Catalogue (Annexure A), Technical Specifications, and Product Images (Annexure B) clearly demonstrate that the motor output exceeds 200W, thereby excluding them from classification under CTH 8414 5990.*

Justification for Classification under CTH 84144090

CTH 8414 4090 applies to 'fans with a self-contained electric motor, output exceeding 125W – other'. Our import items meet the essential criteria for classification under this heading as the fans are equipped with electric motors that exceed 200W. These fans are not general-purpose household fans but are specifically designed and constructed for industrial use, integrated into industrial machinery such as air compressors, and therefore cannot be reclassified as standalone fans for general ventilation purposes.

Inapplicability of CTH 84145990

The SCN suggests classifying the imported fans under CTH 8414 5990, which is specifically designed for fans with motor outputs not exceeding 125W. This classification is not applicable as the imported fans have a motor capacity exceeding 200W. CTH 8414 5990 applies to small, general-purpose fans typically used for household or light commercial purposes. According to the HSEN, classification under CTH 8414 5990 is limited to fans with lower motor outputs not exceeding 125W, which does not align with the technical characteristics of the imported goods. Therefore, reclassification under CTH 8414 5990 is not legally permissible.

Judicial Precedents Supporting Classification

(i) Ford India Pvt. Ltd. vs. Commissioner of Customs, Chennai (2020-TIOL-1980-CESTAT-MAD): held that air compressors used in automotive systems were appropriately classified under CTH 8414 based on their technical nature rather than their end-use.

(ii) CCE vs. Kriloskar Brothers Ltd. [1999 (106) ELT 55 (CEGAT)]: industrial machinery components like pumps and blowers were classified based on their technical parameters, irrespective of their end-use.

(iii) CCE vs. Aero Fans (India) Pvt. Ltd. [2000 (123) ELT 374 (Tri.)]: the CESTAT ruled that large-capacity industrial fans should be classified under CTH 8414, rejecting classification under lower-output headings.

No Suppression or Misstatement

We categorically deny any allegations of misstatement, suppression of facts, or willful misclassification. At the time of import, we provided all necessary documentation, including invoices, product literature, technical specifications, and declarations, to the Customs Department for assessment. Therefore, the extended period for recovery of duties under Section 28(4) of the Customs Act is not

applicable, as no facts were concealed or misrepresented. We respectfully request withdrawal of the Show Cause Notice and that no differential duty demand or penal consequences be imposed."

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DISCUSSIONS AND FINDINGS:

11. I have carefully gone through the Show Cause Notice, the written submissions dated 06-05-2025 submitted by the noticee, records of personal hearing on 20-03-2026, and all the documentary evidence available on record. The principles of natural justice stand duly complied with the section 122A of the Customs Act, 1962 as the noticee has been afforded opportunity to present their case through written submission and personal hearing. Therefore, I proceed to decide the case on the basis of the facts, evidence on record and the submissions made by the noticee. The issues to be decided by me are:

I. Whether the goods covered under Bill of Entry No. 9526237 dated 04-01-2024 having assessable value of **Rs. 28,15,351/-** are liable for confiscation under Section 111(m) of the Customs Act, 1962;

II. Whether differential duty of **Rs. 91,358/-** should be recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962;

III. Whether penalty should be imposed under Section 114A of the Customs Act, 1962.

12.1 Regarding the first issue, I need to examine the nature and correct classification of the imported goods and determine whether the declaration made in the Bill of Entry corresponds with the same.

12.2 I find that the importer has classified the imported goods "AXIAL FAN FOR COMPRESSOR" and "CENTRIFUGAL FAN FOR COMPRESSOR" under CTH **84144090** and paid duty @ 27.735% (BCD 7.5%, SWS 10% of BCD and IGST 18%). As per the Show Cause Notice, the correct classification of the said goods is CTH **84145990** which attracts duty @ 30.98% (BCD 10%, SWS 10% of BCD and IGST 18%).

12.3 I have carefully considered the submissions made by the noticee in their reply dated 06-05-2025 along with the documents submitted and the oral submissions made during personal hearing on 20-03-2026. The noticee has contended that (a) the motor output of the imported fans exceeds 200W and hence CTH 84145990 which covers fans with motor output not exceeding 125W is inapplicable; (b) the goods are industrial-grade fans integral to compressor systems and merit classification under CTH 84144090; and (c) judicial precedents support their claimed classification.

12.4 However, I find that the noticee has fundamentally misread the tariff structure under Heading 84.14. The 125W threshold in sub-heading 8414.51 is

relevant only to distinguish domestic/household fans (8414.51) from “other fans” (8414.59). A fan with motor output exceeding 125W does not thereby become a “compressor” or fall under 8414.80. It simply falls in the residual “other fans” of 8414.59.90. The noticee’s reading would lead to an absurd result- that any industrial fan with motor output above 125W can never be classified as a “fan” at all; which is contrary to the plain language of the tariff and the Harmonized System.

12.5 The goods imported by the noticee are consistently described in the Bills of Entry and commercial documents as “AXIAL FAN FOR COMPRESSOR” / “CENTRIFUGAL FAN FOR COMPRESSOR”, i.e. as complete fans, and not as compressors or air-compressor machines. Classification under the Customs Tariff is governed by the General Rules for Interpretation (GRI), primarily GRI 1, which requires determination of classification by reference to the terms of the headings and any relative Section or Chapter Notes, not merely on end-use. In the condition of import, the goods retain their essential character as complete fans performing the function of moving air. They are commercially known, described and sold as fans. There is no specific “parts of compressor” heading under which a complete, standalone fan unit can be re-cast. In such circumstances, the specific description as “fans” coupled with a dedicated “other fans” sub-heading under 8414.59 necessarily prevails over the generic “other” entry under 8414.80.

12.6 As regards the judicial precedents relied upon by the noticee: (i) *Ford India Pvt. Ltd. vs. Commissioner of Customs, Chennai (2020-TIOL-1980-CESTAT-MAD)* pertains to classification of air compressors used in automotive systems – the said goods were compressors, not fans. It does not lay down any principle that a fan must be classified as a compressor merely because it is used in an industrial system. (ii) *CCE vs. Kriloskar Brothers Ltd. [1999 (106) ELT 55 (CEGAT)]* pertains to pumps and blowers classified on technical parameters – it equally supports classification of fans as fans based on their essential technical character. (iii) *CCE vs. Aero Fans (India) Pvt. Ltd. [2000 (123) ELT 374 (Tri.)]* in fact supports the department’s case – the CESTAT held that large-capacity industrial fans are classifiable under CTH 8414. The department too has proposed classification under CTH 8414 (specifically 8414.59.90). None of these decisions support the proposition that a complete fan should be classified under a compressor or “other machine” sub-heading. I find no merit in the submissions of the noticee. After careful consideration, I find that the defence taken by the noticee is not tenable in law or on facts.

12.7 I therefore find that the importer has wilfully violated the provisions of Section 17(1) of the Act inasmuch as the importer has failed to correctly self-assess the duty on the impugned goods and has also wilfully violated the provisions of Sub-sections (4) and (4A) of Section 46 of the Act. The imported goods “AXIAL FAN / CENTRIFUGAL FAN” do not correspond in respect of classification and applicable duty rate with the entry made in the Bill of Entry. I accordingly hold that the goods imported vide Bill of Entry No. 9526237 dated 04-01-2024 are liable for confiscation under Section 111(m) of the Customs Act, 1962.

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

“Wherever confiscation of any goods is authorized by this Act, the officer adjudicating it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall in the case of any other goods, give to the owner of the goods, [or, where such owner is not known, the person from whose possession or custody such goods have been seized] an option to pay in lieu of confiscation such fine as the said officer thinks fit.”

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

(i) In case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) regarding imposition of Redemption Fine in absence of goods liable for confiscation, after observing decision of Hon’ble Bombay High Court in case of M/s Finesse Creations Inc. reported vide 2009 (248) ELT 122 (Bom) – upheld by Hon’ble Supreme Court in 2010(255) ELT A.120(SC), the Hon’ble Madras High Court held in para 23 of the judgment that “The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, ‘Whenever confiscation of any goods is authorised by this Act....’, brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.”

(ii) In the case of Synergy Fertichem Pvt. Ltd. Vs State of Gujarat as reported in 2019(12) TMI 1213, the Hon’ble High Court of Gujarat, relying on the judgement of the Apex Court in the case of Weston Components Ltd. vs. Commissioner of Customs, New Delhi, has observed that “The pre-requisite for making an offer of fine under Section 130 of the Act is pursuant to the finding that the goods are liable to be confiscated. In other words, if there is no authorisation for confiscation of such goods, the question of making an offer by the proper officer to pay the ‘redemption fine’, would

not arise. Therefore, the basic premise upon which the citadel of Section 130 of the Act rests is that the goods in question are liable to be confiscated under the Act. It, therefore, follows that what is sought to be offered to be redeemed, are the goods, but not the improper conduct of the owner to transport the goods in contravention of the provisions of the Act or the Rules."

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

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

13.2 In the present case, as established in the discussion on first issue above, the imported goods "AXIAL FAN FOR COMPRESSOR" / "CENTRIFUGAL FAN FOR COMPRESSOR" are correctly classifiable under CTH **84145990** where duty is applicable @ 30.98% (BCD 10%, SWS 10% of BCD and IGST 18%), instead of CTH 84144090. The importer has paid duty @ 27.735% (BCD 7.5%, SWS 10% of BCD and IGST 18%), thereby resulting in short payment of differential duty amounting to **Rs. 91,358/-**. The short payment of duty was by reason of wilful mis-statement of facts in the Bill of Entry. The Show Cause Notice has been issued within the extended period of five years as provided under Section 28(4) of the Customs Act, 1962 for cases involving wilful mis-statement.

13.3 Accordingly, I confirm the differential duty demand of **Rs. 91,358/-** (Rupees Ninety One Thousand Three Hundred Fifty Eight Only) as detailed in **Table-2**, supra, recoverable under Section 28(4) of the Customs Act, 1962 along with applicable interest thereon under Section 28AA of the Customs Act, 1962.

14.1 Regarding the third issue, I find that Section 114A of the Customs Act, 1962 provides for penalty where duty has been short-levied by reason of collusion or any wilful mis-statement or suppression of facts. In the present case, I find that the importer has wilfully mis-classified the imported goods under CTH 84144090 instead of the correct CTH 84145990 despite the goods being consistently described as fans in all commercial documents, resulting in short payment of duty of **Rs. 91,358/-**.

14.2 The noticee has contended that there has been no suppression of facts or wilful mis-statement and that all documents were provided at the time of import. I do not find merit in this submission. The tariff structure under Heading 84.14 provides a clear and unambiguous sub-heading 8414.59 specifically for "other

fans” – a category to which the imported goods squarely belong. The noticee has chosen to classify the goods under CTH 84144090 which pertains to a category of compressors/other machinery, despite the goods being consistently described as “AXIAL FAN FOR COMPRESSOR” / “CENTRIFUGAL FAN FOR COMPRESSOR” in all commercial documents. Opting for a classification under a machinery sub-heading when a specific fan sub-heading is available, resulting in lower duty incidence, cannot be treated as a bona fide classification error. The mis-declaration amounts to wilful mis-statement of facts in the Bill of Entry.

14.3 Considering the nature and gravity of the violation, the quantum of duty evaded and the deliberate nature of the mis-declaration, I find it appropriate to impose penalty under Section 114A of the Customs Act, 1962. Accordingly, I hold that the importer is liable to pay penalty under Section 114A of the Customs Act, 1962 equal to the duty so determined. However, in terms of the proviso to Section 114A, if the noticee pays 25% of the penalty amount along with the confirmed duty and interest within thirty (30) days from the date of communication of this order, the penalty payable shall stand reduced to 25% of the duty so determined.

ORDER

15. In view of the foregoing discussion and findings recorded hereinabove, I pass the following order:

(i) I hold that the goods covered under Bill of Entry No. 9526237 dated 04-01-2024 having assessable value of **Rs. 28,15,351/-** (Rupees Twenty Eight Lakh Fifteen Thousand Three Hundred Fifty One Only) are liable for confiscation under Section 111(m) of the Customs Act, 1962. However, as the goods have already been cleared for home consumption, I impose a Redemption Fine of **Rs. 30,000/-** (Rupees Thirty Thousand Only) under Section 125 of the Customs Act, 1962, in lieu of confiscation;

(ii) I confirm the differential duty demand of **Rs. 91,358/-** (Rupees Ninety One Thousand Three Hundred Fifty Eight Only) under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962;

(iii) I impose a penalty of **Rs. 91,358/-** (Rupees Ninety One Thousand Three Hundred Fifty Eight Only) on the importer under Section 114A of the Customs Act, 1962.

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

17. The Show Cause Notice No. 02/2025-26/DC/ARK/GR-V/MCH dated 03-04-2025 & Corrigendum to SCN dated 11-03-2026 vide File No. CUS/APR/MISC/1386/2025-Gr 5-6-O/o Pr Commr-Cus-Mundra against the

noticee stands disposed of in the above terms.

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

To,
M/s. Winbell Compressors Private Limited (IEC-AACCW4596N)
99, Panchratna Industrial Estate-2,
Ahmedabad - 382 425

Copy to:

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