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आदेशकीतारीख/Date of Order :.10.11.2025
जारीकरनेकीतारीख/Date of Issue :10.11.2025

द्वारापारित :- शिव कुमार शर्माप्रधान आयुक्त ,
Passed by :- Shiv Kumar Sharma, Principal Commissioner

मूलआदेशसंख्या :
Order-In-Original No: AHM-CUSTM-000-PR.COMMR-31-2025-26 dated 10.11.2025 in the case of M/s Sterlite Power Transmission Limited (IEC No: 3116903239), at 4th Floor, Godrej Millennium, 9 Koregaon Road, Pune, Maharashtra – 411 001 &Others.

1 जिसव्यक्ति(यों) कोयहप्रतिभेजीजातीहै, उसेव्यक्तिगतप्रयोगकेलिएनिःशुल्कप्रदानकीजातीहै।

1. This copy is granted free of charge for private use of the person(s) to whom it is sent.

2. इस आदेशसे असंतुष्ट कोईभी व्यक्ति इस आदेशकी प्राप्तिसे तीनमाहके भीतर सीमाशुल्क, उत्पादशुल्क एवं सेवाकरअपीलीयन्यायाधिकरण, अहमदाबादपीठकोइसआदेशकेविरुद्धअपीलकरसकताहै।अपीलसहायकरजिस्ट्रार, सीमाशुल्क, उत्पादशुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, दुसरीमंज़िल, बहुमालीभवन ,गिरिधरनगर पुलके बाजुमे, गिरिधरनगर, असारवा, अह्मदाबाद-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 अपीलप्रारुपसं. सी.ए.3 मेंदाखिलकीजानीचाहिए।उसपरसीमाशुल्क (अपील) नियमावली, 1982 केनियम 3 केउपनियम (2) में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्तअपीलको चारप्रतियोंमें दाखिल किया जाए तथा जिस आदेशके विरुद्ध अपीलकी गई हो, उसकी भी उतनीही प्रतियाँ संलग्न कीजाएँ (उनमेंसे कमसेकम एक प्रति प्रमाणित होनी चाहिए)। अपीलसे सम्बंधित सभी दस्तावेजभी चारप्रतियोंमें 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 तथ्योंका विवरण एवं अपीलके आधार शामिल हैं, चार प्रतियोंमें दाखिल की जाएगी तथा उसके साथ जिस आदेशके विरुद्ध अपील की गई हो, उसकी भी उतनीही प्रतियाँ संलगन कीजाएंगी (उनमेंसे कमसे 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.अपीलका प्रपत्र अंग्रेजी अथवा हिन्दीमें होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरणके बिना अपीलके कारणोंके स्पष्टशीर्षोंके अंतर्गत तैयार करना चाहिए एवं ऐसे कारणोंको 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. केंद्रियसीमाशुल्कअधिनियम,1962कीधारा 129 ऐकेउपबन्धोंकेअंतर्गतनिर्धारितफीसजिसस्थानपरपीठस्थितहै, वहांकेकिसीभीराष्ट्रीयकृतबैंककीशाखासेन्यायाधिकरणकीपीठकेसहायकरजिस्ट्रारकेनामपररेखांकितमाँगड्राफ्टकेजरिए अदाकीजाएगीतथायहमाँगड्राफ्टअपीलकेप्रपत्रकेसाथसंलग्नकियाजाएगा।

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 आदेशके विरूद्ध सीमाशुल्क, उत्पादशुल्क एवं सेवाकर अपीलीय न्यायाधिकरणमें शुल्कके 7.5% जहां शुल्क अथवा शुल्क एवं जुरमानाका विवाद है अथवा जुरमाना जहां शीर्फ जुरमानाके बारेमे विवाद है उसका भुकतान करके अपीलकी 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 शुल्कअधिनियम, 1870 के अंतर्गत निर्धारित किए अनुसार संलग्न कि एग एआदेशकी प्रति पर उपयुक्तन्यायालय 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/10-30/Pr.Commr/O&A/2023-24 dated30.12.2024 issued by the Principal Commissioner of Customs, Ahmedabad to M/s Sterlite Power Transmission Limited (IEC No: 3116903239), at 4th Floor, Godrej Millennium, 9 Koregaon Road, Pune, Maharashtra – 411 001 and Shri Sanjay Amit Hule, Head Exim, M/s Sterlite Power Transmission Limited (IEC No: 3116903239, Pune, Maharashtra – 411 001.

Brief facts of the case:

M/s Sterlite Power Transmission Limited (IEC No: 3116903239), having registered office at 4th Floor, Godrej Millennium, 9 Koregaon Road, Pune Maharashtra – 411 001 (hereinafter referred to as "SPTL" or importer for the sake of brevity) is an importer cum Manufacturer.

2. Specific intelligence was developed by the officers of Directorate of Revenue Intelligence, Chennai Zonal Unit that M/s SPTL had imported goods of description "ACCC Composite Core" by wrongly classifying the same under Customs Tariff Item (hereinafter referred to as 'CTI') 85459090 of the Customs Tariff Act, 1975, instead of correct classification under CTI 68159990 (for the period from 01.01.2020 to 31.12.2021) and thereafter under CTI 68151100 (from 01.01.2022 to 30.11.2024) of the Customs Tariff Act, 1975 and paid BCD@7.5% instead of BCD@10%, thereby evading payment of applicable basic customs duty, SWS and IGST. The supplier of the imported "ACCC Composite Core" was M/s CTC Global Corporation, USA.

Investigation

3. Voluntary statement dated 20.01.2022 of Shri Vivek Goel, Senior Vice President, M/s SPTL - Shri Vivek Goel in his voluntary statement had inter-alia stated that;

- During the year 2011, he joined M/s Sterlite Technologies as Head of Supply Chain; in 2016, a division of M/s Sterlite Technologies was demerged and incorporated as M/s Sterlite Power Transmission Ltd (SPTL) and in the said new company viz., M/s SPTL, he was designated as Head of Supply Chain and presently officiating as Vice President (Finance) at SPTL.As Vice President (Finance), he was responsible for the control of the finances of the company for Product Division and he was looking into cash inflow, outflow and all other matters incidental to the finances of the company.
- M/s SPTL was a developer of "power transmission infrastructure" with two major verticals, One being manufacturing of power products like Overhead Conductors, Under Ground Power Cables and OPGW (Optical Fibre Ground Wire) and the other being infrastructure wherein they used to take the project on BOOM (Build Own Operate and Maintain) basis and complete the projects to earn tariff in the long run or sell after the completion.
- Various types of conductors like Aluminium Conductor Steel Reinforced (ACSR), All Alloyed Aluminium Conductor (AAAC), and other High Tension Low Sag conductors (HTLS) which consisted of different brands viz, Invar, GAP and ACCC (Aluminium Conductor Composite Core) were manufactured by them.
- For Under Ground Power Cables, Medium Voltage (MV), High Voltage (HV) and Extra High Voltage (EHV) cableswere manufactured and for Optical Fibre Ground Wire, two designs were manufactured by them.

- Polymers being the raw material for power cables and Aluminium & Carbon Composite Core being the raw materials for Conductors were imported by them wherein the majority of Carbon Composite Core was imported from M/s CTC Global, USA.
- With regard to the documents called for vide Summons dated 07.01.2022, he submitted a letter dated 20.01.2022 along with details pertaining to ACCC Composite Core, Product literature of ACCC Conductor Brochure, the manufacturing process of ACCC Composite Core, copies of sample local invoices; Vide letter dated 20.01.2022 M/s SPTL submitted the following;
    - The overseas supplier of ACCC Composite Core for each model/type was M/s CTC Global Corporation, USA.
    - All the import procurement of each model/type of ACCC Composite Core had been done for manufacturing ACCC conductors which in turn were supplied to various customers locally as well as globally.
    - They did not have a manufacturing process of ACCC Composite Core, as it was a proprietary item of M/s CTC Global Corporation, hence they submitted the manufacturing process of ACCC conductor which was being used at their end.
    - Mr Vipul Rahevar was the technical personnel conversant with all models/types of ACCC Composite Core
    - M/s SPTL did not have any patent on ACCC Composite Core.
    - There was NIL payment of Royalty to M/s CTC Global Corporation for the use of ACCC Composite Core in the manufacture.
- With regard to the document page No.7 submitted by him which contained the following information;
    - ACCC Conductor could carry twice the current capacity and could reduce line loss, by ~30% compared to conventional ACSR conductors
    - Its lighter-weight composite core would enable the use of nearly ~30% more aluminium. The added aluminium content would reduce electrical resistance and line losses by~ 30%.

    He stated that the said details were factual as per the available records and brochure of M/s CTC Global Corporation.

- With regard to the construction of ACCC Conductor, he stated that ACCC Conductor consisted of an Inner layer of Carbon Composite Core and an Outer layer of Stranded Aluminium Wires. Further, he stated that;
    - ACCC Composite Core was a proprietary product of M/s CTC Global Corporation, USA and ACCC® was a registered trademark of M/s CTC Global Corporation, USA where ACCCwas meant for Aluminium Conductor Composite Core.
    - In power transmission Conductor, there were two parts, 'Aluminium Wire'and 'Core'. The 'Aluminium Wire' was usually made of Aluminium strands and the 'Core' consisted of Steel or Carbon Fibres.

- The 'Core' which had been imported from M/s CTC Global Corporation, USA was a 'Composite Core' and as per their brochure, it is a Carbon Composite Core made of Carbon fibres and glass fibres.
- Composite Core was used to manufacture 'Conductors' for power transmission in their company andAluminium wires were stranded on the imported 'Composite Core' for transmission of power.
- The imported Composite Core was not sold as such or traded by them as it was used in manufacturing.
- The Composite Core which was used in the manufacture of Conductors to be sold in India,was imported on payment of duty and the Composite Core which was used in manufacture of Conductor for the purpose of export, was imported under Advance License.

- The ACCC Composite Core was imported for the purpose of manufacturing ACCC conductors.
- The Aluminium Conductor Steel Reinforced (ACSR) and Composite Core were designed based on the requirements of the line and they both had their advantages & disadvantages. However, the difference between themwas their resistivity, sag, power carrying capacity, temperature, and weight of the conductor.
- The purpose of the Core in 'ACSR' and 'Composite Core' was to give 'strength' to the conductor. The conductor was sustained by the core. However, if there was no core, then the conductor would not sustain if the same was pulled from both sides.
- Majorly one type of 'Composite Core' was imported by them from M/s CTC Global Corporation which would be in different thicknesses viz., 7.11 mm, 7.75 mm, 8.13 mm, 8.76 mm, 9.53 mm etc;
- With regard to the printout taken from the website https://www.ctcglobal.com/accc-conductor states"*The CTC Global ACCC® utilizes a hybrid carbon and glass fibre core embedded in a high-performance thermoset epoxy resin. The central carbonfibre core consists of tens of thousands of high strength, high-modulus unidirectional carbon fibres that are surrounded by a protective layer of glass fibres providing a galvanic barrier to prevent corrosion*", he stated that he had seen the printout and appended his dated signature on the same and the said printout was a document of M/s CTC Global wherein he had no comments to offer.
- The Bills of entry were filed based on the non-negotiable set of documents received from the overseas supplier.
- The classification as mentioned by the overseas suppliers in the import documents was filed before the Indian Customs and the imported Composite Core was classified under CTI 85459090 where the Basic Customs Duty @7.5% was paid.
- With regard to the samples of different thicknesses of imported 'Composite Core',he stated that the samples were not readily available and the same would be sent by post.

- With regard to the contact person in M/s CTC Global and their representative in India, he stated that they were communicating with one Ms. Sara Peng (email id speng@ctcglobal.com, phone - +1, 949-428-8500) of M/s CTC Global, USA.

4. In furtherance, M/s SPTL had forwarded the sample of "ACCC Composite Core" on 21.01.2022 which was, then, sent to the Joint Director, Central Revenue Control Laboratory (CRCL), Chennai vide letter dated 09.02.2022 for testing. The Joint Director, CRCL, Chennai vide letter dated 11.03.2022 submitted the test report which was as below;

The sample was in the form of a cut piece of brown coloured rod having inner black colour material sheathed with a brown colour layer. The outer sheath was made of glass fibre, a binding material based on the polymeric resins of epoxy. The inner material was made of carbon fibre, inorganic material, and binding material based on polymeric resins of epoxy. The percentage composition of the sample was as below;

- *Epoxy resin + binder = 25.9%*
- *Glass Fibre = 39.9%*
- *Carbon Fibre = 33.7%*
- *Inorganic material = Balance."*

5. Voluntary Statement dated 13.12.2022 of Shri Vipul Kumar Rahevar, Assistant Vice President, Manufacturing Operations, M/s SPTL in the presence of Shri Arun Kanhaiyalal Agarwal, Assistant Vice President, Supply Chain Logistics, M/s SPTL: ShriVipul Kumar Rahevar in his voluntary statement had inter-alia stated that;

- He was duly authorized to appear on behalf of M/s SPTL in response to the summons dated 07.12.2022 in terms of the authorization letter dated 12.12.2022.
- M/s SPTL was an integrated power transmission developer, providing power transmission solutions to clients andmanufacturing overhead power transmission lines and he was working as Assistant Vice-President of Manufacturing Operations at the Plant located at Silvasa,where he was looking after overall manufacturing of Overhead transmission lines Conductors.
- Overhead power transmission conductors were used to transfer electric load/current from one end of the cable to the other. They were called Overhead power transmission conductors because they were installed above the ground, on electric poles spread apart over a distance. The transfer of electric load / current from one end to the other end of an Overhead Power transmission Conductor was done by various types of conducting materials. Aluminium or aluminium alloys were used as the conductor in the conductors manufactured by M/s Sterlite Power Transmission Limited because Aluminium was light in weight and the cost of other conductors like Copper was huge almost four times that of aluminium.

- With regard to the weight characteristics of aluminium in the manufacturing of Overhead Power transmission Conductors, he stated that when an 'overhead conductor' was stringed between two electric poles at a distance, there would be sag in the cable due to the mechanical load/weight of the conductor itself. Further, during the operations of the Overhead Power transmission Conductors, a lot of heat was generated, which would lead to expansion in the Overhead Power transmission Conductors, which would create more sag in the Overhead Power transmission Conductors. Due to the sag, the mechanical load/weight of the conductor and other factors, the Overhead Power transmission Conductors would snap/break and the life of the transmission conductor would be reduced. Therefore, materials having less weight were used as conductors in the manufacturing of the Overhead Power transmission Conductors. Thus, good conductors having lightweight were chosen to act as conductors for Overhead Power Transmission Conductors.
- Several types of Overhead Power transmission Conductors were manufactured by M/s SPTL. Some of the examples were as below;
    - **AAAC (All Aluminium Alloy Conductor)** - A type of Overhead Power Transmission Conductors wherein multiple conducting wires made of aluminium alloy were twisted/braided together to form a thick bundle of conductors called AAAC and the core of the said bundle of conductors was also made of aluminium alloy. It was then surrounded with further conducting wires of aluminium alloy in layers form. Since the ultimate tensile strength of the aluminium alloy i.e. 309 Mpa/Nmm^{2}was more than the ultimate tensile strength of pure aluminiumi.e. 160 Mpa/Nmm^2(as per the Indian Standards), the aluminium alloy was used as core even though the electrical conductivity of the aluminium alloy i.e., 53%was less than the electrical conductivity of pure aluminiumi.e. 61%.Purealuminium had less strength to withstand its own mechanical load/weight when spread over a distance on the electric poles. Further, due to the heat generated within the power transmission cable during operations, the aluminium would expand and the strength of aluminium would reduce further. That would lead to excessive sag in the Overhead Power transmission Conductors and they might break/snap during operation because of their own mechanical load/weight which would also affect the life span of Overhead Power transmission Conductors. Therefore, impurities were added to the pure aluminium to make an alloy which would have increased strength than that of pure aluminium. The increased strength of the aluminium alloy would increase the life of the Overhead Power transmission Conductors. Due to the increase in strength of Overhead Power transmission Conductors, more aluminium conductors could be packed into the Overhead Power transmission Conductors to carry more current load. That way the overall conductivity of the Overhead Power transmission Conductors would also increase. However, the Overhead Power transmission Conductors so manufactured

also had its threshold limit of withstanding the mechanical load of the cable.

- **ACSR (Aluminium conductor steel reinforced)** – It had two components, viz. (1) "aluminium conductor" – the outer layer consisting of multiple conducting wires made of pure aluminium, and (2) "reinforced steel rod" - a galvanized steel rod used as the core of ACSR. In ACSR, multiple conducting wires made of pure aluminium were wrapped in layers form, on a reinforced galvanised steel rod. Unlike AAAC, where the aluminium alloy itself was used as the core, in ACSR, a galvanized steel rod was used as the core to carry the mechanical load of the outer aluminium conductor. With regard to the usage of galvanized rod as core in ACSR, he stated that the tensile strength of galvanized steel rod was more than the tensile strength of the aluminium alloy wires, and therefore the ACSR could withstand mechanical load beyond the limitations of the All-Aluminium Alloy Conductor. Since the mechanical load/weight of the ACSR was carried by the steel rod, there was no need for creating aluminium alloy for the purpose of strength, and therefore pure aluminium was used to manufacture the ACSR overhead power transmission conductor.In ACSR, the electric current load was carried by the pure aluminium conductor only and not by reinforced steel rod since it was only used to provide the mechanical strength to the aluminium conductor cable
- **ACCC (Aluminium conductor composite core)** – The ACCC was a registered trademark of M/s CTC GlobalCorporation, USA having two components, viz. (1) "AluminiumConductor" - the outer layer, consisting of multiple conducting wires made of pure annealed aluminium, and (2) "Composite Core" - **A composite of Carbon Fibres**, glass fibres and resin materials. It was a type of Overhead Power transmission conductor in which multiple conducting wires were made of pure aluminium wrapped in layers around a Carbon fibre composite core. Unlike AAAC and ACSR, in ACCC, the carbon fibre composite core was used as the core of ACCC to **carry the mechanical load of the outer aluminium conductor.**With regard toannealed aluminium, he stated that Heat treated pure aluminium was called annealed aluminium which would not expand at high temperatures and the tensile strength of annealed aluminium was even less than pure aluminium. However, the same is used in ACCC, since the tensile strength of the ACCC came from Composite Core only.

- With regard to the usage of **Carbon Fibre Composite core as the core of ACCC**, he stated that the tensile strength of the carbon fibre composite core was more than the tensile strength of the aluminium alloy wires of AAAC and the galvanized steel rod of **ACSR**. Therefore, with the usage of a carbon fibre composite core, the ACCC overhead conductor could withstand mechanical load beyond the limitations of the AAAC or ACSR. Since the entire mechanical load/weight of the ACCC Overhead Power transmission Conductors was carried

by the carbon fibre composite core, there was no need for creating aluminium alloy for the purpose of strength and annealed aluminium of higher conductivity was used during the manufacturing of ACCC Overhead power transmission conductor. Further, the carbon fibre core was lighter in weight when compared to the reinforced steel rod. **Due to the strength and lightweight properties of the Carbon fibre composite core**, more dense pure aluminium conducting wires could be wrapped around the composite core for the same length of cable as that of ACSR, and therefore, more electric load could be transmitted through the aluminium conductors of ACCC as compared to the same length of ACSR. Further, **ACCC conductors could operate at high temperatures due to the presence of a carbon fibre composite core**.

- The electric current load in ACCC was carried only by the aluminium conductor and the carbon fibre composite core was used only to provide the mechanical strength to the aluminium conductor cable.
- With regard to any other application of Carbon Fibre Composite Core, he stated that the **carbon fibre composite core was specifically developed by CTC Global, USA** in accordance with the set American standards "ASTM". The carbon fibre composite core was developed only as **a reinforcing material in the manufacture of overhead power transmission conductors**. There was no other application of the carbon fibre composite core.
- With regard to the term ACCC Composite Core in the Bills of entry filed by M/s SPTL, he stated that the imported **goods described as "ACCC composite core" in the bills of entry were 'Carbon Fibre Composite Core' of the ACCC Overhead power transmission conductor.** The ACCC composite core was used in the manufacturing of the ACCC Overhead power transmission conductor. After the import of the carbon fibre composite core**, Aluminium wires/strands were wrapped on them to make it Overhead Power Transmission Conductor.**
- The technical parameters based on which the Carbon fibre composite core wastested by them were namely, 1) tensile strength, 2) Glass transmission temperature, 3) Galvanic Layer thickness, 4) Density, 5) Heat Exposure/Heat Test, 6) Bending Test, 7) Dye Penetrant after Bending Test, 8) Thickness Test, 9) Tensile Test after Bending Test. The tests mentioned in Sl.no. 1 to 4 were regular tests and the tests mentioned in Sl. No. 5 to 9 were not regular tests but were only done at the time of design of the carbon fibre composite core. The tests were done in terms of ASTM standards B987/B987M-20 .
- Since the electricity did not pass through the carbon fibre composite core and the carbon fibre composite core was used for the purpose of giving strength only, the parameters of conductivity, resistivity etc would not apply to the Carbon fibre composite core. Further, those parameters would not apply even to the reinforced steel core available in ACSR conductors. In any overhead power transmission conductors, the core was designed solely for the purpose of strength. **Therefore, the main parameter for the cores was usually tensile strength only**.

- When they referred to Carbon Fibre composite core, they meant Carbon and glass fibres embedded core on referring to Page No.269 (technical particulars for ACCC Casablanca) wherein it was mentioned as "Carbon Glass Fibre (CTC Core), the core consisted of Carbon and Glass Fibres embedded in a proprietary heat resistant poly matrix". He further stated that usually, they referred to it as carbon fibre composite core but actually, they are "Carbon and Glass fibres embedded core". This core was also as per the ASTM standards.
- The ASTM standard B987/B987M-20 submitted by him pertaining to CFC (Carbon fibre composite core/thermoset matrix) was also applicable to the Carbon and Glass fibres embedded in a proprietary heat-resistant poly matrix.
- The carbon fibre composite core imported by them was visually differentiated into two layers i.e. the **inner material, made of carbon fibres having black colour and the outer layer, made of glass fibres, having yellowish colour and epoxy resin. This outer layer would act as the galvanic protection barrier layer which is used to prevent corrosion.**
- With regard to the test report no. 684/DSM/10.02.2022 dated 11.03.2022 pertaining to the testing of ACCC Composite Core sample submitted by SPTL, he stated that he had seen the test report and appended his dated signature on the same. Further, he did not dispute the test reports.
- When enquired as to why it was not a misdeclaration of description when they called the imported item a "Carbon Fibre Composite Core" wherein the Chemical composition of the sample was found to be containing Carbon fibre, glass fibre, epoxy resin and binder, he stated that they had declared in the bills of entries as given by M/s CTC Global. **The carbon fibre composite core manufactured by M/s CTC Global and imported by them is meant for strength & reinforcement purposes only. They were not inclined to know the chemical composition of the said core because the products imported by them fulfilled the standards.**

6. Voluntary Statement dated 29.12.2022 of Shri Salil Chandrasekar Kale: Shri Salil Kale, Head, Strategic Sourcing and Supply Chain Management, M/s SPTL, in his voluntary statement (in the presence of Shri Sanjay Amit Hule, Head Exim, SPTL) had inter-alia stated that;

- M/s SPTL was an integrated power transmission developer, providing power transmission solutions to clients, manufacturing overhead power transmission conductors, cables and developing transmission lines along with substations as a developer; that he was looking after overall sourcing &procurement of materials &logistics and was reporting to Director Commercial Mr Reshu Madaan.
- The procurement of ACCC Composite core was done based on the drawings of product approved by his team from their overseas supplier viz., M/s CTC Global under contracts. Since, M/s CTC Global was the only supplier of ACCC

composite core, they were purchasing the ACCC composite core from the M/s CTC Global only.

- Annual purchase order contracts were made with M/s CTC Global for purchase of ACCC composite core and subsequently finished conductors were sold in domestic market and were exported to SAARC countries. However, separate purchase order contract were made with M/s CTC Global for purchase of ACCC composite core to be sold to other countries.
- Shri Don Douglas and Ms Sara Peng were the contact persons of M/s CTC Global in US, however, in India, Shri Hitesh (Ph 0823216671) was the contact person of M/s CTC Global, in relation with the import of ACCC composite core. They used to contact Shri Hitesh only for any issue in supply of materials from M/s CTC Global and the purchase order contracts of M/s SPTL with M/s CTC Global were always addressed to Shri Hitesh only. However, all the payments to M/s CTC Global were made on CIP basis.
- With regard to the overhead power transmission conductors, he stated that electric wires which were mounted on the electric poles were called "Overhead Power Transmission Conductors". They were used for transmission of electric load from one end of the conductor to other. Further, he stated that M/s SPTL was manufacturing several types of Overhead Power Transmission Conductors like ACCC, ACSR, AAAC etc.
- The main reason for importing ACCC composite core from M/s CTC Global, was that the ACCC composite core was the inner / core part of the ACCC Conductor giving strength to the conductor.
- The statement dated 20.01.2022 of Shri Vivek Goel, Vice President (Finance) of M/s SPTL and the statement dated 13.12.2022 of Shri Vipul Kumar Rahevar, AVP, were gone through by him and the submission made in the said statements were agreed by him.
- With regard to the test report no.684/DSM/10.02.2022 dt 11.03.2022 pertaining to the testing of ACCC Composite Core (sample submitted by M/s SPTL), he stated that he had seen the test report and he was not disputing the test reports.
- With regard to email dated 28/12/2022 received from email AAlmergen@ctcglobal.comof M/s CTC Global Corporation, USA giving information about ACCC, he stated that he had gone through the said email and appended his dated signature on the same. He further stated that the ACCC Composite Core was the patented product of M/s CTC Global Corporation, USA. M/s CTC Global Corporation only knew the chemical composition of the Core and the exact purpose & usage of each chemical component in the core.
- He stated that ACCC Composite core was not used in Metallurgy Industry. Since it was a patented product of M/s CTC Global Corporation specifically designed for manufacture of ACCC conductor only, they were using the same for manufacture of ACCC conductor only.

- With regard to the usage of ACCC Composite Core in manufacture of batteries, Audio Devices, voltage regulators, welding, heating apparatus, cathode, anodes, he stated that he was not aware of the same.
- With regard to the voluntary statement of Shri Vivek Goel and Shri Vipul Kumar (who had categorically stated that ACCC Composite Core imported by M/s SPTL was used only to give strength to ACCC Conductor and no electricity was passed through ACCC composite core), he agreed that ACCC Composite Core was used only to give strength to the ACCC conductor and no electricity passed through the ACCC composite core.
- **When asked to state whether ACCC Composite Core would fall under any of the categories mentioned in CTH 8545 which included viz., Carbon Electrodes for furnaces, Carbon welding electrodes, Carbon electrodes for electrolysis, carbon brushes, Arc-lamp, Battery Charger, microphones, anodes, heating apparatus, voltage regulations, contacts of electrodes of carbon etc., (in light of Bills of Entry M/s SPTL where imported ACCC Composite Core was classified under CTH 854590), he stated that he had seen the explanatory notes to CTH 8545 and he was not able to categorize any of groups mentioned in the explanatory notes to CTH 8545. The classification as provided by supplier M/s CTC Global Corporation, USA, had been followed by them. He further stated that since the imported ACCC Composite Core was used for manufacture of overhead power transmission conductors, the imported product was for electrical purpose only.**
- With regard to the Explanatory Notes to CTH 6815, he stated that he had seen the explanatory notes to CTH 6815 and appended his dated signature as a token of having seen the same. He further stated that the imported ACCC Composite Core may be categorized as articles of carbon fibre for the purpose of reinforcement. However, he was not able to state whether the imported ACCC Composite core was classifiable under CTH 6815.
- The product ACCC Composite Core was used for strength purposes only and the said aspect had already been explained by Shri Vivek Goel and Shri Vipul Kumar Rahaver in their voluntary statements. However,the said ACCC Composite Core was classified under CTH 8545, as it was used in the manufacture of ACCC Conductors for power transmission.
- With regard to approval of check list for filing Bills of Entry, he stated that Shri Sanjay Amit Hule, Head of EXIM approved checklist for filing Bills of Entry.

7. Voluntary Statement dated 06.06.2023 of Shri Hitesh Mundhada**:** Shri Hitesh Mundhada**,** Vice President (Business Development- South Asia) at M/s CTC Global India in his voluntary statement had inter-alia stated that;

- He joined M/s Sterlite Technologies Limited, Pune in 2008 as Associate Manager and was promoted as Deputy Manager. His role was to promote new products of the company in the domestic market and the products,which he

was dealing in were mainly high-performance conductors like AL59, ACSS, INVAR conductors and ACCC Conductor. In 2012, he left M/s Sterlite Technology Limited and became consultant to M/s CTC Global, USA and he was given India, Bangladesh, Nepal, Srilanka and Bhutan for promotion of the ACCC Conductor by M/s CTC Global, USA; that in 2017, M/s CTC Global, India, a 100% subsidiary company of M/s CTC Global, USA was established in Pune and he joined CTC Global India as Vice President- Business Development South Asia; that his role in M/s CTC Global, India was exactly same as earlier i.e. promotion of ACCC Conductors.

- The application side of the conductor including benefits like power transmission was known to him.
- He had done promotion of the ACCC conductor in various power utility companies like Chhattisgarh state transmission, Maharashtra state transmission, Delhi Transco, Power Grid India etc.
- For promotion of ACCC conductor he used to go along with their partners M/s Sterlite and M/s Apar for the promotion because the product was actually sold to the power utility companies by their partners viz., M/s Sterlite and M/s Apar. In case of any questions, he as a promoter of CTC Global would answer those questions, however, the technical queries would be answered by the partners only, and if still any doubts were there, the same would be cleared with the assistance of their CTC Global USA team.
- M/s CTC Global USA had partner contracts with 4 registered partners viz., M/s Sterlite Power Transmission Limited, Gurgaon, M/s Apar Industries Limited, Mumbai, M/s Gupta Power Infrastructure Limited, Bhubaneshwar and M/s JSK Industries, Mumbai. However, M/s CTC Global India did not have any contract with them since, M/s CTC Global India would only do the promotion activities.
- There were 4 models of ACCC Composite core which were supplied to the Indian importers having different sizes / diameters i.e., 7.11 mm, 9.53 mm, 5.97 mm and 8.76 mm, only the proportion of raw materials was changed in the various sizes of the core.
- With regard to the difference in ACCC composite core supplied to various Indian importers (M/s Sterlite Power or M/s APAR Industries or M/s Gupta Power) i.e. difference in construction or technical specification, he stated that the ACCC composite core was a standard product for each model and the model supplied to the 3 or 4 Indian importers, was identical in all aspects of construction and technical specification.
- On being asked to submit the detailed list of raw materials used in manufacturing of ACCC composite core imported into India and supplied by M/s CTC Global, he stated that it was not available with him.
- The ACCC composite core which was manufactured by M/s CTC Global USA complied with ASTMB987 International standard and there was no Indian standard for that.

- With regard to the construction of the Composite Core, made by M/s CTC Global USA, he stated that the composite core was primarily made of carbon fibre & glass fibre and those two things were visible from the outside.

8. During the course of the investigation, a letter dated 01.06.2022 was sent to Ms Sara Peng of M/s CTC Global Corporation, USA by email to speng@ctcglobal.com to furnish certain documents in connection with imported ACCC Composite Core. Since no details were submitted by M/s CTC Global Corporation, a reminder letter dated 30.06.2022 was sent to Ms Sara Peng by email to speng@ctcglobal.com requesting to furnish documents/information as called for vide this office letter dated 01.06.2022. In response to the same, M/s CTC Global, USA vide email dated 22.12.2022 and 28.12.2022 (from the email id AAImgren@ctcglobal.com) submitted the following;

(a) **Details of the composition of Core, and role of each material in overall strength** – ACCC® Core was comprised of glass and carbon fibres in a 1.35:1 ratio (by weight) respectively, bound by a resin matrix. Carbon fibres would give the ACCC Core most of its strength while the glass fibres would provide galvanic protection.

(b) Copy of Certificate for Patent No.272645 granted on 13.04.2016 to M/s Composite Technology Corporation (CTC) for an invention entitled "Aluminium Conductor Composite Core Reinforced Cable and Method of Manufacture" along with description and method of manufacture. As per the said patents, ACCC® Core met the requirements of the international standard ASTM B987, which described the properties of Carbon Fibre Composite (CFC) cores for use in Overhead Electrical Conductors. In the license agreements, CTC permitted the use of the ACCC Core for no purpose other than to manufacture ACCC Conductor.

(c) Details pertaining to the Clear name of the Product-Carbon Fibre Core, Carbon Composite core, Carbon GlassFibre core - ACCC® Core was CTC Global's brand name fora core that would meet the requirements of the International Standard ASTM B987, which would describe the properties for Carbon Fibre Composite (CFC) cores for use in Overhead Electrical Conductors.

9. In furtherance, several summons dated 10.01.2023, and 17.01.2023 were issued to Shri Reshu Madaan, Director Commercial at M/s SPTL, however, he never appeared before the Investigating Agency to tender his true and voluntary statement under Section 108 of the Customs Act 1962. Further, in reply to the Summons issued to Shri Reshu Madaan, two emails dated 13.01.2023and email dated 19.01.2023were submitted by Shri Kale from email id salil.kale@sterlite.com.

9.1. Vide first email dated 13.01.2023 Shri Salil Kale submitted that;

- The issue involved in the investigation was purely a matter of legal interpretation as to whether the Composite Carbon Core used in the manufacture of Aluminium conductors were to be classified under CTH 8545 or 6815.
- Senior officers of the company had appeared before the department and submitted their documents.
- Hence, he requested the presence of Shri Reshi Madaan in person be dispensed with.

9.2. Vide second email dated 13.01.2023 , Shri Salil Kale submitted that;

- The subject Composite Carbon Cores were used for the manufacturing of Aluminium Conductors which were used for the transmission of electricity. These Composite Carbon Cores providedstrength/security to the Aluminium Conductor Cores. Hence, the said Carbon Cores used for electrical purposes would be classified under Chapter Heading 8545 of Customs Tariff.
- All the goods specified under CTH 8545 were made of Carbon which is a bad conductor of electricity and the electricity does not pass through any of the goods specified in Chapter Heading 8545. The expression used in Chapter 8545 is "for electrical purposes" and does not carry the electrical current. The expression "electrical purposes" is very wide and includes safety, security, resistance, tolerance, etc. within its ambit.
- They had taken an expert opinion from an independent Chartered Engineer, M/s Cogs Associates Gurugram wherein it had been stated that the Composite Carbon Cores were made of glass fibres and carbon fibres which provide strength, durability, resistance and safety to the aluminium conductors which transmit the electricity from one place to other. Thus, it was concluded that the Composite Carbon core used in the aluminium conductors was used for 'electrical purposes.' The said opinion was again supported by a legal opinion from M/s RSA Legal Solutions, Gurgaon who had confirmed that the Composite Carbon Cores were correctly classifiable under Chapter Heading 8545.
- They had checked with other manufacturers/importers of identical products like M/s Apar Industries Ltd and M/s Gupta Power Infrastructure Ltd who had also confirmed that they classified the said goods under CTH 8545.

9.3. Vide email dated 19.01.2023, he had requested to provide another suitable date and time for the appearance of Shri Reshu Madaan before the department. Further Summons dated 09.01.2024 were issued to Shri Reshu Madaan, Director Commercial, M/s SPTL, however, he did not appear before the investigating agency.

Analysis and Discussion

10. M/s Sterlite Power Transmission Ltd (SPTL) had imported "ACCC Composite Core" through various ports (INSAJ6, INNSA1, INBOM4). These imported goods were

classified under CTI 85459090 of the Customs Tariff Act, 1975 and BCD at 7.5%, SWS and IGST were paid by them. During the course of investigation by DRI, Chennai Zonal Unit, technical literature on the subject of imported goods was called for and studied. Samples obtained from M/s SPTL were forwarded for testing the technical composition and test reports were obtained. Statements of the officials of M/s SPTL were recorded during the investigation.

11. Brief about ACCC Composite Core:

11.1. M/s SPTL was in the business of manufacturing Overhead Power Transmission conductors which are used to transfer electric load / current from one end of the cable to another. They were called overhead transmission conductors because they were installed above the ground, on electric poles spread apart over a distance. The transfer of electric load was done by various conducting materials such as aluminium and aluminium alloys. It also appears that M/s SPTL had manufactured several types of Overhead Power Transmission conductors based on the requirements. Some of the examples are as below;

- **AAAC (All Aluminium Alloy Conductor)**having two components (1) aluminium alloy conductor – where multiple conducting wires of aluminium alloy are twisted/braided together to form a thick bundle of conductor and (2) core which is also made up of aluminium alloy. In the said conductor, aluminium alloy is used due to its tensile strength which is more than of pure aluminium. Hence, even though the electrical conductivity of aluminium alloy is less than that of pure aluminium, the same is used as core in AAAC due to its more tensile strength.
- **ACSR (Aluminium conductor Steel reinforced)** having two components (1) Aluminium conductor consisting of multiple conducting wires made of pure aluminium and (2) reinforced steel rod – a galvanized steel rod is used as core of ACSR. The tensile strength of galvanized steel rod is more when compared with aluminium alloy (as used in AAAC), hence the same is used as core in ACSR along with pure aluminium with high conductivity and less strength. Hence, the ACSR conductors are better than AAAC due to its high tensile strength when compared with AAAC.
- **ACCC (Aluminium Conductor Composite Core)** which was made up of two components viz., (1) Aluminium conductor, consisting of multiple conducting wires made of pure annealed aluminium and (2) Composite Core – A composite of Carbon Fibres, glass fibres and resin materials. In ACCC conductors, multiple conducting wire made of pure annealed aluminiumwere wrapped around the rod made of composite core. Carbon Fibre Composite Core was used in ACCC to carry mechanical load of the conductor unlike AAAC (where aluminium alloy is used as Core) and ACSR (where galvanized steel rod is used as Core) where the tensile strength of the Carbon Fibre Composite core was more than the tensile strength of Aluminium alloy and galvanized steel rod. Since the entire mechanical load was carried carbon fibre composite core, there was no need to create aluminium alloy for the purpose of strength and therefore

annealed aluminium of higher conductivity was used in the conductor. Further, carbon fibre was lighter in weight when compared to reinforced steel rod. Hence, due to the tensile strength and lightweight properties of the composite core, more dense pure aluminium conducting wires could be wrapped around the composite core for the same length cable as that of ACSR and therefore more electric load could be transmitted through aluminium conductors of ACCC when compared to that of ACSR. Further, ACCC conductors can operate under high temperature due to the presence of carbon fibre when compared to a steel rod.As per product literature of ACCC conductor by SPTL submitted by Shri Vivek Goel also it appears that ACCC Conductor uses aerospace grade Carbon fibre with boron-free glass fibres and fully annealed aluminium and has Excellent strength and conductivity.

From the above, it appears that in all the overhead transmission conductors, the core was used to give mechanical strength to the conductors and only the aluminium / aluminium alloy was used as conductor for transmission of electricity. The Carbon fibre in the ACCC Composite Core, being lighter in weight and having high tensile strength enables ACCC Conductors to carry twice the current capacity and to reduce line loss by ~30% compared to conventional conductors. In view of the same, the ACCC conductor is better conductor than AAAC & ACSR. The above aspects were admitted by the officials of M/s SPTL in their voluntary statements which was further supported by the patented documents.

11.2. Overhead power transmission conductors require tensile strength to be able to withstand its own mechanical load when spread across poles, otherwise the cable will break. Therefore, materials having more tensile strength are required. The tensile strength of Carbon fibre core is more than the tensile strength of aluminium alloy wires or the galvanized steel rod, therefore, with the usage of Carbon fibre core, ACCC overhead conductor can withstand more mechanical load. Further the Carbon fibre core is lighter in weight when compared to the reinforced steel rod. Due to strength and light weight properties of the composite core, more dense pure aluminium conducting wires can be wrapped around the composite core and therefore more electric load can be transmitted through the ACCC conductors. The said aspect has been admitted by the officials in their voluntary statements. Further, the said aspect has been corroborated from the technical literature available on website. The officials of SPTL in their voluntary statements admitted that the ACCC composite core is **made of Carbon Fibre and Glass Fibre** where carbon fibre provides strength to the ACCC conductor.

11.3. To analyse the composition of the imported goods, samples received from SPTL were submitted to CRCL for conducting test. As per the test report of the sample submitted by M/s SPTL, it was ascertained that the imported goods i.e. ACCC Composite Core was made of Carbon Fibre (33.7%), Glass Fibre (39.9%) and Epoxy resin + binder (25.9%) and balance to be inorganic Material. The said test report has been undisputedly accepted by the officials of M/s SPTL in their voluntary statements. Further the supplier viz., M/s CTC Global Corporation, USA vide email dated

28.12.2022 had also submitted that ACCC Core is composed of glass and carbon fibre in a 1.35:1 ratio by weight bound in a resin matrix and the Carbon fibre is used to give strength to the ACCC Core, while glass fibres provide galvanic protection to prevent corrosion. The said aspects have been accepted by the official of SPTL during voluntary statements.

11.4. They also stated that "ACCC Composite Core" is also termed as "Carbon Fibre Core (CFC)" in the documents submitted by them during the statements. M/s SPTL during voluntary statement submitted guaranteed technical particulars of HTLS (High Tension Low Sag) conductor wherein they have mentioned inner core as CFC – High Strength Grade which stands for Carbon Fibre Core only. **It has also been admitted by the officials that the main characteristic of the core in the conductor is to provide tensile strength and in the ACCC conductor, the carbon fibre is the main component that give tensile strength to the conductor & provides reinforcement and not electricity conduction**.

11.5. The said terminology i.e. Carbon Fibre Core has also been used by the supplier i.e. M/s CTC Global Corporation. In para 3 of email dated 28.12.2022, M/s CTC Global Corporation had provided details of the clear name of the product i.e. Carbon Fibre Core, Carbon Composite Core and Carbon Glass Fibre Core wherein they had submitted that ACCC® Core is CTC Global's brand name for a core that meets the requirements of the international standard ASTM B987, which describes the properties for Carbon Fibre Composite Core for use in Overhead electrical conductors. Further, from the patented No.272645 of M/s CTC Global Corporation, submitted by M/s SPTL also it appears that;

- Composite Core comprise reinforced fibres that are substantially heat resistant. The heat resistant enables ACCC cable to transmit increased power due to the ability of the composite core to withstand higher operating temperatures.
- The fibres used in the present invention have the ability to withstand operating temeratures between the range of 90 to 230 degree. Moreover, fibres used in the present invention can preferable withstand an ambient temperature range between -40 to 90 degree.
- Composite Core of the present invention comprise reinforced fibres having high tensile strength. Carbon fibres are used for manufacture of the composite core due to their high tensile strength (preferably in the range of about 350 to 750 ksi) which helps in reducing the sag in ACCC cable.

Since the essential characteristic of the ACCC composite core i.e. tensile strength is coming from the Carbon Fibre, it is to be treated as Carbon Fibre Core which was admitted by the officials of M/s SPTL in their statements and the same has been corroborated from the details submitted by M/s SPTL wherein ACCC Composite Core has also been termed as Carbon Fibre Core.

12. Thus, from the conjoint reading of the technical specification, test reports, patented documents, and evidences unearthed during the investigation elaborated in the preceding paras, it is evident that ACCC Composite Core is nothing but a Carbon Fibre Core which is made of Carbon Fibre, glass fibre, epoxy resin and other organic chemical. The main function of ACCC Composite Core is to provide strength, which is given by Carbon fibre to the ACCC conductors due to its low weight and high tensile properties whereas the glass fibre is having low tensile strength. The ACCC Composite core is not used to conduct / transmit electricity as the same is being done by the annealed aluminium wrapped around the composite core.

Discussion on Classification

13. **Classification adopted by M/s SPTL:** It appears that M/s Sterlite Power Transmission Ltd (SPTL) had imported "ACCC Composite Core" and classified the same under CTH 8545 more specifically under CTI 85459090 – O***ther articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes".*** Chapter 85 in Section XVI of First Schedule to the Customs Tariff Act deals with **"Electrical Machinery and Equipment and Parts thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers and Parts and Accessories of such articles"**. Further, the CTH 8545 is reproduced as below;

CTH 8545		Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes.
	-	**Electrodes:**
85451100	--	Of a kind used for furnaces
85451900	--	Other
85452000	-	Brushes
854590	-	**Other:**
85459010	---	Arc lamp carbon
85459020	---	Battery Carbon
85459090	---	**Other**

As per explanatory notes to Chapter Heading 8545 - this heading covers all articles of graphite or other carbon which are recognisable by their shape, dimensions or otherwise, as being for electrical purposes, whether or not they contain metal.

In general, these articles are obtained by the extrusion or by the moulding (usually under pressure) and heat-treatment of a composition which, in addition to its basic constituent (natural carbon, carbon black, gas carbon, coke, natural or artificial graphite, etc.) and the necessary binders (pitch, tar, etc.), may also contain other substances such as metallic powders.

In some cases the articles of this heading may be coated electrolytically or by spraying (e.g., with copper) to increase their conductivity and decrease their rate of wear. They remain classified here even if fitted with eyelets, terminals or other means of connection.

Further as per explanatory notes to Chapter Heading 8545, this heading includes;

(a) Carbon electrodes for furnaces
(b) Carbon welding electrodes
(c) Carbon electrodes for electrolysis
(d) Carbon brushes
(e) Arc-lamp or other lamp carbons
(f) Battery carbons
(g) Carbon parts of microphones
(h) Other articles of graphite or other carbon, such as;
  a. Connecting pieces (nipples) for joining together furnace carbons.
  b. Anodes, grids, and screens for rectifying valves.
  c. Heating resistors, in the form of rods, bars, etc., for various types of heating apparatus.
  d. Resistance discs and plates for automatic voltage regulators.
  e. Other contacts or electrodes of carbon.

13.1. M/s SPTL had classified imported "ACCC Composite Core" under CTH 8545 but in their statement, they stated that were not aware of the usage of ACCC Composite Core in the manufacture of batteries / Audio devices/voltageregulators/welding/heatingapparatus/cathode/anodes (listed under CTH 8545) and that they were not able to categorize the imported product in any of the groups (viz. electrodes, brushes, arc-lamp, battery carbons etc) mentioned in the explanatory notes to CTH 8545. They also stated that the imported ACCC Composite core was not used in the Metallurgy industry and it is a patented product of M/s CTC Global Corporation which was specifically designed for the manufacture of ACCC conductors only.

13.2. CTH 8545 covers all graphite or carbons only. However, it does not cover any carbon fibres/glass fibres/resin, etc. Further, 'other carbon' classified under CTI 85459090 (as mentioned in para (h) of the explanatory notes to heading 8545) also does not include Carbon fibre. However, as per the import data, the goods imported by M/s SPTL are ACCC Composite Core, which is made up of carbon fibres and glass fibres and bound by binders/epoxy resin. Moreover, the test report received from CRCL about the sample specifically provided the composition of ACCC Composite Core as below which was also accepted by the officials of M/s SPTL and M/s CTC Global, India;

a) Epoxy resin + binder = 25.9%

b) Glass Fibre = 39.9%

c) Carbon Fibre = 33.7%

d) Inorganic material = Balance.

As per the patent documents submitted by the importer/ M/s CTC Global, it is evident that the ACCC composite core is made up of carbon fibres and glass fibres. Thus it appears that the importer had classified the impugned imported product under CTI 85459090 as "other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes", solely on the ground that the imported product goes into the manufacturing of ACCC Conductors and therefore contends that it is "for electrical purpose" as mentioned in CTH 8545 even though the imported product is not a part of Carbon as described under CTH 8545, but it is a Carbon Fibre.

13.3. During voluntary statements, the officials of M/s SPTL admitted that the ACCC Composite Core is made up of Carbon fibres and glass fibres and the said imported product is used in the manufacture of ACCC Conductor to gives more tensile strength due to the Carbon Fibre of Composite Core. Hence, it appears that M/s SPTL was aware of the properties of Carbon Fibre Core / ACCC Composite Core appearing to be Carbon Fibres only due to its tensile strength. However, they misclassified the same under CTI 85459090 to avoid payment of appropriate customs duty.

13.4. As per the expert opinion submitted by SPTL, the Composite Carbon Core was made of Glass Fibres and Carbon Fibres which provided strength, durability, resistance and safety to the aluminium conductor. However, as per Para 10 of the Legal Opinion submitted by SPTL, the subject Composite Carbon Core is carbon and the said carbon provided strength to the ACCC reinforced overhead electrical transmission and distribution cable. Hence, the expert opinion and legal opinion appear to be non-relevant to each other since expert opinion talks about the carbon fibres providing strength to the Composite Carbon Corewhereas legal opinion talks about the Carbon providing strength to the Carbon Composite Core and none of them gives satisfactory explanation for adoption of HSN 85459090 for ACCC Composite Core. In view of the above, the impugned imported goods "ACCC Composite Core" cannot be classifiable under the CTH 8545.

14. Classification contended by the department: The classification of goods under the Indian Customs Tariff is governed by the 'Harmonized System Nomenclature for Classification' given by the World Customs Organization. The 'General Rules of Interpretation' further explains that only after exhausting the provisions of Rule 1, the subsequent Rules 2, 3 4... can be implemented in sequential order after exhausting the provisions of the previous rule.

14.1. Rule 1 of GRIs states that "The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions. In the instant case, the terms of the headings

and any relative Section Note or Chapter Notes could not determine the classification of the imported goods. Hence, the classification is to be done by following Rule 2 to 6 proceeding sequentially.

14.2. Rule2 (b) of GRIs stated that "Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3". Since the imported ACCC Composite Core is a mixture of more than one material, the classification of the same shall be according to the principles of Rule 3.

14.3. Rule 3 of the GIRs states that When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows;

a. The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

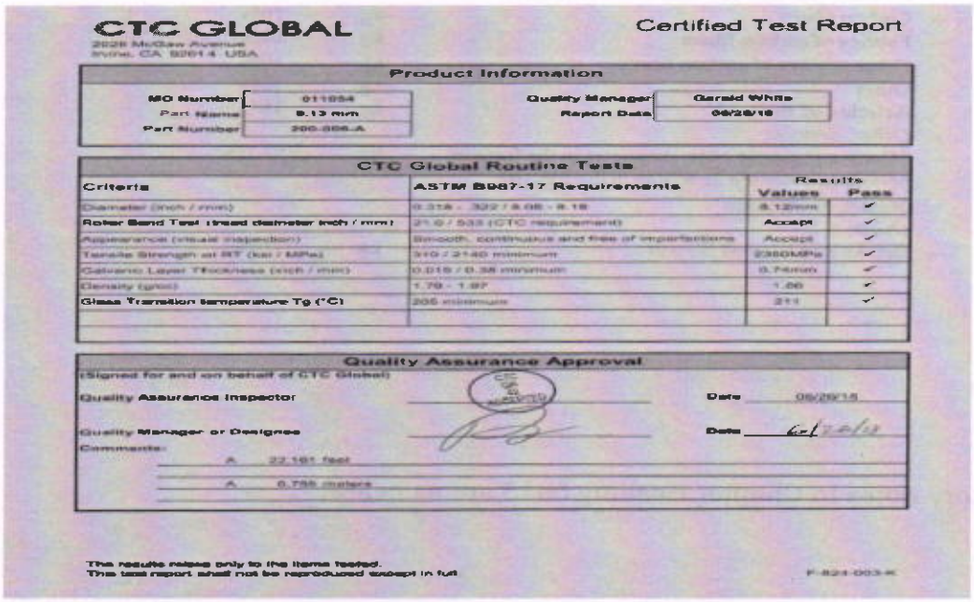
b. Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

c. When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

14.4. Since the imported product is a composite product consisting of different materials as ascertained from the CRCL Test report, as mentioned in Rule 3(a) above, all the headings relevant to the main components viz carbon fibres and glass fibres are to be considered for discussion on classification. Carbon fibres and articles of carbon fibres are covered under CTH 6815. Articles of carbon are covered under several CTHs viz 3801, 6815, 6901, 8545 etc. Articles of glass fibres are covered under CTH 7019. When by virtue of Rule 3(a) when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods. In view of the above, Rule 3(b) is to be proceeded.

14.5. Rule 3(b) of GRI states that Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their **essential character**, insofar as this criterion is applicable. In terms of the explanatory notes to Rule 3(b), the factor which determines essential character will vary as between different kinds of goods.

14.6. In the instant case, the essential character of the product in its entirety is to give tensile strength to the ACCC conductor and to bear the weight of the overlying conductor that carries current as discussed in the preceding paras. This fact is undisputedly admitted and stated/reiterated multiple times during the voluntary statements of the officials of SPTL. Further the said aspect is also documented in the brochures and the patented documents of the overseas supplier M/s CTC Global Corporation. Further, the test reports of CTC Global does not determine the conductivity/resistivity/capacitance of the imported product. It is seen from the test report that the main test was for tensile strength only and the other parameters were thermal expansion & bend test. A representative of the test report is placed below;



CTC GLOBAL

Certified Test Report

Product Information

MO Number	0110054	Quality Manager	Gerald White
Part Name	8.13 mm	Report Date	08/28/18
Part Number	200-006-A		

CTC Global Routine Tests

Criteria	ASTM B987-17 Requirements	Results Values	Pass
Diameter (inch / mm)	0.318 - .322 / 8.08 - 8.18	8.12mm	✓
Roller Bend Test (tread diameter inch / mm)	21.0 / 533 (CTC requirement)	Accept	✓
Appearance (visual inspection)	Smooth, continuous and free of imperfections	Accept	✓
Tensile Strength at RT (ksi / MPa)	310 / 2140 minimum	2380MPa	✓
Galvanic Layer Thickness (inch / mm)	0.015 / 0.38 minimum	0.74mm	✓
Density (g/cc)	1.79 - 1.97	1.86	✓
Glass Transition temperature Tg (°C)	205 minimum	211	✓

Quality Assurance Approval

(Signed for and on behalf of CTC Global)

Quality Assurance Inspector — Date 08/29/18

Quality Manager or Designee — Date 8/29/18

Comments:

A 22.181 feet

A 6.759 meters

The results relate only to the items tested.
This test report shall not be reproduced except in full

P-821-003-K

14.7. The fact that the composite core is for tensile strength only was also supported by the American standards "ASTM" quoted in the above test report wherein the carbon fibre composite core was developed only as a reinforcing material in the manufacture of overhead power transmission conductors which was also admitted by the officials of the company in their statements wherein it has been specifically admitted that ***"In any overhead power transmission conductors, the core is designed solely for the purpose of strength. Therefore, the main parameter for the cores is usually tensile strength only."***

14.8. Vide email dated 28.12.2022, M/s CTC USA, stated that "***ACCC® Core is comprised of glass and carbon fibres in a 1.35:1 ratio (by weight) respectively, bound by a resin matrix. Further Carbon fibres give the ACCC Core most of its strength while the glass fibres provide galvanic protection***." Shri Vipul Rahaver also in his voluntary statement categorically mentioned that glass fibres and epoxy resin are only for galvanic protection and they act as galvanic barrier between

conductor and inner core (carbon fibre core, manufactured as per the international standard ASTM B987) to prevent corrosion. In view of the above, it is clear that the essential character of the impugned imported product "ACCC Composite Core" is to provide tensile strength which is derived from carbon fibres. Hence, the impugned product appears to be treated as **Carbon fibres classified under CTH 6815** and not as an article of glass fibre in terms of Rule 3(b) of GRI since the carbon fibre provides the essential character to ACCC Composite Core which consisted of more than one material. Therefore, it appears that classification under any of the headings under Chapter 70 as articles of glass or articles of glass fibres under CTH 7019 is precluded since the tensile strength of the glass fibres is low and the same is given by carbon fibre only as mentioned in the patent documents submitted by M/s SPTL.

14.9. Chapter 68 in Section XIII of First Schedule to the Customs Tariff Act deals with **"Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials.** Further CTH 6815 is reproduced as below (with effect from 01.01.2022);

6815		ARTICLES OF STONE OR OF OTHER MINERAL SUBSTANCES (INCLUDING CARBON FIBRES, ARTICLES OF CARBON FIBRES AND ARTICLES OF PEAT), NOT ELSEWHERE SPECIFIED OR INCLUDED			
	-	*Carbon fibres; articles of carbon fibres for non-electrical uses; other articles of graphite or other carbon for non-electrical uses:*			
*6815 11 00	--	Carbon fibres	kg.	10%	-
*6815 12 00	--	Fabrics of carbon fibres	kg.	10%	-
*6815 13 00	--	Other articles of carbon fibres	kg.	10%	-
*6815 19 00	--	Other	kg.	10%	-
6815 20 00	-	Articles of peat	kg.	10%	-
	-	*Other articles :*			
6815 91 00	--	*Containing magnesite, magnesia in the form of periclase, dolomite including in the form of dolime, or chromite	kg.	**7.5%	-
6815 99	--	*Other :*			
6815 99 10	---	Bricks and tiles of fly ash	kg	10%	-

*w.e.f. 1.1.2022
**w.e.f.01.05.2022

The Explanatory Notes to Chapter Heading 6815 are as below;

68.15 - Articles of stone or of other mineral substances (including carbon fibres, articles of carbon fibres and articles of peat), not elsewhere specified or included.

- Carbon fibres; articles of carbon fibres for non-electrical uses; other articles of graphite or other carbon for non-electrical uses :

6815.11 - - Carbon fibres

6815.12 - - Fabrics of carbon fibres

6815.13 - - Other articles of carbon fibres

6815.19 - - Other

6815.20 - Articles of peat

- Other articles :

6815.91 - - Containing magnesite, magnesia in the form of periclase, dolomite including in the form of dolime, or chromite

6815.99 - - Other

This heading covers articles of stone or of other mineral substances, **not covered** by the earlier headings of this Chapter and **not included** elsewhere in the Nomenclature; it therefore **excludes**, for example, ceramic products of **Chapter 69**.

The heading covers, *inter alia* :

(1) Non-electrical articles of natural or artificial graphite (including nuclear grade), or other carbons for example : filters; discs; bearings; tubes and sheaths; worked bricks and tiles; moulds for the manufacture of small articles of delicate design (e.g., coins, medals, lead soldiers for collections).

(2) Carbon fibres and articles of carbon fibres. Carbon fibres are commonly produced by carbonising organic polymers in filamentary forms. The products are used, for example, for reinforcement.

(3) Articles made of peat (for example, sheets, cylinder shells, pots for raising plants). Textile articles of peat fibre are, however, **excluded (Section XI)**.

(4) **Unfired** bricks made of dolomite agglomerated with tar.

14.10. As per para 2 of the explanatory notes to the CTH 6815, it is evident the CTH 6815 covers Carbon fibre and articles of Carbon Fibres. Further, as per the test reports and patented products, it appears that the imported ACCC Composite Core is made of Carbon Fibres, glass fibres and epoxy resin where Carbon fibres give mechanical strength to the ACCC Composite Core. Hence, the same cannot be treated as articles of Carbon fibres. Accordingly, the impugned imported product "ACCC Composite Core" appears to be a Carbon Fibre due to its main tensile strength properties and the same has also been admitted by the supplier vide their email dated 28.12.2022 wherein it has been stated that the imported product is a "Carbon Fibre Core". Hence, the imported ACCC Composite Core / Carbon Composite Core appears to be rightly classifiable under CTI 68151100 which is used for reinforcement due to its lighter weight and high tensile strength.

14.11. Further, Chapter Heading 6815 as on from 01.01.2020 to 31.12.2021 is reproduced below;

6815		ARTICLES OF STONE OR OF OTHER MINERAL SUBSTANCES (INCLUDING CARBON FIBRES, ARTICLES OF CARBON FIBRES AND ARTICLES OF PEAT), NOT ELSEWHERE SPECIFIED OR INCLUDED			
6815 10	-	*Non-electrical articles of graphite or other carbon :*			
6815 10 10	---	Graphite filter candle	kg.	10%	-
6815 10 20	---	Non-electrical articles of graphite	kg.	10%	-
6815 10 90	---	Other	kg.	10%	-
6815 20 00	-	Articles of peat	kg.	10%	-
	-	*Other articles :*			
6815 91 00	--	Containing magnesite, dolomite or chromite	kg.	10%	-
6815 99	--	*Other :*			
6815 99 10	---	Bricks and tiles of fly ash	kg.	10%	-
6815 99 20	---	Sanitary wares, kitchen wares and other made up articles of fly ash	kg.	10%	-
6815 99 90	---	Other	kg.	10%	-

The explanatory notes for the said CTH 6815 till 31.12.2021 is as below;

68.15 - Articles of stone or of other mineral substances (including carbon fibres, articles of carbon fibres and articles of peat), not elsewhere specified or included.

6815.10 - Non-electrical articles of graphite or other carbon

6815.20 - Articles of peat

- Other articles :

6815.91 - - Containing magnesite, dolomite or chromite

6815.99 - - Other

This heading covers articles of stone or of other mineral substances, **not covered** by the earlier headings of this Chapter and **not included** elsewhere in the Nomenclature; it therefore **excludes**, for example, ceramic products of **Chapter 69**.

The heading covers, *inter alia* :

(1) Non-electrical articles of natural or artificial graphite (including nuclear grade), or other carbons for example : filters; discs; bearings; tubes and sheaths; worked bricks and tiles; moulds for the manufacture of small articles of delicate design (e.g., coins, medals, lead soldiers for collections).

(2) Carbon fibres and articles of carbon fibres. Carbon fibres are commonly produced by carbonising organic polymers in filamentary forms. The products are used, for example, for reinforcement.

(3) Articles made of peat (for example, sheets, cylinder shells, pots for raising plants). Textile articles of peat fibre are, however, **excluded** (**Section XI**).

(4) **Unfired** bricks made of dolomite agglomerated with tar.

(5) Bricks and other shapes (in particular magnesite or chrome-magnesite products), chemically bonded **but not yet fired**. These articles are fired during the first heating of the furnace in which they are installed. Similar products presented after firing are **excluded** (**heading 69.02** or **69.03**).

(6) **Unfired** silica or alumina vats (e.g., as used for melting glass).

(7) Touchstones for testing precious metal; these may be of natural stone (e.g., lydite, a hard, fine-grained dark stone resistant to acids).

(8) Paving blocks and slabs obtained by moulding fused slag without a binder, but **excluding** those having the character of heat-insulating goods of **heading 68.06**.

(9) Filter tubes of finely crushed and agglomerated quartz or flint.

(10) Blocks, slabs, sheets and other articles of fused basalt; these are used, because of their great resistance to wear, as linings for pipes, belt-conveyors, chutes for coke, coal, ores, gravel, stone, etc.

As per the para 2 of the above explanatory notes to the CTH 6815 also, it is evident that the CTH 6815 (even prior to 01.01.2022) covered Carbon Fibres and articles of Carbon Fibres for reinforcement. As per test report and patented products, it is clear that the imported ACCC Composite Core is made of Carbon Fibres, glass fibres and epoxy resin where Carbon fibres give mechanical strength to the ACCC Composite Core and the said fact has been admitted by the officials of M/s SPTL in their statements. Accordingly, the impugned imported "ACCC Composite Core" appears to be rightly classifiable under CTI68159990 (for the period prior to 01.01.2022) which is used for reinforcement due to its lighter weight and high tensile strength.

15. Legal Provisions

15.1 The classification of items imported into India is categorized as per the 'Indian Trade Classification (Harmonised System) of Import Items, 2017 [ITC (HS), 2017] & 2022, [ITC(HS) 2022]. Such classification of imported goods in India is governed by the General Rules of Interpretation (GRIs) and the Harmonised System of Nomenclature (HSN).

i. Rule 1 of GRIs states that "The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions."

ii. As per Rule 2(b) of GRI - Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3

iii. As per Rule 3 of GRI -When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows

a. The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

b. Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified

as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

15.2. From the above it is clear that the terms of the headings and any relative Section Note or Chapter Notes determine the classification of the imported goods. If it could not be done in terms of GRI Rule 1, classification is to be done by following Rule 2 to 6 proceeding sequentially.

15.3. As per Section 46(4) of the Customs Act, 1962, the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

As per Section 46(4A) The importer who presents a bill of entry shall ensure the following, namely:—

- the accuracy and completeness of the information given therein;
- the authenticity and validity of any document supporting it; and
- 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.

15.4. As per Section 28 of the Customs Act, 1962, ...

(4) Where any duty has not been levied or has been short-levied or erroneously refunded or interest payable has not been paid, part paid or erroneously refunded, by reason of,— (a) collusion; or (b) any willfulmisstatement; or (c) suppression of facts, By the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or 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.

.....

.....

(8) The proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation, if any, made by such person, determine the amount of duty or interest due from such person not being in excess of the amount specified in the notice.

(10) Where an order determining the duty is passed by the proper officer under this section, the person liable to pay the said duty shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.

[(10A) Notwithstanding anything contained in this Act, where an order for refund under sub-section (2) of section 27 is modified in any appeal and the amount of refund so determined is less than the amount refunded under said sub-section, the excess amount so refunded shall be recovered along with interest thereon at

the rate fixed by the Central Government under section 28AA, from the date of refund up to the date of recovery, as a sum due to the Government.

(10B) A notice issued under sub-section (4) of section 28 shall be deemed to have been issued under sub-section (1) of section 28, if such notice demanding duty is held not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any wilful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.

15.5. Legal provision on re-assessment of goods: As per Section 17(4) of the Customs Act, 1962, 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 take under this Act, re-assess the duty leviable on such goods.

15.6. Legal Provisions for Confiscation of goods: As per Section 111(m) of the Customs Act, 1962, any goods which do not correspond in respect of value or any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54".

15.7. Penalty for improper importation of goods, etc -As per Section 112(a) of the Customs Act, 1962, any person, 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," shall be liable for penalty under Section 112 of the Customs Act 1962.

15.8. As per section 114A of the Customs Act, 1962, where the duty has not been levied or has been short levied or the interest has not been charged or paid or has been partly paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful misstatement or suppression of facts, the person who is liable to pay the duty of interest, as the case may be, as determined under sub section (8) of section 28, shall also be liable to pay a penalty equal to the duty or interest so determined.

15.9. As per Section 114AA of the Customs Act 1962, if any person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement, or document which is false or incorrect in any material particular, in the transaction of any business for the purpose of this Act, shall be liable to a penalty not exceeding five times the value of goods.

16. Invocation of Section 28 (4) of the Customs Act, 1962: In the self-assessment era, the onus of assessing the goods by following correct classification under appropriate CTH lies absolutely on the importer. The importer shall ensure the accuracy and correctness of the information given therein, which among others

include classification, applicable rate of duty, value, and benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting a Bill of Entry. An investigation conducted revealed that the importer has classified under the wrong CTH by suppressing and misstating the actual purpose of the imported goods in the manufacture of aluminium conductors, solely with an intention to avail the benefits of lower duty structure applicable to the goods falling under CTH 85459090.

From the documents submitted by M/s SPTL & M/s CTC Global, it appears that M/s SPTL was aware of the properties of Carbon Fibre used in ACCC Composite Core due to its high tensile strength. They were also aware and admitted that Carbon Fibre gives more strength to the ACCC Conductor. However, SPTL misclassified the same under CTH 8545 which is applicable for "Carbon or articles of graphite or other Carbons" thereby indulging in wilful misstatement and suppression of facts. From the voluntary statement of the officials of M/s SPTL also, it appears that though M/s SPTL was aware about the properties of Carbon Fibre Core / ACCC Composite Core appearing to be Carbon Fibres only due to its tensile strength, however they mis-classified the same under CTI 85459090 to avoid payment of appropriate customs duty.

It appears that the importer solely classified the imported product based on the industry it was going into by utilizing the words "for electrical purpose" mentioned in the CTH 8545 without any regard to the composition of the imported product, essential character of the imported product and General Rules of Interpretation governing the classification of the imported goods. On questioning the classification, they tried to shift their responsibility to the overseas supplier. Be that as it may, it appears that this was hugely advantageous to them as they had to discharge lesser duty than they would have otherwise discharged if they had classified the goods correctly in terms of their composition, essential character, and actual use of reinforcement.

In view of the above, it emerges that M/s Sterlite Power Transmission Ltd appear to have misclassified the subject imported goods and the same would not have come to light, but for the timely investigation by DRI. In the light of the above, the subject case appears to be a fit case for invoking extended period of demand under Section 28(4) of the Customs Act, 1962, in respect of the imports made by M/s Sterlite Power Transmission Ltd, as detailed in the **Annexure-B** to this report, as SPTL indulged in wilful misstatement & suppression of facts.

17. Rate of Duty - The BCD Rate for the period from 01.01.2020 to 30.11.2024 was as below;

Period	CTH	BCD	SWS	IGST	Total Duty
01.01.2020 to 31.12.2021	68159990	10%	1%	18%	30.98%
01.01.2022 to 30.11.2024	68151100	10%	1%	18%	30.98%

18. Quantification of Duty Liability:

18.1. In view of the investigation done by the DRI office, it appears that M/s SPTL has classified the goods under the CTH 85459090 instead of the correct CTIi.e. CTI 68159990 (for the period from 01.01.2020 to 31.12.2021) and CTI 68151100 (for the period from 01.01.2022 to 30.11.2024) at the time of import by way of intentionally suppressing the actual composition of the imported goods with intention of evading the differential duty. It appears that the short payment of duty by the importer M/s SPTL is due to the wilful mis-statement and suppression of facts. Therefore, the imports of the subject goods over the period of five years i.e.01.01.2020 to 30.11.2024 are considered as per the provisions of the section 28(4) of the Customs Act, 1962. Because of mis-classification under the CTH 85459090, lesser rate of basic customs duty @7.5% has been discharged by M/s STPL during the import of the subject goods, whereas M/s SPTL has to discharge basic customs duty at the rate of 10% as the subject goods are rightly classifiable under CTI 68159990 (for the period from 01.01.2020 to 31.12.2021) and CTI 68151100 (for the period from 01.01.2022 to 30.11.2024). The details of the total assessable value and differential duty of the imports of the subject goods where duty was paid and no exemption / Notification / Scheme benefit was availed during the period from 01.01.2020 to 30.11.2024 (as per the details of import downloaded from ICES portal, are as mentioned in the below table.

Calculation of Differential Duty for the imports where duty has been paid (including scrips payment) for the period from 01.01.2020 to 30.11.2024					
S.NO	Custom House Code	CTH	Total Assessable Value (In Rs) for 01.01.2020 to 30.11.2024	Rate of Differential Duty	Total Differential duty to be paid (including BCD, SWS, IGST)
1	INBOM4	85459090	378020301	3.245%	12266759
2	INNSA1	85459090	154410073	3.245%	5010607
3	INSAJ6	85459090	725551291	3.245%	23544139
4	INAMD4	85459090	615656	3.245%	19978
	Total		**125,85,97,321**		**4,08,41,483**

18.2. M/s SPTL have imported goods of the description "ACCC Composite Core" to the tune of around Rs.**125,85,97,321**/-, as assessable value from various ports for the period from 01.01.2020 to 30.11.2024 and BCD 7.5%, SWS 10% and IGST 18% was paid. The rate of total differential duty works out to 3.245% and differential duty (including BCD, SWS & IGST) amounting to **Rs.4,08,41,483/- (Rupees Four Crores Eight Lakhs Forty One Thousand Four Hundred Eighty Three only)** arises on account of correct BCD at the rate of 10%. The same is liable to be demanded from them under Section 28 (4) of the Customs Act, 1962 along with appropriate interest under Section 28AA of the Customs Act, 1962.

19. Confiscation of the Goods: M/s Sterlite Power Transmission Limitedappears to have imported the subject goods "ACCC Composite Core" byclassifying them under the CTH 85459090 instead of the right classification under the CTH 68151100, thereby evading appropriate duty and thereby contravened the provisions of Section 46(4) & 46(4A) of the Customs Act, 1962. Hence, it appears that the subject goods imported during the period from 01.01.2020 to 30.11.2024 valued at Rs.**125,85,97,321**/-(as detailed in Annexure-B downloaded from ICES portal) are to be held liable for confiscation under the provisions of section 111(m) of the Customs Act, 1962.

20. Penalty provisions –

20.1. As brought out in the findings, M/s Sterlite Power Transmission Ltd appears to have suppressed the facts as discussed in Para 16at the time of filing of Bills of Entry with the intention to avoid payment of applicable BCD, SWS & IGST. In as much as the liability to pay differential duty along with interest has arisen due to short payment by wilful mis-statement & by suppression of fact, M/s SPTL appear to have rendered themselves liable to penalty under the provisions of Section 114A of the Customs Act, 1962. Further M/s SPTL appear to have rendered themselves liable for penalty under Section 112 (a) of the Customs Act, 1962 for rendering the goods liable for confiscation due to wilful misstatement & by suppression of fact.

20.2. As brought out in the findings and as per the voluntary statement of Shri Salil Kale, Shri Sanjay Amit Hule was aware of the technical nature of the imported ACCC Composite Core (Carbon Fibre Core) before arriving at the classification. Sanjay Amit Hule approved the checklist for filing Bills of Entry classifying the imported goods under CTH 8545. In as much as the liability to pay differential duty along with interest has arisen due to short payment by wilful mis-statement & by suppression of facts, Shri Sanjay Amit Hule appears to have rendered himself liable to penalty under the provisions of Section 114AA of the Customs Act, 1962. Further, Shri Sanjay Amit Hule appears to have rendered themselves liable for penalty under Section 112 (a) of the Customs Act, 1962 for rendering the goods liable for confiscation due to wilful misstatement & by suppression of fact.

21. Jurisdiction: Attention is drawn to the amendments made by Finance Act 2022 in the Customs Act 1962. Finance Act 2022, enacted on 30/03/2022, inserted Section 110AA in the Customs Act 1962 and the same is reproduced below:

> " 110AA - Where in pursuance of any proceeding, in accordance with Chapter XIIA or this Chapter, if an officer of customs has reasons to believe that—
>
> (a) any duty has been short-levied, not levied, short-paid or not paid in a case where assessment has already been made;
> (b) any duty has been erroneously refunded;
> (c) any drawback has been erroneously allowed; or
> (d) any interest has been short-levied, not levied, short-paid or not paid, or erroneously refunded.

then such officer of customs shall, after causing inquiry, investigation, or as the case may be, audit, transfer the relevant documents, along with a report in writing—

i. to the proper officer having jurisdiction, as assigned under section 5 in respect of assessment of such duty, or to the officer who allowed such refund or drawback; or

ii. in case of multiple jurisdictions, to an officer of customs to whom such matter is assigned by the Board, in exercise of the powers conferred under section 5, and thereupon, power exercisable under sections 28, 28AAA or Chapter X, shall be exercised by such proper officer or by an officer to whom the proper officer is subordinate in accordance with sub-section (2) of section 5."

As there is duty demand under Section 28, the subject case is covered under the ambit of Section 110AA of the Customs Act 1962. Subsequent to the enactment of the Finance Act, 2022, the CBIC issued notification no. 28/2022 Customs (N.T.) dated 31/03/2022 assigning the proper officer for the purpose of Section 110AA. In terms of S.No. 1 of said notification no. 28/2022 Customs (N.T.), in case where there are multiple jurisdictions, the jurisdiction having the highest amount of duty, or refund, at the stage of transfer, is assigned as the proper officer for the said case. The importer has imported the subject goods through various ports during the period from 01.01.2020 to 30.11.2024 as detailed below:

Port Name & Code	**Total differential duty (including BCD, SWS & IGST)**
INSAJ6	2,35,44,139
INBOM4	1,22,66,759
INNSA1	50,10,607
INAMD4	19,978
Total	4,08,41,483/-

In the instant case, the differential duty implication is across the ports Ahmedabad Air Cargo (INAMD4), Bombay Air Cargo (INBOM4), Nhava Sheva Sea Port (INNSA1) and Tumb ICD (INSAJ6). The highest duty implication of Rs. 2,35,44,139/- under Section 28 is under Tumb ICD (INSAJ6) which falls under the jurisdiction of the Commissioner of Customs, Ahmedabad Customs. In view of the sl.no. 1 of said notification no. 28/2022 Customs (N.T) and since the duty implication is more than Rs 50 Lakh, the common SCN issuing and adjudicating authority would be the Commissioner of Customs, Ahmedabad Customs. Accordingly, this show cause notice would be issued by Commissioner of Customs, Ahmedabad Customs, under Section 28 read with Section 110AA of the Customs Act 1962.

22. As mandated under Section 28BB of the Customs Act, 1962 extension for issuance of Show Cause Notice was granted by the Pr.Commissioner of Customs, Ahmedabad Commissionerate for a further period of one year from 06.01.2024 vide letter dated 15.12.2023.

23. From the foregoing discussions, facts, and the provisions of law, it appears that M/s. Sterlite Power Transmission Ltd (IEC No: 3116903239) has deliberately misclassified the subject imported goods "ACCC Composite Core" valued at Rs.125,85,97,321/- during the period from 01.01.2020 to 30.11.2024, with an intention to pay lower duty, as detailed in Annexure -B to the show cause notice. Therefore, M/s. Sterlite Power Transmission Ltd are hereby called upon to show cause to the Principal Commissioner/Commissioner of Customs, Ahmedabad, having his office at 'Custom House', Navrangpura, Ahmedabad-380 009, as to why:-

a) The 'ACCC Composite Core' imported under Bills of Entry filed during the period from 01.01.2020 to 30.11.2024 which were classified by them under Chapter Heading CTH 85459090 should not be reassessed under Section 17(4) of the Customs Act, 1962, to correct classification under CTI68159990 (for the import period from 01.01.2020 to 31.12.2021) and under CTI 68151100 (for the import period from 01.01.2022 to 30.11.2024).

b) The misclassified imported goods valued Rs.125,85,97,321/- during the period from 01.01.2020 to 30.11.2024 **(as detailed in Annexure-B)** should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.

c) The differential duty of Rs. 4,08,41,483/- (including BCD, SWS & IGST) in respect of Bills of Entry from 01.01.2020 to 30.11.2024 **(as detailed in Annexure-B)**, which was not paid / short paid by reason of wilful mis-statement and suppression of facts should not be demanded under Section 28 (4) read with Section 28 (10B) of the Customs Act, 1962.

d) The applicable interest should not be recovered from the importer under Section 28AA of the Customs Act, 1962.

e) penalty should not be imposed under Sections 112 and 114A of the Customs Act, 1962.

24. Shri Sanjay Amit Hule, Head Exim, M/s SPTL, is hereby called upon to show cause to the Principal Commissioner/Commissioner of Customs, Ahmedabad, having his office at 'Custom House', Navrangpura, Ahmedabad-380 009, as to why:

(i) penalty should not be imposed on him under Section 112 (a) and under 114AA of the Customs Act, 1962.

25. Written Submission:

25.1 The importer vide their letter dated 04.04.2025 submitted their defence reply to the Show Cause Notice interalia stated as under:

25.1.1 that the importer categorically denies all allegations made in the Show Cause Notice CN and asserts that the classification of the subject goods has been done correctly and in full compliance with the applicable legal provisions; that the SCN has

been issued **(a)** in contravention of the established legal framework and settled jurisprudence governing the classification of goods in similar cases, and **(b)** without due consideration or proper appreciation of the material facts and circumstances relevant to the present case; that based on the detailed grounds as set out in the ensuing paragraphs, the allegations in the SCN are based on a flawed interpretation of the relevant classification principles, resulting in an unjustified and legally unsustainable demand;

25.1.2 that the SCN has overlook the fundamental distinction between the scope of both entries, which is based on their electrical9CTH 8545) and Non-Electrical (CTH 6815) application; that the the SCN raises a dispute regarding the correct classification of the subject goods, with two tariff entries under contest: (a) CTH 8545 – attracting 7.5% BCD, covering articles of carbon of a kind used for electrical purposes; and (b) CTH 6815 – attracting 10% BCD, covering articles of carbon intended for non-electrical applications. The Department's attempt to classify the subject goods under CTH 6815 instead of CTH 8545 is based on an incorrect interpretation of the tariff entries, ignoring the fundamental distinction between scope of both the tariff entries based on their electrical and non-electrical applications;

25.1.3 that the allegations raised in the SCN are based on an erroneous interpretation of the scope and classification of the relevant tariff entries under the CTA. A clear distinction is required to be drawn between CTH 8545 and CTH 6815, as their scope and applicability are fundamentally different. As per the description, articles of carbon of a kind used for electrical purposes are specifically covered under CTH 8545, whereas articles of carbon for non-electrical uses are covered under CTH 6815. The subject goods have been attempted to be classified under CTH 6815 by the Department, disregarding this critical distinction, resulting in a flawed classification and misapplication of the CTA; that they referred and provided the extract of CTH 8545 and CTH 6815 and stated that a plain reading of the tariff entries makes it evident that CTH 8545 specifically covers articles of carbon **of a kind used for electrical purposes**, and in contrast, CTH 6815 is structured to cover articles of carbon designated with **non-electrical uses**only and in this regard, the relevant extracts from the tariff entries were provided for easy reference and comparison;

25.1.4 that CTH 8545 is explicitly defined to cover articles of graphite or other carbon that are specifically designed for electrical applications; that the very wording of the heading establishes that all products classified under this category must be of a kind used for electrical purposes and on the other hand, CTH 6815 distinctly applies to articles of carbon that are exclusively meant for non-electrical uses; that a closer examination of the tariff structure of 6815 reveals that all articles of carbon are categorized under the first main heading (preceded by single "-") and its sub-headings, while articles of peat and other miscellaneous articles, fall under the remaining two major headings (each preceded by single "-") and their sub-headings; that notably, within the first category concerning carbon articles, the heading explicitly refers to

non-electrical articles of graphite or other carbon (during 01.01.2020 to 31.12.2021)andCarbon fibres; articles of carbon fibres **for non-electrical uses**; other articles of graphite or other carbon **for non-electrical uses** (w.e.f. 01.01.2022), hence, thestructure of this heading and its sub-classifications makes it clear that only those carbon-based articles that do not serve electrical purposes are included under this category and thus, a clear distinction exists between the two classifications, wherein CTH 8545 applies strictly to carbon products of electrically uses, while CTH 6815 is limited to non-electrical carbon articles; that the tariff classification framework, therefore, establishes a clear and unambiguous separation between electrical and non-electrical applications, ensuring that goods are categorized appropriately based on their intended function;

25.1.5 that the Explanatory Notes issued by the World Customs Organization (WCO), which serve as authoritative interpretative guidance for tariff classification, unequivocally reemphasize this position. The WCO Explanatory Notes state that CTH 6815 expressly excludes articles intended for electrical applications. The relevant extract mentioned as "*The heading also excludes: (c)* ***Carbons****, brushes, electrodes, and* ***other parts or articles for electrical uses (heading 85.45)****.*"; *that the* clear exclusion of articles used for electrical applications eliminates any ambiguity regarding the scope and interpretation of CTH 6815; that said exclusion unequivocally confirms that all carbon-based articles specifically designed for electrical purposes must be classified outside CTH 6815 and appropriately placed under CTH 8545; that the Department's attempt to classify the subject goods under CTH 6815, despite their electrical application, is misplaced and contrary to the clear distinction established in the tariff structure, which mandates that such carbon-based articles with electrical functionality are to be classified under CTH 8545;

25.1.6 that subject goods (i.e. ACCC Composite Core) are evidently used for electrical purposes; that the importer is engaged in manufacture and supply of a wide range of products including ACCC Conductors, commonly known as overhead lines/cables used in the electrical infrastructure for transmission of electricity i.e. to transfer the electric load / current from one end of the cable to another; that these are called overhead transmission conductors because they are installed above the ground on electric poles spread over a distance; that to form a complete electrical conductor, the two components are essential (a) core; and (b) metal (largely aluminium); that the core is the central part of an electrical conductor that provides mechanical strength and structural support which ensures that the conductor can withstand mechanical stresses such as tension, sagging, and environmental factors like wind and ice loads; that different types of cores are used in different types of conductors viz. steel core (used in ACSR), ACCC Composite Core (used in ACCC conductors), aluminium alloy core (used in AAAC), etc.; that on the other hand, metal like aluminum is used to surround the core in strands that are responsible for the conduction of electricity; that an electrical conductor is a carefully engineered structure where both the core and aluminium play indispensable roles; that Aluminium alone cannot serve the purpose of electricity transmission over long distances because it lacks the necessary

mechanical strength to withstand the stresses encountered in power transmission lines; that to overcome such structural weaknesses, a core is introduced as the central supporting element of the conductor; that in other words, core is the backbone as it holds the conductor in place and ensures long-term durability; that without the core, aluminium would fail under practical conditions, making it unsuitable for large-scale electricity transmission and thus, core and aluminium together create a functional conductor; that in ACCC conductor type, ACCC composite core is used as a central element. ACCC Composite Core is made from a combination of carbon fiber & glass fiber, and when aluminium strands are helically wrapped around such core, ACCC conductor is formed. ACCC Composite Core is engineered exclusively for electrical applications, providing essential mechanical support to the aluminium conductors that carry the current; that it is a new generation core as it enhances the electrical efficiency of the conductor by minimizing sag, reducing energy losses, and enabling higher current-carrying capacity; that given its direct and indispensable role in electricity transmission, the ACCC Composite Core is inherently designed for electrical purposes; that in this regard, reference is made to the brochure of ACCC conductor circulated by CTC Global Corporation, USA, which states that ACCC conductor utilizes a ACCC composite core in its manufacturing;

25.1.7that furthermore, it is undisputed by the Department that the ACCC Composite Core is an article of carbon, as carbon is the defining component that determines its fundamental properties and therefore, subject goods squarely fall within the ambit of CTH 8545, which covers carbon articles used for electrical applications; that the Department, however,has also made a passing reference to the fact that in an ACCC conductor, the subject goods (i.e. ACCC Composite Core) primarily provide tensile strength and reinforcement rather than conducting electricity ; that it has further been stated that the core does not conduct or transmit electricity, as this function is performed by the annealed aluminium wrapped around the composite core; that while the Department has not explicitly alleged that the subject goods cannot be classified as an article used for electrical purposes due to their lack of conductivity, their argument indirectly suggests such a distinction, thereby creating unwarranted ambiguity that does not exist under law; that accordingly, without prejudice that the phrase "of a kind used for electrical purposes" stated in CTH 8545 is of wide coverage and covers anything of or pertaining to electricity and is not merely restricted to transmission of electricity; that the phrase covers all such products which directly or indirectly are in aid to electrical purposes; that in other words, the phrase broadly encompasses anything related to electricity; that notably, the phrase "of a kind used for electrical purposes" is not explicitly defined in the CTA or the relevant Chapter Notes; that in accordance with settled legal principles, where a statutory term is undefined, its meaning should be derived from standard dictionary definitions; that accordingly, reliance is placed on the Oxford English Dictionary, Fifth Edition, which defines the relevant terms as (a)*Use- Application or conversion for some purpose (b)Electrical - of or pertaining to electricity (c) Purposes- the action or fact of intending to do something; that* ***the*** **Electricity Act, 2003**, further supports this interpretation by defining the term "electric line" under Section 2(20) to include not only any line used

for carrying electricity but also any supporting structure, tower, pole, or other apparatus that enables the transmission of electricity; that the relevant portion of Section 2(20) is extracted as below:

> *(20) "electric line" means any line which is used for carrying electricity for any purpose and includes*
> *(a) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and*
> *(b) any apparatus connected to any such line for the purpose of carrying electricity;*

25.1.8 that based on aforesaid definitions (under Oxford English Dictionary and Electricity Act, 2003), it is evident that the phrase shall broadly cover all goods that are inherently linked to electrical applications, whether they directly conduct electricity or play an indispensable role in an electrical system such as ACCC Composite Core; that the subject goods are manufactured using patented technology by CTC Global Corporation, USA and are supplied worldwide by themexclusively to electric conductor manufacturers; that ACCC composite core are manufactured with a specific design and shape, which restricts its usage for any purpose other than as component of overhead electrical conductors; that thus, given its single functional utility with such conductors and their specialized application in the electrical industry only, it is clear that this product is of a kind solely and principally used for electrical purposes; that the fundamental and sole function of the ACCC composite core is to serve as an essential supporting component of ACCC conductor i.e., an electricity-carrying system, thereby aligning with the legal interpretation of "of a kind used for electrical purposes" ;that reliance in this regard is placed on the following patent certificates:

(a) **Patent Certificate issued on01.08.2019[Patent No. 317387]**granted to the subject goods by the Patent office of the Government of India to CTC Global Corporationalso states that the certificate is granted to "*AN ALUMINIUM CONDUCTOR COMPOSITE CORE FOR AN OVERHEAD ELECTRICAL TRANSMISSION AND DISTRIBUTION CABLE*". A copy of the Patent Certificate issued on 01.08.2019 is annexed herewith and marked as **Annexure C.**

(b) **Patent Certificate issued on13.04.2016 [Patent No. 272645]**granted for invention of "ALUMINIUM COMPOSITE CORE REINFORCED CABLE AND METHOD OF MANUFACTURE". The detailed method of manufacture annexed to the said patent makes it evident that the only use of ACCC Composite Core is for manufacturing of ACCC Cable. A copy of the Patent Certificate issued on 13.04.2016 is annexed herewith and marked as **Annexure D.**

(c) **Letter dated 17.01.2025 issued by CTC Global** to confirm that ACCC® composite core is not merely an article of carbon fibers for non-electrical use. Rather, the ACCC® composite core is an article of carbon fibers that is specifically and solely used for electrical purposes also due to its design incorporating the necessary high glass transition temperature of the binding resin matrix and the robust electrically insulating glass layer surrounding the inner carbon fiber core. A copy of the letter dated 17.01.2025 issued by CTC Global is annexed herewith and marked as **Annexure E.**

25.1.9 that during the course of the investigation, it undertook due diligence to independently validate its position regarding the classification of the subject goods;

that in furtherance of this objective, and to reconfirm its stance, the importer sought expert opinions from an independent Chartered Engineer and legal professionals specializing inthe stud of electronics equipment and customs classification; that these experts conducted a thorough and detailed technical analysis of the subject goods, specifically examining their composition, intended use, and functional characteristics within the electrical industry; that their assessments unequivocally concluded that the goods in question are primarily used for electrical purposes and, therefore, merit classification under Customs Tariff Heading (CTH) 8545; that reliance in this regard is placed on the following certificate / opinions obtained by the importer:

(a) Chartered Engineer Certificate dated 12.01.2023

"M/s. Sterlite Power Transmissions Ltd. approached me on 11.01.2023 with a sample of Composite Carbon Core and an Aluminum conductor wound on Composite Carbon Core. It was indicated by them that the said Composite Carbon Core is used in the manufacture of Aluminum Conductors which carry the electric current from one place to another place. It was further indicated that the said Composite Carbon Core per se does not transmit any electric current but is used to provide strength and durability to the Aluminum Conductors. In this background, M/s. Sterlite Power Transmissions Ltd desired to know whether the said Composite Carbon Core can be considered as "used for electric purposes".

I have examined in detail the sample of Composite Carbon Core and also of Aluminum Conductor consisting of Composite Carbon Core. On the basis of my examination, it is certified that the Composite Carbon Cores are made of glass fibers and carbon fibers which provide strength, durability, resistance and safety to the aluminum conductors which transmit the electricity from one place to another place. ***It is thus concluded and certified that the Composite Carbon Cores used in the aluminum conductors are for "electrical purposes".***"A copy of the Chartered Engineer Certificate dated 12.01.2023 annexedwith their submission and marked as Annexure F;

(b) Legal Opinion dated 05.01.2022

"In the light of the above legal position and factual background, it is concluded that the Composite Carbon Core imported by the company will rightly merit classification under the heading 8545. The classification suggested by the department seems incorrect." A copy of the Chartered Engineer Certificate dated 12.01.2023 annexed with their submission and marked as Annexure;

25.1.10 It is also submitted that that the intended use of the subject goods is equally noted in the purchase orders raised by the Noticee on the supplier; that the purchase orders also make reference to the type of conductors for which the captioned products are to be used and relevant portion of one such purchase order dated 25.03.2022 extracted were mentioned and copies of sample purchase orders were annexed to their submission collectively as Annexure-H; that ACCC composite core manufactured by CTC Global Corporation, USA is in conformity to the ASTM standard B987/B987M-20; that the said standard covers the specifications of Carbon Fiber Thermoset Polymer Matrix Composite Core (CFC) for use in overhead electrical conductors, hence, considering in totality right from manufacturing till its use, the said product has no other application/use but has only one use viz. electrical and reliance in this regard is placed on (a) Email dated 28.12.2022 of CTC Global Corporation USA and (b) ASTM standard B987/B987M-20; that the use of ACCC Composite Core for electrical applications, particularly in overhead power transmission lines, is even well established both in trade and commercial parlance; that as stated above, the importer is actively

engaged in the business of setting up overhead power transmission lines; that it also serves government-affiliated entities such as Damodar Valley Corporation (DVC), Gujarat Energy Transmission Corporation, Power Grid Corporation of India Ltd., and Rajasthan Rajya Vidyut Prasaran Nigam Limited; that these entities routinely float tenders specifying the supply and use of HTLS (High-Temperature Low-Sag) conductors with carbon composite cores and hence, the exclusive use of ACCC Composite Core in overhead power transmission lines is well recognized in both government and commercial parlance;

25.1.11 that for instance, the technical specifications issued by Bihar State Power Holding Company Ltd. mandate that the Conductor is acceptable only if it passes composite core tests as per ASTM B987; that similarly, tender issued by the Chhattisgarh State Power Transmission Co. Ltd. for setting up of transmission lines with ACCC HTLS conductors also mandates use of such composite core which comply with ASTM B987/B987M-17; that also, tender documents released by Damodar Valley Corporation requires the use of composite core in ACCC HTLS conductors, and as extracted contents thereof and further submitted copy of the relied upon tender documents with their submission and collectively marked as Annexure K; that the necessity of ACCC Composite Core in overhead transmission lines is further reinforced by the tender drawings approved for the project, which explicitly incorporate carbon composite cores, demonstrating their essential role in electrical applications; that additionally, the mandatory conformity to technical standards, including compliance with ASTM B987, legally binds suppliers to provide composite cores exclusively for electrical use; that performance certificates, test reports, and suitability confirmations required in tenders further prove that ACCC composite cores are designed and utilized for electrical purposes; that it is also highlighted that Chapter 85 covers not only such electrical products which conducts/transmits electricity, but all such products which are (i) used for production, transformation or storage of electricity, (ii) used for conducting/transmitting electricity, (iii) used for insulating electricity, or (iv) not generally used independently but designed to play an important role in electrical equipment (such as capacitors, switches, electrical carbons etc.); that hence, given the overall coverage of Chapter 85, it can be safely stated that the subject phrase cannot only be restricted to products which 'transmits electricity'; that in fact, such products (viz. ACCC Composite Core) which are not generally used independently to transmit electricity, but designed to play an important role in an electrical conductor clearly fall in the ambit of Chapter 85; that additionally, submitted that the **WCO Explanatory Notes for Heading 8545** confirm that CTH 8545 covers all articles of graphite or other carbon that, by their shape, dimensions, or other distinguishing features, are identifiable as being intended for electrical purposes, whether or not they contain metal and relevant extract of Explanatory Notes mentioned as below:

> *"This heading covers all articles of graphite or other carbon which are recognizable by their shape, dimensions or otherwise, as being for electrical purposes, whether or not they contain metal."*

25.1.12 that with use of ACCC composite core (an advanced technology core) a conductor can carry additional electric current when compared with the conventional steel or alloy core and it technically occurs due to (i) lighter weight of ACCC composite core, which allows incorporation of nearly 28% more aluminum, (ii) high-strength allows aluminum strands to provider greater conductivity, (iii) very low coefficient of thermal expansion enables conductor to carry additional electrical current without causing excessive line sag, and (iv) protective layer to prevent galvanic coupling between the carbon fiber and aluminum strands, thus, when ACCC composite core in fact assist conductor in carrying more electrical current, it cannot be termed as not used for electrical purposes and therefore, a conjoint reading of above, clearly establishes that any article of carbon that, by its shape, dimensions, or other characteristics and its

actual use is recognizable as being for electrical purposes, must be classified under CTH 8545 as the phrase "of a kind used for electrical purposes" is of wide connotation;

25.1.13 that subject goods are not classifiable under CTH 6815 as contended by the department; that the subject goods do not fall under CTH 6815, as this entry is limited to articles of carbon intended for non-electrical applications in terms of the detailed submissions made hereinabove; that further, on a without prejudice basis submitted that, in any case, within CTH 6815, the eight-digit classification proposed by the Department has no application whatsoever for the subject goods; that for the imports made during the disputed periods, the Department has proposed two different CTSH classifications for the subject goods i.e. **CTH 6815 9900** for the period ranging from 01.01.2020 to 31.12.2021 and **CTH 6815 1100**for the period ranging from 01.01.2022 to 30.11.2024; that in view of the ensuing submissions, it will be clear that the proposed classification not only reflects inconsistency in their approach but also indicates a deliberate attempt to classify the goods in such a manner that restriction related to non-electrical applications can somehow be circumvented;

25.1.14 that a closer examination of the tariff structure of 6815 (both before and after amendment) reveals that all the articles of stone or other mineral substances covered therein, are broadly bifurcated into three categories at single dash '-' level – **(A)articles of carbon or carbon fibre or graphite** which are categorized under the first main heading (preceded by single "-") and its sub-headings; **(B)articles of peat** fall under the next heading (preceded by single "-"); and **(C)other miscellaneous articles** fall under the last heading (again preceded by single "-") and its sub-headings; that for reference, CTH 6815 before and after amendment in 2022 made in submission; that furthermore, the WCO's Explanatory Notes to the HSN, (which has remained consistent both prior to and following the 2022 amendment), reinforce this categorization, as evident from the sequence followed in the extracts below relating to CTH 6815.

"This heading covers articles of stone or of other mineral substances, not covered by the earlier headings of this Chapter and not included elsewhere in the Nomenclature; it therefore excludes, for example, ceramic products of Chapter 69.

The heading covers, inter alia:

(1)	*Non-electrical articles of natural or artificial graphite (including nuclear grade), or other carbons, for example: filters; discs; bearings; tubes and sheaths; worked bricks and tiles; moulds for the manufacture of small articles of delicate design (e.g., coins, medals, lead soldiers for collections).*
(2)	*Carbon fibres and articles of carbon fibres. Carbon fibres are commonly produced by carbonising organic polymers in filamentary forms. The products are used, for example, for reinforcement.*
(3)	*Articles made of peat (for example, sheets, cylinder shells, pots for raising plants). Textile articles of peat fibre are, however, excluded (Section XI).*
(4)	*Unfired bricks made of dolomite agglomerated with tar.*
(5)	*Bricks and other shapes (in particular magnesite or chrome-magnesite products), chemically bonded but not yet fired. These articles are fired during the first heating of the furnace in which they are installed. Similar products presented after firing are excluded (heading 69.02 or 69.03).*
(6)	*Unfired silica or alumina vats (e.g., as used for melting glass).*
(7)	*Touchstones for testing precious metal; these may be of natural stone (e.g., lydite, a hard, fine-grained dark stone resistant to acids).*
(8)	*Paving blocks and slabs obtained by moulding fused slag without a binder, but excluding those having the character of heat-insulating goods of heading 68.06.*
(9)	*Filter tubes of finely crushed and agglomerated quartz or flint.*
(10)	*Blocks, slabs, sheets and other articles of fused basalt; these are used, because of their great resistance to wear, as linings for pipes, belt-*

conveyors, chutes for coke, coal, ores, gravel, stone, etc.

25.1.15 that accordingly, it is evident that CTH 6815 is systematically structured to categorize distinct products in a sequential manner under three primary groups, each identified at the single-dash '-' level: (A) articles of carbon, carbon fibre, or graphite; (B) articles of peat: and (C) other miscellaneous articles; that similarly, even under the Explanatory Notes (both before and after the 2022 amendment), serial numbers 1 and 2 explicitly cover articles of carbon, carbon fibre, or other carbon and graphite, serial number 3 covers articles of peat, and lastly serial numbers 4 to 10 encompass other miscellaneous articles (that make no reference to carbon, carbon fibre, or any related products); that it would be absurd to assume that the Explanatory Notes are structured in a non-sequential manner, as their categorization follows a clear and systematic arrangement aligned with the tariff, hence, in nutshell, if a product qualifies as an article of carbon, it must be classified under the sub-headings of category A and cannot be placed under category B or C; that similarly, an article of peat cannot be classified under the miscellaneous articles listed under category C; that lastly, the residual articles of stone or of other mineral substances are covered under category C;

25.1.16 that subject goods not classifiable under CTH 6815 9900 during 01.01.2020 to 31.12.2021; that in the above context, submitted thatwith respect to the two-year prior period, the Department has contended that the subject goods fall under CTH 6815 9900 [- other articles -- other **---other**], despite the fact that articles of carbon are expressly classified under CTH 6815 10 and its sub-headings, which fall under category A; that notably, CTH 6815 10 specifically covers **"Non-electrical articles of graphite or other carbon.";** which clearly establishes two points (a) all articles of carbon fall under CTH 6815 10 only; and (b) they must be for non-electrical purposes and consequently, any articles of carbon intended for electrical purposes do not fall within the scope of CTH 6815 at all; that 'article *of carbon'* is a broader category encompassing various materials and products primarily composed of carbon or its derivatives; that those articles are designed for diverse industrial, electrical, and mechanical applications, including carbon fibers, carbon brushes, carbon black, graphite electrodes, carbon seals, activated carbon, and other specialized carbon-based materials; that with respect to carbon fibers, they are materials composed predominantly of carbon atoms arranged in a continuous chain-like structure; that those fibers are typically derived from precursors such as polyacrylonitrile (PAN) or mesophase pitch, undergoing a series of processing steps—including stabilization, carbonization, and graphitization—to achieve an extremely high carbon content, often exceeding 92-99%; that due to this high carbon concentration, carbon fibers inherently qualify as articles of carbon; that this classification is further substantiated by scientific literature, including the technical article "Electrical Applications of Carbon Materials" by D.D.L. Chun, published in the *Journal of Materials Science (2004, Vol. 39, pp. 2645–2661;* that the study explicitly confirms that carbon-based materials, including carbon fibers, are integral to various electrical applications, thereby reemphasizing their categorization as articles of carbon; that the relevant extract from the article provided below for reference:

> *"The electrical applications of carbons and their composites are reviewed, with emphasis on applications that are relevant to industrial needs. The applications include electrical conduction, electrical contacts, electrodes, electromagnetic interference shielding, resistance heating, thermoelectricity, sensing, electrical switching, electronic devices and thermal pastes. The carbons include graphite, coke, carbon fibers, carbon filaments, carbon black and flexible graphite."*

25.1.17 that despite the clear and unequivocal categorization provided under CTH 6815 in the CTA, the Department has erroneously classified the subject goods under the residual category of "other articles" under CTH 6815 9900 rather than under the specific entry pertaining to articles of carbon and the said approach is not only

inconsistent with the structure of the CTA but also disregards the explicit categorization provided under the Explanatory Notes; that they placed relied on the decision of*Ingram Micro* Indian Pvt. Ltd. Vs. Dy. Commissioner of Customs, New Delhi [2023 (383) E.L.T. 204 (Tri. - Del.)], and A.V. GLOBAL CORPORATION PVT. LTD. Vs. ADDITIONAL DIRECTOR GENERAL (ADJUDICATION), DIRECTORATE OF REVENUE INTELLIGENCE, MUMBAI [2022 (382) E.L.T. 65 (Tri. - Mumbai)] and stated that hence, the SCN proposing the classification of the subject goods under the residuary CTH 6815 9900 for the initial two-year period, despite the explicit classification of carbon articles under CTH 6815 10 when used for non-electrical applications, is in direct contradiction to the above decisions and, therefore, ought to be dropped;

25.1.18 that in addition to the above, the importer submits that the following US Customs and Border Protectionhave time and again dealt with the classification of articles of carbon fibres; that these ruling although not binding, hold significant persuasive value and provide insight into the interpretation of CTH 6815 followed globally; that as it is evident from the below mentioned rulings, the articles made of carbon fibre (used for non-electrical purposes) have consistently been classified by the US Customs and Border Protection under CTH 6815.10.0000 and therefore, the Department's allegation that that the subject goods, although carbon fibre but not classifiable under CTH 6815.10 but under residuary entry of others6815 9900is baseless and demonstrates a premeditated approach on their part to classify the goods under CTH 6815 to escape the usage restriction, which restricts the classification of goods under 6815 to only goods for non-electrical purposes;

S.N.	Ruling No. and Date	Product	Finding
1	NY N024366 dated 04.04.2008	Carbon fiber-based fire retardant rib knit pullover top & pants containing55%carbonfibers, 20% synthetic rayon/viscose fibers, 15% synthetic polyvinyl chloride fibers, and 10% synthetic nylon fibers	The pants are designed for use by firefighters for thermal insulation and also as a fire retardant garment for protection from fire. The applicable subheading for thecarbonfiberbased fire retardant rib knit pullover top and pants will be 6815.10.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for: Articles of stone or of other mineral substances(includingcarbonfibers, articles ofcarbonfibers and articles of peat), not elsewhere specified or included: non-electrical articles of graphite or other carbon. The rate of duty will be free.
2	NY N089857 dated 29.01.2010	Polyacrylonitrile (PAN)carbonfiberyarns covered by a sheath of para-aramid fibers packaged on a cardboard spindle. - Item# 2P303-153: composed of 38% para-aramidfiberand 62% PANcarbonfiberyarn.	The EN to heading6815(2) is applicable to your products and provides for:Carbonfibers and articles ofcarbonfibers.Carbonfibers are commonly produced by carbonising organic polymers (for example, PAN), in filamentary forms. The products are used, for example, for reinforcement. The applicable tariff provision for Item# 2P303-153 and Item# 2P117-256carbonfiberyarns will be 6815.10.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for: Articles of stone or of other mineral substances (includingcarbon fibers,

		- Item# 2P117-256 : composed of 27.3% para-aramidfiberand 72.7% PANcarbonfiberyarn.	articles ofcarbonfibers and articles of peat), not elsewhere specified or included: non-electrical articles of graphite or othercarbon. The rate of duty will be free.
3	NY c86087 dated 09.07.1998	Carbonized polyacrylonitrile woven fabric consisting primarily, 80% by weight, of carbon	Subheading 6815.10.00, HTSUS, provides for nonelectrical articles of graphite or othercarbon. The constituent material of the instant fabric iscarbonand it is a nonelectrical article not specifically provided for elsewhere. Therefore, applicable subheading for Gortex E-CT carbonized polyacrylonitrile woven fabric will be 6815.10.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for nonelectrical articles of graphite or othercarbon. This provision includescarbonfibers and articles of carbonfibers. The rate of duty is 1 percent ad valorem
4	NY c86593 dated 13.05.1998	Multiaxial Carbon Fiber Fabric Warp/Knit	Subheading 6815.10.00, HTSUS, provides for nonelectrical articles of graphite or other carbon. The constituent material of the instant fabric iscarbonand it is a nonelectrical article not specifically provided for elsewhere. Therefore, applicable subheading for MultiaxialCarbonFiberFabric Warp/Knit will be 6815.10.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for nonelectrical articles of graphite or othercarbon

25.1.19 that subject goods not classifiable under CTH 6815 1100 during 01.01.2022 to 30.11.2024; that in contrast, for the later three-year period, the Department has contended that the subject goods fall under CTH 6815 1100 [- Carbon fibres; articles of carbon fibres for non-electrical uses; other articles of graphite or other carbon for non-electrical uses --**Carbon fibres**] classifying them purely as carbon fibre and for this period, while the SCN proposes classification under a sub-heading covered at the first single-dash level (highlighting its inconsistent approach), it has once again attempted to circumvent the restriction quanon-electrical applications by purposely selecting CTH applicable to 'carbon fibres', instead of 'articles of carbon fibres'; that the heading of the first single dash heading states that "Carbon fibres; articles of carbon fibres for non-electrical uses; other articles of graphite or other carbon for non-electrical uses" are covered under its sub-headings, hence, the SCN has purposively proposed classification of subject goods as "Carbon Fibres" and not as "Articles of carbon fibres or other articles of carbon" as they attract the restriction of non-electrical uses; that in this regard, submitted that while carbon is undisputably key component defining fundamental properties of ACCC Composite Core, it can, at best be classified as

"articles of carbon" or "articles of carbon fibres" due to the presence of other materials / substances (such as glass fibers, epoxy resin, etc.) which is also undisputed; that given this composition, under no circumstances can it be classified purely as raw or unprocessed carbon fibre and hence, completely discounting the presence of other components in the subject goods would not be a correct way of classification, especially when an entry exists in the tariff which relates to articles which are predominantly made of carbon/ carbon fibre and may also contain additional elements; that assuming, without admitting, that the subject goods are classified as carbon fiber, by application of the doctrine of noscitur a sociis(i.e. the words are to be interpreted according to the company which they keep) carbon fibre is also subject to the same restriction of having non-electrical usage; that it could not have been the legislative intent to classify articles of carbon fiber under CTH 6815 only when meant for non-electrical uses, while simultaneously allowing carbon fiber itself to be covered under the same heading regardless of its intended use, including electrical applications; that such an interpretation would be inconsistent with the overall scope of CTH 6815, as observed both in the pre and postamendment periods; that by applying the principle of noscitur a sociis, a well-established rule of statutory construction, it is clear that words within an enactment must be interpreted in harmony with the words immediately surrounding them; that therefore, the expression "non-electrical use" applies equally to carbon fiber, since it will otherwise lead to absurdity; that the Explanatory Notes issued by the World Customs Organization (WCO), which serve as authoritative interpretative guidance for tariff classification, reinforce this position; that the WCO Explanatory Notes state that CTH 6815 expressly excludes articles intended for electrical applications and referred relevant extract is as "The heading also excludes: (c) Carbons, brushes, electrodes, and **other parts or articles for electrical uses (heading 85.45)**"; that the explicit exclusion of articles used for electrical applications removes any ambiguity in the interpretation of CTH 6815; that this exclusion affirms that all carbon-based articles specifically designed for electrical applications must be classified outside of CTH 6815 and appropriately classified under CTH 8545; that thus,it appears to be adesperate attempt of the Department to avoid referring such entries subheadings which explicitly restricts classification to "non-electrical articles"; that by acknowledging that the goods in question qualify as articles of carbon fibre / carbon, the Department would inevitably be bound by this restriction, thereby disqualifying the goods from classification under CTH 6815 and hence, the subject goods are not classifiable under CTH 6815 9900 as well for the period from 01.01.2022 to 30.11.2024; that it is further submitted that the key contention of the department to justify classification of the subject goods under CTH 6815 is that the HS Explanatory Notes to CTH 6815inter alia explains as *"(2) Carbon fibres and articles of carbon fibres. Carbon fibres are commonly produced by carbonizing organic polymers in filamentary forms. The products are used, for example, for reinforcement"; that by* relying on this, it is mainly alleged that the subject goods i.e. ACCC Composite Core / Carbon Composite Core appears to be rightly classifiable under CTH 6815 1100 which is used for reinforcement due to its lighter weight and high tensile strength; that by placing a heavy reliance on the above, the Department has overlooked two critical aspects– (i) Firstly, carbon fibres and articles of carbon fibres mentioned in CTH 6815 for reinforcement purposes are those which have non-electrical applications. This is evident from the exclusion made in the very same explanatory notes, which explicitly state that carbons, brushes, electrodes and other parts or articles for electrical uses (heading 85.45) are excluded from the scope of CTH 6815. Hence, the Department cannot interpret inclusion clause (2) in isolation and by disregarding the exclusion clause (c); and (ii) Secondly, the core is an essential component of an electricity transmission cable, and it can be of various types, such as steel core, aluminum alloy core, and ACCC Composite Core; that the core serves as the central part of an electrical conductor, providing mechanical strength and structural support. While the ACCC Composite Core, being an advanced technology, offers superior support and efficiency, its primary function remains the same as any other core - to act as the central structural element of the conductor. Hence, fundamentally it is used to fulfill its

role as a core component and not for reinforcement; that in light of the aforesaid, it is evident that the Department's reliance on the HS Explanatory Notes to classify the subject goods under CTH 6815 is misplaced; that the exclusion of electrical applications from CTH 6815, as explicitly stated in the explanatory notes, reinforces that ACCC Composite Core, which is an integral part of an electricity transmission cable, does not fall within its ambit; that additionally, the ACCC Composite Core functions primarily as the central structural element of the conductor, akin to other core types, and is not added specifically for reinforcement and therefore, the classification of the subject goods under CTH 6815 1100 is incorrect, and they should be appropriately classified under the relevant heading of CTH 8545 that accurately reflects their intended application in electrical transmission; that it is a settled principle of law that if the classification proposed by the Department is found to be incorrect, the entire case of the Revenue must fail, irrespective of whether the classification suggested by the Noticee is correct and in this regard, reliance is placed on the ruling of CESTAT, Ahmedabad *in* ***Larsen & Toubro Limited vs. C.C. - Mundra[2021 (6) TMI 4 - CESTAT AHMEDABAD]***, that said ruling directly applies to the present case; that since the Department's proposed classification under CTH 6815 9900 and CTH 6815 11 00 is demonstrably incorrect, the entire demand raised in the SCN is liable to be set aside; that given the aforesaid factual matrix and settled legal principles, the Noticee humbly submits that the classification of the subject goods, as adopted by the Department, is fundamentally flawed and accordingly, the entire proceedings initiated under the SCN must be quashed, and the demand raised therein should be dropped in its entirety;

25.1.20 that subject goods are classifiable under CTH 8545 as articles of carbon of a kid used for electrical purposes; that they reiterates that CTH 8545 specifically covers all articles of carbon of a kind used for electrical purposes and for ease of reference the relevant extract of CTH 8545 is shown again; that the subject goods i.e., the composite core of ACCC conductors, are (a) articles of carbon, and (b) they are of a kind used for electrical purposes; that firstly as, as explained above an *'article of carbon'* is a broader category encompassing various materials and products primarily composed of carbon or its derivatives; that these articles are designed for diverse industrial, electrical, and mechanical applications, including carbon fibers, carbon brushes, carbon black, graphite electrodes, carbon seals, activated carbon, and other specialized carbon-based materials; that with respect to carbon fibers, they are materials composed predominantly of carbon atoms arranged in a continuous chain-like structure; that these fibers are typically derived from precursors such as polyacrylonitrile (PAN) or mesophase pitch, undergoing a series of processing steps—including stabilization, carbonization, and graphitization—to achieve an extremely high carbon content, often exceeding 92-99%; that due to this high carbon concentration, carbon fibers inherently qualify as articles of carbon; that further, it is an undisputed fact that the predominant component of the subject goods is carbon fiber, which provides the essential functional properties such as strength, durability, and lightweight characteristics, critical for the high performance of ACCC conductors; that secondly, the subject goods i.e. ACCC Composite Core is used in ACCC Conductors, which are used in the electrical infrastructure for transmission of electricity i.e. to transfer the electric load / current from one end of the cable to another; that it is manufactured on the basis of a patented technology and is sold to only specified electric conductors' manufacturers across the global by CTC Global Corporation, USA; that in short, in view of the detailed submissions made hereinabove it is clear that this product is of a kind solely and principally used for electrical purposes; that it is equally important to note that where the heading explicitly refers to the intended use of an article, classification must consider both the material composition and the functional application of the product. The subject goods in question are specifically engineered for electrical transmission applications, as an integral component of ACCC conductors; that the classification must, therefore, align with the explicit exclusion of articles of non-electricaluse from

CTH 6815 and instead be determined under CTH 8545, which Is designated for carbon-based articles used for electrical purposes.

25.1.21 that it is well-settled that the 'end-use' criterion cannot be disregarded when the specific tariff heading relies on end-use functionality; that in the present case, CTH 8545 explicitly covers goods based on their end-use for electrical purposes; that as such, the classification must be determined by applying the functionality test. {Ref:*Kumudam Publications (P) Limited [1997 (96) E.L.T. 226 (S.C.)*}; that in this regard, reference can be further made to the decision of Hon'ble Tribunal in the case of *Camlin Limited [2000 (121) E.L.T. 178 (Tribunal)]* wherein while determining the classification of 'Aluminium ferrules designed for bonding the rubber eraser with the lead pencil' it was held that "on the aspect of functionality we find that the aluminium ferrules are solely designed for use in the pencils and therefore become parts meriting classification under the same entry as the lead pencils"; that the Explanatory Notes to CTH 8545 explicitly state that the heading covers all articles of carbon that are identifiable by their shape, dimensions, or other distinguishing features as being intended for electrical purposes, whether or not they contain metal; that the goods classifiable under CTH 8545 include these articles which are produced through processing a composition which, in addition to its basic constituent (natural carbon, carbon black, gas carbon, coke, natural or artificial graphite, etc.) and the necessary binders (pitch, tar, etc.), may also contain other substances such as metallic powders; that the relevant portion of the Explanatory Notes is extracted as *"In general, these articles are obtained by the extrusion or by the moulding (usually under pressure) and heat-treatment of a composition which, in addition to its basic constituent (natural carbon, carbon black, gas carbon, coke, natural or artificial graphite, etc.) and the necessary binders (pitch, tar, etc.), may also contain other substances such as metallic powders."; that ACCC* composite core is produced via a pultrusion process wherein the carbon and glass fibers are impregnated with the help of resin and pulled through a specially heated die to complete curing; that notably, the infusion is done with a sole objective of making the product fit for use in overhead electrical conductors; that such process is similar to as specified above in the HS Explanatory Notes for products to be covered under the CTH 8545; that the subject goods comply with ASTM Standard B987/B987M-20, which specifies the technical requirements for Carbon Fiber Thermoset Polymer Matrix Composite Core (CFC) used in overhead electrical conductors, hence, considering in totality, it can be concluded that from manufacturing to end-use, the subject goods serve no purpose other than electrical applications; that the subject goods constitute a patented technology developed by CTC Global Corporation, USA, which holds exclusive rights over their production and distribution worldwide. As the sole global supplier, CTC Global Corporation, USA, has classified these goods under CTH 8545 for all their supplies worldwide; that said classification by the original manufacturer, who possesses in-depth technical knowledge of the goods, holds significant persuasive value in determining their correct tariff classification; that in with their submission marked as AnnexureL; thatPT Composite Core, Indonesia (a joint venture entity of CTC Global Corporation USA) has also supplied the subject goods to the Noticee; that in cases of such supplies originating from Indonesia, they avail exemption from payment of BCD under Notification No. 46/2011-Cus, which applies to the goods originating from ASEAN member states; that a prerequisite for claiming this exemption is the submission of a Certificate of Origin (COO) as mandated under the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020; that said certificate, issued by the relevant customs or trade authority of the manufacturing country, certifies the origin of the goods and their tariff classification; that notably, in such a case as well COO explicitlycertifies the classification of the subject goods under CTH 8545 and copies of sample COOs are annexed wit submission and marked as Annexure M; that considering this, it is evident that the subject goods are consistently classified under *CTH 8545 by both the original patent holder and its joint ventures (CTC Global Corporation, USA& PT Composite Core, Indonesia)* and competent authorities in

ASEAN countries issuing Certificates of Origin; that in view above, the Company submits that the subject goods are appropriately classifiable as articles of carbon of a kind used for electrical purposes under CTH 8545 9090 of the CTA;

25.1.22 that subject goods merits classification under entry that occurs last in the numerical order; thatwithoutprejudice to the above submissions, even if it is argued that CTH 8545 and CTH 6815 equally merit consideration as regards classification of the product, by application of Rule 3(c) of the General Rules of Interpretation, which states that when goods cannot be classified as per the other rules, they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration and thus, the subject goods will be classified under CTH 8545 by application of Rule 3(c) as well;

25.1.23that in view of the above submissions on merits, the subject goods havebeen rightly classified under CTH 85459900 and therefore, no question of invocation of extended period of limitation arises in the present case; that 'extended period of limitation' under Section 28(4) of the Customs Act can be invoked only in situations wherein it has been established by cogent proof/evidence that duties have not been levied or short-levied or erroneously refunded by to the assessee, as the case may be, for reasons of collusion or any willful misstatement or suppression of facts, however, in the absence of any cogent proof/evidence of collusion or any willful misstatement or suppression of facts on part of the assessee, the extended period of limitation cannot be invoked and the demand (for any duty payment or short levy or erroneous refund) if at all ought to be restricted to the normal period; that the invocation of the extended period of limitation in the present case is not sustainable factually as well as legally; that the SCN fails to credibly provide any cogent proof/evidence that duties have not been levied or have been short-levied by the Noticee, as the case may be, for reasons of collusion or any wilful misstatement or suppression of facts; that invocation of longer period of limitation involves cogent reasons and evidence of positive failure/suppression of facts leading to willful supersession, fraud, misstatement etc. on the part of the assessee; that absent the evidence of positive failure/suppression on part of the assessee, longer period of limitation cannot be invoked; that the law in this regard has been clearly stated by the Hon'ble Supreme Court in *Uniworth Textiles Ltd. v. Commissioner of Central Excise, Raipur reported in 2013 (288) E.L.T. 161 (S.C.)*; that the Hon'ble Supreme Court in light of the position adopted by it in various older judgments observed that for willful misstatement or suppression of facts, positive action betraying negative intention of willful/deliberate default is a mandatory perquisite; that in the absence of wilful/deliberate default, extended period of limitation could not be invoked; that they referred the decision of the Apex Court in *Anand NishiKawa Co. Ltd. v. Commissioner of Central Excise Appeal, Meerut reported in 2005(188) E.L.T. 149(SC),Pahwa Chemicals Private Limited v. Commissioner of C. Ex., Delhi reported in 2005 (189) E.L.T. 257 (S.CChemphar Drugs & Liniments reported in 1989(40) ELT 276 (SC)*and also referred following decisions:

- *Royal Travels vs. CCE, Vadodara, 2011 (21) S.T.R. 31 (Tri. - Ahmd.);*
- *Bahar Agrochem & Feeds Pvt. Ltd. vs. CCE, Pune, 2012 (277) E.L.T. 382 (Tri. - Mumbai);*
- *Essar Projects (India) Ltd. vs. CCE, 2011 (23) S.T.R. 140 (Tri. - Ahmd.);*
- *Vijay Travels vs. CST, 2010 (19) S.T.R. 671 (Tri. - Ahmd.);*
- *Continental Foundation Joint Venture, H.P. vs. CCE, 2007 (216) E.L.T. 177 (S.C.);*

25.1.24 thatthe SCN has wrongly alleged suppression of actual composition of the subject goods with the intention of evading the differential duty; that the said allegations are baseless in view of the submissions made herein above which clearly demonstrate that the subject goods are indeed classifiable under CTH 8545 9900; that the Department has failed to establish any willful intent on part of the Noticee and in

absence of the same extended period of limitation cannot be invoked by the Department; that as *the issue is one of interpretation, 'extended period of limitation' cannot be invoked* the primary issue relates to the classification of the subject goods; that it is well settled law that when the issue is one of interpretation, then extended period of limitation cannot be invoked; that they placed reliance on the decision of ***Coastal Energy Pvt. Ltd. v. Commissioner of Customs, Guntur, 2014 (310) E.L.T. 97 (Tri.-Bang)*** which was later affirmed by Supreme Court in ***Commissioner v. Coastal Energy Pvt. Ltd., 2016 (340) E.L.T. A204 (S.C.); that it is*** equally well settled position in law that if the issue involved is one of interpretation and an assessee is of *bone fide* belief with respect to its tax position, wilful suppression cannot be attributed to the assessee so as to allow invocation of longer period of limitation and in this regard, reliance is placed upon the decision of ***Jayant Juneja v. Commissioner of Central Excise, Jaipur, 2015 (326) E.L.T. 634 (S.C.); that reliance*** in *this* regard is also placed on the decision of the Delhi High Court in the case of ***CC v. Wonderax Laboratories, I.P.L, 2010 (255) ELT 60 (Del.)***, which decision has been maintained by the Supreme Court in the case of ***Commissioner v. Wonderax Laboratories (I) Pvt. Ltd., 2010 (255) ELT A16 (SC);*** that it has not indulged in any collusion or wilful misstatement or suppression of facts to warrant invocation of the larger period of limitation under *the* Section 28(4) and therefore, Therefore, invocation of the extended period of limitation in the present facts is without any basis in fact or in law.

25.1.25that the *imported goods are not liable to confiscation under Section 111(m) of the Customs Act; that they referred the* provisions of Section 111(m) of the Customs Act and stated that allegations are incorrect and is based upon extraneous considerations, erroneous presumptions which are not based on any evidence at all, and, neither has the Department adduced any credible evidence to establish the efficacy of the allegation; that with respect to import of the subject goods, denied the allegations in the submissions made above; that without prejudice, submitted that it is a well settled position of law that provisions relating to confiscation will only stand when mis-declaration is proved and if there is no case of mis-declaration, confiscation cannot be made; that in this regard, placed reliance on the following cases:

- *Commissioner v. Sony Impex , 2007 (215) E.L.T. A49 (S.C.);*
- *Shree Export v. Commissioner of Customs (Export), 2015 (318) E.L.T 695 (Tri.-Mumbai);*
- *Northern Plastics Ltd v. Collector of Customs & Central Excise, 1998 (101) E.L.T 549 (S.C.) Commr of Cus. v. Kapil International, 2008 (228) E.L.T. 139 (Tri.); Pdm Impex v. Commissioner of Customs (P), Kolkata, 2005 (191) E.L.T. 1121 (Tri. - Kolkata);*
- *Actis Technologies Pvt. Ltd. v. Commissioner of Customs, Ahmedabad, 2005 (189) E.L.T. 121 (Tri. - Mumbai);*
- *Jai Ambe Manufacturers v. Commissioner of Customs, Nhava Sheva, 2017 (358) ELT 737 (Tri-Mumbai);*
- *Anjeny Loys Pvt. Ltd. v. Commissioner of Customs, (Nhava Sheva-I), Mumbai, 2017 (358) ELT 679 (Tri-Mumbai);*
- *Bombay Marine Enterprises v. Commissioner of Customs (I), Mumbai, 2017(358) ELT 348 (Tri-Mumbai);*
- *Sterling Ornaments Pvt. Ltd. v. Commissioner of Customs, New Delhi, 2017 (352) ELT 98 (Tri-Del);*

25.1.26that p*enalty not imposable under Section 112 of the Customs Act; that* penalty can be levied in terms of Section 112 of the Customs Act only when there are grounds for confiscation of the goods in terms of Section 111 of the Customs Act and in this regard, reliance is placed upon the following cases:

- ***Sandhya Jewellers v. Commissioner of Customs, Ahmedabad, 2013 (293) E.L.T. 412 (Tri. -Chennai);***

- ***Kuresh Laila v. Commissioner of Customs, Chennai, 2005 (189) E.L.T. 45 (Tri. - Chennai);***
- ***Polynova Chemical Industries v. Commissioner of Customs, Mumbai 2005 (179) E.L.T. 173 (Tri. - Mumbai);***
- ***Jupiter Exports v. Commissioner of Customs, Chennai, 2002 (145) E.L.T. 608 (Tri. - Chennai);***
- ***Pawan Goel v. Commissioner of Customs, New Delhi, 2001 (135) E.L.T. 1425 (Tri. - Del.);***
- ***International Lease Finance Corporation v. Commissioner of Customs (I&G), New Delhi, 2017 (358) E.L.T. 1049 (Tri.-Del);***

25.1.27that *Penalty not imposable under Section 114A of the customs act; that* in terms of Section 114A, penalty is attracted only when short levy is caused by reason of collusion or willful misstatement or suppression of facts and that in the present case, none of these circumstances exist as has already been set out herein above; that they have not violated any provision of the Customs Act or the Rules thereunder as alleged or at all to warrant the levy of penalty on them; that without prejudice to the fact that there has been no infraction of the law on their part and in the event there has been any infraction, the same is completely unintended and *bona fide* and without any intent to evade duty; that it is settled law, inter alia, by the judgments of the Hon'ble Supreme Court in *Hindustan Steel Ltd. vs. State of Orissa reported in 1978 (2) ELT (J 159) (SC), Akbar Badruddin Jiwani vs. Collector of Customs reported in 1990 (47) ELT 161 (SC),* that any technical or venial breach of the law without intention to evade duty does not invite the levy of penalty and placed reliance in this regard on the following cases:

- *Ivica Cosmai v. Commissioner of Customs, 2013 (291) E.L.T. 305 (Tri. - Ahmd.);*
- *Commissioner of Central Excise, Customs and Service Tax v. Jyoti Structures Ltd., 2009 (247) ELT 555 (Tri.-Mumbai) affirmed by Bombay High Court in Commissioner of Central Excise v. Jyoti Structure Ltd., 2014 (309) ELT 209 (Bom.);*
- *Sri Chidzhavadzhe, Ancheril Agencies v. The Commissioner of Customs, 2008 (222) ELT 306 (Tri-Bang);*
- *Essar Oil Ltd v. Commissioner of Customs (Prev.), 2006 (197) ELT 450 (Tri.-Mumbai);*
- *Natraj Stationery Products (P) Ltd. v. CCE, 2017 (348) E.L.T. 568 (Tri.-Chan.);*

25.1.28 that in the present case, in light of the aforesaid submissions, the levy of penalty is unjustified and uncalled for; that further in terms of the law declared by the Hon'ble Supreme Court in *Collector of Central Excise v. HMM Ltd., 1995 (76) ELT 497 (SC),* where the duty demand is in itself not sustainable and there has been no contravention of the Act or the Rules, no penalty can be leviable; that it is therefore submitted that in the facts of the present case wherein the duty demand is itself not sustainable and where there is no intent on their part to evade the payment of Customs duty in any manner, no penalty can be levied in terms of Section 112(a) and/ or Section 114A of the Act and placed reliance on *Tamil Nadu Housing Board v. CCE, Madras, 1994 (74) E.L.T. 9 (SC) and Colo Plast Vs. CCE, Vadodara, 1995 (75) E.L.T. 369 (Tribunal) in this regard; that* in terms of the fifth proviso to Section 114A of the Act, there can be no levy of penalty both under Section 112 as well as under Section 114A of the Act and in this regard, reliance is placed on the following judgements:

- *Principal Commissioner of Customs, Air Cargo Customs (Import) v. Escorts Heart Institute & Research Centre, 2017 (351) ELT 19 (Del.);*
- *Commissioner of Customs (Import), Mumbai v. Videomax Electronics, 2011 (264) ELT 466 (Tri.- Mumbai);*

25.1.29 that Interest under Section 28AA cannot be levied in the present case ; that since demand in itself is not sustainable in light of the submissions on merits, there can be no question of payment of any interest under Section 28AA of the Customs Act; that the provisions for interest under a taxing statute are 'compensatory' in nature [as opposed to being punitive] i.e. payable by the taxpayer to the appropriate government or *vice*-versa only if action of one party has caused financial loss to another for the given period of time or that action of one party led them to derive any monetary benefit which it was not entitled to; that reliance in this regard is placed on the Apex Court's verdict in *Pratibha Processors v Union of India reported in 1996 (88) ELT 12 (SC); that in* the instant case, given the submissions above, it is clear that they have appropriately availed the benefit NIL tariff rate of Basic Customs duty on import of the subject goods and thus, there is no short payment/evasion of duty and accordingly, the Revenue's interest has not been adversely affected in any manner whatsoever and therefore, the question of compensation in the form of interest does not arise and the allegation in SCN levying interest deserves to be set aside.

25.2 Shri Sanjay Amit Hule, Lead Exim submitted their written submission vide their letter dated 21.05.2025 wherein stated as under:

25.2.1 that at the outset, he denies all the allegations made in the SCN. It is submitted that he has neither contravened the provisions of the Act nor any other legal provisions whatsoever and has not mis-declared or suppressed any fact; he craves leave to produce fresh evidence, if required; that he craves leave to refer to and rely on the reply dated 04.04.2025 filed by the Company (statement of facts and grounds), as if the same were set out herein, verbatim et seriatim, though not reproduced for reasons of brevity; that in addition, he makes the following submissions, each of which is to be taken in the alternative and without prejudice to each other;

25.2.2 that penalty is not imposable in the absence of any demand leviable on the company; that in the present case, no penalty is imposable on him for the simple reason that the demand raised on the Company is not sustainable on account of various submissions that the Company has advanced in their reply to the SCN and have not been reproduced for reasons of brevity; that the Department has failed to appreciate that he cannot be penalized under the Customs Act as his employer viz. the Company itself has not violated or breached any legal provisions as explained in its Reply; that in this regard, he wholly adopted and relieed upon the submissions made by the Company in its reply filed in response to the SCN; that the Department has failed to appreciate that in terms of the settled position in law by the Hon'ble Supreme Court in *CCE vs. Hindustan Zinc Ltd, 2004 (169) ELT A37 (SC)*, penalty on an employee is not imposable when his actions were in the performance of his duties to the employer and the employer was found not guilty; that in the present case, his actions were in performance of his duties as the Lead Exim of the Company and since the Company itself is not guilty of any breach/violation of statutory provision warranting any imposition of penalty, penalty cannot be imposed on the him, for any acts in the course of employment of the Company and therefore, the issue of penalty does not arise altogether; that in this regard reliance is placed on the decision of the Hon'ble Supreme Court in *CC, Mumbai v. M.M.K. Jewellers, 2008 (225) E.L.T. 3 (S.C.)*, wherein it has been *inter alia* held that when the duty itself cannot be imposed, no order for imposition of penalty can sustain under the Act. A review petition against the decision was relied upon in *Commissioner v. M.M.K Jewellers, 2009 (243) E.L.T A90 (S.C.); that the* same view has been affirmed in a number of decisions such as *Aryan Coal Benefications Pvt. Ltd. v. Commr. of S.T., New Delhi 2013 (29) S.T.R 74 (Tri. - Del.); Geeta Bright Bar Works Pvt. Ltd. v. CCE, Mumbai-V 2012 (277) E.L.T. 67 (Tri - Mum); Godrej Soaps v. CCE, Mumbai 2004 (174) E.L.T. 25 (Tri. - LB) and therefore,* penalty proposed under the SCN is liable to be set aside.

25.2.3 that penalty not imposable under Section 112 of the Customs Act; that the SCN at Para 20.2 has alleged that he, being responsible for filing the Bills of Entry and approving the associated checklist, was aware of the technical nature of the imported ACCC Composite Core (CarbonFibre Core) and consciously classified the goods under CTH 8545 which has resulted in willful misstatement and suppression of facts, and consequent short payment of duty, rendering him liable to penalty under Section 112(a) and 114AA of the Customs Act; that the Department has failed to appreciate that penalty under Section 112 of the Customs Act cannot be imposed in the present facts as the very conditions for invoking Section 112 are not satisfied in the present case; that in this regard, the relevant extract of Section 112 is referred and stated that the Department has failed to appreciate that in view of the submissions in the Reply filed by the Company it is evident that the goods are in fact classifiable under CTH 8545 as *Articles of Carbon of a kind used for Electrical Purposes* and thus the Notice having classified the subject goods in line with the CTA has not contravened any provision of the Customs Act, the rules made thereunder or any other law; that there is no documentary evidence produced by the Department to prove that he has made any wilful misstatement or suppressed the facts with respect to the nature of the subject goods; that reliance in this regard is placed on the following decisions and submitted that the allegation of wilful misstatement or suppressed the facts with respect to the nature of the subject goods in order to avail lower rate of duty at 7.5% is not sustainable and thus, the penalty proposed on him under Section 112 is a perfunctory action and bad in law :

(a) *Gujarat Adani Port Ltd vs. CCE, Kandla, 2013 (287) ELT 330 (Tri-Ahmd)* ;

(b) *Fast Cargo Movers vs. Commissioner of Customs, Jodhpur [2018 (362) E.L.T. 184 (Tri. - Del.)];.*

(c) *Powercon Electricals v. Commissioner of Customs, Cochin [2021 (376) E.L.T. 540 (Tri. - Bang.)];*

(d) *Rajesh Gaba v. Commissioner of Cus. (Import), Tughlakabad [2021 (375) E.L.T. 683 (Tri. - Del.)];*

25.2.4that penalty not imposable under Section 114AA of the Customs Act; that the SCN at Para 20.2 has alleged that he has rendered the goods liable for confiscation due to wilful misstatement and by suppression of facts, he is liable to pay penalty under Section 112 of the Customs Ac; that penalty under Section 114AA of the Customs Act is only imposable when a person intentionally *inter alia* signs/uses any declaration, statement or document which is false in any material; that in this regard, the relevant extract of the provision referred and stated that it may be noted that in order to impose penaltyunderSection 114AA of the Customs Act, two conditions ought to be fulfilled viz. (a) a false and incorrect disclosure has to be made; and (b) the person making the false and incorrect disclosure should have knowledge or intention to make the disclosure in such a manner; that in this regard, courts have also interpreted the scope of Section 114AA and cited the following decisions:

(i) *Naam Exports vs. Commissioner of Customs, Tuticorin [2022 (382) ELT 251 (Tri-Chennai)];*

(ii) *Villavarayar& Sons vs. Commissioner of Customs [2018 (359) ELT 197 (Tri-Chennai)];*

(iii) *Waqar vs. Commissioner of Customs (Preventive), Lucknow [2024 (387) ELT 91 (Tri-All)];*

(iv) *Ingram Micro India P. Ltd. vs. CC, Air Cargo Complex (I), New Delhi [2019 (369) ELT 1668 (Tri-Del)];*

25.2.5 that neither of the conditions for invocation of Section 114AA of the Customs Act have been met in the present case as he has indeed correctly disclosed the nature of the Subject Goods in the BOEs which is in alignment with CTH 8545 and therefore, it cannot be said that he has not correctly declared the nature of the subject goods; that based on the nature of the goods, the goods are appropriately classified under CTH 8545 9090 as submitted herein above, and not repeated for the sake of brevity; that since there is no false or incorrect disclosure, allegation of wrongful classification with *mala fide* intention cannot be attributed on him and therefore, penalty imposed under Section 114AA of the Customs Act is unsustainable'; that the legislative intent for insertion of Section 114AA in the Customs Act as provided in the 27th Standing Committee on Finance Report (2005-2006) is to penalize fraudulent exports where the exports were shown only on paper and no goods cross the Indian border and relevant portion of the 27th Standing Committee on Finance Report (2005-2006) referred and stated that since the present case relates to imports and not exports, Section 114AA cannot be invoked and reliance in this regard is placed on the decision of *Commr. of Cus., Sea, Chennai-II vs. Sri Krishna Sounds and Lightings [2019 (370) E.L.T. 594 (Tri. - Chennai)];*

25.2.6 that present issue is technical and interpretational in nature; that without prejudice to the above, stated that it is well settled law that penalty cannot be imposed if the issue involved is of classification; that in the present case, the Department has disputed the classification of the subject goods and sought to classify them under CTH 8545 9090 of CTA; that since the issue of classification is involved in the present case, therefore no penalty can be imposed upon him and in this regard, he placed reliance over the following the judgments and stated that as demonstrated above, the present issue involves classification of ACCC Composite Core, therefore, the imposition of penalty is not warranted in the present case:

- *Bectors Foods Specialties Pvt. Ltd. v. Commissioner of Central Excise, Jalandhar, 2009 (233) ELT 374 (Tri.-Del.);*
- *Eastern Steel Industries v. Commissioner of Central Excise, Mumbai-II, 2017 (349) ELT 324 (Tri.-Mumbai);*
- *Natraj Stationary Products (P) Ltd. v. Commissioner of Central Excise, Rohtak, 2017 (348) ELT 568 (Tri.-Chan.);*
- *Thyssenkrupp Industries India Pvt. Ltd. v. Commissioner of Customs (Import), Mumbai, 2016 (343) ELT 533 (Tri.-Mumbai);*

25.2.7 that no penalty where the notice has acted in a bonafide manner and no mens rea exists; that the Department has failed to appreciate that in terms of the settled position in law, inter alia by the decisions of the Hon'ble Tribunal in Shri Ivica Cosmai vs. Commissioner of Customs, Jamnagar [2013 (291) ELT 305 (Tri-Ahmd)], Sij Electronics Comp Tech Pvt. Ltd [2001 (129) ELT 528 (Tri)]; Commissioner of Customs (Imports) Mumbai vs. R.A. Spinning Mills (P) Ltd[2004 (171) E.L.T. 54 (Tri. - Mumbai)] and Collector of Customs vs. Seth Enterprises Pvt. Ltd 1990 (49) E.L.T. 619 (Tribunal), penalty under Section 112 and/ or Section 114AA can be imposed only in case mens rea on the part of the assessee can be established; that without establishing *mens rea* on part of the Noticee, no penalty under Section 112 and/ or Section 114AA is warranted in the present case, and therefore the SCN is bad in law and facts.; that submissions in the Reply filed by the Company and the submissions in the foregoing paragraphs clearly demonstrate that he has not contravened any provision the Customs Act, the rules made thereunder or any other law; that without prejudice to the fact that there has been no infraction of law by him and in in the event there has been any infraction, the same is completely unintended and *bona fide* and without any intent to evade duty; that in this regard, the Department has failed to appreciate that in terms of the settled position in law as laid down by the Hon'ble Apex Court in*Hindustan Steel Ltd. v. State of Orissa reported in 1978 (2) ELT 159* and *Akbar Badruddin Jiwani v. Collector of Customs reported in 1990 (47) ELT 161 (SC)*, where it

held that any technical or venial breach of the law without intention to evade duty does not invite the levy of penalty; that he has cooperated with the DRI at all times, during the course of investigations and has not acted in a contumacious or dishonest manner; that the Department has also not adduced any evidence whatsoever to suggest any willful suppression or dishonesty on his part and therefore, the penalty proposed to be imposed on him is not tenable in law and the SCN to the extent of it making allegations on him and consequently proposing penalty on him is baseless and must be set aside.

26 Personal Hearing: Personal hearing in respect of Importer M/s Sterlite Power Transmission Limited and Shri Sanjay Amit Hule, Head Exim, M/s Sterlite Power Transmission Limited was held on 10.10.2025. Advocate of both the said Noticees, appeared for personal hearing virtually (online mode) and reiterated the contents of their written submission dated 04.04.2025, 21.05.2025 and Legal Compilation submitted on 10.10.2025.

27 Findings: I have carefully gone through the Show Cause Notices dated 30.12.2024 and written submission filed by importer and Shri Sanjay Amit Hule, Head Exim of M/s Sterlite Power Transmission Limited vide letter dated 04.04.2025, 21.05.2025 respectively and Legal Compilation submitted to this office on 10.10.2025. I have also gone through the Personal Hearing Records of both the noticees.

28 The issues for consideration before me in these proceedings are as under:-

(a) Whether the declared classification of the subject goods viz. 'ACCC Composite Core' under CTI 85459090 in the Bills of Entry as detailed in Annexure-B attached to the show cause notice, should be rejected and said goods be re-classified under Customs Tariff Item No. 68159990 for the import period 01.01.2020 to 31.12.2021 and under Customs Tariff Item No 68151100 for the import period 01.01.2022 to 30.11.2024 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and whether the subject Bills of Entry should be re-assessed?

(b) Whether the goods viz. 'ACCC Composite Core' having assessable value of Rs.125,85,97,321/- (Rupees One Hundred- Twenty Five Crore, Eighty-Five Lakh, Ninety-Seven Thousand, Three Hundred and Twenty One only) as detailed in Annexure B attached to the show cause notice should be confiscated under Section 111 (m) of the Customs Act, 1962?

(c) Whether the differential/Short paid Customs duty amounting to Rs. 4,08,41,483/- (Rupees Four Crore, Eight Lakh, Forty-One Thousand, Four Hundred and Eighty- Three only) as detailed in Annexure-B to the show cause notice should be demanded and recovered under Section 28(4) of the Customs Act, 1962 alongwith applicable interest under Section 28AAibid?

(d) Whether penalty should be imposed under the provisions of Section 112(a) and 114 A of the Customs Act,1962 on M/s Sterlite Power Transmission Limited?

(e) Whether penalty should be imposed under the provisions of Section 112(a) and Section 114AA of the Customs Act, 1962 on Shri Sanjay Amit Hule, Head Exim of M/s. Sterlite Power Transmission Limited?

29 The most vital question that comes up for consideration in case on hand is Para 28 (a) whether the goods in question, classifiable under Customs Tariff Item (CTI) No. 85459090, as claimed by importer or 'classifiable under Customs Tariff Item No. 68159990 for the import period 01.01.2020 to 31.12.2021 and under Customs Tariff Item No 68151100 for the import period 01.01.2022 to 30.11.2024 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). I find that Para 28(b) to 28(e) would be relevant only if the goods in question are found classifiable under Customs Tariff Item No. 68159990 for the import period 01.01.2020 to 31.12.2021 and under Customs Tariff Item No 68151100 for the import period 01.01.2022 to 30.11.2024. First I take up the issue of classification involved in present case.

30 Whether the declared classification of the subject goods viz. 'ACCC Composite Core' under CTI 85459090 in the Bills of Entry as detailed in Annexure-B attached to the show cause notice, should be rejected and said goods be re-classified under Customs Tariff Item No. 68159990 for the import period 01.01.2020 to 31.12.2021 and under Customs Tariff Item No 68151100 for the import period 01.01.2022 to 30.11.2024 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and whether the subject Bills of Entry should be re-assessed?

30.1 For the purpose of ascertaining the merit classification of **'ACCC Composite Core',** it would be appropriate firstly to make a reference to the Customs Tariff Headings (CTH) 8545 claimed by the importer and CTH 6815 alleged by the Department, as appearing in the Customs Tariff Act, 1975 as well as the HSN Explanatory Notes for the said Tariff Headings which are as under:

30.2 Customs Tariff Heading 8545 of the Customs Tariff Act, 1975 and its HSN Explanatory Notes: Chapter 85 in Section XVI of First Schedule to the Customs Tariff Act deals with **"Electrical Machinery and Equipment and Parts thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers and Parts and Accessories of such articles"**. Further, the CTH 8545 is reproduced as below;

Tariff Item		***Description***	***Unit***	***Rate***
8545		*Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other* ***articles of*** *graphite or* ***other carbon,*** *with or without metal,* ***of a kind used for***		

		electrical purposes		
	-	***Electrodes:***		
8545 1100	--	*Of a kind used for furnaces*	*Kg.*	*7.5%*
8545 1900	--	*Other*	*Kg.*	*7.5%*
8545 2000	-	*Brushes*	*Kg.*	*7.5%*
8545 90	-	***Other:***		
8545 9010	---	*Arc-lamp carbon*	*Kg.*	*7.5%*
8545 9020	---	*Battery carbon*	*Kg.*	*7.5%*
8545 9090	---	*Other*	*Kg.*	*7.5%*

As per explanatory notes to Chapter Heading 8545 - this heading covers all articles of graphite or other carbon which are recognisable by their shape, dimensions or otherwise, as being for electrical purposes, whether or not they contain metal.

In general, these articles are obtained by the extrusion or by the moulding (usually under pressure) and heat-treatment of a composition which, in addition to its basic constituent (natural carbon, carbon black, gas carbon, coke, natural or artificial graphite, etc.) and the necessary binders (pitch, tar, etc.), may also contain other substances such as metallic powders.

In some cases the articles of this heading may be coated electrolytically or by spraying (e.g., with copper) to increase their conductivity and decrease their rate of wear. They remain classified here even if fitted with eyelets, terminals or other means of connection.

Further as per explanatory notes to Chapter Heading 8545, this heading includes;

(i) Carbon electrodes for furnaces
(j) Carbon welding electrodes
(k) Carbon electrodes for electrolysis
(l) Carbon brushes
(m) Arc-lamp or other lamp carbons
(n) Battery carbons
(o) Carbon parts of microphones
(p) Other articles of graphite or other carbon, such as;

a. *Connecting pieces (nipples) for joining together furnace carbons.*

b. *Anodes, grids, and screens for rectifying valves.*

c. *Heating resistors, in the form of rods, bars, etc., for various types of heating apparatus.*

d. *Resistance discs and plates for automatic voltage regulators.*

e. *Other contacts or electrodes of carbon.*

30.3 Customs Tariff Heading 6815 of the Customs Tariff Act, 1975 and its HSN Explanatory Notes: (During t the period from 01.01.2020 to 31.12.2021)

Tariff Item		***Description***	***Unit***	***Rate***
6815		***ARTICLES OF STONE OR OTHER MINERAL SUBSTANCE (INCLUDING CARBON FIBRES, ARTICLES OF CARBON FIBRES AND ARTICLES OF PEAT), NOT ELESEWHERE SPECIFIED OR INCLUDED***		
6815 10	-	***Non-electrical articles of graphite or other carbon***		
6815 1010	---	*Graphite filter candle*	*Kg.*	*10%*
6815 1020	---	*Non-electrical articles of graphite*	*Kg.*	*10%*
6815 1090	---	*Other*	*Kg.*	*10%*
6815 2000	-	*Article of peat*	*Kg.*	*10%*
	-	*Other articles*		
6815 9100	--	*Containing magnesite, dolomite or chromite*	*Kg.*	*10%*
6815 99	--	*Other:*		
6815 9910	---	*Bricks and tiles of fly ash*	*Kg.*	*10%*
6815 9920	---	*Sanitary ware, kitchen wares and other made-up articles of fly ash*	*Kg.*	*10%*
6815 9990	---	*Other*	*Kg.*	*10%*

The Explanatory notes for the said CTH 6815 till 31.12.2021 were as below:

This heading covers articles of stone or other mineral substance, not covered by the earlier headings of this Chapter and not included elsewhere in the Nomenclature, it therefore excludes, for example, ceramic product of Chapter 69.

The heading covers, inter alia:

(1) Non-electrical articles of natural or artificial (including nuclear grade), or other carbons for example: filters; disc; bearing; tubes and sheaths; worked bricks and tiles; moulds for the manufacture of small articles of delicate design (e.g. coins, medals, lead soldiers for collections).

(2) Carbon fibres and articles of carbon fibres, Carbon fibres are commonly produced by carbonising organic polymers in filamentary forms. The produce are used for example, for reinforcement.

(3) Articles made of peat (for example, sheet, cylinder shells, pots for raising plants). Textile articles of peat fibre are however ***excluded (section XI)***

(4) ***Unfired*** *bricks made of dolomite agglomerated with tar.*

(5) Bricks and other shapes (in particular magnesite or chorme-magnesite products), chemically bonded ***but not yet fired.*** *These articles are fired during the first heating of the furnace in which they are installed. Similar products presented after firing are* ***excluded (heading 69.02 or 69.03).***

(6) ***Unfired*** *Silica or alumina vats (e.g. as used for melting glass).*

(7) Touchstones for testing precious metal; these may be of natural stone (e.g. lydite,a hard, fine-grained dark stone resistant to acids).

(8) Paving blocks and slabs obtained by moulding fused slag without a binder, but excluding those having the character of heat-insulating goods of heading ***68.06****.*

(9) Filter tubes of finely crushed and agglomerated quartz or flint.

(10) Blocks, slabs, sheets and other articles of fused basalt; these are used, because of their great resistance to wear, as lining for pipes belt-conveyors, chutes for coke, coal, ores, gravel, stone, etc.

30.4 Customs Tariff Heading 6815 of the Customs Tariff Act, 1975 and its HSN Explanatory Notes: (During t the period from 01.01.2022 to 30.11.2024):

Tariff Item		***Description***	***Unit***	***Rate***
6815		***ARTICLES OF STONE OR OTHER MINERAL SUBSTANCE (INCLUDING CARBON FIBRES, ARTICLES OF CARBON FIBRES AND ARTICLES OF PEAT), NOT ELESEWHERE SPECIFIED OR INCLUDED***		
	-	***Carbon fibres; articles of carbon fibres for non-electrical uses; other articles of graphite or other carbon for non-electrical uses***		
6815 1100	--	*Carbon fibres*	*Kg.*	*10%*

6815 1200	--	Fabrics of carbon fibres	Kg.	10%
6815 1300	--	Other articles of carbon fibres	Kg.	10%
6815 1900	--	Other	Kg.	10%
6815 2000	-	Article of peat	Kg.	10%
	-	Other articles :		
68159100	--	Containing magnesite, magnesia in the form of periclase, dolomite including in the form of dolime, or chromite	Kg.	7.5%
6815 99	--	Other :		
6815 9910	---	Bricks and tiles of fly ash	Kg.	10%
6815 9920	---	Sanitary wares, kitchen wares and other made up articles of fly ash	Kg.	10%
6815 9930	---	Basalt fibre, filament and articles thereof conforming to ASTM D3039, C1185	Kg.	10%
6815 9990	---	Other	Kg.	10%

The Explanatory notes for the said CTH 6815 from 01.01.2022) are as below:

This heading covers articles of stone or other mineral substance, not covered by the earlier headings of this Chapter and not included elsewhere in the Nomenclature, it therefore excludes, for example, ceramic product of Chapter 69.

The heading covers, inter alia:

(1) Non-electrical articles of natural or artificial (including nuclear grade), or other carbons for example: filters; disc; bearing; tubes and sheaths; worked bricks and tiles; moulds for the manufacture of small articles of delicate design (e.g. coins, medals, lead soldiers for collections).

(2) Carbon fibres and articles of carbon fibres, Carbon fibres are commonly produced by carbonising organic polymers in filamentary forms. The produce are used for example, for reinforcement.

(3) Articles made of peat (for example, sheet, cylinder shells, pots for raising plants). Textile articles of peat fibre are however ***excluded (section XI)***

(4) ***Unfired*** *bricks made of dolomite agglomerated with tar.*

30.5 Importer is a developer of "power transmission infrastructure" with two major verticals, One being manufacturing of power products like Overhead Conductors, Under Ground Power Cables and OPGW (Optical Fibre Ground Wire) and the other being infrastructure wherein they used to take the project on BOOM (Build Own

Operate and Maintain) basis and complete the projects to earn tariff in the long run or sell after the completion. The said importer is manufacturer of various types of conductors like Aluminium Conductor Steel Reinforced (ACSR), All Alloyed Aluminium Conductor (AAAC), and other High Tension Low Sag conductors (HTLS) which consisted of different brands viz., Invar, GAP and ACCC (Aluminium Conductor Composite Core). Polymers being the raw material for power cables and Aluminium & **Carbon Composite Core** being the **raw materials for Conductors** were imported by them wherein the majority of Carbon Composite Core was imported from M/s CTC Global, USA.

30.6 I find that importer had imported "ACCC Composite Core" and classified the same under Customs Tariff Item No. 85459090. The CTH 8545 is meant for **" Carbon** electrodes, carbon brushes, lamp carbons, battery **carbons** and other **articles** of graphite or **other carbon**, with or without metal, of a kind used for electrical purposes. I find that importer has mainly relied on the explanatory notes to Chapter Heading 8545 which says that *"this heading covers all articles of graphite or other carbon which are recognisable by their shape, dimensions or otherwise, as* ***being for electrical purposes****, whether or not they contain metal"* and based on this explanatory note, they have attempted to classify under Customs Tariff Item No. 85459090. Therefore, it is inevitable to check the actual properties/ingredients of the impugned goods "ACCC Composite Core" for its merit classification.

36.7 I find that CRCL, *Chennai vide Lab Report No. 684/DSM/10.02.2022 dated 11.03.2022(Description: ACCC Composite Core) has reported as under:*

"The sample is in the form of cut piece of brown coloured rod having inner black colour material sheathed with brown colour layer.

Outer sheath is made of glass fibre, binding material based on polymeric resins of epoxy. Inner material is made of carbon ***fibre****, inorganic material, binding material based on polymeric resins of exposy.*

a) Epoxy resin + binder = 25.9%
b) Glass Fibre = 39.9%
c) Carbon **Fibre** = 33.7%
d) Inorganic material = Balance.

30.8 I find that investigation was stretched to the oversea supplier M/s CTC Global Corporation, USA who vide their email dated 22.12.2022 and 28.12.2022 submitted the following details:

(a) **Details of the composition of Core, and role of each material in overall strength** – ACCC® Core was comprised of glass and **carbon fibres** in a 1.35:1 ratio (by weight) respectively, bound by a resin matrix. **Carbon fibres** would give **the ACCC Core most of its strength while the glass fibres would provide galvanic protection**.

(b) Copy of Certificate for Patent No.272645 granted on 13.04.2016 to M/s Composite Technology Corporation (CTC) for an invention entitled "Aluminium Conductor Composite Core **Reinforced Cable and Method of Manufacture**" along with description and method of manufacture. As per the said patents, ACCC® Core met the requirements of the international standard ASTM B987, which described the properties of **Carbon Fibre** Composite (CFC) cores for use in Overhead Electrical Conductors. In the license agreements, CTC permitted the use of the ACCC Core for no purpose other than to manufacture ACCC Conductor.

(c) Details pertaining to the Clear name of the Product-Carbon Fibre Core, Carbon Composite core, Carbon GlassFibre core - ACCC® Core was CTC Global's brand name fora core that would meet the requirements of the International Standard ASTM B987, which would describe the properties for **Carbon Fibre** Composite (CFC) cores for use in Overhead Electrical Conductors.

From perusal of the aforesaid details, I find that impugned goods is comprised of glass fibre and **carbon fibres** in a 1.35:1 ratio (by weight), bound by a resin matrix. The said detail corroborates with the CRCL, Chennai's *Report No. 684/DSM/10.02.2022 dated 11.03.2022.* Further, from the said detail, it transpires that the impugned goods is used for reinforcement of final product i.e. Overhead Electrical Conductors.

30.9 I find that during the investigation statement of Shri Vivek Goel, Vice President (Finance) Shri Salil Chandrasekar Kale, Head, Strategic Sourcing and Supply Chain Management, M/s SPTL dated 29.12.2022 , and Statement of Shri Vipul Kumar Rahevar, Assistant Vice President, Manufacturing Operations, of importer in the presence of Shri Arun Kanhaiyalal Agarwal, Assistant Vice President, Supply Chain Logistics, were recorded . I find that statements of said persons are detailed in Show Cause Notice. However, I find it worth to refer the statement dated 13.12.2022 of Shri Vipul Kumar Rahevar who was working as Assistant Vice-President of Manufacturing Operations at the Plant located at Silvasa, where he was looking after overall manufacturing of Overhead transmission lines Conductors wherein he inter alia stated that several types of Overhead Power transmission Conductors e.g **AAAC (All Aluminium Alloy Conductor) , ACSR (Aluminium conductor steel reinforced)** and **ACCC (Aluminium conductor composite core)** were manufactured by the importer. With regard to impugned goods vz. **ACCC (Aluminium conductor composite core),** he stated that – The ACCC was a registered trademark of M/s CTC Global Corporation, USA having two components, viz. (1) "Aluminium Conductor" - the outer layer, consisting of multiple conducting wires made of pure annealed aluminium, and (2) "Composite Core" - **A composite of Carbon Fibres**, glass fibres and resin materials.; with regard to the usage of **Carbon Fibre Composite core as the core of ACCC**, he stated that the tensile strength of the carbon fibre composite core was more than the tensile strength of the aluminium alloy wires of AAAC and the galvanized steel rod of **ACSR**. Therefore, with the usage of a carbon fibre composite core, the

ACCC overhead conductor could withstand mechanical load beyond the limitations of the AAAC or ACSR. Since the entire mechanical load/weight of the ACCC Overhead Power transmission Conductors was carried by the carbon fibre composite core, there was no need for creating aluminium alloy for the purpose of strength and annealed aluminium of higher conductivity was used during the manufacturing of ACCC Overhead power transmission conductor. Further, the carbon fibre core was lighter in weight when compared to the reinforced steel rod. **Due to the strength and lightweight properties of the Carbon fibre composite core**, more dense pure aluminium conducting wires could be wrapped around the composite core for the same length of cable as that of ACSR, and therefore, more electric load could be transmitted through the aluminium conductors of ACCC as compared to the same length of ACSR. Further, **ACCC conductors could operate at high temperatures due to the presence of a carbon fibre composite core;** with regard to the term 'ACCC Composite Core' in the Bills of entry filed, he stated that the imported **goods described as "ACCC composite core" in the bills of entry were 'Carbon Fibre Composite Core' of the ACCC Overhead power transmission conductor;** The ACCC composite core was used in the manufacturing of the ACCC Overhead power transmission conductor; After the import of the carbon fibre composite core, **Aluminium wires/strands were wrapped on them to make it Overhead Power Transmission Conductor; t**he technical parameters based on which the Carbon fibre composite core was tested by them were namely, 1) tensile strength, 2) Glass transmission temperature, 3) Galvanic Layer thickness, 4) Density, 5) Heat Exposure/Heat Test, 6) Bending Test, 7) Dye Penetrant after Bending Test, 8) Thickness Test, 9) Tensile Test after Bending Test. The tests mentioned in Sl.no. 1 to 4 were regular tests and the tests mentioned in Sl. No. 5 to 9 were not regular tests but were only done at the time of design of the carbon fibre composite core. The tests were done in terms of ASTM standards B987/B987M-20; **Since the electricity did not pass through the carbon fibre composite core and the carbon fibre composite core was used for the purpose of giving strength only the parameters of conductivity, resistivity etc would not apply to the Carbon fibre composite core;** In any overhead power transmission conductors, the core was designed solely for the purpose of strength. **Therefore, the main parameter for the cores was usually tensile strength only; t**he carbon fibre composite core imported by them was visually differentiated into two layers i.e. the inner material, made of **carbon fibres** having black colour and the outer layer, made of glass fibres, having yellowish colour and epoxy resin. This outer layer would act as the galvanic protection barrier layer which is used to prevent corrosion.

30.10 Statement of Shri Hitesh Mundhada, Vice President (Business Development-South Asia) at M/s CTC Global India , overseas supplier of ACCC composite core was recorded on wherein he inter-alia stated that there were 4 models of ACCC Composite core which were supplied to the Indian importers having different sizes / diameters i.e., 7.11 mm, 9.53 mm, 5.97 mm and 8.76 mm, only the proportion of raw materials was changed in the various sizes of the core; that ACCC composite core which was manufactured by M/s CTC Global USA complied with ASTMB987 International

standard and there was no Indian standard for said product; that composite core was primarily made of **carbon fibre** & glass fibre and those two things were visible from the outside.

From perusal of the aforesaid statements, I find that impugned goods is made of glass fibre and **carbon fibre**, bound by a resin matrix. The said details corroborates with the CRCL, Chennai's Report No. 684/DSM/10.02.2022 dated 11.03.2022. Further, from the said details, it transpire that the impugned goods is used for reinforcement of final product i.e. Overhead Electrical Conductors.

30.11 From the perusal of the CRCL, Chennai's Report as well as reply from the overseas supplier and mainly Statement of Shri Vipul Kumar Rahevar, Assistant Vice President, Manufacturing Operations, of importer, I find that importer has classified the impugned goods viz. "ACCC Composite Core" under Customs Tariff Item No. 85459090 relying mainly on explanatory notes to Chapter Heading 8545 and considering the impugned goods article of carbon for electrical purpose. I find that Chapter Heading 8545 says for " **Carbon** electrodes, carbon brushes, lamp carbons, battery **carbons** and other **articles** of graphite or **other carbon**, with or without metal, of a kind used for electrical purposes, whereas the impugned goods is made of Carbon Fibre, Glass Fibre and with epoxy binder. Thus, said CTH 8545 do not say about Carbon Fibre. Thus, I find that importer has mis construed the CTH 8545 and have wrongly classified the impugned goods under Customs Tariff Item No. 85459090.

30.12 I find that importer classified imported "ACCC Composite Core" under CTH 85459090. Further, Shri Salil Kale, Head, Strategic Sourcing and Supply Chain Management, M/s SPTL in his statement recorded on 29.12.2022 has specifically stated that they were not aware of the usage of ACCC Composite Core in the manufacture of batteries / Audio devices/voltage regulators /welding/ heating apparatus /cathode/anodes (as enumerated under CTH 8545) and that they were not able to categorize the imported product in any of the groups (viz. electrodes, brushes, arc-lamp, battery carbons etc) mentioned in the explanatory notes to CTH 8545. He also admitted that the imported ACCC Composite core was not used in the Metallurgy industry and it is a patented product of M/s CTC Global Corporation which was specifically designed for the manufacture of ACCC conductors only.

30.13 CTH 8545 covers all graphite or carbons only. However, it does not cover any carbon fibre/glass fibre/resin, etc. Further, 'other carbon' classified under CTI 85459090 (as mentioned in para (h) of the explanatory notes to heading 8545) also does not include Carbon fibre. However, as per the import data, the goods imported by M/s SPTL are ACCC Composite Core, which is made up of carbon fibres and glass fibres and bound by binders/epoxy resin. Moreover, the test report *No. 684/DSM/10.02.2022 dated 11.03.2022* received from CRCL Chennai's as referred above has specifically provided the composition of ACCC Composite Core as Carbon Fibre 33.7%, Glass Fibre 39.0%, Epoxy Resin plus binder 25.9% which was also *accepted by the officials of importer as well its supplier M/s. CTC Global, India. Thus, as per the patent documents submitted by the importer and its supplier M/s. CTC*

Global, it is evident that the ACCC composite core is made up of carbon **fibres** and glass **fibres**. During the recording of statements of concerned officials of the importer, they all have admitted that the ACCC Composite Core is made up of Carbon fibres and glass fibres and the said imported product is used in the manufacture of ACCC Conductor to **give more tensile strength** due to the Carbon **Fibre** of Composite Core. However, importer had classified the impugned imported product under CTI 85459090 as "other articles of graphite or other **carbon**, with or without metal, of a kind used for electrical purposes", solely on the ground that the imported product goes into the manufacturing of ACCC Conductors and therefore contends that it is "for electrical purpose" as mentioned in CTH 8545 even though the imported product is not a part of Carbon as described under CTH 8545, but it is a Carbon Fibre.

30.14 I find that there is major difference between 'article of carbon' and 'article of carbon fibre' in respect of its material composition, atomic structure, mechanical properties etc., Material composition of ' Article of Carbon' is composed of pure carbon atoms arranged in a specific structure whereas 'Article of Carbon Fibre) is a composite material made from thin, strong strands of carbon fibre, which are then embedded within a polymer resins, typically an epoxy. In atomic structure of ' Article of Carbon' Carbon atoms are arranged into sheets that have strong bonds within layers but weak bonds between them which makes its relatively soft and brittle whereas in atomic structure of ' Article of Carbon Fibre', the strength comes from the long, thin, crystalline filaments of carbon that are woven together. The resin matrix binds these fibres into a rigid shape. Mechanical properties of ' Article of Carbon' remains generally brittle having low tensile strength whereas mechanical properties of ' Article of Carbon fibre' exhibits exceptional strength and stiffness for its weight. The composite is incredibly strong and rigid, making it suitable for structural application. Thus, article of carbon is an item made from a single material (pure carbon) whereas an article of carbon fibre is an article made from a composite material that uses carbon fibre as a reinforcing agents for its strength and stiffness. Since the imported product viz. "ACCC composite core" is a composite product consisting of different materials as ascertained from the CRCL Test report and affirmation by the statements of concerned officials of the importer and reply from the overseas supplier, I find that classification of the impugned goods need to be checked in consonance with the provision of classification of goods under the Indian Customs Tariff Act, 1975 governed by the 'Harmonized System Nomenclature for Classification' given by the World Customs Organization and 'General Rules of Interpretation' framed thereunder.

30.14.1 Rule 1 of GRIs states that "The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions. In the instant case, the terms of the headings and any relative Section Note or Chapter Notes could not determine the classification of the imported

goods. Hence, the classification is to be done by following Rule 2 to 6 proceeding sequentially.

30.14.2 Rule2 (b) of GRIs stated that "Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3". Since the imported ACCC Composite Core is a mixture of more than one material, the classification of the same shall be according to the principles of Rule 3.

30.14.3 Rule 3 of the GIRs states that When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows;

a. The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

b. Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

c. When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

30.14.4 Since the imported product is a composite product consisting of different materials viz. Carbon Fibre and Glass Fibre with binder epoxy as ascertained from the CRCL Test report, as mentioned in Rule 3(a) of GIRs, all the headings relevant to the main components viz carbon fibres and glass fibres are to be considered for discussion on classification. Carbon fibres and articles of carbon fibres are covered under CTH 6815. Articles of carbon are covered under several CTHs viz 3801, 6815, 6901, 8545 etc. Articles of glass fibres are covered under CTH 7019. When by virtue of Rule 3(a) of GIRs when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods. In view of the above, Rule 3(b) is to be proceeded.

30.14.5 Rule 3(b) of GRI states that Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their **essential character**, insofar as this criterion is applicable. In terms of the explanatory notes to Rule 3(b), the factor which determines essential character will vary as between different kinds of goods.

30.15 I find that in the instant case, the essential character of the product in its entirety is to give tensile strength to the ACCC conductor and to bear the weight of the overlying conductor that carries current as discussed in the preceding paras. This fact is undisputedly admitted and reiterated multiple times during the voluntary statements of the concerned persons of the importer. Further the said aspect is also revealed from the brochures and the patented documents of the overseas supplier M/s CTC Global Corporation. Further, the test reports of CTC Global does not determine the conductivity/resistivity/capacitance of the imported product and main test was for **tensile strength only and the other parameters were thermal expansion & bend test**. Further, the impugned goods was mainly for tensile strength as supported by the American standards "ASTM" quoted in the Test Report provided by the overseas supplier wherein the carbon fibre composite core was developed only **as a reinforcing material** in the manufacture of overhead power transmission conductors which was also admitted by the officials of the company in their statements wherein it has been specifically admitted that ***"In any overhead power transmission conductors, the core is designed solely for the purpose of strength. Therefore, the main parameter for the cores is usually tensile strength only.". Further, overseas supplier*** M/s CTC USA, vide email dated 28.12.2022 has categorically stated that ***"ACCC® Core is comprised of glass and carbon fibres in a 1.35:1 ratio (by weight) respectively, bound by a resin matrix. Further Carbon fibres give the ACCC Core most of its strength while the glass fibres provide galvanic protection.***". Further, Shri Vipul Kumar Rahevar who was working as Assistant Vice-President of Manufacturing Operations at the Plant located at Silvasa, where he was looking after overall manufacturing of Overhead transmission lines Conductors statement has categorically mentioned that glass fibres and epoxy resin are only for galvanic protection and they act as galvanic barrier between conductor and inner core (carbon fibre core, manufactured as per the international standard ASTM B987) to prevent corrosion.

Thus, in view of the above, I find that, it is clear that the essential character of the impugned imported product "ACCC Composite Core" is to provide tensile strength which is derived from carbon fibre. Hence, the impugned product appears to be treated as **Carbon fibre classified under CTH 6815** in terms of Rule 3(b) of GRI since the carbon fibre provides the essential character to ACCC Composite Core which consisted of more than one material.

To fortify my above stand, I rely on the ratio of the decision of Hon'ble Supreme Court rendered in case of Kemrock Industries and Exports Ltd. v. Commissioner

reported in 2007 (210) E.L.T. 497 (S.C.) and Collector v. Wood Polymers Ltd. reported in 1998 (97) E.L.T. 193 (S.C.). Relevant Para of said both the decision are reproduced respectively as (a) and (b) as under:

(a) "6. *As stated above, Chapter 39 deals with 'plastics and articles thereof'. As stated above, under Heading 39.20 sheets of plastics, laminated supported or combined with other materials stand covered as plastics and articles thereof. On the other hand, Heading 70.14 falls under Chapter 70, which refers to 'glass and glassware'. It is not in dispute that the item in question is a composite item. However, as found by the Department, in the above process, the glass fibre mat when impregnated with plastic gains certain amount of stiffness which helps manufactures of roofs and partitions. In the present case, since the article in question is a composite article, the test of essentiality shall apply. This test of essentiality refers to "essential character". The test states that, if the manufactured goods has the essential character, mainly of stiffness, required for the manufacture of roofs, partitions etc. then one has to treat the item in question as an article of plastic. In the present case, Rule 3(b) of the Rules for the Interpretation of Tariff Entries would apply. The said rule require that composite goods, mixtures and goods put up in sets have to be classified on the classification of that material or component which gives to the product their essential character. In the present case, if we keep in mind the manufacture of roofs, partitions etc., then the stiffness is the main attribute of such a product. The glass fibre mat when impregnated gives stiffness which helps in the manufactures of roofs, partitions etc., e.g., in the context of an insulation paper which is a composite of plastic and paper, the item will fall under Heading 39.01/06 of the previous Customs Tariff Act since plastic gives higher degree of insulation quality. Rule 3(b) requires classification based on the material which gives it the essential characteristics. This is the test of essentiality. The effect of the tariff schedule is to classify the products under different heads according to the character of the product. In interpreting a tariff entry, Rules for the Interpretation are helpful, particularly in cases of composite goods."*

(b) "11. *We are unable to accept the said contention of the learned Counsel. In view of the rules regarding Interpretation which are contained in the New Tariff the matter of classification has to be considered in the light of the said rules. As indicated earlier, Rule 3 of the said rules contains the principles to be applied for classification of goods which are prima facie classifiable under two or more headings. Since decorative laminates are composite goods made from different components, namely, paper and chemical solutions with which it is impregnated, the classification of decorative laminates has to be determined in the light of Rule 3(b). According to the said rule, composite goods consisting of different materials or made up of different components which cannot be classified by reference to sub-rule (a) shall be classified as if they consisted of the material or components which gives them their essential character insofar as this criterion is applicable. As a result of impregnation with the chemical solutions the character of paper is changed into decorative laminates and it is the chemical solutions which give them their essential character. In this regard, this Court in Bakelite Hylam Ltd., (supra) has said:*

"In the present case, the essential character of a decorative laminated sheet is its rigidity or strength and its resistence to heat and moisture. These are essentially characteristics which are imparted by resins. Paper does not possess any of these characteristics. Therefore, applying Rule 3(b) and going by the essential characteristics of such laminated sheets, these goods are more appropriately classifiable under Chapter 39."

30.16 Further, without prejudice to the above discussions, I find that the importer mainly relied on the explanatory notes to Chapter Heading 8545 and classified the impugned goods under Customs Tariff Item No. 85459090 assuming the impugned goods "ACCC Composite Core" as article of *other carbon*. It is pertinent to mention that Chapter Heading 8545 states **" Carbon** electrodes, carbon brushes, lamp carbons, battery **carbons** and other **articles** of graphite or **other carbon**, with or without metal, of a kind used for electrical purposes, whereas the impugned goods is made of Carbon Fibre, Glass Fibre and with epoxy binder. Thus, said CTH 8545 do not say about Carbon **Fibre**.The importer has ignored the word 'Fibre' attached to Carbon. I find that there is major difference between 'article of carbon' and 'article of carbon fibre' in respect of its material composition, atomic structure, mechanical properties etcs., Material composition of ' Article of Carbon' is composed of pure carbon atoms arranged in a specific structure whereas 'Article of Carbon Fibre) is a composite material made from thin, strong strands of carbon fibre, which are then embedded within a polymer resins, typically an epoxy. In atomic structure of ' Article of Carbon' Carbon atoms are arranged into sheets that have strong bonds within layers but weak bonds between them which makes its relatively soft and brittle whereas in atomic structure of ' Article of Carbon Fibre', the strength comes from the long, thin, crystalline filaments of carbon that are woven together. The resin matrix binds these fibres into a rigid shape. Mechanical properties of ' Article of Carbon' remains generally brittle having low tensile strength whereas mechanical properties of ' Article of Carbon fibre' exhibits exceptional strength and stiffness for its weight. The composite is incredibly strong and rigid, making it suitable for structural application. Thus, article of carbon is an item made from a single material (pure carbon) whereas an article of carbon fibre is an article made from a composite material that uses carbon fibres as a reinforcing agents for its strength and stiffness. Further there is specific entry of Carbon Fibre in Customs Tariff Heading 6815. Further, I find that importer has taken the shelter of wordings ***"being for electrical purposes" referred in*** explanatory notes to Chapter Heading 8545. Here it is pertinent to mention that impugned goods "ACCC Composite Core" is not for electrical purpose but is material being used for reinforcement of Aluminum Conductor which is for electrical purpose. Composite Carbon Fibre Core used for a carbon core conductor is not typically called an electrical article. It is a component of the larger electrical line which is conductor. Main function of the Composite Carbon Fibre Core is the central, light weight and hi strength component of an Advance Conductor Composite Core (ACCC) conductor and its primary function is to provide tensile strength and support for the conductive aluminum strands that surround it, allowing for minimal sag over long

spans. Whereas the Carbon-core conductor (ACCC conductor) is the actual electrical article. It is finished, hi-performance overhead power line used for electricity. It is made by wrapping multiple conductive aluminum stranded around the central composite carbon fibre. Therefore, I find that classification of the subject good viz. 'ACCC Composite Core' made under Customs Tariff Item No. CTH 85459090 is required to be rejected as its merit classification falls within CTH 6815.

30.17 Further, I find that Chapter 68 in Section XIII of First Schedule to the Customs Tariff Act 1975 deals with **"Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials".** Further, CTH 6815 covers **Carbon fibre and articles of Carbon Fibres** and also para 2 of the explanatory notes to the CTH 6815 categorically says that " ***Carbon fibres and articles of carbon fibres, Carbon fibres are commonly produced by carbonising organic polymers in filamentary forms. The produce are used for example, for reinforcement".*** As discussed above, imported goods "ACCC Composite Core" is made of Carbon Fibres, glass fibres and epoxy resin where Carbon fibres give mechanical strength to the ACCC Composite Core. Accordingly, the impugned imported product "ACCC Composite Core" mainly used for reinforcement of Conductors is a "Carbon Fibre Core" and therefore, I find that classification of the subject goods viz. 'ACCC Composite Core' under Customs Tariff Item No. CTH 85459090 is required to be rejected as merit classification of impugned goods viz. 'ACCC Composite Core / Carbon Composite Core' is under Customs Tariff Item No. 68159990 for the import period from 01.01.2020 to 31.12.2021 and under Customs Tariff Item No 68151100 for the import period from 01.01.2022 to 30.11.2024 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which is used for reinforcement due to its lighter weight and high tensile strength. Therefore, Bills of Entry mentioned in Annexure-B attached to the Show Cause Notice is required to be reassessed accordingly.

30.18 I find that importer has submitted Chartered Engineer Certificate dated 12.01.2023, legal opinion dated 05.01.2022, specification mentioned in ASTM standard B987/B987M-20 and copy of purchase Order No. *2280000723* to sustain that the impugned goods is for electrical purpose. I have gone through all the aforesaid documents submitted by the importer and it is observed that in all the said document, it is stated that carbon **fibre** reinforced the electrical conductors. Whereas Chapter Heading 8545 covers **" Carbon** electrodes, carbon brushes, lamp carbons, battery **carbons** and other **articles** of graphite or **other carbon**, with or without metal, of a kind used for electrical purposes, whereas the impugned goods is made of Carbon Fibre, Glass Fibre and with epoxy binder. None of the aforesaid documents says it is article of mere **Carbon** as stipulated in CTH 8545.

30.19 I find that importer has contended that impugned goods i.e., the composite core of ACCC conductors, are (a) articles of carbon, and (b) they are of a kind used for electrical purposes and have stated that an *'article of carbon'* is a broader category encompassing various materials and products primarily composed of carbon or its derivatives. These articles are designed for diverse industrial, electrical, and mechanical applications, including carbon fibers, carbon brushes, carbon black,

graphite electrodes, carbon seals, activated carbon, and other specialized carbon-based materials. With respect to carbon fibers, they are materials composed predominantly of carbon atoms arranged in a continuous chain-like structure. These fibers are typically derived from precursors such as polyacrylonitrile (PAN) or mesophase pitch, undergoing a series of processing steps—including stabilization, carbonization, and graphitization—to achieve an extremely high carbon content, often exceeding 92-99%. Due to this high carbon concentration, carbon fibers inherently qualify as articles of carbon. Further, it is an undisputed fact that the predominant component of the subject goods is carbon fiber, which provides the essential functional properties such as strength, durability, and lightweight characteristics, critical for the high performance of ACCC conductors. I find that the argument does not sound good because explanatory notes to Chapter Heading 8545 specifically states as under:

"CTH 8545 - this heading covers all articles of graphite or other carbon which are recognisable by their shape, dimensions or otherwise, as being for electrical purposes, whether or not they contain metal. In general, these articles are obtained by the extrusion or by the moulding (usually under pressure) and heat-treatment of a composition which, in addition to its basic constituent (natural carbon, carbon black, gas carbon, coke, natural or artificial graphite, etc.) and the necessary binders (pitch, tar, etc.), may also contain other substances such as metallic powders."

From the perusal of the above content of the Explanatory note to Chapter 8545 which clearly says that such articles are obtained by the extrusion or by the moulding (usually under pressure) and heat-treatment of a composition which, in addition to its basic constituent (natural carbon, carbon black, gas carbon, coke, natural or artificial graphite, etc.) and the necessary binders (pitch, tar, etc.), may also contain other substances such as metallic powders. Whereas the importer has submitted that Carbon fibers are typically derived from precursors such as polyacrylonitrile (PAN) or mesophase pitch, undergoing a series of processing steps—including stabilization, carbonization, and graphitization—to achieve an extremely high carbon content, often exceeding 92-99%.. Thus, there is totally distinct and different process in deriving the Carbon Fibre as compared to what is mentioned in said Explanatory Note.

30.20 Further, I find that importer has contended that impugned goods i.e. ACCC Composite Core is used in ACCC Conductors, which are used in the electrical infrastructure for transmission of electricity i.e. to transfer the electric load / current from one end of the cable to another. It is manufactured on the basis of a patented technology and is sold to only specified electric conductors' manufacturers across the globe by CTC Global Corporation, USA. In short, in view of the detailed submissions made hereinabove, it is clear that this product is of a kind solely and principally used for **electrical purposes**. I find that this argument is also not true as the concerned officials of the importer as well as documents supplied by the overseas supplier, it is an admitted fact that essential character of imported goods i.e. 'ACCC Composite Core' in its entirety is to give tensile strength to the ACCC conductor and to bear the weight of the overlying conductor that carries current as discussed in the preceding paras.

This fact is undisputedly admitted and reiterated multiple times during the voluntary statements of the concerned persons of the importer. Further the said aspect is also revealed from the brochures and the patented documents of the overseas supplier M/s CTC Global Corporation. Further, the test reports of CTC Global does not determine the conductivity/resistivity/capacitance of the imported product and main test was for **tensile strength only and the other parameters were thermal expansion & bend test**. Further, the impugned goods was mainly for tensile strength as supported by the American standards "ASTM" quoted in the Test Report provided by the overseas supplier wherein the carbon fibre composite core was developed only **as a reinforcing material** in the manufacture of overhead power transmission conductors which was also admitted by the officials of the company in their statements wherein it has been specifically admitted that ***"In any overhead power transmission conductors, the core is designed solely for the purpose of strength. Therefore, the main parameter for the cores is usually tensile strength only.". Further, overseas supplier*** M/s CTC USA, vide email dated 28.12.2022 has categorically stated that ***"ACCC® Core is comprised of glass and carbon fibres in a 1.35:1 ratio (by weight) respectively, bound by a resin matrix. Further Carbon fibres give the ACCC Core most of its strength while the glass fibres provide galvanic protection.***". Further, Shri Vipul Kumar Rahevar who was working as Assistant Vice-President of Manufacturing Operations at the Plant located at Silvasa, where he was looking after overall manufacturing of Overhead transmission lines Conductors in his statement has categorically mentioned that glass fibres and epoxy resin are only for galvanic protection and they act as galvanic barrier between conductor and inner carbon fibre core, manufactured as per the international standard ASTM B987) to prevent corrosion. Thus, merely the 'ACCC Composite Core' used in manufacture of Overhead transmission lines Conductors cannot be said for electrical purpose as it does not transmit electricity. It is the Overhead transmission lines Conductors which transmits electricity can be said for electrical purpose and not the impugned goods which is used merely for reinforcement for conductor.

31. Whether the goods viz. 'ACCC Composite Core' having assessable value of Rs.125,85,97,321/- (Rupees One Hundred- Twenty Five Crore, Eighty-Five Lakh, Ninety-Seven Thousand, Three Hundred and Twenty One only) as detailed in Annexure B attached to the show cause notice is liable for confiscation under Section 111 (m) of the Customs Act, 1962?

31.1 I find that in Show Cause Notices, it is alleged that the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. From the perusal of Section 111(m) of the Customs Act, 1962 it is clear that any goods which are imported by way of the mis-declaration, will be liable to confiscation. As discussed in the foregoing paras, it is evident that importer has deliberately misclassified the impugned goods and have short paid the Customs duty with clear intent to evade payment of due customs duty.

31.2 I find that in terms of Section 46 (4) of the Customs Act, 1962, Importer was required to make declaration as regards the truth of contents of the Bill of Entry submitted for assessment of Customs Duty but they have contravened the provisions of Section 46(4) of the Customs Act, 1962 in as much as they have mis-classified the goods imported and thereby short paid the duty with clear intent to evade payment of Customs Duty. Accordingly, Importer has knowingly mis-declared the classification of the imported goods. Thus, I find that importer has violated the provisions of Section 46 (4) of the Customs Act, 1962. All these acts on part of importer have rendered the imported goods liable to confiscation under Section 111 (m) of the Customs Act, 1962.

31.3 As the impugned goods are found liable to confiscation under Section 111 (m) of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125(1) of Customs Act, 1962 is liable to be imposed in lieu of confiscation in respect of the imported goods, which are not physically available for confiscation. Section 125 (1) of the Customs Act, 1962 reads as under:-

"125 Option to pay fine in lieu of confiscation –

(1) 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..."

31.4 I find that importer have contested that the Provisions of Section 111(m) of the Customs Act, 1962 are not invokable for the goods already cleared. I find that though, the goods are not physically available for confiscation but in such cases redemption fine is imposable in light of the judgment in the case of **M/s. Visteon Automotive Systems India Ltd. reported at 2018 (009) GSTL 0142 (Mad)** wherein the Hon'ble High Court of Madras has observed as under:

"....
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....

23. *The penalty directed against the importer under Section 112 and the fine payable under Section 125 operates 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. We accordingly answer question No. (iii).

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31.5 I also find that Hon'ble High Court of Gujarat by relying on this judgment, in the case of **Synergy Fertichem Ltd. Vs. Union of India, reported in 2020 (33) G.S.T.L. 513 (Guj.),** has held *inter alia* as under: -

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174. *..... In the aforesaid context, we may refer to and rely upon a decision of the Madras High Court in the case of M/s. Visteon Automotive Systems v. The Customs, Excise & Service Tax Appellate Tribunal, C.M.A. No. 2857 of 2011, decided on 11th August, 2017 [2018 (9) G.S.T.L. 142 (Mad.)], wherein the following has been observed in Para-23;*

"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii)."

175. We would like to follow the dictum as laid down by the Madras High Court in Para-23, referred to above."

In view of the above, I find that subject goods having assessable value of **Rs.125,85,97,321/- (Rupees One Hundred- Twenty Five Crore, Eighty-Five Lakh, Ninety-Seven Thousand, Three Hundred and Twenty One only)** as detailed in Annexure-B to the Show Cause Notice though not available are liable for confiscation under Section 111(m) of the Customs Act, 1962.

32. Whether the differential/Short paid Customs duty amounting to Rs. 4,08,41,483/- (Rupees Four Crore, Eight Lakh, Forty-One Thousand, Four Hundred and Eighty- Three only) as detailed in Annexure-B to the show cause notice should be demanded and recovered under Section 28(4) of the Customs Act, 1962 alongwith applicable interest under Section 28AA ibid?

32.1 I find that Differential duty of Rs 4,08,41,483/- (Rupees Four Crore, Eight Lakh, Forty-One Thousand, Four Hundred and Eighty- Three only) has been proposed to be recovered under Show Cause Notice under Section 28 (4) of the Customs Act, 1962. In the self-assessment era, the onus of assessing the goods by following correct classification under appropriate CTH lies absolutely on the importer. The importer shall ensure the accuracy and correctness of the information given therein, which among others include classification, applicable rate of duty, value, and benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting a Bill of Entry. An investigation conducted revealed that the importer has classified under the wrong CTH by suppressing and misstating the actual purpose of the imported goods in the manufacture of aluminium conductors, solely with an intention to avail the benefits of lower duty structure applicable to the goods falling under Customs Tariff Item No. 85459090. From the perusal of the reply of the overseas supplier as well as admitted statements of various concerned officials of the importer and importantly from the CRCL, Chennai's report, it is revealed that the importer was well aware of the technical nature of the imported ACCC Composite Core (Carbon Fibre Core) before arriving at the classification. Importer was well aware that impugned goods were made of Carbon Fibre, Glass Fibre and Epoxy binder and it was used for reinforcement of ACCC Conductors manufactured by them and it was not article of carbon for electrical purpose as mandated under Explanatory note to CTH 8545, however, with clear intent to evade the customs duty, the importer had mis-classified "ACCC Composite Core" under the Customs Tariff Item No 85459090 instead of merit Customs Tariff Item No. 68159990 for the import period from 01.01.2020 to 31.12.2021 and under Customs Tariff Item No 68151100 for the import period from 01.01.2022 to 30.11.2024 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and therefore, I find that differential duty is rightly demanded under Section 28 (4) of the Custom Act, 1962 invoking the extended period. In view of the above, differential duty of Rs 4,08,41,483/- is required to be recovered alongwith interest under Section 28AA of the Customs Act, 1962.

33. Whether, Penalty under Section 112(a), (b), and Section 114A, and Section 114AA of the Customs Act, 1962 should be imposed on importer M/s. Sterlite Power Transmission Ltd.?

33.1 Penalty under Section 114A of the Customs Act, 1962: Now, I proceed to consider the proposal of penalty under Section 114A of the Customs Act, 1962 against the importer. I find that in order to sensitize the Importer and Exporter about its benefit and consequences of mis-use, Government of India has issued 'Customs Manual on Self-Assessment 2011'. Under para-1.3 of Chapter-1 of the above manual,

Importers/Exporters who are unable to do the Self-Assessment because of any complexity, lack of clarity, lack of information etc. may exercise the options as (a) Seek assistance from Help Desk located in each Custom Houses, or (b) Refer to information on CBEC/ICEGATE web portal (www.cbic.gov.in),or (c) Apply in writing to the Deputy/Assistant Commissioner in charge of Appraising Group to allow provisional assessment, or (d) An importer may seek Advance Ruling from the Authority on Advance Ruling, New Delhi if qualifying conditions are satisfied. Para 3 (a) of Chapter 1 of the above Manual further stipulates that the Importer/Exporter is responsible for Self-Assessment of duty on imported/exported goods and for filing all declarations and related documents and confirming these are true, correct and complete. Under para-2.1 of Chapter-1 of the above manual, Self-Assessment can result in assured facilitation for compliant importers. However, delinquent and habitually non-compliant importers/ exporters could face penal action on account of wrong Self-Assessment made with intent to evade Duty or avoid compliance of conditions of Notifications, Foreign Trade Policy or any other provision under the Customs Act, 1962 or the Allied Acts.

I find that Importer was in complete knowledge of the correct nature of the goods, nevertheless the Importer mis classified the impugned goods under Customs Tariff Item No. 85459090 instead of merit Customs Tariff Item No. 68159990 for the import period 01.01.2020 to 31.12.2021 and under Customs Tariff Item No 68151100 for the import period 01.01.2022 to 30.11.2024 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975. in order escape from the payment of appropriate Customs Duties. With the introduction of self-assessment under Section 17, more faith is bestowed on the importers, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As part of self-assessment by the Importer, the Importer has been entrusted with the responsibility to correctly self-assess the Duty. However, in the instant case, the Importer intentionally misused this faith placed upon him by the law of the land. Therefore, I find that the Importer has wilfully violated the provisions of Section 17(1) of the Act inasmuch as they have failed to correctly classify the impugned goods and has also wilfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Customs Act, 1962. Hence, I find that this is a fit case for imposition of quantum of penalty equal to the amount of Duty in terms of Section 114A of the Customs Act, 1962.

Further, I find that demand of differential Customs Duty amounting to Rs. 4,08,41,483/- has been made under Section 28(4) of the Customs Act, 1962, which provides for demand of Duty not levied or short levied by reason of collusion or wilful mis-statement or suppression of facts. Hence as a naturally corollary, penalty is imposable on the Importer under Section 114A of the Customs Act, which provides for penalty equal to Duty plus interest in cases where the Duty has not been levied or has been short levied or the interest has not been charged or paid or has been part paid or the Duty or interest has been erroneously refunded by reason of collusion or any wilful mis statement or suppression of facts. In the instant case, the ingredient of

suppression of facts and wilful mis-statement by the importer has been clearly established as discussed in foregoing paras and hence, I find that this is a fit case for imposition of quantum of penalty equal to the amount of Differential Duty plus interest in terms of Section 114A ibid.

33.2 Penalty under Section 114 AA of the Customs Act, 1962:

33.2.1 I also find that the Show Cause Notice proposes to impose penalty on the importer under Section 114AA of the Customs Act, 1962. The text of the said statute is reproduced under for ease of reference:

*"If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, **any declaration**, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."*

33.2.2 I find that importer has mis classified the imported goods viz. 'ACCC Composite Core' under Customs Tariff Item No. 85459090 instead of merit classification under Customs Tariff Item No. 68159990, intentionally short paid Customs Duty by declaring in Bill of Entry and contravened the provision of Section 46 (4) of the Custom Act, 1962 by making *false declarations in the Bill of Entry,*. Hence, I find that the importer has knowingly and intentionally mis declared (mis-classified) the Customs Tariff Item 85459090 instead of merit Customs Tariff Item No. 68159990 for the import period from 01.01.2020 to 31.12.2021 and Customs Tariff Item No 68151100 for the import period from 01.01.2022 to 30.11.2024 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). Hence, for the said act of contravention on their part, the Importer is liable for penalty under Section 114AA of the Customs Act, 1962.

33.2.3 Further, to fortify my stand on applicability of Penalty under Section 114AA of the Customs Act, 1962, I rely on the decision of Principal Bench, New Delhi in case of Principal Commissioner of Customs, New Delhi (import) Vs. Global Technologies & Research (2023)4 Centax 123 (Tri. Delhi) wherein it has been held that *"Since the importer had made false declarations in the Bill of Entry, penalty was also correctly imposed under Section 114AA by the original authority".*

33.3 Penalty under Section 112 of the Customs Act, 1962:

33.3.1 The Show Cause Notice also proposes imposition of penalty under Section 112(a) and 112 (b) of the Customs Act, 1962 on the Importer. In this regard, it is to mention that the fifth proviso to section 114A of the Customs Act, 1962 provides that penalty under Section 112 shall not be levied if penalty under Section 114A of the Customs Act, 1962 has been imposed and the same reads as under:

"Provided also that where any penalty has been levied under this Section, no penalty shall be levied under Section 112 or Section 114."

In the instant case, I have already found that Importer M/s. Sterlite Power Transmission Limited, is liable to penalty under Section 114A of the Customs Act, 1962 and therefore, penalty under Section 112 is not imposable in terms of the 5th proviso to Section 114A of the Customs Act, 1962.

34. Whether, Penalty under Section 112 and Section 114AA of the Customs Act, 1962 should be imposed on Shri Sanjay Amit Hule, Head Exim, M/s Sterlite Power Transmission Ltd?

34.1 I find that mis-classification of goods in the import documents viz. Bills of Entry presented by Importer before the Customs authorities, was done on the directions and under the guidance of Shri Sanjay Amit Hule, Head Exim of M/s Sterlite Power Transmission Ltd to wilfully suppress the correct classification of goods with an intent to evade payment of applicable Customs Duty. I find that as per the statement of Shri Salil Kale, Shri Sanjay Amit Hule was aware of the technical nature of the imported ACCC Composite Core (Carbon Fibre Core) before arriving at the classification. Sanjay Amit Hule approved the checklist for filing Bills of Entry classifying the imported goods under CTH 8545. I find that Shri Sanjay Amit Hule had full knowledge about the mis-classification of the said imported goods in as much as Shri Sanjay Amit Hule was responsible for all imports and finalization of classification of imported goods. All the aforesaid acts of commissions and omissions on the part of Shri Sanjay Amit Hulehave rendered the imported goods liable for confiscation under Section 111 (m) of the Customs Act, 1962, and consequently rendered himself liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

34.2 Further, I find that Shri Sanjay Amit Hule had knowingly and intentionally made, signed or used the declaration, statements and/or documents and presented the same to the Customs authorities, which were incorrect in as much as they were not representing the true, correct and actual classification of the imported goods, and therefore he rendered himself liable for penalty under Section 114AA of the Customs Act, 1962.

35. I find that the Advocate of the importer as well as its co-noticee in their concerned written submission have placed reliance on various case laws/judgments in support of their contention on issues raised in the Show Cause Notice. In this regard, I am of the view that the conclusions arrived may be true in those cases, but the same can not be extended to other case(s) without looking to the hard realities and specific facts of each case. Thus decisions/judgements were delivered in different context and under different facts and circumstances, which cannot be made applicable to the facts and circumstances of this case. Therefore, I find that while applying the ratio of the one case to that of the other, the decisions of the Hon'ble Supreme Court are always

required to be borne in mind. The Hon'ble Supreme Court in the case of CCE, Calcutta Vs. Alnoori Tobacco Produced reported in 2004 (170) ELT 135 (SC) has stressed the need to discuss, how the facts of decision relied upon fit factual situation of a given case and to exercise caution while applying the ratio of one case to another. This has been reiterated by the Hon'ble Supreme Court in its judgement in the case of Escorts Ltd. Vs. CCE, Delhi reported in 2004 (173) ELT 113(SC) wherein it has been observed that one additional or different fact may make difference between conclusion in two cases, and so, disposal of cases by blindly placing reliance on a decision is not proper. Again, in the case of Commissioner of Customs(Port), Chennai Vs. Toyato Kirloskar Motor P. Ltd. reported in 2007 (213) ELT 4 (SC), it has been observed by the Hon'ble Supreme Court that, the ratio of a decision has to be understood in factual matrix involved therein and that the ratio of a decision has to culled from facts of given case, further, the decision is an authority for what it decides and not what can be logically deduced there from.

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

::Order::

(a) I reject the declared classification of the subject good viz. 'ACCC Composite Core' imported by M/s Sterlite Power Transmission Limitedvide Bills of Entry as mentioned in Annexure-B attached to the Show Cause Notice under Customs Tariff Item No. 85459090 and order to re-classify the said goods under Customs Tariff Item No. 68159990 for the import period 01.01.2020 to 31.12.2021 and under Customs Tariff Item No 68151100 for the import period 01.01.2022 to 30.11.2024 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and reassess the subject Bills of Entry accordingly;

(b) I hold the subject goods viz. 'ACCC Composite Core' having assessable value of Rs.125,85,97,321/- (Rupees One Hundred- Twenty Five Crore, Eighty-Five Lakh, Ninety-Seven Thousand, Three Hundred and Twenty One only) imported by M/s Sterlite Power Transmission Limited during the period from 01.01.2020 to 30.11.2024 as detailed in Annexure-B to the Show Case Notice by mis-classifying the said goods, liable to confiscation under Section 111 (m) of the Customs Act, 1962. However, I give them the option to redeem the goods on payment of Fine of Rs.4,00,00,000/- (Rupees Four Crore only) under Section 125 of the Customs Act, 1962.

(c) I Confirm the demand of differential amount of Customs duty Rs. 4,08,41,483/- (Rupees Four Crore, Eight Lakh, Forty-One Thousand, Four Hundred and Eighty- Three only) (including BCD, SWS & IGST) as detailed in Annexure-B to the Show Cause Notice and order recovery of the same in terms of the provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28 AA of the Customs Act, 1962.

(d) I impose penalty of Rs. 4,08,41,483/- (Rupees Four Crore, Eight Lakh, Forty-One Thousand, Four Hundred and Eighty- Three only)plus penalty equal to the applicable interest under Section 28AA of the Customs Act, 1962 payable on the Duty demanded and confirmed above on M/s Sterlite Power Transmission Limited under Section 114A of the Customs Act, 1962 in respect of Bills of Entry detailed in Annexure-B to Show Cause Notice. However, I give an option, under proviso to Section 114A of the Customs Act, 1962, to the importer, to pay 25% of the amount of total penalty imposed as above, subject to the payment of total duty amount and interest confirmed at Para (c) above and the amount of 25% of penalty imposed as above within 30 days of receipt of this order. Further, I refrain from imposing penalty under section 112 of the Customs Act,1962, since as per fifth proviso of Section 114A, penalty under Section 112 and 114A are mutually exclusive.

(e) I impose a penalty of Rs.10,00,000/- (Rupees Ten Lakh only) on Shri Sanjay Amit Hule, Head Exim of M/s Sterlite Power Transmission Limited under Section 112(a)(ii) of the Customs Act, 1962.

(f) I impose a penalty of Rs.5,00,000/- (Rupees Five Lakh only) on Shri Sanjay Amit Hule, Head Exim of M/s Sterlite Power Transmission Limited under Section 114AA of the Customs Act, 1962.

37 This order is issued without prejudice to any other action that may be taken 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.

38 The Show Cause Notice No. VIII/10-30/Pr.Commr/O&A/2023-24 dated 30.12.2024 is disposed off in above terms.

10.11.2025

(SHIV KUMAR SHARMA)
PRINCIPAL COMMISSIONER

F. No: VIII/10-30/Pr.Commr/O&A/2023-24 Date:10.11.2025

DIN: 20251171MN000000D0AF

BY SPEED POST/E-MAIL

To,

(i) M/s. Sterlite Power Transmission Limited (IEC No: 3116903239), at 4th Floor, Godrej Millennium, 9 Koregaon Road, Pune, Maharashtra – 411 001.

(ii) Shri Sanjay Amit Hule, Head Exim, M/s Sterlite Power Transmission Limited (IEC No: 3116903239), at 4th Floor, Godrej Millennium, 9 Koregaon Road, Pune, Maharashtra – 411 001.

Copy to:

1. The Chief Commissioner of Customs, CCO, Ahmedabad
2. The Pr. ADG, Directorate of Revenue Intelligence, 27, G.N (Chetty) Road, T. Nagar, Chennai - 600 017.
3. The Deputy/Assistant Commissioner of Customs, ICD-Tumb.
4. The Superintendent (Systems), Customs Hdqrs., Ahmedabad for uploading on official web-site.
5. Guard File.