

		OFFICE OF THE COMMISSIONER CUSTOM HOUSE, KANDLA NEAR BALAJI TEMPLE, NEW KANDLA Email: - commr-cuskandla@gov.in	
		DIN: 20260571ML000000CCA4	
A	File No.	GEN/ADJ/COMM/232/2024-Adjn-O/o Comma-Cus-Kandla	
B	Order-in-Original No.	KND-CUSTM-000-COM-02-26-27	
C	Passed by	Nitin Saini, Commissioner of Customs, Custom House, Kandla	
D	Date of Order	15.05.2026	
E	Date of Issue	15.05.2026	
F	SCN No. & Date	GEN/ADJ/COMM/232/2024-Adjn- O/o Commr-Cus-Kandla dated 03.12.2024	
G	Noticee/Party/Importer/Exporter	M/s Global Healthcare Billing Partners Pvt Ltd. & others	

1. This Order - in - Original is granted to the concerned free of charge.
2. Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. - 3 to:

Customs Excise & Services Tax Appellate Tribunal, West Zonal Bench, 2nd Floor, Bahumali Bhavan Asarwa, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad – 380004

3. Appeal shall be filed within three months from the date of communication of this order.
4. Appeal should be accompanied by a fee of Rs.1,000/- in cases where duty, interest, fine or penalty demanded is Rs. 5.00 lakh (Rupees Five lakh) or less, Rs.5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5.00 Lakh (Rupees Five Lakh) but

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

5. The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

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

7. While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules, 1982 should be adhered to in all respects.

8. An appeal against this order shall lie before the Appellate Authority on payment of 7.5% of the duty demanded wise duty or duty and penalty are in dispute, or penalty wise penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s Global Healthcare Billing Partners Pvt. Ltd., 4th Floor, Imperia Building, Plot No.8 Besides D-Mart, Sardar Nagar, Old Chhani Road, Vadodara, Gujarat-390002 (hereinafter referred as '**M/s Global Healthcare**'), has availed SEIS scrips credit by misclassification of the services exported, which was transferred to other entities who have utilized the same for payment of Customs Duty. M/s Global Healthcare holders of IEC No. 3416900618 are engaged in providing Revenue Cycle Management/ Medical Transcription/ Medical coding/Virtual Scribe services to the Health Care providers (Hospitals) in the US and Singapore.

1.1 Specific intelligence developed by DRI, Hyderabad Zonal Unit indicated that M/s. Global Healthcare have exported Revenue Cycle Management/Medical Transcription/Medical coding/Virtual Scribe service to clients in the US and Singapore and appeared to have claimed Service Export from India Scheme (hereinafter referred to '**SEIS**') Scrips/Licences/Instruments (hereinafter referred to as '**Scrrips**') benefits by classifying the services exported under "Accounting, Auditing & Book-keeping services" as notified under Appendix 3D of Foreign Trade Policy (FTP), 2015-2020. From the preliminary verification, it appeared that M/s Global Healthcare have availed SEIS benefit on services which are not in line

with the services actually supplied by them; that M/s Global Healthcare are basically engaged in services which are in the nature of processing of Insurance claims, Business Process Outsourcing and Business Process Management which appears to be classifiable under “**Other Management Consultancy/services related to other management consulting**”. Prima facie it appeared that M/s Global Healthcare has availed SEIS scrip benefit of additional 2 percentage of Net Foreign Exchange over and above what they may be eligible. Hence investigation was initiated.

2. RELEVANT PROVISIONS AND DEFINITIONS: -

Relevant definitions and provisions of the Foreign Trade Policy 2015-2020, Foreign Trade (Development & Regulation) Act, 1992, General Agreement on Trade in Services (GATS), Service Exports from India (SEIS) scheme, the Provisional Central Product Classification (CPC) are given below:-

FOREIGN TRADE POLICY

2.1 The Foreign Trade Policy 2015-2020 (henceforth referred as ‘**FTP**’), which was notified under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (henceforth referred as ‘**FTDR**’) by the Director General of Foreign Trade with effect from 01.04.2015, introduced two new schemes viz. Merchandise Exports from India Scheme (MEIS) for exports of specified goods to specified markets and Service Exports from India Scheme (SEIS) for export of notified services, in the place of plethora of schemes existing earlier, as per Chapter 1 of FTP.

DEFINITIONS IN FOREIGN TRADE POLICY

2.2 Relevant definitions of terms used in FTP as given in Chapter 9 of the FTP are reproduced below:

9.00 For purpose of FTP, unless context otherwise requires, the following words and expressions shall have the following meanings attached to them:-

9.02 "Act" means Foreign Trade (Development and Regulation) Act, 1992 (No.22 of 1992) [FT (D&R) Act] as amended from time to time.

9.06 "Applicant" means person on whose behalf an application is

made and shall, wherever context so requires, includes person signing the application.

9.20 *“Export” is as defined in FT (D&R) Act, 1992, as amended from time to time.*

9.38 *"Person" means both natural and legal and includes an individual, firm, society, company, corporation or any other legal person including the DGFT officials.*

9.50 *"Services" include all tradable services covered under General Agreement on Trade in Services (GATS) and earning free foreign exchange.*

9.51 *"Service Provider" means a person providing:*

- (i) Supply of a ‘service’ from India to any other country; (Mode 1- Cross border trade)*
- (ii) Supply of a ‘service’ from India to service consumer(s) of any other country in India; (Mode 2- Consumption abroad)*
- (iii) Supply of a ‘service’ from India through commercial presence in any other country. (Mode 3 – Commercial Presence.)*
- (iv) Supply of a ‘service’ from India through the presence of natural persons in any other country (Mode 4- Presence of natural persons.)*

DEFINITIONS IN FOREIGN TRADE (DEVELOPMENT & REGULATION) ACT, 1992

3 Definition of “**export**” in relation to services or technology as given in Section 2(e) of Foreign Trade (Development & Regulation) Act, 1992 is reproduced as below:

- (ii) supplying, services or technology----*
 - (A) from India into the territory of any other country;*
 - (B) in India to the service consumer of any other country;*
 - (C) by a service supplier of India, through commercial presence in the territory of any other country;*
 - (D) by a service supplier of India, through presence of Indian natural persons in the territory of any other country;*

- 3.1** As per Section 2(j) of FTDR "**services**" means *service of any description which is made available to potential users and includes all the tradable services specified under the General Agreement on Trade in Services entered into amongst India and other countries who are party to the said Agreement and provided that, this definition shall not apply to the domain of taxation.*

GENERAL AGREEMENT ON TRADE IN SERVICES

- 4** The para 1 and 2 of "Article I – Scope and Definition of General Agreement on Trade in Services" (GATS), is as below:

Article I: Scope and Definition

1. This Agreement applies to measures by Members affecting trade in services.
2. *For the purposes of this Agreement, trade in services is defined as the supply of a service:*
 - (a) *from the territory of one Member into the territory of any other Member;*
 - (b) *in the territory of one Member to the service consumer of any other Member;*
 - (c) *by a service supplier of one Member, through commercial presence in the territory of any other Member;*
 - (d) *by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member.*

- 4.1** *The GATS define the "supply of a service" to include the production, distribution, marketing, sale and delivery of that service.*

INTRODUCTION TO SEIS SCHEME

- 5** The SEIS scheme as notified in FTP from Para **3.07 to 3.12** is reproduced as below:

3.07 Objective –

Objective of Service Exports from India Scheme (SEIS) is to encourage export of notified Services from India.

3.08 Eligibility

- (a) *Service Providers of notified services, located in India, shall be rewarded under SEIS, subject to conditions as may be notified. Only Services rendered in the manner as per Para 9.51(i) and Para 9.51(ii) of this policy shall be eligible. The notified services and rates of rewards are listed in Appendix 3D.*
- (b) *Such service provider should have minimum net free foreign exchange earnings of US\$15,000 in preceding financial year to be eligible for Duty Credit Scrip. For Individual Service Providers and sole proprietorship, such minimum net free foreign exchange earnings criteria would be US\$10,000 in preceding financial year.*
- (c) *Payment in Indian Rupees for service charges earned on specified services, shall be treated as receipt in deemed foreign exchange as per guidelines of Reserve Bank of India. The list of such services is indicated in Appendix 3E.*
- (d) *Net Foreign exchange earnings for the scheme are defined as under: Net Foreign Exchange = Gross Earnings of Foreign Exchange minus Total expenses / payment / remittances of Foreign Exchange by the IEC holder, relating to service sector in the Financial year.*
- (e) *If the IEC holder is a manufacturer of goods as well as service provider, then the foreign exchange earnings and Total expenses/ payment / remittances shall be taken into account for service sector only.*
- (f) *In order to claim reward under the scheme, Service provider shall have to have an active IEC at the time of rendering such services for which rewards are claimed.*

3.09 Ineligible categories under SEIS

- (1) *Foreign exchange remittances other than those earned for rendering of notified services would not be counted for entitlement. Thus, other sources of foreign exchange earnings such as equity or debt participation, donations, receipts of repayment of loans etc. and any other inflow of foreign exchange, unrelated to rendering of service, would be ineligible.*
- (2) *Following shall not be taken into account for calculation of*

entitlement under the scheme

(a) Foreign Exchange remittances:

I. Related to Financial Services Sector

- (i) Raising of all types of foreign currency Loans;*
- (ii) Export proceeds realization of clients;*
- (iii) Issuance of Foreign Equity through ADRs/GDRs or other similar instruments;*
- (iv) Issuance of foreign currency Bonds;*
- (v) Sale of securities and other financial instruments;*
- (vi) Other receivables not connected with services rendered by financial institutions; and*

II. Earned through contract/regular employment abroad (e.g. labour remittances);

- (b) Payments for services received from EEFC Account;*
- (c) Foreign exchange turnover by Healthcare Institutions like equity participation, donations etc.*
- (d) Foreign exchange turnover by Educational Institutions like equity participation, donations etc.*
- (e) Export turnover relating to services of units operating under EOU / EHTP/ STPI / BTP Schemes or supplies of services made to such units;(Amended vide Notification No 8/2015-20 dated 4th June, 2015)*
- (f) Clubbing of turnover of services rendered by SEZ / EOU / EHTP / STPI / BTP units with turnover of DTA Service Providers;*
- (g) Exports of Goods.*
- (h) Foreign Exchange earnings for services provided by Airlines, Shipping lines service providers plying from any foreign country X to any foreign country Y routes not touching India at all.*
- (i) Service providers in Telecom Sector.*

3.10 Entitlement under SEIS

*Service Providers of eligible services shall be entitled to Duty Credit Scrip at notified rates (as given in Appendix 3D) **on net foreign exchange earned.***

3.12 Effective date of schemes (MEIS and SEIS)

The schemes shall come into force with effect from the date of notification of this Policy, i.e. the rewards under MEIS/SEIS shall be admissible for exports made/services rendered on or after the date of notification of this Policy.

5.1 The Public Notice No.3/2015-20 dated 01/04/2015 issued by DGFT notified Appendix 3D which listed the services with the Provisional Central Product Classification (CPC) code pertaining to the services listed and admissible rate in % (on net foreign exchange earnings) as the reward for such export of services.

6 The Public Notice No.3/2015-20 dated 01/04/2015 issued by DGFT notified **Appendix 3D** which contains the list of services alongwith the provisional **Central Product Classification (CPC)** code and the admissible rate in % (on net foreign exchange earnings) as the reward for such export of services. The relevant services to the subject investigation as per Appendix 3D, are only reproduced below: -

S. No.	SECTORS	Central Product Classification (CPC) Code	Admissible rate in % (on Net Foreign Exchange earnings) [As amended by DGFT] (Till 31.10.2017/ from 01.11.2017)
1	BUSINESS SERVICES		
A.	Professional services		
a.	Legal services	861	5/7
b.	Accounting, auditing and book keeping services	862	5/7
D	Other business services		
a.	Advertising services	871	3/5
b.	Market research and public opinion polling services	864	3/5
c.	Management consulting service	865	3/5
d.	Services related to management consulting	866	3/5

7 On perusal of Public Notice No. 15/2015-2020 dt 28.06.2018 issued by DGFT, it is clear that Service has to be exported from India by an Indian

Service providers (Export turn over) for which the foreign remittances are received from their Clients evidencing the proof for the services provided. Service exporters have to submit the certified value of remittances as prescribed in the ANF-3B form to the DGFT. A reference of Central product Classification (CPC) at Column in Declaration/Undertakings is available at ANF-3B form:

8.1 Central product Classification (CPC): The Central Product Classification (CPC) constitutes a complete product classification covering all goods and services. It serves as an international standard for assembling and tabulating all kinds of data requiring product detail, including statistics on industrial production, domestic and foreign commodity trade, international trade in services, balance of payments, consumption and price statistics and other data used within the national accounts. It provides a framework for international comparison and promotes harmonization of various types of statistics related to goods and services.

8.2 The Provisional Central Product Classification (CPC) was issued by the Department of International Economic and Social Affairs, Statistical Office of the United Nations, constitutes a complete product classification covering goods and services. The CPC is a system of categories covering both goods and services that is both exhaustive (i.e. all goods and services are covered) and mutually exclusive (i.e. a given good or service may only be classified in one CPC category). The coding system of CPC is hierarchical and purely decimal. The classification consists of Sections (identified by the first digit), Divisions (identified by the first and second digits), Group (identified by the first three digits), Class (identified by the first four digits) and Subclass (identified by the first five digits). The first five sections classify products and second five sections classify services.

8.3 The CPC prescribes Rules of Interpretation for both products and services. The Rules of Interpretation as in the WCO-HSN is adopted for products. It states that the classification of services shall be according to the terms of the categories as described in sections, divisions, groups, classes or subclasses of CPC. It devises rules when services are prima facie classifiable under two or more categories on the understanding that only categories at the same level (sections, divisions, groups, classes or subclasses) are comparable.

8.4. The CPC contains explanatory note for each sector. The explanatory note for “Accounting, Auditing and Book Keeping” and “Management

Consultancy Services” which is relevant for the investigations is under section 8 and it contains 9 Divisions, the Division which is relevant for investigation is under 86- “Accounting, Auditing and Book Keeping” and “Management Consultancy Services”. The Accounting, Auditing and Book Keeping and The Management Consultancy services (Division 86), consists a class/subclass which are detailed under CPC.

8.5. Correspondence between CPC revisions: Changes that have been made in the CPC are reflected in the correspondence tables Among the Provisional CPC, CPC Version 1.0, till CPC version 2.1 and vice versa; however, further detailed explanations may be required in certain circumstances. The extent of changes between CPC revisions indicates full or partial correspondence to one or several categories of the previous version. Codes of partially corresponding categories are marked with an asterisk. It should be noted that changes in the wording of explanatory notes or title descriptions may be due to clarifications only, without any implications on the content of the category.

The CPC in contention 865- Management Consultancy has been changed from Provisional CPC. Reference was invited to the page 594 of the CPC Version 2.1 which gives clarity on the ICT products. The relevant extracts of the said has been enumerated below for ready reference.

“B. Products of the information economy

103. In recent years, there has been a growing demand for data related to the information economy. The OECD’s Working Party on Indicators for the Information Society (WPIIS) has taken a leading role in standardising the definition of the information economy. The sectoral definitions of the information economy, consisting of the *ICT sector* and the *Content and media sector*, were reviewed in 2007 and are based on the International Standard Industrial Classification (ISIC), Rev. 4. These definitions are shown as alternative aggregations in the ISIC Rev.4 publication.

104. More recently, the WPIIS has developed definitions of *ICT products* and *Content and media products*. The definitions consist of a *guiding principle* and product lists originally based on the CPC Ver.2, and then updated to CPC Ver.2.1. The relationship between information economy products and the sectoral definitions is as follows: products that are linked to an ISIC class that is a member of one of the information economy sectors are included, and products that are not linked to an ISIC class that

is a member of one of the information economy sectors are excluded, unless there is a compelling case for their exclusion/inclusion respectively.

1. ICT products

105. The following guiding principle is used to identify ICT products:

“ICT products must primarily be intended to fulfil or enable the function of information processing and communication by electronic means, including transmission and display.”

106. There are 98 ICT products, grouped into 10 broad-level categories as shown below.

Table 5.1
ICT products

CPC Ver.2.1 subclass	ISIC Rev.4 class	Product description (CPC subclass title)
Information technology consultancy and services		
83117	7020	Business process management services
83131	6202	IT consulting services
83132	6202	IT support services

As per the versions of CPC which have been updated from time to time it appeared that the BPM services are sub classified under Management Consultancy services (CPC-8311).

8.6 Reference was invited to ISIC Rev.4 whose codes are referred in the CPC correlating with ISIC. From the reference, on perusal of the activities related to Accounting, Auditing and Book Keeping as per ISIC, it can be seen that the business support services activities is in the excluded part i.e., 8291.

9. Further, as per Para 3.04 of Hand Book of Procedures for FTP, the application for the SEIS reward for eligible services rendered, shall be filed in ANF-3B form. As per ANF-3B form, the applicant undertakes to certify that he/she makes a true declaration therein and certifies that the foreign exchange earned is on account of services rendered from India alone in terms of Para 9.51(i) and Para 9.51(ii) of FTP and do not fall under ineligible category or service as per Para 3.08 and Para 3.09 of FTP and the Chartered Accountant/Cost and Works Accountant/Company Secretary certifies those declarations/claims after due examination. As per Section 2(j) of Foreign Trade (Development & Regulation) Act, 1992, "services" means service of any

description which is made available to potential users and includes all the tradable services specified under the General Agreement on Trade in Services entered into amongst India and other countries who are party to the said Agreement and provided that, this definition shall not apply to the domain of taxation.

a. Further, reference of **recovery of ineligible claims** is mentioned under Declaration/Undertakings section of ANF-3B form.

10. From the combined reading of above-mentioned provisions and definitions, availment of reward / scrips under SEIS scheme is subject to following eligibility and entitlement criteria:

a) Applicant of SEIS reward/scrip shall be actual provider of the notified service/ specified services i.e. who actually renders or performs the services and not who arranges or otherwise deals with the notified service. (Para 3.08 (a) and Para 3.09 (1) of FTP);

b) Applicant of SEIS reward should have either supplied the notified service to the service consumer in any other country (Para 9.51 (i) of FTP)

or

have supplied the notified service to service consumer of any other country in India. (Para & 9.51(ii) of FTP)

Meaning in respect of notified services there are only two modes of services eligible for SEIS benefit;

c) Applicant should have earned the foreign exchange towards performing the notified service for which the SEIS reward is sought. (Para 9.50 & Para 3.09 (1) of FTP);

d) Payment in Indian Rupees for service charges earned on specified services listed in Appendix 3E, shall be treated as receipt in deemed foreign exchange as per guidelines of Reserve Bank of India (RBI);

e) Reward is calculated at the rate notified in Appendix 3D on the net foreign exchange earned by the applicant in performing the service after deducting the expenses/payments made in foreign exchange relating to service sector in the Financial Year. (Para 3.08(a) and Para 3.08(d) of FTP);

- f) Remittances received towards statutory dues/levies or remittances received for payment or payable to the third party service providers who provide the notified service to the service consumers of any other country in India are not eligible for claim of SEIS benefit. (Para 9.50 of FTP);
- g) Documentary evidence of payments which are approved by RBI as deemed to be received in foreign exchange and deemed to be earned in foreign exchange are required for claiming services listed in Appendix 3E (Para 3.08(c) of FTP);
- h) The GATS define trade in services in terms of four modes of supply. Thus, the tradable service includes only those services rendered between a resident and a non- resident. Para 9.51 (i) & 9.51(ii) of FTP have restricted the eligibility to only two modes of supply namely Mode-1 cross border trade and Mode-2 consumption abroad respectively;
- i) The CPC being a decimal system, a reference to an aggregate category must be understood as a reference to all of the constituent parts of that category. Put differently, a reference to a three-digit CPC Group should, in the absence of any indication to the contrary, be understood as a reference to all the four-digit Classes and five-digit Sub-classes that make up the group; and a reference to a four-digit Class should be understood as a reference to all of the five-digit Sub-classes that make up that Class. (Interpretative Rules of CPC);
- j) For any services to be qualified under CPC-862 Accounting auditing services for availing scrips, the service provider should conduct examination services of the accounting, to check whether financial statements are fairly prepared, review annual and interim financial statements, compilation of financial statements from information provided by the client, preparation services of business tax returns. Further, the service provider has to do recording business transactions in terms of money or some unit of measurement in the books of account for the services to qualify under 'Bookkeeping services';
- k) Basically CPC-865 'General management consulting services'

includes operational assistance services that would most effectively meet the objectives of the organization;

- l) the reward / scrips entitlement is 3% / 5% of the net foreign exchange earned for the period 01.04.2015 to 31.10.2017 / 01.11.2017 to 31.03.2019 respectively in respect of CPC-865- Management Consulting services, and CPC-866 Services related to management consulting services. The rate of scrips is 5% / 7% of the net foreign exchange earned for the period 01.04.2015 to 31.10.2017 / 01.11.2017 to 31.03.2019 in respect of 'CPC-862 Accounting auditing services.

11. In pursuance of the intelligence gathered, details of SEIS availed during the period from 2016-17 to 2018-19, copies of ANF-3B Form filed before the DGFT, Client wise copies of sample invoices and statement of work/ Contract agreement etc. were sought from M/s Global Healthcare. During the course of investigation, M/s Global Healthcare submitted information and documents related to availment of SEIS scrip benefit by them vide their letter dated 01.02.2020 as Annexure A, B, C, D and E.

12. M/s Global Healthcare submitted copies of Scrips along with copies of ANF-3B forms received under SEIS along with the other details vide their letter dated 01.02.2020 [Annexure A, B, C, D, E]. On perusal of the documents, it is noticed that M/s Global Healthcare has availed SEIS incentives under the following categories of services which are summarized as follows:

TABLE I

S. No	For Financial Year	1Ab- Professional Services (Accounting, auditing and Book keeping Services (862))
1	2016-17	1,61,00,396/-
2	2017-18	4,21,75,871/-
3	2018-19	5,83,73,823/-
	Total	11,66,50,090/-

- a.** M/s Global Healthcare in their applications filed in ANF-3B form have:
- certified sector wise details of net foreign exchange earned for above mentioned services;
 - certified that the particulars and statements made in the application are true and correct and nothing has been concealed or held therefrom and that they fully understand that any information furnished in the application if found incorrect or false will render them liable for

any penal action or other consequences as may be prescribed in law or otherwise warranted.

- b.** Based on the applications, the Regional Authority, Directorate General of Foreign Trade, Chennai issued licence numbers as detailed below and granted scrips for duty credit and the same have been registered with Chennai Air cargo:-

TABLE II

S. No.	SEIS Scrip No, Date and Port of Registration	Scrip Amount (in Rs.)
1	0419068134 dt 08.08.2019; Chennai Air Cargo (INMAA4)	50,00,000.00
2	0419068135 dt 08.08.2019; Chennai Air Cargo (INMAA4)	50,00,000.00
3	0419068136 dt 08.08.2019; Chennai Air Cargo (INMAA4)	37,22,405.00
4	0419068394 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,00,00,000.00
5	0419068395 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,00,00,000.00
6	0419068396 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,00,00,000.00
7	0419068397 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,21,75,871.00
8	0419068399 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,00,00,000.00
9	0419068400 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,00,00,000.00
10	0419068401 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,00,00,000.00
11	0419068402 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,00,00,000.00
12	0419068403 dt 13.08.2019; Chennai Air Cargo (INMAA4)	1,00,00,000.00
13	0419068404 dt 13.08.2019; Chennai Air Cargo (INMAA4)	83,73,823.33
14	0411002543 dt 01.02.2022; Chennai Air Cargo (INMAA4)	4,79,27,929.00
	total	16,22,00,028.33

- c.** M/s Global Healthcare sold these above scrips (S. No 1 to 13) to other importers for utilization. SEIS Scrip bearing no: 0411002543 dt. 01/02/2022 for Rs.4,79,27,929/- for the financial year 2019-2020 was neither utilized nor transferred. The details of utilization of these SEIS scrips, Bills of Entry-wise is as follows:

TABLE III

Sl. No	Scrip No	Scrip Date	Name of Transferee	Bill of Entry No.	Port	Date	Scrip Amt
1	0419068134	08.08.2019	Paradeep Phospates Limited, Bhuvaneshwar	4691762	INPRT1	29/08/2019	50,00,000.00
				4797652	INPRT1	06/09/2019	

2	0419068 135	08.08.2019	Shri Kamta Nath Edible Oils, Pachimpuri, Agra	4723072	INIXY1	31/08/2019	50,00,000.00
				4568121	INIXY1	20/08/2019	
3	0419068 136	08.08.2019	Paradeep Phospates Limited, Bhuvaneshwar	4577819	INPRT1	21/08/2019	37,22,405.00
				4691762	INPRT1	29/08/2019	
4	0419068 394	13.08.2019	VKC Nuts Pvt Ltd, Jammu	4643516	INNSA1	26/08/2019	1,00,00,000.00
				4546239	INNSA1	19/08/2019	
				4555089	INNSA1	19/08/2019	
				4555090	INNSA1	19/08/2019	
5	0419068 395	13.08.2019	Tamil Naadu Edible Oils Pvt Ltd, Chennai	4566474	INMAA1	20/08/2019	1,00,00,000.00
6	0419068 396	13.08.2019	Agarwal Oil Refinery, Mavli Udaipur	4585997	INIXY1	21/08/2019	1,00,00,000.00
				4625623	INIXY1	24/08/2019	
				4610431	INIXY1	23/08/2019	
7	0419068 397	13.08.2019	ParadeepPhosp ates Limited, Bhuvaneshwar	4577819	INPRT1	21/08/2019	1,21,75,871.00
8	0419068 399	13.08.2019	Agarwal Oil Refinery, Mavli Udaipur	4609741	INIXY1	23/08/2019	1,00,00,000.00
				4610431	INIXY1	23/08/2019	
9	0419068 400	13.08.2019	Mahesh Oil Industries, Gandhidham, Gujarat	4598035	INIXY1	22/08/2019	1,00,00,000.00
				4598101	INIXY1	22/08/2019	
10	0419068 401	13.08.2019	Mahesh Oil Industries, Gandhidham, Gujarat	4598035	INIXY1	22/08/2019	1,00,00,000.00
				4627825	INIXY1	24/08/2019	
				4627633	INIXY1	24/08/2019	
11	0419068 402	13.08.2019	Bari Udyog, Morena, M.P.	4770280	INIXY1	04/09/2019	1,00,00,000.00
				4625284	INIXY1	24/08/2019	
				4646310	INIXY1	26/08/2019	
12	0419068 403	13.08.2019	Paradeep Phospates Limited, Bhuvaneshwar	4733201	INMUN 1	02/09/2019	1,00,00,000.00
13	0419068 404	13.08.2019	MG Oils, Ghaspura, M.P.	4604408	INIXY1	22/08/2019	83,73,823.33
				4651133	INIXY1	26/08/2019	

Evidences to Prove that M/s Global has not rendered Accounting Auditing and Book keeping Services:

13. On perusal of the Master Service Agreement dt 01.03.2017 entered between M/s Global Healthcare and TJ Medical Group L.L.C (Client), it was noticed that the services rendered to the clients based out in USA is '**Revenue Cycle Management services**' [herein after referred as '**RCM**'], the nature of work is kind of Back End Operations related to the insurance claims.

a. It was noticed from the agreement entered between M/s Global Healthcare and TJ Medical Group L.L.C (Client) submitted in support of their claim for scrips under '**Accounting, auditing and Book keeping Services**', that the nature of services rendered by M/s Global Healthcare was engaged in Healthcare Billing Support Services.

b. Further, from the above statement of work it appears that M/s Global Health care are generating revenue by rendering the services such as Demographic Entry Services, Charge Entry Services, Accounts Receivable Management Services, Accounts receivable Calling Services, CPT coding services and Denial Management Services to the clients based out in different countries. However, it is important to note that the scrips availed on the Net revenue includes rendering above kind of services but not accounting, Auditing and Book Keeping Services as detailed in CPC-862 which makes M/s Global Health squarely ineligible to claim the incentives claimed.

c. On perusal of the nature of Operations in the financials submitted to the MCA it appears that it is nowhere mentioned as rendering Accounting, Auditing and Book Keeping services as their Main work instead it is mentioned as Medical Billing, Claims processing etc. as one of their main operating activities.

13.2 Further, on perusal of their activities from their official website (<https://ghcbp.com/>) they have mentioned RCM, Medical coding, Insurance Verification as one of their main activity but not Accounting, Auditing and Book Keeping as their main activity.

13.3. Further, as per <https://ghcbp.com/latest-news-and-events/> M/s.

Global Health care Billing partner have opened up a new facility for operations at Manila, Philippines.

13.4 According to <https://itstartshere.ph/it-bpm> the nature of services rendered by M/s Global to the clients based out in Philippines appears to be falling under IT-BPM a subcategory under Management Services as per updated version of CPC 2.1 as against Accounting, Auditing and Book keeping.

13.5 As per the versions of CPC which have been updated from time to time it appears that the BPM services (Services which are being rendered by M/s Global Health) are sub classified under Management Consultancy services (CPC-8311). Accordingly, it appears that the nature of services rendered by M/s Global Health primarily which are a kind of information processing and communication falls under Management Consultancy services rather than Accounting, Auditing and Book Keeping as claimed by M/s Global Health.

14. From the analysis of the documents submitted by M/s Global Healthcare during investigation, vis a vis Legal Provisions, it is revealed that the M/s Global Healthcare is engaged in Revenue cycle management services which is evident from the agreement copy however from SEIS details it is noticed that M/s Global Healthcare have claimed SEIS rewards under Accounting, Auditing and Book keeping Services, as against the services related to Management Consulting.

14.1 Revenue Cycle management (RCM) is the process in healthcare organizations to manage financial operations related to billing and collecting revenue for medical services. It begins when a patient schedules an appointment and ends when the account balance is resolved through reconciliation of insurance payments, contractual adjustments, write offs, or patient payments. RCM helps strengthen revenue by minimizing claim denials, reducing days in accounts receivable, and increasing collections. As a result, healthcare providers receive correct and timely payments and optimize financial performance. Effective RCM also can help healthcare organizations comply with regulatory requirements and improve patient satisfaction. The primary objective of RCM software is to maximize earnings, minimize financial discrepancies, and prevent claim denials and potential revenue loss, all while reducing the complexity associated with the RCM process. RCM closes the gap between the patient accounts side and clinical side of healthcare, streamlines the billing and collection cycles by accurately preregistering, making appointments for, and scheduling patients; collecting

existing balances; processing payments; and questioning insurers when they deny claims.

14.2 M/s Global Healthcare was not examining the accounting record of their clients based in US/Singapore/Philippines, nor checking whether financial statements of the organization have been fairly presented and neither were they doing compilation services of financial statements from information provided by their client. Also, there is no evidence indicating that M/s Global Healthcare has rendered 'Bookkeeping services' by classifying and recording business transactions in terms of money or some unit of measurement in the books of account. Thus, revenue was generated by M/s Global Healthcare not for rendering Accounting, Auditing and Book Keeping Services. Therefore, it appears that M/s Global Healthcare has irregularly availed scrips declaring services as Accounting, Auditing and Book Keeping Services.

14.3. To seek clarification in the above regard, following personnel of M/s Global Healthcare were summoned and their statements were recorded under Section 108 of the Customs Act, 1962:

Gist of the Statements recorded is given here below:

14.4. Statement of Ms. Lakshmi Swaminathan, Director was recorded on 10.01.2024. He interalia stated that-

- M/s Global Healthcare Billing Partners Pvt Ltd, was incorporated in 2016 with registered office at Vadodara and have different branches across India. M/s Global Healthcare Billing Partners Pvt Ltd are into Revenue Cycle management for hospitals/physician group/clinics/independent physician group based in U.S.A.

- M/s Global Healthcare have availed SEIS incentive for the period from 2016-17 as detailed below and the approximate value (in USD) year wise is as follows:-

S. No	For Financial Year	1Ab- Professional Services (Accounting, auditing and Book keeping Services (862)) in USD
1	2016-17	47,27,788/-
2	2017-18	1,15,75,466/-
3	2018-19	1,22,00,611/-

	Total	2,85,03,865/-
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- M/s Global Healthcare have also availed SEIS Scrips for the financial year 2019-2020 however the same was neither utilized not transferred.
- M/s Global Healthcare have sold the scrips to the other importers.
- Any life science graduate with basic knowledge of human physiology is eligible. They need to undergo Certified Professional Coder Exam (CPC) conducted by AAPC- American Association of Professional Coders.
- M/s Global Healthcare does not prepare journals, ledgers, Trial Balances, Compile balance sheets, profit and loss Account, etc., of Health care providers (Hospitals). The company does not perform attestation, valuations and preparation of proforma statements of its health care providers. They also don't examine services of the accounting records and other supporting evidence of an organization for the purpose of expressing an opinion as to whether financial statements of the organization present fairly its position as at a given date and the results of its operations for the period ended on that date in accordance with generally accepted accounting principles. They are not involved in review services of annual and interim financial statements and other accounting information of the health care providers and compilation of the financial statements of its clients viz., the health care providers (Hospitals) in the U.S.A.
- she believe debtors management is the integral part of the accounting and book keeping, as they are into insurance claim/billing, Account receivable and payment which is an integral part of Revenue Cycle management, they have claimed scrips under Accounting, Auditing and Book Keeping.
- M/s GLOBAL HEALTHCARE, India has classified the services under Accounting, auditing and Book keeping Services (862) as per our understanding during the period of claiming the scrips. However, she has come to an understanding that their services i.e. insurance claim processing services are actually classifiable under Other business Services (Services related to Management Consulting (866)) as per the nature of services rendered by M/s GLOBAL HEALTHCARE, India. Also, she wishes to submit that the classification was adopted due to lack of understanding the exact nature of services and proper classification code but not with an intention to wrongfully availing the benefits. In this regard, she wished to submit that she came to a conclusion that their services are to be rightly classified under CPC Code 866 since the very nature of services of M/s GLOBAL HEALTHCARE, India are in alignment with that of IT enabled services.

The misinterpreted classification resulted in excess availment of SEIS scrips for which she told that M/s GLOBAL HEALTHCARE, India are voluntarily paying the excess availment of incentives and as on today paid Rs.3,67,21,494/-.

14.5 Statement of Shri Sunil Sethia Chartered Accountant ID: 206699 was recorded on 09.01.2024. He interalia stated that-

- As per his knowledge and explanation given by the company, Company have clients based in USA and they provide medical billing services to them. M/s GLOBAL HEALTHCARE, India receives an access to Electronic Health Records/Recording of the data of the patient for which coding is done and Insurance Claims are generated. After this, they are sent electronically to Insurance Companies for realisation of payments. Further, he wish to state that they act as bridge between insurance companies and Hospitals.
- M/s GLOBAL HEALTHCARE, India doesn't prepare journals, ledgers, Trial Balances, Compile balance sheets, profit and loss Account, etc., of Health care providers (Hospitals).
- M/s GLOBAL HEALTHCARE, India doesn't perform attestation, valuations and preparation of proforma statements of its health care providers.
- M/s GLOBAL HEALTHCARE, India doesn't Examine services of the accounting records and other supporting evidence of an organization for the purpose of expressing an opinion as to whether financial statements of the organization present fairly its position as at a given date and the results of its operations for the period ended on that date in accordance with generally accepted accounting principles.
- M/s GLOBAL HEALTHCARE, India doesn't Review services of annual and interim financial statements and other accounting information of the health care providers.
- M/s GLOBAL HEALTHCARE, India doesn't compile the financial statements of its clients viz., the health care providers (Hospitals) in the U.S.A.
- that for certifying scrips under Accounting, Auditing and Book Keeping, in support to the invoices, M/s GLOBAL HEALTHCARE have submitted Insurance Claim Settlements of the particular month. For processing each Insurance claim, they are entitled for some amount. The

invoices are raised on the revenue generated against those services.

-Based on the information provided by the company, he was of the opinion that their services fall under Accounting, Auditing & Book Keeping and certified the invoices for availing the scrips. However, now, after knowing their processes and understanding their nature of services rendered, he felt that their services can be interpreted under Management Consultancy.

- he understood that interpretation of services under Management Consultancy looks more valid and he would have classified their services under CPC-8650-Management Consulting Services. He totally agreed that the error which was not intentional resulted in Misclassification of CPC code and availment of 2% higher incentives by M/s GLOBAL HEALTHCARE. He kindly requested the department to take a lenient view on the same as M/s GLOBAL HEALTHCARE agreed to the wrong classification and excess availment of incentives. Further, M/s GLOBAL HEALTHCARE are voluntarily paying the excess availment of incentives.

15. In view of afore discussion, it appears the activity of M/s Global Healthcare is a kind of Revenue cycle management and they were providing operational assistance services to their clients based in US/Singapore/Philippines and such services of RCM qualify to fall under CPC code of 865 - General Management Consultancy services. It appears that M/s Global Healthcare has wrong declared the services and irregularly claimed SEIS rewards under '1Ab- Professional Services (Accounting, auditing and Book keeping Services (862)'. Whereas the nature of services exported was 'Management Consultancy and Management Services'. In respect of Accounting, auditing and Book keeping Services (862), rewards is 5% of the net foreign earnings in the period 01.04.2015 till 31.10.2017 and 7% from 01.11.2017 till 31.03.2019. Whereas for CPC-865- Management Consultancy and Management Services', rewards /scrips entitled is 3% of the net foreign earnings from 01.04.2015 till 31.10.2017 and 5% from 01.11.2017 till 31.03.2019. Therefore, it appears that M/s Global Healthcare has availed extra 2% of scrips over and above what they are eligible.

16. By conjoint reading of provisions of FTP and SEIS scheme provisions and the information and documents submitted by M/s Global Healthcare, it therefore appears that the services rendered by M/s Global Healthcare qualify to fall under **CPC-865- Management Consultancy and Management Services**, therefore it appears M/s Global Healthcare have claimed 2% excess than what is eligible to them.

17. The details of value of Scrips availed and the quantification of the excess 2% availed is as follows:

S l N o	Finan cial Year	Net Foreign Exchange Earned in USD As per ANF 3B	Entitlem ent in USD availed @ 5% / 7%	Entitlem ent in USD @ 3% / 5%	Late Cut Fee Amou nt	Net Differen ce in Scrip Value in USD	Excha nge rate adopt ed in ANF 3B	Net Difference in Scrip Value in INR
A	B	C	D	E	F	G=D-E- F	H	I=G*H
1	2016- 2017	47,27,788. 21	2,36,38 9.41	1,41,83 3.64	9,455. 58	85,100. 19	64.50	54,88,962. 00
2	2017- 2018							
	(1-4- 2017 to 31- 10- 2017)	69,70,401. 76	3,48,52 0.09	2,09,11 2.05	2,788. 16	1,36,61 9.86	64.15	87,64,165. 00
	(1-11- 2017 to 31- 03- 2018)	46,05,064. 00	3,22,35 4.48	2,30,25 3.20	1,842. 03	90,259. 25	64.15	57,90,132. 00
3	2018- 2019	1,22,00,61 1.00	8,54,04 2.77	6,10,03 0.55	0	2,44,01 2.20	68.35	1,66,78,23 5.00
							Total: -	3,67,21,4 94

18. M/s Global Healthcare vide email dated 24.11.2023 informed that for FY 2019-20, they were also sanctioned SEIS Scrips bearing no: 0411002543 dt. 01/02/2022 for Rs.4,79,27,929/-. However, they neither utilized nor transferred the scrips allotted for the financial year 2019-2020. M/s Global Healthcare voluntarily part paid the duty involved in Scrips issued for FY 2016-17 to 2018-19. The payment particulars are as follows:

SI. No.	Challan No. & Date	Amount (Rs.)
1	000351 dated: 10.08.2022	60,98,847/- (Scrip amount)
2	000321 dated: 10.11.2022	50,00,000/- (Scrip amount)

3	000330 dated: 10.02.2023	55,54,297/- (Scrip amount)
4	000481 dated: 18.04.2023	40,00,000/- (Scrip amount)
5	000416 dated: 13.07.2023	50,00,000/- (Scrip amount)
6	000234 dated: 09.11.2023	50,00,000/- (Scrip amount)
7	001222 dated: 29.12.2023	60,68,350/- (Scrip amount)
TOTAL		3,67,21,494/- (Scrip amount)

19. In view of foregoing facts, evidences on record, and legal provisions mentioned above, it appears that: -

- M/s Global Healthcare is engaged in providing Revenue Cycle Management Services to their clients based out in USA, Singapore, Philippines but not Accounting, Auditing and Book Keeping Services as stated by them.
- M/s Global Healthcare received SEIS Scrips to tune of Rs.16,38,26,205.00/- for the financial years 2016-17 to 2019-20. DGFT, Chennai had issued them a total 14 Scrips, as detailed above in Table-II which are registered at various ports. M/s Global Healthcare vide email dt 24.11.2023 informed that the SEIS Scrip bearing no: 0411002543 dt. 01/02/2022 for Rs.4,79,27,929/- for the financial year 2019-2020, they neither utilized nor transferred the scrip.
- Investigation has revealed their services fall under CPC-865-Management Consultancy and Management Services there by claiming excess 2% than what is eligible. Hence, it appears that M/s Global Healthcare is liable to pay back the ineligible SEIS benefits transferred by them.
- Further, on being pointed out M/s Global Healthcare accepting their duty liability had paid part duty liability and requested time for remaining payment.
- The duty credit scrips so obtained by M/s Global Healthcare have been sold and utilized for payment of Custom duties at the time of import by others.
- As the said SEIS scrips under dispute are instruments referred in Section 28AAA of the Customs Act, 1962, which appear to have been obtained by M/s Global Healthcare by willful mis-statement, and were utilized for payment/debit of Customs duties as referred above, the duty so debited appears liable to be demanded from M/s Global Healthcare along with interest.
- M/s Global Healthcare appears to have wrongly availed the SEIS scrips by willful mis- statement and suppression of facts before DGFT. The same were transferred by M/s Global Healthcare Billing Partners Pvt Ltd (and utilized by M/s Paradeep Phospates Limited, M/s Shri Kamta

Nath Edible Oils, M/s VKC Nuts Pvt Ltd, M/s Tamil Nadu Edible Oils Pvt Ltd, M/s Agarwal Oil Refinery, M/s Mahesh Oil Industries, M/s Bari Udyog and M/s MG Oils), leading to payment of duty using the ineligible SEIS scrips.

- M/s Global Healthcare appears to have made incorrect declarations before DGFT while applying for SEIS scrips. It appears that they did not reveal to the fact that they never render Accounting, Auditing and Book Keeping; to their Clients which is clear from their agreement copies, Further, they also did not mention that they have declared their 100% export turnover under Business Process Management Services under Management Consultancy Services, which was clear from their agreement copies.
- Therefore, it appears that M/s Global Healthcare have misused SEIS scheme vide Notification 25/2015-Cus. dated 08.04.2015 available under Section 25 of the Customs Act, 1962, therefore it appears they are liable to reverse the excess component of SEIS rewards availed and also, they are liable for penal action.

STATUTORY PROVISIONS UNDER CUSTOMS ACT,1962:

20. In terms of Notification No.25/2015-Cus dated 08.04.2015, the Central Government exempted goods when imported into India against a Service Exports from India Scheme duty credit scrip issued by the Regional Authority under paragraph 3.10 read with paragraph 3.08 of FTP from-

- (a) the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); and
- (b) the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act.

a. The exemption shall be subject to following conditions: -

(1) that the duty credit in the said scrip is issued to a service provider located in India against export of notified services listed in Appendix 3D of Appendices and Aayat Niryat Forms of Foreign Trade Policy 2015-2020;

(2).....

(3) that the said scrip is registered with the Customs Authority at the port of registration specified on the said scrip;

(4) that the said scrip is produced before the proper officer of customs at the time of clearance for debit of the duties leviable on the goods and

the proper officer of Customs, taking into account the debits already made under this exemption and debits made under the notification Nos. 21 of 2015 - Central Excise, dated the 8th April, 2015 and 11 of 2015 -Service Tax, dated the 8th April, 2015, shall debit the duties leviable on the goods, but for this exemption;

(5) that the said scrip and goods imported against it shall be freely transferable;

....

- b.** As per Section 2(4) of the Customs Act, 1962, "**bill of entry**" means a bill of entry referred to in section 46.

As per Section 2(14) of the Customs Act, 1962, "**dutiable goods**" means any goods which are chargeable to duty and on which duty has not been paid.

As per Section 2(18) of the Customs Act, 1962, "**export**", with its grammatical variations and cognate expressions, means taking out of India to a place outside India.

As per Section 28(4) of the Customs Act, 1962, where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of-

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

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

'Section 28AA of the Customs Act, 1962- Interest on delayed payment of duty— (1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made there under, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed

under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.'

c. Section 28AAA provides for recovery of duties relating to instruments (licenses) issued under FTDR Act, 1992/Foreign Trade Policy by DGFT. The Sections provides thus:

"SECTION 28AAA. Recovery of duties in certain cases. - (1) Where an instrument issued to a person has been obtained by him by means of -

- (a) collusion; or*
- (b) wilful misstatement; or*
- (c) suppression of facts,*

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), by such person or his agent or employee and such instrument is utilised under the provisions of this Act or the rules made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relating to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued :

Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.

Explanation 1.— For the purposes of this sub-section, "instrument" means any scrip or authorisation or licence or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal benefits, which may be utilised under the provisions of this Act or the rules made or notifications issued thereunder.

Explanation 2. — The provisions of this sub-section shall apply to any utilisation of instrument so obtained by the person referred to in this sub-section on or after the date on which the Finance Bill, 2012 receives the assent of the President, whether or not such instrument is issued to him prior to the date of the assent.

(2) Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28AA and the amount of such interest shall be calculated for the period beginning from

the date of utilisation of the instrument till the date of recovery of such duty.

(3) For the purposes of recovery under sub-section (2), the proper officer shall serve notice on the person to whom the instrument was issued requiring him to show cause, within a period of thirty days from the date of receipt of the notice, as to why the amount specified in the notice (excluding the interest) should not be recovered from him, and after giving that person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty or interest or both to be recovered from such person, not being in excess of the amount specified in the notice, and pass order to recover the amount of duty or interest or both and the person to whom the instrument was issued shall repay the amount so specified in the notice within a period of thirty days from the date of receipt of the said order, along with the interest due on such amount, whether or not the amount of interest is specified separately.

(4) Where an order determining the duty has been passed under section 28, no order to recover that duty shall be passed under this section.

(5) Where the person referred to in sub-section (3) fails to repay the amount within the period of thirty days specified therein, it shall be recovered in the manner laid down in sub-section (1) of section 142.”

d. Section 110AA of the Customs Act, 1962: *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.”

e. As per Section 111(o) of the Customs Act, 1962, any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer are liable for confiscation.

f. In terms of 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 shall be liable to penalty.

g. 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 part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined ---

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

h. As per Section 114AA of the Customs Act, 1962, 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.

i. As per Section 114AB of the Customs Act, 1962, where any person has obtained any instrument by fraud, collusion, wilful misstatement or

suppression of facts and such instrument has been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

Explanation. — For the purposes of this section, the expression “instrument” shall have the same meaning as assigned to it in the Explanation 1 to section 28AAA.

j. As per Section 117 of the Customs Act, 1962, any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding four lakh rupees.

VIOLATION OF STATUTORY PROVISION, DEMAND OF CUSTOMS DUTY, CONFISCATION OF GOODS AND PENALTIES

21. DEMAND:

a. During the period FY 2016-17 to 2018-19, M/s Global Healthcare have availed scrips to the tune of **Rs.3,67,21,494/-** in violation of Customs Duty exemption vide Notification 25/2015-Cus. dated 08.04.2015 available under Section 25 of the Customs Act, 1962. Therefore, it appears that **Rs.3,67,21,494/-** is liable for recovery under Section 28AAA of the Customs Act, 1962 along with applicable interest under section 28AA of the Customs Act.

b. However, M/s Global Healthcare has paid amount of Rs.3,67,21,494 /- vide Challan Nos 000351 dated: 10.08.2022, 000321 dated: 10.11.2022, 000330 dated: 10.02.2023, 000481 dated:18.04.2023, 000416 dated: 13.07.2023, 000234 dated: 13.07.2023 and 001222 dated: 29.12.2023. The same is liable for appropriation against the demand raised in case of M/s Global Healthcare.

22. From the independent documentary evidences as well as confirmatory statements on record of M/s Global Healthcare, it appears that M/s Global Healthcare have wilfully and fraudulently mis-stated the manner of services provided by them with an intent to avail undue benefit of SEIS. Such SEIS scrips fraudulently obtained by them are invalid ab-

initio. It appears that M/s Global Healthcare, by resorting to such acts, have contravened the provisions of Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules 1993 and Foreign Trade Policy, 2015-20 as detailed below:

- (a) **Section 11 of** the Foreign Trade (Development and Regulation) Act, 1992, read with **Rule-14 of** Foreign Trade (Regulation) Rules, 1993, in as much as they have made, signed and used the declarations, statements or documents for the purposes of obtaining SEIS Scrips knowing or having reason to believe that such declarations, statements or documents were not representing the true, correct, and actual classification of services, and they thereby have employed fraudulent practice for the purposes of obtaining the SEIS Scrips;
- (b) **Provisions of Exim policy related to SEIS scheme** in as much as they have availed benefit of SEIS scheme of Foreign Trade Policy 2015-2020 though they were not eligible for the services rendered by them, if classified correctly.
- (c) **Para 3.09(2)(e) of [FTP 2015-2020](#)**: 3.09 Ineligible categories under SEIS (2) Export turnover relating to services of units operating under EOU / EHTP / STPI / BTP Schemes or supplies of services made to such units; The notified services and rates of rewards are listed in Appendix 3D.

a. Investigations have revealed M/s Global Healthcare have wilfully and fraudulently mis-stated and mis-classified the services provided, before the DGFT (Chennai) with an intent to avail undue excess benefit of SEIS scrips. On the basis of their declarations in ANF3B, SEIS Scrips were issued to them by DGFT. M/s Global Healthcare is in the business of revenue cycle management services and had not rendered services such as Accounting, Auditing Book Keeping Services. However, it appears that for the purpose of claiming benefit of excess 2%, they have mis-declared their service as Accounting, Auditing Book Keeping Services under Appendix 3D at the time of filing the application. M/s Global Healthcare have irregularly availed scrips by 2% above what they are actually eligible which were sold to other entities who have utilized such scrips for discharging import duty, thereby ineligible scrips were utilized by importers to discharge Import duties. But

for the unearthing of the misuse of SEIS benefit and detail investigation conducted by the DRI officers the excess availment of scrips would have gone unnoticed and there would have been loss to Government revenue. In view of the above it appears that M/s Global Healthcare, Vadodara is liable for penal action.

b. Further, for having made wrong declarations in ANF-3B Form, knowing well that they are false and incorrect in material particulars as explained above for purpose of availing benefit of Customs Duty exemption available under Section 25 of the Customs Act, 1962, M/s Global Healthcare appears to have made themselves liable for penalty under Section 114AA of the Customs Act, 1962.

c. As M/s Global Healthcare has obtained scrips by fraud, collusion, wilful misstatement or suppression of facts and such scrips have been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument. M/s Global Healthcare appears to be liable to penalty under Section 114AB of the Customs Act, 1962.

23. The Hon'ble Supreme Court in the case against M/s Sheshank Sea Foods Private Limited has settled the above position. The order inter alia states that-

“Section 111(o) states that when goods are exempted from Customs duty subject to a condition and the condition is not observed, the goods are liable to confiscation. The case of the respondents is that the goods imported by the appellants, which availed of the said exemption subject to the condition that they would not be sold, loaned, transferred or disposed of in any other manner, had been disposed of by the appellants. The Customs authorities, therefore, clearly had the power to take action under the provisions of Section 111 (o).

We do not find in the provisions of the Import and Export Policy or the Hand Book of Procedures issued by the Ministry of Commerce, Government of India, anything that even remotely suggests that the aforesaid power of the Customs authorities had been taken away or abridged or that an investigation into such alleged breach could be conducted only by the licensing authority. That the licensing authority is

empowered conduct such an investigation does not by itself preclude the Customs authorities from doing so.

The communication of the Central Board of Excise and Customs dated 13th May, 1969, refers to the breach of the condition of a license and suggests that it may not be possible to take action under Section 111 (o) in respect thereof. It is true that the terms or the said Exemption Notification were made part of the appellants' licences and, in that sense, a breach of the terms of the said Exemption Notification is also a breach of the terms of the license, entitling the licensing authority to investigate. But the breach is not only of the terms of the license; it is also a breach of the condition in the Exemption Notification upon which the appellants obtained exemption from payment of Customs duty and, therefore, the terms of Section 111 (o) enable the Customs authorities to investigate.”

23.1 The said judgement of the Hon’ble Supreme Court was again reaffirmed by Bench in the case of the Commissioner of customs Vs Pennar Industries (2015 (322) E.L.T. 402 (S.C.).

23.2. Hence, it appeared the value of goods as detailed below are liable for confiscation under Section 111(o) of the Customs Act, 1962 as the said ineligible scrips/rewards issued to M/s Global Healthcare were transferred to the actual importers who utilized them in payment of Customs duty exemption on goods imported vide Bills of Entry at various ports referred therein.

TABLE IV

Sl. No.	PORT	BE Number	BE Date	Imported by /Utilized by	Scrip No	Item wise/ Proportionate Assessable Value (Rs.)	Utilised Amount (in Rs.)
1	INIXY1	4723072	31-08-2019	Shri Kamta Nath Edible Oils, Pachimpuri, Agra	419068135	120803.20	62374.10
	INIXY1	4568121	20-08-2019			9512070.31	4937625.00
	INIXY1	4585997	21-08-2019	Agarwal Oil Refinery, Mavli	419068396	9512070.31	4937625.00
	INIXY1	46256	24-08-	Udaipur		8008286.35	3145081.9

		23	2019				0
	INIXY1	46104 31	23-08- 2019			4922802.34	1917291.0 0
	INIXY1	46097 41	23-08- 2019	Agarwal Oil Refinery, Mavli Udaipur	419068 399	20399081.5 1	7944860.0 0
	INIXY1	46104 31	23-08- 2019			5276738.41	2055139.0 0
	INIXY1	45980 35	22-08- 2019	Mahesh Oil Industries, Gandhidham,G ujarat	419068 400	13003356.4 8	4903229.0 0
	INIXY1	45981 01	22-08- 2019			13486781.4 7	5096769.6 0
	INIXY1	45980 35	22-08- 2019	Mahesh Oil Industries, Gandhidham,G ujarat	419068 401	513269.40	193540.60
	INIXY1	46278 25	24-08- 2019			11783095.6 5	4709686.2 0
	INIXY1	46276 33	24-08- 2019			12751533.8 4	5096769.6 0
	INIXY1	47702 80	04-09- 2019	Bari Udyog, Morena, M.P.	419068 402	285951.10	116800.01
	INIXY1	46252 84	24-08- 2019			12317095.0 2	4917660.9 0
	INIXY1	46463 10	26-08- 2019			12547500.0 0	4965537.5 0
	INIXY1	46044 08	22-08- 2019			9211223.44	4937625.0 0
	INIXY1	46511 33	26-08- 2019	MG Oils, Ghaspura, M. P.	419068 404	8431640.52	3436195.2 0
Total	Kandla					15208329 9.35	63373809 .61
2	INMAA1	45664 74	20-08- 2019	Tamil Naadu Edible Oils Pvt Ltd, Chennai	4190683 95	25973971.2 8	9999978.9 0
Total	Chennai						
3	INMUN1	47332 01	02-09- 2019	Paradeep Phospates Limited, Bhuvaneshwar	419068 403	199999999. 90	10000000. 00
Total	Mundra						
	INNSA1	46435 16	26/08/2 019	VKC Nuts Pvt Ltd, Jammu	419068 394	3636867.38	400055.40
4	INNSA1	45462 39	19/08/2 019			12512678.0 9	1376394.6 0

	INNSA1	455589	19/08/2019			3737958.00	4111753.80
	INNSA1	455590	19/08/2019			3737958.00	4111753.80
Total	Jawaharlal Nehru					23625461.47	9999957.60
	INPRT1	4691762	29/08/2019	Paradeep Phospates Limited, Bhuvaneshwar	419068134	34366950.46	945091.20
	INPRT1	4691762	29/08/2019	Paradeep Phospates Limited, Bhuvaneshwar	419068134	2747243.66	75549.20
	INPRT1	4797652	06/09/2019	Paradeep Phospates Limited, Bhuvaneshwar	419068134	90439985.15	3979359.30
5	INPRT1	4577819	21/08/2019	Paradeep Phospates Limited, Bhuvaneshwar	419068136	35716365.32	1964400.10
	INPRT1	4691762	29/08/2019	Paradeep Phospates Limited, Bhuvaneshwar	419068136	63927451.46	1758004.90
	INPRT1	4577819	21/08/2019	Paradeep Phospates Limited, Bhuvaneshwar	419068397	221379470.05	12175870.90
Total	Paradeep					448577466.10	20898275.60

23.3 Further, it appears M/s Global Healthcare as well as on the above mentioned Importers who have utilized the irregular scrips for discharging their Customs duty namely M/s Paradeep Phospates Limited, M/s Shri Kamta Nath Edible Oils, M/s VKC Nuts Pvt Ltd, M/s Tamil Naadu Edible Oils Pvt Ltd, M/s Agarwal Oil Refinery , M/s Mahesh Oil Industries, M/s Bari Udyog and M/s MG Oils, are liable for penalty in terms of Section 112(a) of the Customs Act, 1962, for cause of rendering the above detailed goods liable to confiscation under Section 111 ibid.

23.3.1 Clause (a) of Section 112 of the Customs Act, provides for penalty against the 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. As per intention of the legislature, this part of clause (a) is applicable to importer, exporter and/or beneficial owner, as any omission/ commission of conditions of Section 111, by them has rendered the goods liable to confiscation. The Hon'ble Supreme Court in Chairman SEBI versus Shri Ram Mutual Fund, (2006), SCC,361 has affirmed this view, wherein it was held that;

“In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligations as contemplated in the Act and regulation is established and hence the intention of the parties

committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must be made by the defaulter with guilty intention or not.”

Further, there are several rulings to emphasize the point that once the goods are mis-declared and become liable to confiscation, penalty under Section 112 becomes justified. Some are quoted below-

- (i) M/s PINE CHEMICAL SUPPLIERS vs COLLECTOR OF CUSTOMS as reported in [1993 (67) E.L.T 25 (S.C.).
- (ii) M/s VARSHA PLASTICS PVT. LTD vs UNION OF INDIA as reported in 2009 (235) E.L.T. (193) (S.C.)
- (iii) COMMISSIONER OF CUSTOMS VERSUS P.V. UKKRU INTERNATIONAL TRADE as reported in 2009 (235) E.L.T. 229 (Ker.)

Accordingly, it appears that M/s Global Healthcare and the Importers namely M/s Paradeep Phospates Limited, M/s Shri Kamta Nath Edible Oils, M/s VKC Nuts Pvt Ltd, M/s Tamil Naadu Edible Oils Pvt Ltd, M/s Agarwal Oil Refinery, M/s Mahesh Oil Industries, M/s Bari Udyog and M/s MG Oils are liable for penalty under Section 112 (a) of the Customs Act. Further it appears that penalty under section 117 of the Customs Act is imposable on M/s Global Healthcare for contravening the provisions of Foreign Trade (Development & Regulation) Act, 1992 and also the above-mentioned Importers are liable for penalty under section 117 for abetting in the contraventions.

ROLE AND RESPONSIBILITY:

24. It appears in the misuse of SEIS benefit by the company M/s Global Healthcare, Ms. Lakshmi Swaminathan, Director, Shri Sunil Sethia, Chartered Accountant have crucial role and responsibility. It is noticed that mis-declaration of classification of services in the SEIS application viz., Form ANF-3B, Annexures and Declarations filed by M/s Global Healthcare before DGFT, were signed by Ms. Lakshmi Swaminathan, Director of M/s Global Healthcare.

- a.** Further, Shri Sunil Sethia, Chartered Accountant has certified the SEIS claim applications of M/s Global Healthcare. The Chartered Accountants being the professional is engaged/mandated by the

statute to certify documents that mean the statutory authorities have placed absolute assurance on CA's certifications. The engagement of a Chartered Accountant is to nullify the material misstatement and also to deter fraud and illegal acts. In the instant case, the CA has certified that the application by M/s Global Healthcare does not include any earning related to ineligible services. As CA Shri Sunil Sethia has failed in examining the claim of M/s Global Healthcare properly and verify the records/documents as required under ANF-3B and therefore it appears Shri Sunil Sethia, CA has abetted M/s Global Healthcare in their suppression and mis-statement of facts for the purpose of getting exemption benefit under the Notification 25/2015-Cus. dated 08.04.2015. It is case of pure dereliction of duties and misleading of Government authorities by these professionals with malafide intention.

b. Therefore, it appears that Ms Lakshmi Swaminathan, Director, and Shri Sunil Sethia, Chartered Accountant are responsible for suppressing the facts and wilfully mis-stating the true, correct, and actual classification of services to get irregular benefit to the Company. They appear to have abetted with M/s Global Healthcare in availment of undue benefit of SEIS Scheme and causing the importers to utilise the wrongly obtained SEIS duty credit Scrips for their imports. Therefore, it appears that by their deliberate acts of commission and omission, Ms Lakshmi Swaminathan, Director, and Shri Sunil Sethia, Chartered Accountant are involved for having rendered the goods which were imported by utilising the ineligible Scrips liable for confiscation. Therefore, it appears that they are liable for penalty under Section 112(a) of the Customs Act, 1962.

c. Further it appears that Ms Lakshmi Swaminathan, Director, Shri Sunil Sethia, Chartered Accountant have made themselves liable for penalty under Section 114AA of the Customs Act, 1962 for giving false and incorrect in material particulars as explained above for purpose of availing benefit of Customs Duty exemption available under Section 25 of the Customs Act, 1962.

25. The Assistant DGFT, Chennai vide F. No. 04/98/DRI/Misc-II/AM24 dated 12.03.2024 issued a Show cause notice in the matter to M/s. Global Health care Billing Part.

26. Subsequent to enactment of the Finance Act 2022, CBIC issued a

Notification No. 28/2022 Customs (N.T.) dated 31.03.2022 assigning the proper officer for the purpose of Section 110AA wherein multiple jurisdictions are involved. In terms of S. No. 1 of said Notification, the officer of the jurisdiction having highest amount of duty at the stage of transfer is assigned as the proper officer for the said case. In the instant case, the highest duty involved falls under INIXY1 (Kandla Port). In view of the S. No. 1 of the said Notification, as the total duty involved is more than Rs. 50 Lakh, the proper officer to issue SCN and adjudicating authority is Principal Commissioner/ Commissioner of Customs, Kandla.

a. Therefore, **M/s Global Healthcare Billing Partners Pvt Ltd**, 4th Floor, Imperia Building, Plot No.8 Besides D-Mart, Sardar Nagar, Old Chhani Road, Vadodara, Gujarat-390002 were called upon to show cause as to why:-

(i) Customs Duties of **Rs.3,67,21,494/-** [Rupees Three Crores Sixty Seven Lakh Twenty One Thousand Four Hundred and Ninety Four only] should not be demanded and recovered from them under Section 28AAA of the Customs Act, 1962 read with FTP, as discussed in Para 22.1 above;

(ii) An amount of Rs.3,67,21,494/- [Rupees Three Crores Sixty Seven Lakh Twenty One Thousand Four Hundred and Ninety Four only] paid by M/s Global Healthcare Billing Partners Pvt Ltd. towards the Customs Duty mentioned at (i) above, should not be appropriated;

(iii) Interest, as applicable under section 28AA of the Customs Act, 1962, should not be demanded on the Customs Duties mentioned at (i) above;

(iv) Penalty under Section 114AA *ibid* should not be imposed on M/s Global Healthcare Billing Partners Pvt Ltd for making wrong declarations of the services in ANF-3B Form, for the purpose of availing excess scrip benefit;

(v) Penalty under Section 114AB *ibid* should not be imposed on M/s Global Healthcare Billing Partners Pvt Ltd for irregular availment of scrips by fraud, collusion, wilful misstatement or suppression of facts and selling such scrips to Importers for utilization towards discharging duty;

(vi) Penalty under section 112(a) of Customs Act should not be imposed on Global Healthcare Billing Partners Pvt Ltd;

(vii) Penalty under section 117 of Customs Act should not be imposed on Global Healthcare Billing Partners Pvt Ltd;

(viii) Penalty under section 112(a) and 114AA of Customs Act should not be imposed on Ms Lakshmi Swaminathan, Director, Shri Sunil Sethia, Chartered Accountant.

b. therefore, **M/s PARADEEP PHOSPHATES LTD**, PPL Township, Paradeep - 754145, Odisha, India are hereby called upon to show cause to Principal Commissioner/Commissioner of Customs, Kandla Port, Kachchh Customs Commissionerate Custom House, Near Balaji Temple, Kandla, Gujarat-370210, within thirty days of receipt of this Notice, as to why the imported goods of Proportionate assessable value of Rs 64,85,77,466/- in respect of the Bills of Entry detailed above in Table IV, for which duty exemption under the Notification 25/2015-Cus. dated 08.04.2015 was availed, based on SEIS scrips obtained by willful mis-statement and suppression of facts for availing duty, **should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Further, as to why penalty under section 112(a) and section 117 of the Customs Act should not be imposed on M/s PARADEEP PHOSPHATES LTD.**

c. therefore, **M/s Shri Kamta Nath Edible Oils**, Plot No.15 Druv Nagar, Pachimpuri, Shastripuram, Agra, Uttar Pradesh-282007 are hereby called upon to show cause to the Principal Commissioner/Commissioner of Customs, Kandla Port, Kachchh Customs Commissionerate Custom House, Near Balaji Temple, Kandla, Gujarat-370210, within thirty days of receipt of this Notice, as to why the imported goods of Proportionate assessable value of Rs 96,32,874/- in respect of the Bills of Entry detailed above in Table IV, for which duty exemption under the Notification 25/2015-Cus. dated 08.04.2015 was availed, based on SEIS scrips obtained by willful mis-statement and suppression of facts for availing duty, **should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Further, as to why penalty under section 112 (a) and section 117 of the Customs Act should not be imposed on M/s Shri Kamta Nath Edible**

Oils.

d. therefore, **M/s VKC Nuts Pvt Ltd**, D-63, Sector A-2, Tronica City, Industrial Area Loni, Ghaziabad, Uttar Pradesh are hereby called upon to show cause to Principal Commissioner/Commissioner of Customs, Kandla Port, Kachchh Customs Commissionerate Custom House, Near Balaji Temple, Kandla, Gujarat-370210, within thirty days of receipt of this Notice, as to why the imported goods of Proportionate assessable value of Rs. 2,36,25,462 /- in respect of the Bills of Entry detailed above in Table IV, for which duty exemption under the Notification 25/2015-Cus. dated 08.04.2015 was availed, based on SEIS scrips obtained by willful mis-statement and suppression of facts for availing duty, should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Further, as to why penalty under section 112 (a) and section 117 of the Customs Act should not be imposed on M/s VKC Nuts Pvt Ltd.

e. therefore, **M/s Tamil Naadu Edible Oils Pvt Ltd**, J-14/7, Newno-84/7, IIIrd Floor, IIIrd Avenue, Anna Nagar East, Chennai, Tamilnadu-600102 are hereby called upon to show cause to Principal Commissioner/Commissioner of Customs, Kandla Port, Kachchh Customs Commissionerate Custom House, Near Balaji Temple, Kandla, Gujarat-370210, within thirty days of receipt of this Notice, as to why the imported goods of Proportionate assessable value of Rs 2,59,73,971/-in respect of the Bills of Entry detailed above in Table IV, for which duty exemption under the Notification 25/2015-Cus. dated 08.04.2015 was availed, based on SEIS scrips obtained by willful mis-statement and suppression of facts for availing duty, should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Further, as to why penalty under section 112 (a) and section 117 of the Customs Act should not be imposed on M/s Tamil Naadu Edible Oils Pvt Ltd.

f. therefore, **M/s Agarwal Oil Refiner**, Near Industrial Area Revenue, Village Changeri, Fatehnagar Teh., Mavli, Udaipur, Rajasthan-313205 are hereby called upon to show cause to Principal Commissioner/Commissioner of Customs, Kandla Port, Kachch Customs Commissionerate Custom House, Near Balaji Temple, Kandla, Gujarat-370210 within thirty days of receipt of this Notice, as to why the imported goods of assessable value of

Rs 4,81,18,979/- in respect of the Bills of Entry detailed above in Table IV, for which duty exemption under the Notification 25/2015-Cus. dated 08.04.2015 was availed, based on SEIS scrips obtained by willful mis-statement and suppression of facts for availing duty, should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Further, as to why penalty under section 112 (a) and section 117 of the Customs Act should not be imposed on M/s M/s Agarwal Oil Refiner.

g. therefore, **M/s Mahesh Oil Industries**, Plot No.1, Survey No.84, Vill. Ajapat, Tal. Anjar, Kutch, Gujarat- 370110 are hereby called upon to show cause to Principal Commissioner/Commissioner of Customs, Kandla Port, Kachchh Customs Commissionerate Custom House, Near Balaji Temple, Kandla, Gujarat-370210 within thirty days of receipt of this Notice, as to why the imported goods of Proportionate assessable value of Rs. 5,15,38,037/- in respect of the Bills of Entry detailed above in Table IV, for which duty exemption under the Notification 25/2015-Cus. dated 08.04.2015 was availed, based on SEIS scrips obtained by willful mis-statement and suppression of facts for availing duty, should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Further, as to why penalty under section 112 (a) and section 117 of the Customs Act should not be imposed on M/s Mahesh Oil Industries.

h. therefore, **M/s Bari Udyog**, 21, Industrial Area, A.B. Road., Morena (M.P)- 476001 are hereby called upon to show cause to Principal Commissioner/Commissioner of Customs, Kandla Port, Kachch Customs Commissionerate Custom House, Near Balaji Temple, Kandla, Gujarat-370210, within thirty days of receipt of this Notice, as to why the imported goods of Proportionate assessable value of Rs 2,51,50,546/- in respect of the Bills of Entry detailed above in Table IV, for which duty exemption under the Notification 25/2015-Cus. dated 08.04.2015 was availed, based on SEIS scrips obtained by willful mis-statement and suppression of facts for availing duty, should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Further, as to why penalty under section 112 (a) and section 117 of the Customs Act should not be imposed on M/s Bari Udyog.

i. therefore, **M/s MG Oils**, 47, Ramkrishna Ganj, Ghaspura,

Khandwa , Madhya Pradesh- 450001 are hereby called upon to show cause to the Principal Commissioner/Commissioner of Customs, Kandla Port, Kachchh Customs Commissionerate Custom House, Near Balaji Temple, Kandla, Gujarat-370210, within thirty days of receipt of this Notice, as to why the imported goods of Proportionate assessable value of Rs 1,76,42,864/- in respect of the Bills of Entry detailed above in Table IV, for which duty exemption under the Notification 25/2015-Cus. dated 08.04.2015 was availed, based on SEIS scrips obtained by wilful mis-statement and suppression of facts for availing duty, should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Further, as to why penalty under section 112 (a) and section 117 of the Customs Act should not be imposed on M/s MG Oils.

27. ACTION BY DGFT: -

27.1 Further, DRI, Hyderabad Zonal Unit, vide letter dated 05.02.2024, requested DGFT to initiate appropriate action in respect of the licenses/instruments involved in the subject investigation against the noticee which was followed vide email dated 06.03.2024 seeking confirmation and expeditious action from DGFT.

27.2 Further, it was informed that an Action was initiated by DGFT, Chennai by way of issuing a notice dated 12.03.2024 to M/s Global Healthcare Billing Partners Pvt. Ltd. initiating action for cancellation of the concerned instrument.

27.3 Further, DGFT, Chennai vide letter F.No.04/98/DRI/MISC-II/AM/24 dated **12.08.2024** informed that M/s Global Healthcare Billing Partners Pvt. Ltd. had obtained SEIS scrips amounting to ₹16,22,00,028.33 for FY 2016-17 to 2019-20 and, as per DRI investigation, the services were classifiable under CPC 865 instead of CPC 862, resulting in excess availment of SEIS benefit. It was also noted that the noticee had voluntarily paid the differential amount of **₹3,67,21,494/-**, and therefore, no further action was required from DGFT, leaving further action, if any, to be taken by Customs authorities.

27.4 Accordingly, Customs Kandla, with reference to the Show Cause Notice dated 03.12.2024 issued for recovery of ₹3,67,21,494/- along with interest and penalty, called upon the noticee to confirm whether they contest the decision communicated by DGFT that no further action was required at

their end and that proceedings, if any, may be initiated under the Customs Act, 1962, and requested submission of their reply by return email.

27.5 In response of the letter dated 03.12.2024, the noticee vide their letter email dated **18.11.2025** submitted that they have gone through the communication letter issued by the DGFT, Chennai's letter F. No. 04/98/DRI/Misc II/AM24 dated **12.08.2024** addressed to DRI, Hyderabad. They informed that at Para 30 of their Reply dated **23.06.2025** in respect of the Show Cause Notice in F. No. GEN/ADJ/COMM/232 /2024-Adjn-O/o Commr-Cus-Kandla, dated 03.12.2024, the payment of Rs.3,67,21,494/- was made during the course of investigation, to mitigate the risk of accumulating interests. Further, as submitted in their reply, they claimed that they were of the bonafide view that the services have been appropriately classified by them under CPC- 862 as 'Accounting, Auditing and Bookkeeping' services. In these circumstances, they reiterated the submissions made in their reply dated 23.06.2025 in response to the above-mentioned Show Cause Notice. In light of their submissions, they prayed that the proceedings initiated in the Show-Cause Notice be dropped against the Noticees and the Co-Noticees.

28. DEFENCE REPLY AND WRITTEN SUBMISSION

28.1 M/s Global Healthcare vide letter dated 23.06.2025 have interalia submitted they reply in length and summary of their relevant submission is reproduced as under-

28.2 The Noticee i.e. M/s Global Healthcare has provided background of the company, stating that they are engaged in export of **Revenue Cycle Management (RCM) services** to overseas healthcare clients and is eligible for benefits under the Foreign Trade Policy.

28.3 It was submitted that **SEIS scrips were issued by the DGFT after due scrutiny**, based on documents such as invoices, FIRC/BRC and service agreements, and therefore the benefits were lawfully granted. The Noticee contended that the services rendered, such as medical coding, billing, accounts receivable management and financial reconciliation, fall within the scope of Accounting/Bookkeeping services (CPC 862). It is argued that the services directly relate to revenue accounting and financial recording of the clients and therefore classification under CPC-862 is correct. The Noticee submitted that classification under CPC is a matter of **interpretation**, and a different view taken by the Department cannot lead to allegation of misdeclaration or fraud.

28.4 It is stated that complete details of services, agreements and invoices were disclosed to DGFT; hence there is **no suppression or wilful misstatement**, Therefore, they submitted that **Section 28AAA is not invocable** in absence of fraud, collusion or suppression and when the scrips were validly issued. It is further argued that the SEIS scrips have **not been cancelled by DGFT**, and without cancellation by the issuing authority, recovery under Customs law is not sustainable.

28.5 Reliance is placed on judicial decisions and Board instructions to submit that recovery proceedings cannot be initiated where the instrument remains valid and there is no fraud. The Noticee states that the scrips were transferred in the open market and utilized by bona fide importers; hence extended recovery is not justified. It is submitted that the case involves only a classification dispute, and therefore extended period and penal provisions are not applicable. The Noticee contends that interest under Section 28AA is not payable as the basic demand itself is not sustainable. The Noticee submits that penalties proposed under Sections 112(a), 114AA, 114AB and 117 are not imposable in absence of mens rea or deliberate misdeclaration. And they have requested dropping of the Show Cause Notice in full.

28.6 It was submitted that the RCM services provided by the Noticee primarily fall under the ambit of accounting, auditing, and bookkeeping due to their core functions. The broad summary of the nature of category under which the services provided by the Noticee fall is given below:

- a. Bookkeeping Services:
 - (i) Demographic entry: Accurate patient data is crucial for billing and tracking, directly impacting financial records.
 - (ii) Charge entry & CPT Coding: Assigning the correct codes (CPT, HCPCS) for services rendered is essential for generating accurate invoices and financial statements and recording payments received.
- b. Other accounting services and Review of accounting transactions:
 - (i) Accounts Receivable Management & Calling: Tracking and following up on outstanding payments is a core function of accounts receivable management, a key component of accounting.
 - (ii) Denial management: Analysing denied claims, identifying reasons for denials, and resubmitting corrected claims is essential for accurate revenue recognition and financial reporting.

29. *In light of the above submissions, it is evident that the services provided by the Noticee are in the nature of bookkeeping services, other accounting services and review of accounting services. Therefore, the classification of the services under the CPC 862 as 'Accounting, Auditing and Bookkeeping' services is apposite.*

In this regard, they place reliance on the case law of Indian Aluminium Cables Ltd. v. Union of India & Ors [1985 (21) E.L.T. 3 (S.C.) and case law of Reliance Cellulose Products Ltd., Hyderabad v. CCE [1997 (93) E.L.T. 646 (S.C.)], Shree Baidyanath Ayurved Bhavan Ltd. v. CCE [1996 (83) E.L.T. 492 (S.C.)], Mukesh Kumar Aggarwal & Co. Vs. State of M.P. [2004 (178) E.L.T. 3 (S.C.)] CCE v. Connaught Plaza Restaurant [2012 (286) E.L.T. 321 (S.C.)], and they submitted that it is a settled position of law that law must be read or interpreted taking into consideration the technological advancements.

a. *Further, reliance in this regard is placed on the decision of the Hon'ble Supreme Court in Collector of Customs & Central Excise v. Lekhraj Jessumal & Sons [1996 (82) E.L.T. 162 (S.C.) and case law Hewlett Packard India Sales v. CC [2023 (1) 700 TMI – Supreme Court].*

b. *At the outset, it is pertinent to note that Appendix 3D of the FTP basis which the SEIS benefit was claimed by the Noticee is based on CPC (provisional) Code. Once, the Appendix is based on a provisional code, reliance placed on revised versions which were introduced much later in time is unjustifiable to reclassify the services.*

c. *In the light of above decisions, the Noticee submits that the Department has failed to discharge **the burden of proof that** the Noticee has excessively availed SEIS benefits by misclassifying the exported services. Further, the Department has not provided any legal basis as to why the RCM services merit classification under CPC-865 as proposed by the Department. Further, no evidence, expert report, statement, etc. have also been relied upon in the SCN that supports the view that the services merit reclassification. Therefore, it is submitted that the Department has failed to discharge the burden of proof for re-classifying the subject goods. Hence, on this ground as well, the proposal to reclassify the RCM services provided by the Noticee fails.*

d. *Further, they contested about imposition of that Section 28AAA. it is submitted that, for invoking Section 28AAA there **must be a positive finding as to wilful misstatement, collusion or suppression.** In the present case, the allegation of the Department that the scrips were obtained*

by fraudulently misstating or suppressing the nature of services exported by the Noticee is unjustifiable and without any evidence. As substantiated in Ground A above, the services exported by the Noticee are in the nature of 'Accounting, auditing and bookkeeping' services which have been rightly classified under CPC 862. Hence, on this ground itself the allegation that the scrip was obtained by wilful misstatement, collusion or suppression is incorrect. They argued that once an advance licence was issued and not questioned by the licensing authority, the Customs authorities cannot refuse exemption on an allegation that there was misrepresentation. If there was any misrepresentation, it was for the licensing authority to take steps in that behalf."

*e. The noticee have challenged the jurisdiction of the Customs authority do not have jurisdiction to sit in judgement over the same to decide whether or not the products are covered under the scheme of MEIS which is governed by the Foreign Trade Policy. Thus, in light of the above discussions it is submitted that the demand of duty in the present case is premature. Further, even in cases where the Customs have issued Show-Cause Notices for recovery of dues have been instances where there was a positive finding by DGFT against the assessee for fraudulently obtaining the scrips. However, in the absence of such a finding, it is submitted that the action of the Department in the present case is premature and without any basis. Reliance in this regard is placed on the decision of the Hon'ble Gujarat High Court in *CC v. Indian Acrylics Ltd.*, [2016 (336) E.L.T. (474) Guj.] and case law of *Khanna Paper Mills Ltd. v. CC, Amritsar*, [2011 (273) E.L.T. 149 (Tri.-Del.)], held that mere allegation of fraud by Customs Authorities without taking sufficient steps to scrips cancelled by referring to the matter to DGFT cannot be ground to cancel scrips and demand duty. Therefore, in light of the above submissions, the Noticee submits that the demand in the SCN is premature and merits to be dropped on this ground itself.*

*f. There is no mens rea. Hence, Section 28AAA is not invocable. The Noticee submits that for the invocation of Section 28AAA, the Department must establish collusion, suppression or wilful misstatement. From a perusal of these terms, it is evident that all these aspects involve a positive act with an intent. In this regard, reliance is placed on **Cosmic Dye Chemical vs. Collector of Central Excise, Bombay, (1995) 6 SCC 117**, wherein the Hon'ble Supreme Court in the context of invocation of extended period under Section 11A of the Central Excise Act held that suppression and misrepresentation of fact should be wilful to constitute a permissible*

ground for invoking the extended period of limitation. Relevant portion of the judgment has been reproduced below:

g. Further, the Hon'ble Supreme Court in the case of **Collector of Central Excise vs. Chemphar Drugs & Liniments, (1989) 2 SCC 127** held that there must be positive act more than just a mere failure on part of a party to invoke the extended period. Reliance is also placed on the decision of **Pushpam Pharmaceuticals Pvt. Ltd. v. Collector of C. Ex. Bombay, [1995 (78) ELT 401 (SC)]** and case of **Continental Foundation v. CCE [2007 (216) ELT 177 (SC)]**.

h. The Noticee places reliance on the following judicial decisions in support of the contention that extended period cannot be invoked in cases involving interpretation of statutory provisions.

- a) *Biomax Life Sciences Ltd. v. CCE & ST, Hyderabad [2021 (375) E.L.T. 263 (Tri. – Hyd.)]*
- b) *Singh Brothers vs. Commissioner of Customs & Central Excise, Indore, [2009 (14) STR 552 (Tri.-Del.)];*
- c) *Steelcast Ltd. vs. Commissioner of Central Excise, Bhavnagar, [2009 (14) STR 129 (Tri.-Del.)];*
- d) *P.T. Education & Training Services Ltd. vs. Commissioner of Central Excise, Jaipur, [2009 (14) STR 34 (Tri.-Del.)]; and*
- e) *K.K. Appachan vs. Commissioner of Central Excise, Palakkad, [2007 (7) STR 230 (Tri.-Bang.)]*

i. While the decisions were rendered in the context of invocation of extended period, since the ingredients for invocation of extended period and Section 28AAA are identical, the above decisions are squarely applicable to the present case. Therefore, it is submitted that since none of the ingredients for invoking Section 28AAA are present, therefore the demand of duty must be dropped in its entirety.

j. Thus, from the above cited judicial decisions, it is apparent that when the scrips were valid on the date of their utilisation, the demand of duty subsequently, more so without cancellation of such scrips is invalid. Thus, the entire demand for differential duty ought to be set aside on this ground alone.

k. Further, the notice contested the liability of demand on interest and liable of goods for confiscation proposed under Section 111 of the Act

and they submitted that in an exemption notification is not observed, the goods imported claiming that exemption notification becomes liable to confiscation under Section 111(o) of the Customs Act. The Hon'ble Supreme Court analyzed the scope of this sub-section in the case of *Union of India vs. Sampat Raj Dugar*, 1992 (58) ELT 163 (S.C.). The notice opposed the proposal of imposition of penalties under Sections 112(a), 114AA, 114AB & 117 of the Customs Act.

l. In view of the above-cited decisions, it is submitted that the alleged violation, if at all, is with respect to a declaration made under an Annexure filed along with Form ANF – 3B, which in turn is issued under FTP. The FTP is governed by the FTDR Act, 1992. Thus, in the present case, the violation alleged is under one law, while the penalty proposed is under a wholly different law. Therefore, it is evidently clear that no penalty can be imposed on the Noticee under Section 114AA of the Customs Act. In support of the same, the notice have referred numerous case laws.

m. In view of their detailed submission, the notice prayed that the proposal to impose penalties on the Noticee must be dropped as none of the ingredients for the levy of penalty under any of the provisions of Customs Act are satisfied.

30. Further, Shri Sunil Sethiya and Ms. Lakshmi Swaminathan, both the directors and Chartered Accountant respectively of the notice firm i. e. M/s. Global Healthcare Billing Partners Pvt. Ltd. vide their submission dated 23.06.2025 have interalia stated same arguments as stated by their company. They both separately submitted that *in the present case, penalty under Section 112(a) is not imposable because the above mentioned conditions are not fulfilled. **The role of Co-Noticee pertains to SEIS benefits claimed for relevant services, not on imported goods. As penalty cannot be imposed when the issue is of interpretation and where the declaration by the Assessee is correct.*** The issue in the present case relates to the interpretation of competing entries of CPC and the Noticee Company has correctly declared of the relevant services. In this regard, it is submitted that there are various judgments wherein the judicial authorities have held that if there is a difference of opinion between the Assessee and the Department and the declaration by the Assessee is correct, then penalty cannot be imposed. In regard to the above, the Co-Noticee places reliance upon the case of *Bahar Agrochem & Feeds Pvt. Ltd vs. Commissioner of C. Ex., Pune*, 2012 (277) E.L.T. 382 (Tri- Mum). The co-noticees submitted that since the present case neither involves fraudulent

export of goods nor has there been any mala fides on the part of the Co-Noticee, no penalty can be imposed on the Co-Noticee under Section 114AA of the Customs Act.

31. Personal Hearing

During the course of Personal Hearing dated 24.09.2025, the learned advocate & authorized representative of M/s Global Healthcare Billing Partners Pvt Ltd; Shri Sunil Sethiya, Director and Laxmi Swaminathan, Director, Ms. Shobhana Krishnan reiterated their email submissions dated 23.06.2025 & 23.09.2025 and submitted that they have rightly classified their services under Accounting, Auditing & Book-keeping Services and have rightly claimed their SEIS Scrips. Further, she requested to drop the proceedings initiated against the above mentioned Noticees.

Further, when enquired by Hon'ble the Commissioner whether the Noticees had access to their service recipients' books of accounts or whether they have audited their company or do they have any Accounting Certificate issued by their service recipients to which the learned advocate & authorized representative, Ms. Shobhana Krishnan replied in negative.

32. DISCUSSION & FINDINGS:

I have carefully examined the Show Cause Notice (hereinafter "SCN") bearing F. No. GEN/ADJ/COMM/232/2024-Adjn-O/o Commr-Cus-Kandla dated 03.12.2024, the written submissions filed by the noticees dated 23.06.2025 and 23.09.2025, their further clarification email dated 18.11.2025 and the submissions made during the Personal Hearing conducted on 24.09.2025. I have also carefully considered all the documents, statements and evidence placed on record.

32.1 The SCN has been issued against nine noticees. The principal noticee is M/s Global Healthcare Billing Partners Pvt. Ltd. (hereinafter "**M/s Global Healthcare**" or "**the Company**"), having its registered office at 4th Floor, Imperia Building, Plot No. 8, Besides D-Mart, Sardar Nagar, Old Chhani Road, Vadodara, Gujarat-390002 (IEC No.3416900618). The co-noticees include Ms. Lakshmi Swaminathan, Director, and Shri Sunil Sethia, Chartered Accountant (ICAI Membership No.206699), both of M/s Global Healthcare, as well as eight importer entities — M/s Paradeep Phosphates Limited, M/s Shri Kamta Nath Edible Oils, M/s VKC Nuts Pvt. Ltd., M/s Tamil Naadu Edible Oils Pvt. Ltd., M/s Agarwal Oil Refinery, M/s Mahesh Oil

Industries, M/s Bari Udyog, and M/s MG Oils — who utilized the disputed SEIS duty credit scrips for payment of Customs duty on their respective imports.

32.2 The core allegation in the SCN is that M/s Global Healthcare is engaged in Revenue Cycle Management (RCM) / Medical Transcription / Medical Coding / Virtual Scribe services to healthcare providers (hospitals and physician groups) in the United States, Singapore, and Philippines. These services are rightly classifiable under CPC 865 (Management Consulting Services) of the Provisional Central Product Classification (CPC), which carries an SEIS reward entitlement of 3%/5% on net foreign exchange earned. However, M/s Global Healthcare, with the active assistance of its Director Ms. Lakshmi Swaminathan and its certifying Chartered Accountant Shri Sunil Sethia, wilfully misclassified these services as "Accounting, Auditing and Book Keeping Services" falling under CPC 862 in the ANF-3B applications filed before the DGFT. CPC 862 carries a higher entitlement of 5%/7%. This misclassification resulted in excess availment of SEIS duty credit scrips amounting to Rs. 3,67,21,494/- for financial years 2016-17 to 2018-19. The excess scrips so obtained were transferred to the eight importer noticees, who utilized them to pay Customs duty on their respective imported goods.

33. ISSUES FOR DETERMINATION

33.1 Having regard to the SCN, the replies filed and the submissions made at the Personal Hearing, the following issues arise for determination in these proceedings:

Issue I: Whether the services exported by M/s Global Healthcare are properly classifiable under CPC 862 (Accounting, Auditing and Book Keeping Services) as claimed by the noticee, or under CPC 865 (Management Consulting Services) as alleged by the Department?

Issue II: Whether M/s Global Healthcare obtained the SEIS duty credit scrips by wilful misstatement and/or suppression of facts so as to attract recovery under Section 28AAA of the Customs Act, 1962?

Issue III: Whether the payment of Rs.3,67,21,494/- made by M/s Global Healthcare, is liable to be appropriated towards the demand under Section 28AAA?

Issue IV: Whether the Customs demand is maintainable under Section 28AAA?

Issue V: Whether the goods imported by the eight importer noticees using the disputed SEIS scrips are liable for confiscation under Section 111(o) of the Customs Act, 1962 and whether penalties are imposable on them under Section 112(a) and/or Section 117?

Issue VI: Whether penalties are imposable on M/s Global Healthcare under Sections 114AA, 114AB, 112(a) and 117, and on Ms. Lakshmi Swaminathan and Shri Sunil Sethia under Sections 112(a) and 114AA of the Customs Act, 1962?

34. ISSUE I: CLASSIFICATION OF SERVICES — CPC 862 vs. CPC 865

34.1 The SEIS scheme under the Foreign Trade Policy 2015-2020 (FTP) operates on the basis of Central Product Classification (CPC) codes listed in Appendix 3D, notified by DGFT vide Public Notice No. 3/2015-20 dated 01.04.2015. The CPC is a hierarchical, exhaustive, and mutually exclusive classification system developed by the Statistical Office of the United Nations. Its mutual exclusivity is of fundamental importance: a given service may only be classified under one CPC category. The classification of services under the CPC is governed by the terms, scope and explanatory notes of the respective categories.

34.2 In Appendix 3D, the two rival CPC entries are:

(a) CPC 862 — Accounting, Auditing and Book Keeping Services [under Professional Services, Sector A]: carrying SEIS reward of 5%/7% of net foreign exchange earned (for the periods 01.04.2015 to 31.10.2017 and 01.11.2017 to 31.03.2019 respectively).

(b) CPC 865 — Management Consulting Services [under Other Business Services, Sector D]: carrying SEIS reward of 3%/5% of net foreign exchange earned for the corresponding periods.

34.3 The rate differential is thus 2% across both sub-periods. The Department's case is that M/s Global Healthcare, by falsely claiming CPC 862 instead of the correct CPC 865, obtained scrips at a 2% higher rate, resulting in an excess of Rs.3,67,21,494/- over the three financial years in question.

34.4 The classification exercise must begin with an identification of the actual nature of the services rendered. In this regard, I find that the record is largely undisputed.

34.4.1 First, the Master Service Agreement dated 01.03.2017 between M/s Global Healthcare and its principal client, TJ Medical Group L.L.C. (USA), as well as agreements with other overseas clients, describe the contracted services as "Revenue Cycle Management services". The Statement of Work annexed to these agreements enumerates the specific service activities as: Demographic Entry Services, Charge Entry Services, CPT Coding Services, Accounts Receivable Management Services, Accounts Receivable Calling Services, and Denial Management Services. None of these activities involves preparation of financial statements, audit of accounts, examination of accounting records, or attestation services — functions that are the hallmark of CPC 862.

34.4.2 Second, the financial statements filed by M/s Global Healthcare with the Ministry of Corporate Affairs (MCA) describe the company's principal business activities as "Medical Billing", "Claims Processing" etc. but not as accounting, auditing or book keeping. The company's own description of its business in statutory filings is a particularly reliable indicator of the nature of its services, as these disclosures are made for regulatory and compliance purposes without the ulterior motive of maximising an export incentive.

34.4.3 Third, the company's official website (<https://ghcbp.com/>) describes its primary activities as Revenue Cycle Management, Medical Coding, and Insurance Verification. Accounting, auditing, or book keeping services find no mention as a primary or even secondary business activity. The website further reveals that M/s Global Healthcare has operational facilities in Manila, Philippines, where such services are categorized under IT-BPM (IT-Business Process Management) — itself a sub-category of Management Services under the updated CPC.

34.4.4 Fourth, the statements recorded under Section 108 of the Customs Act, 1962 from the company's own Director Ms. Lakshmi Swaminathan (recorded on 10.01.2024) and its certifying Chartered Accountant Shri Sunil Sethia (recorded on 09.01.2024) are conclusive. Both deponents stated, unequivocally and under oath, that M/s Global Healthcare:

does NOT prepare journals, ledgers, trial balances, balance sheets or profit and loss accounts of its healthcare clients;

does NOT perform attestation, valuations, or preparation of proforma financial statements;

does NOT examine accounting records of its clients for the purpose of expressing an opinion on whether financial statements present a true and fair view;

does NOT conduct review services of annual or interim financial statements;

does NOT compile financial statements of its clients.

34.4.5 Director Ms. Lakshmi Swaminathan further admitted in her Section 108 statement that "insurance claim processing services are actually classifiable under Other Business Services (Services related to Management Consulting (866)) as per the nature of services rendered" and that "the misinterpreted classification resulted in excess avilment of SEIS scrips". She confirmed that the company had voluntarily started repaying the excess amount of Rs. 3,67,21,494/-. This admission by the director of the company, given under oath carries significant evidentiary value.

35. Having established the factual nature of the services, I now analyse the CPC explanatory notes for both rival entries.

CPC 862 — Accounting, Auditing and Book Keeping Services encompasses: examination services of accounting records to determine whether financial statements are fairly presented; review services of annual and interim financial statements; compilation of financial statements from information provided by the client; preparation of business tax returns; and recording of business transactions in terms of money or units of measurement in books of account (bookkeeping). The key defining feature of CPC 862 is professional engagement with the financial records and accounts of the client — creating, reviewing, auditing, or compiling those records.

CPC 865 — Management Consulting Services encompasses services that involve advising, guiding, and assisting organizations on management matters and operational questions, including management of the business operations and processes of the client organization for the purpose of improving performance. As per the CPC notes and ISIC Rev. 4 correlation, Business Process Management (BPM) and Business Process Outsourcing (BPO) services — wherein one entity undertakes the operational back-end processes of another's business (such as claims processing, billing, accounts receivable follow-up) — fall squarely within the ambit of management consulting and business support services, i.e., CPC 865.

35.1 The SCN correctly notes that under the ISIC Rev. 4 (with which the CPC correlates), "Business Support Service Activities" (ISIC 8291) are excluded from the accounting and auditing sector and fall within the management consultancy services sector. Revenue Cycle Management precisely constitutes such a business support service — it is the operational management of the entire financial workflow of a healthcare provider.

35.2 The distinction is critical and goes to the very essence of CPC classification. An accountant records, reviews, and attests to a client's financial transactions after they occur. M/s Global Healthcare, by contrast, operationally manages the process by which its healthcare clients generate and collect revenue— from patient demographic entry and appointment scheduling, through medical coding (assigning CPT codes to clinical procedures to generate insurance claims), to accounts receivable follow-up and denial management. These are business process management activities and the target beneficiary of the services is the client's revenue collection mechanism.

36. The noticee submits that the services it renders — demographic entry, charge entry, CPT coding, accounts receivable management, and denial management — constitute "bookkeeping services" and "other accounting services" within CPC 862, and that the Department has failed to discharge its burden of proving otherwise. I find these contentions wholly unpersuasive for the following reasons:

(i) The argument that "accounts receivable management" constitutes accounting: Accounts receivable management in the RCM context means following up with insurance companies and patients for collection of payments, not recording those receivables in a client's books of account. The distinction between managing the revenue collection process and maintaining accounting records is fundamental. The former is an operational business support function whereas the latter is a professional accounting service.

(ii) I also note that CPT (Current Procedural Terminology) coding is a clinical / medical activity that requires knowledge of human physiology and clinical procedures. The Director herself stated in her Section 108 statement that any life-science graduate with knowledge of human physiology who has passed the Certified Professional Coder (CPC) examination can perform this work. This is patently not an accounting qualification. The existence of financial flows downstream of the coding activity does not transform medical coding into an accounting service.

(iii) The noticee argues that reliance on updated CPC versions to reclassify services under Provisional CPC is unjustifiable. This argument is misplaced. The Department does not rely on later CPC versions to create a new classification; it relies on the well-established scope and explanatory notes of CPC 865 under the Provisional CPC itself — which encompassed business support services.

(iv) The argument that since DGFT issued scrips after scrutiny, the classification must be correct, conflates administrative issuance with substantive legitimacy. The ANF-3B form submitted to DGFT contains a declaration by the applicant that the particulars are true and correct. DGFT issues scrips primarily based on these declarations, supported by invoices and foreign remittance certificates (FIRC/BRC). Therefore, the issuance of scrips by DGFT is not a finding on the correctness of the CPC classification. It is an administrative act premised on the truthfulness of the applicant's declaration. Where that declaration is false, the scrip is invalidly obtained, and the question of correctness falls to be determined by the relevant authority on facts and law — as I am doing in these proceedings.

37. I, accordingly, answer Issue I in favour of the Department- the services exported by M/s Global Healthcare are classifiable under CPC 865, not CPC 862, and the excess SEIS reward of 2% availed by M/s Global Healthcare over the financial years 2016-17 to 2018-19 amounting to Rs. 3,67,21,494/- was not legitimately entitled to them.

38. ISSUE II: INVOCABILITY OF SECTION 28AAA- WILFUL MISSTATEMENT AND SUPPRESSION OF FACTS

38.1 Section 28AAA of the Customs Act, 1962 was introduced by the Finance Act, 2012 with retrospective effect to provide a specific mechanism for recovery of customs duty in cases where an "instrument" — defined in Explanation 1 to include any scrip, authorisation, licence, or certificate issued under the FTDR Act with respect to a reward scheme or duty exemption scheme — has been obtained by its holder by means of collusion, wilful misstatement, or suppression of facts, and such instrument has been utilised by a third party. The provision operates as a deeming fiction by stating that the duty relatable to such utilisation is deemed never to have been exempted, and is recoverable from the person to whom the instrument was issued.

38.2 An SEIS duty credit scrip issued by DGFT under the FTP falls within the definition of "instrument" under Explanation 1 to Section 28AAA. The

question, therefore, is whether the instrument was obtained by wilful misstatement and/or suppression of facts.

39. I hold that the following facts, establish wilful misstatement and suppression beyond doubt:

(i) M/s Global Healthcare classified its services under CPC 862 in the ANF-3B applications even though its contracts with clients, its MCA filings, and its own website all describe its business as Revenue Cycle Management and Medical Billing — none of which are accounting, auditing, or book keeping services. The company thus had actual knowledge of the true nature of its services at all material times.

(ii) In the ANF-3B form, the applicant is required to declare the sector-wise details of net foreign exchange earned from specified services and to certify that "nothing has been concealed or held therefrom" and that the information, if found incorrect, will render the applicant liable for penal action. M/s Global Healthcare made these declarations across many years (FY 2016-17, 2017-18, and 2018-19) claiming CPC 862. Each such declaration was a distinct act of misstatement.

(iii) The Director, Ms. Lakshmi Swaminathan, who signed the ANF-3B declarations, categorically admitted under oath that the company does not perform any of the activities that constitute CPC 862 services. She further admitted that the correct classification is under Other Business Services (CPC 866/865), and that the misclassification resulted in excess scrip availment. This admission debars any claim of genuine belief in the correctness of the CPC 862 classification at the time of applying.

(iv) The noticee's claim that it believed in good faith that its services fell under CPC 862 because "debtors management is an integral part of accounting and book keeping" is also belied by the Director's own candid admission. It is also belied by elementary logic that is if Revenue Cycle Management were truly an accounting service, the entire healthcare BPO and RCM industry would be classified as accountants.

(v) M/s Global Healthcare suppressed from DGFT the material fact that it had declared its entire export turnover as "Business Process Management Services" under Management Consultancy Services in its MCA filings, and that its service agreements with clients described the work as RCM — not accounting. Had these facts been disclosed, DGFT may not have issued scrips under CPC 862.

(vi) Significantly, when the noticee appeared for the Personal Hearing on 24.09.2025 and when I asked specifically whether it had access to its service recipients' books of accounts, or whether it had audited their company accounts, or whether it possessed any Accounting Certificate from service recipients, the answer to each of these my questions was an unequivocal 'no'. This confirms that as of the date of hearing — let alone at the time of filing the ANF-3B applications — the noticee had no basis whatsoever for claiming that its services constituted accounting, auditing or book keeping.

40. The noticee places heavy reliance on the submission that the matter involves only an interpretational question regarding competing CPC entries, and that a different classification view taken by the Department cannot amount to a wilful misstatement. Reliance is placed on several decisions holding that extended period of limitation cannot be invoked in cases of bonafide classification disputes.

40.1 I am unable to accept this submission. The "classification dispute" argument has force only when the classification adopted by the assessee represents a genuine and reasoned interpretation of the applicable legal provisions. It has no force when, as in the case of noticee :-

the assessee's own sworn statements (by both the Director and the CA) negate the very factual foundation for the classification claimed;

the assessee's own agreements, MCA filings, and website demonstrate that it knew, at all material times, that its services were not accounting or auditing services;

the assessee suppressed material facts (the true nature of services, the absence of access to client accounts, the MCA description of its business) from DGFT; and

there is a direct financial incentive for the misclassification — a 2% higher rate of scrip entitlement amounting to Rs.3,67,21,494/- across three financial years.

41. Accordingly, I answer Issue II in favour of the Department: M/s Global Healthcare obtained the SEIS duty credit scrips by wilful misstatement and suppression of facts. The ingredients of Section 28AAA are satisfied, and the duty relating to the utilisation of these scrips is deemed never to have been exempted.

42. ISSUE III: APPROPRIATION OF THE VOLUNTARY PAYMENT OF Rs.3,67,21,494/-.

42.1 A significant contention of M/s Global Healthcare is that it has paid Rs. 3,67,21,494/- through seven instalments over the period August 2022 to December 2023, and that the DGFT, by its communication dated 12.08.2024, noted this payment and stated that "no further action was required from DGFT". The noticee submits that the DGFT's communication effectively closes the matter and that the present SCN is consequently redundant and premature. I do not accept this submission, for the following reasons:

42.1.1 First, the DGFT's communication of 12.08.2024 does not purport to be a finding of non-liability, or a closure of Customs proceedings. It merely records that DGFT finds no further action required at its own end — i.e., from DGFT's perspective as the issuing authority. The letter explicitly states that "*no further action is required from DGFT. DRI authorities may initiated action at their end under Customs Act, 1962*". This is a plain referral of the matter to Customs jurisdiction. The DGFT's decision to forego cancellation proceedings at its end (presumably because the instrument had already been utilised and payment had been voluntarily made) does not extinguish the liability under the Customs Act, 1962, which is governed by Section 28AAA.

42.1.2 Second, Section 28AAA(2) requires recovery of interest in addition to the duty, calculated from the date of utilisation of the instrument till the date of recovery. The voluntary payment made by the noticee does not cover the interest component. The Customs proceedings are, therefore, to determine the interest liability.

42.1.3 Third, there is a conspicuous silence on the part of M/s Global Healthcare in the face of the DGFT's communication dated 12.08.2024. The noticee was specifically informed through the Custom's letter dated 03.12.2024 seeking confirmation of its stand, that the DGFT had concluded: (a) that the services of M/s Global Healthcare were classifiable under CPC 865 and not CPC 862; (b) that this misclassification had resulted in excess SEIS benefit; and (c) that no further action was required at DGFT's end, leaving further action to Customs. In other words, the DGFT — the very authority that had issued the scrips, that had conducted its own proceedings pursuant to a notice dated 12.03.2024, and that is the competent authority under the FTP and the FTDR Act, 1992 in respect of SEIS instruments — had returned a finding adverse to M/s Global Healthcare. One would reasonably expect a party that genuinely believed in the correctness of its CPC 862 classification — a classification it has contested with considerable vigour before this

adjudicating authority — to have immediately, upon learning of the DGFT’s adverse finding, addressed a representation or protest to the DGFT disputing that finding, with a copy marked to the Customs, so as to put the record straight and preserve its position. Commercial and legal prudence, and elementary fairness to the adjudicating authority, demanded nothing less. Yet the record reveals that M/s Global Healthcare took no such step. It filed no representation to the DGFT against the 12.08.2024 communication. It sent no copy of any protest to the Customs. It raised no objection before DGFT against the finding of misclassification. Its only response — vide its email dated 18.11.2025 to this adjudicating authority — was to reiterate its earlier submissions before this forum, as if the DGFT’s authoritative pronouncement on its own subject-matter simply did not exist. Therefore, to permit the noticee to accept the DGFT’s conclusion for the purpose of escaping further DGFT action, while simultaneously refusing to accept it for the purpose of resisting Customs proceedings, would be to permit it to approbate and reprobate at the same time — a course of conduct that equity and law alike prohibit. The doctrine against approbation and reprobation — that a party cannot blow hot and cold, or take inconsistent positions in proceedings before different authorities — is well established in jurisprudence. The Hon’ble Supreme Court, in *Pradeep Oil Corporation v. Municipal Corporation of Delhi*, (2011) 5 SCC 270, affirmed that a party cannot be permitted to take contradictory positions or to selectively accept or deny the legal or factual consequences of a finding to suit its own convenience. M/s Global Healthcare’s conduct in quietly accepting the DGFT’s classification finding — by neither challenging it before DGFT nor placing any challenge on the record of this proceeding — while simultaneously contesting the identical finding before this adjudicating authority, exemplifies precisely this impermissible stratagem.

42.1.4 Fourthly, the pattern of conduct reveals yet another inconsistency. M/s Global Healthcare commenced voluntary payments as far back as August 2022 — nearly two years before the DGFT issued its notice in March 2024 and a full two years before the DGFT’s adverse finding in August 2024. A party that genuinely believed its classification was correct would not commence voluntary payments of a sum as large as Rs. 3,67,21,494/- in seven instalments, spread over sixteen months, in the absence of any formal demand, adjudication order, or even a show cause notice from Customs compelling such payment. The claim that these payments were made only “to mitigate the risk of accumulating interest” on a demand considered unjustified is commercially implausible. If the demand were truly unjustified, the rational course would have been to contest it at every stage — before DGFT, before Customs, and if

necessary before higher authorities — rather than quietly pay it in full and then disavow the legal consequences.

42.5 Accordingly, I answer Issue III as follows: the payment of Rs. 3,67,21,494/- by M/s Global Healthcare is liable to be appropriated towards the demand raised in the SCN under Section 28AAA. The DGFT's communication dated 12.08.2024 does not extinguish the Customs proceedings.

43. ISSUE IV: WHETHER DEMAND IS MAINTAINABLE UNDER SECTION 28(AAA).

43.1 The noticee relies heavily on the decisions of the Hon'ble Gujarat High Court in *CC v. Indian Acrylics Ltd.* [2016 (336) ELT 474 (Guj.)] and of the Hon'ble Tribunal in *Khanna Paper Mills Ltd. v. CC, Amritsar* [2011 (273) ELT 149 (Tri.-Del.)] to contend that in the absence of cancellation of the scrips by DGFT, the Customs authorities cannot demand duty and therefore the present SCN is premature.

I reject this contention for the following reasons, both on facts and on the specific statutory framework of Section 28AAA:

43.1.1 First, the decisions in *Indian Acrylics* and *Khanna Paper Mills* were rendered in the context of MEIS and Advance Licence scrips under the pre-2012 legal framework, before Section 28AAA was introduced or had come into operation. Section 28AAA was inserted by the Finance Act 2012 with effect from 28.05.2012, specifically to address recovery of duty in cases where instruments have been fraudulently obtained.

43.1.2 Second, the Proviso to Section 28AAA(1) explicitly states that "the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28." The use of the phrase "without prejudice" and the grant of parallel jurisdiction to proceed against both the instrument holder and the importer confirm that Section 28AAA operates as an independent track of recovery, not one contingent on DGFT action.

43.1.3 Third, the entire purpose of Section 28AAA would be defeated, in many cases — particularly where the scrip has already been fully utilised and the duty debited — where DGFT cancellation becomes a technical impossibility. The Legislature clearly perhaps did not intend such an outcome.

43.1.4 Fourth, in the present case, the DGFT has itself explicitly referred the matter to Customs for further action in its communication dated 12.08.2024. The DGFT has, in effect, has passed the baton to Customs.

43.1.5 Accordingly, I answer Issue IV in favour of the Department.

44. ISSUE V: LIABILITY OF THE EIGHT IMPORTER NOTICEES — CONFISCATION AND PENALTY

44.1 The eight importer noticees — M/s Paradeep Phosphates Limited, M/s Shri Kamta Nath Edible Oils, M/s VKC Nuts Pvt. Ltd., M/s Tamil Naadu Edible Oils Pvt. Ltd., M/s Agarwal Oil Refinery, M/s Mahesh Oil Industries, M/s Bari Udyog, and M/s MG Oils — purchased the disputed SEIS scrips from M/s Global Healthcare in the open market and utilized them for payment of Customs duty on their respective imports through various ports (Kandla, Paradip, Mundra, JNPT, etc.) during August-September 2019. The details of the Bills of Entry, ports, and proportionate assessable values are as set out in Table IV of the SCN.

44.2 The liability of these noticees falls to be determined under Section 111(o) read with Section 112(a) of the Customs Act, 1962, as well as Section 117 thereof. Section 111(o) renders liable to confiscation "any goods exempted, subject to any condition, from duty or any prohibition ... in respect of which the condition is not observed, unless the non-observance of the condition was sanctioned by the proper officer." The exemption availed by these importers was under Notification No. 25/2015-Cus. dated 08.04.2015, which conditionally exempts goods imported against a valid SEIS scrip issued to a service provider for export of notified services under Appendix 3D. The fundamental condition of the exemption notification is that the scrip must be issued against export of a notified service. Since M/s Global Healthcare was exporting services classifiable under CPC 865 (which carries only a 3%/5% entitlement) and not CPC 862 (which carries a 5%/7% entitlement), the excess portion of each scrip — representing the additional 2% — was never legitimately issued and is invalid ab initio to the extent of the excess. The duty exemption availed by the importer noticees on the basis of this excess is therefore in violation of the conditions of the exemption notification. Consequently, the goods imported against the excess portion of the scrips are liable to confiscation under Section 111(o) of the Customs Act, 1962.

44.3 Section 112(a) renders liable to penalty any person who, in relation to any goods, does or omits to do any act which would render the goods liable to confiscation under Section 111. The importer noticees, by presenting and

utilizing scrips that were not validly issued for the full face value claimed, have rendered the imported goods liable to confiscation. Their act of availing the exemption notification through the use of a fraudulently obtained instrument directly attracted confiscability.

44.3.1 I also note the authoritative pronouncement of the Hon'ble Supreme Court in *Chairman, SEBI v. Shri Ram Mutual Fund*, (2006) 5 SCC 361, wherein it was held that penalty is attracted as soon as the contravention of the statutory obligation is established, and the intention or mens rea of the party becomes irrelevant when the penalty is in the nature of a civil obligation. The importer noticees, whether or not they had subjective knowledge of the deficiency in the scrips, have objectively violated the conditions of the exemption notification and thereby attracted penalty under Section 112(a).

44.3.2 I also draw support from the Hon'ble Supreme Court's decisions in *M/s Pine Chemical Suppliers v. Collector of Customs*, (1993) 67 ELT 25 (SC) and *M/s Varsha Plastics Pvt. Ltd. v. Union of India*, (2009) 235 ELT 193 (SC), both of which affirm that once goods are rendered liable to confiscation, penalty under Section 112 is attracted.

44.4 In addition to the Section 112(a) penalty, the importer noticees have abetted the contravention of the provisions of the FTDR Act, 1992 and the FTP by knowingly availing an exemption notification premised on an instrument whose invalidity (or at least the risk of invalidity) flows from the conduct of the transferor. Section 117 provides for a penalty for contravention of the provisions of the Customs Act or any abetment of such contravention. The importer noticees' use of the suspect scrips for paying Customs duty, without conducting basic due diligence regarding the validity of the classification underlying the scrips, renders them liable to a penalty under Section 117 as well.

45. ISSUE VI: PENALTIES ON M/s GLOBAL HEALTHCARE, MS. LAKSHMI SWAMINATHAN, AND SHRI SUNIL SETHIA

45.1 Section 114AA imposes a penalty on any person who "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." The ANF-3B declarations filed by M/s Global Healthcare before DGFT, which falsely declared CPC 862 as the classification of its services, were directly used to obtain SEIS scrips that were then utilised to discharge Customs duty — clearly constituting a "transaction of any business" for the purposes of the

Customs Act. Each application was a declaration that was false in a material particular (the CPC classification, which directly determined the rate of entitlement). Given my finding that this misclassification was wilful, M/s Global Healthcare is liable to penalty under Section 114AA.

45.2 Section 114AB provides for a penalty not exceeding the face value of the instrument on any person who has obtained an instrument by fraud, collusion, wilful misstatement or suppression of facts, and such instrument has been utilised by that person or any other person for discharging duty. I have found that M/s Global Healthcare obtained the SEIS scrips by wilful misstatement and suppression of facts. The scrips were transferred to and utilised by the importer noticees for discharging Customs duty. All the ingredients of Section 114AB are therefore satisfied.

45.3 M/s Global Healthcare, as the transferor of the invalidly obtained scrips, has, through its act of transferring those scrips to the importers, caused the imported goods to become liable for confiscation under Section 111(o). Section 112(a) covers not only direct importers but any person who, in relation to any goods, does any act that would render those goods liable to confiscation. The transfer of a fraudulently obtained instrument, knowing that it would be used to claim an exemption on imported goods, clearly constitutes such an act.

45.4 M/s Global Healthcare has contravened the provisions of the FTDR Act, 1992 and the FTP by falsely representing the nature of its services to obtain SEIS scrips to which it was not fully entitled. This contravention of the statutory framework governing the SEIS scheme attracts penalty under Section 117 of the Customs Act in addition to the penalties under the other specific provisions.

46. Ms. Lakshmi Swaminathan was the Director of M/s Global Healthcare who signed the ANF-3B declarations and Annexures filed before DGFT. These declarations falsely stated that the services exported by the company were classifiable under CPC 862. She is the person who made the false declaration on behalf of the company. As established by her own Section 108 statement, she was fully aware of the true nature of the services and yet certified the applications with the wrong CPC classification. Her role is not that of a bystander as she was the directing mind behind the filings. She is liable for penalty under Section 112(a) for her role in causing the importers' goods to become confiscable, and under Section 114AA for knowingly signing the false declarations.

47. Shri Sunil Sethia, as the certifying Chartered Accountant for the SEIS applications, was mandated by the statutory scheme to verify and certify the correctness of the information contained in the ANF-3B forms. His certification gave the applications a veneer of professional authentication and induced the DGFT to act on them. In his Section 108 statement, Shri Sunil Sethia himself confirmed that M/s Global Healthcare does not perform the activities constituting CPC 862 services — yet he certified the claims under that classification. Thus, his certification assisted M/s Global Healthcare in obtaining scrips by misstatement and suppression. By certifying that the applications did not include any earnings from ineligible services, Shri Sunil Sethia made a statement that was false in a material particular. His conduct squarely falls within Section 114AA (for causing to be used a false declaration in a transaction for the purposes of the Customs Act) and Section 112(a) (for abetting the acts that rendered the importers' goods confiscable). The argument that penalty is inapplicable because the issue is one of classification interpretation is rejected for the same reasons set out in Part IV(D) above.

47.1 The noticees' reliance on *Bahar Agrochem & Feeds Pvt. Ltd. v. Commissioner of Central Excise, Pune* [2012 (277) ELT 382 (Tri.-Mum.)] and kindred decisions does not assist them. Those decisions were rendered in contexts where the assessee's classification was genuinely tenable. In the present case, the assessee's own Director and its own CA have, under oath, confirmed that the CPC 862 classification was incorrect.

48. On the basis of the foregoing findings, I now deal with the quantum of duty recoverable and the appropriation of the amounts already paid. The excess SEIS scrip benefit availed by M/s Global Healthcare on account of the misclassification of its services under CPC 862 instead of CPC 865, computed on the basis of net foreign exchange earnings for the three financial years (2016-17, 2017-18, and 2018-19), along with the applicable rate differentials and late cut fee amounts, and translated into Indian Rupees at the rates adopted in the ANF-3B applications, amounts to Rs. 3,67,21,494/-. The detailed calculation, as set out in Table in Para 17 of the SCN and which I accept and confirm, is as follows:

FY 2016-17: Net FX earned USD 47,27,788.21; Excess scrip in USD 85,100.19; at exchange rate Rs. 64.50 = Rs. 54,88,962/-
FY 2017-18: (Apr-Oct 2017): Net FX USD 69,70,401.76; Excess scrip USD 1,36,619.86; at Rs. 64.15 = Rs. 87,64,165/-
FY 2017-18: (Nov 2017-Mar 2018): Net FX USD 46,05,064.00; Excess scrip USD 90,259.25; at Rs. 64.15 = Rs. 57,90,132/-

FY 2018-19: Net FX USD 1,22,00,611.00; Excess scrip USD 2,44,012.20;
at Rs. 68.35 = Rs. 1,66,78,235/-

Total: Rs. 3,67,21,494/-

48.1 M/s Global Healthcare has paid the entire principal amount of Rs. 3,67,21,494/- in seven instalments between August 2022 and December 2023 (as detailed in para 21(b) of the SCN). This payment is appropriated in full against the principal demand of Rs. 3,67,21,494/-.

48.2 Under Section 28AAA(2), interest at the rate fixed under Section 28AA is payable in addition to the duty, calculated for the period beginning from the date of utilisation of each instrument till the date of recovery. Since the SEIS scrips were utilized commencing August 2019, and the payments were made in tranches from August 2022 through December 2023, interest has accrued on each component of the duty for the period from utilisation to the respective payment dates. The interest is required to be determined and demanded accordingly.

49. Accordingly, I pass the following order:-

ORDER

(a) In respect of **M/s Global Healthcare Billing Partners Pvt. Ltd.** situated at 4th Floor, Imperia Building, Plot No.8 Besides D-Mart, Sardar Nagar, Old Chhani Road, Vadodara, Gujarat-390002-

(i) Customs Duties of **Rs.3,67,21,494/-** [Rupees Three Crores Sixty Seven Lakh Twenty One Thousand Four Hundred and Ninety Four only] is confirmed and I order to recover the same from them under **Section 28AAA** of the Customs Act, 1962 read with FTP, as discussed here-in-above;

(ii) As mentioned in the letter dated 12.08.2025 of the DGFT, I hereby appropriate an amount of **Rs.3,67,21,494/-** [Rupees Three Crores Sixty Seven Lakh Twenty One Thousand Four Hundred and Ninety Four only] paid by M/s Global Healthcare Billing Partners Pvt Ltd. towards the Customs Duty mentioned at (i) above.

(iii) Interest, as applicable under section 28AA of the Customs Act, 1962, as demanded in the SCN on the Customs Duties mentioned at (i) above is hereby confirmed and I order to recover the same from them under Section

28AA of the Customs Act, 1962;

(iv) I hereby impose the penalty of **Rs.50,00,000/-** under Section 114AA ibid on M/s Global Healthcare Billing Partners Pvt Ltd for making wrong declarations of the services in ANF-3B Form, for the purpose of availing excess scrip benefit and order to recover the same from them;

(v) I hereby impose the penalty of **Rs.50,00,000/-** under Section 114AB ibid on M/s Global Healthcare Billing Partners Pvt Ltd for irregular availment of scrips by fraud, collusion, wilful misstatement or suppression of facts and selling such scrips to Importers for utilization towards discharging their duty and order to recover the same from them;

(vi) I hereby impose the penalty of **Rs.25,00,000/-** under Section 112(a) of Customs Act on Global Healthcare Billing Partners Pvt Ltd and order to recover the same from them;

(vii) I hereby impose the penalty of **Rs.1,00,000/-** under Section 117 of Customs Act on Global Healthcare Billing Partners Pvt Ltd order to recover the same from them;

(viii).(i) I hereby impose the penalty of **Rs.10,00,000/-** under Section 112(a) of Customs Act and the penalty of **Rs.10,00,000/-** under Section 114AA of Customs Act on **Ms. Lakshmi Swaminathan, Director** of Global Healthcare Billing Partners Pvt Ltd and order to recover the same from them;

(viii).(ii) I hereby impose the penalty of **Rs.10,00,000/-** under Section 112(a) of Customs Act and the penalty of **Rs.10,00,000/-** under Section 114AA of Customs Act on **Shri Sunil Sethia, Chartered Accountant** of Global Healthcare Billing Partners Pvt Ltd and order to recover the same from them;

b. I hereby hold to liable for confiscation, the imported goods of proportionate assessable value of Rs.64,85,77,466/- under Section 111(o) of the Customs Act, 1962. However, since the goods are not available for physical confiscation, I impose redemption fine of **Rs.50,00,000/-** in lieu of confiscation under Section 125 and penalty of **Rs.5,00,000/-** under Section 112(a) and penalty of **Rs.1,00,000/-** under Section 117 of the Customs Act on **M/s PARADEEP PHOSPHATES LTD.,** Odisha.

c. I hereby hold to liable for confiscation, the imported goods of proportionate assessable value of Rs.96,32,874/- under Section 111(o) of the Customs Act, 1962. However, since the goods are not available for physical confiscation, I impose redemption fine of **Rs.1,00,000/-** in lieu of confiscation under Section 125 and penalty of **Rs.10,000/-** under Section 112(a) and penalty of **Rs.5,000/-** under Section 117 of the Customs Act on **M/s Shri Kamta Nath Edible Oils, Agra, U.P.**

d. I hereby hold to liable for confiscation, the imported goods of proportionate assessable value of **Rs.2,36,25,462/-** under Section 111(o) of the Customs Act, 1962. However, since the goods are not available for physical confiscation, I impose redemption fine of **Rs.2,50,000/-** in lieu of confiscation under Section 125 and penalty of **Rs.50,000/-** under Section 112(a) and penalty of **Rs.50,000/-** under Section 117 of the Customs Act on **M/s VKC Nuts Pvt Ltd**, D-63, Sector A-2, Tronica City, Industrial Area Loni, Ghaziabad, Uttar Pradesh.

e. I hereby hold to liable for confiscation, the imported goods of proportionate assessable value of **Rs.2,59,73,971/-** under Section 111(o) of the Customs Act, 1962. However, since the goods are not available for physical confiscation, I impose redemption fine of **Rs.2,50,000/-** in lieu of confiscation under Section 125 and penalty of **Rs.50,000/-** under Section 112(a) and penalty of **Rs.50,000/-** under Section 117 of the Customs Act on **M/s Tamil Naadu Edible Oils Pvt Ltd**, J-14/7, Newno-84/7, IIIrd Floor, IIIrd Avenue, Anna Nagar East, Chennai, Tamilnadu-600102.

f. I hereby hold to liable for confiscation, the imported goods of proportionate assessable value of **Rs.4,81,18,979/-** under Section 111(o) of the Customs Act, 1962. However, since the goods are not available for physical confiscation, I impose redemption fine of **Rs.5,00,000/-** in lieu of confiscation under Section 125 and penalty of **Rs.1,00,000/-** under Section 112(a) and penalty of **Rs.50,000/-** under Section 117 of the Customs Act on **M/s Agarwal Oil Refiner**, Near Industrial Area Revenue, Village Changeri, Fatehnagar Teh., Mavli, Udaipur, Rajasthan-313205.

g. I hereby hold to liable for confiscation, the imported goods of proportionate assessable value of **Rs.5,15,38,037/-** under Section 111(o) of the Customs Act, 1962. However, since the goods are not available for physical confiscation, I impose redemption fine of **Rs.5,00,000/-** in lieu of confiscation under Section 125 and penalty of **Rs.1,00,000/-** under Section 112(a) and penalty of **Rs.50,000/-** under Section 117 of the Customs Act on

M/s Mahesh Oil Industries, Plot No.1, Survey No.84, Vill. Ajapat, Tal. Anjar, Kutch, Gujarat- 370110.

h. I hereby hold to liable for confiscation, the imported goods of proportionate assessable value of **Rs.2,51,50,546** /- under Section 111(o) of the Customs Act, 1962. However, since the goods are not available for physical confiscation, I impose redemption fine of **Rs.2,50,000/-** in lieu of confiscation under Section 125 and penalty of **Rs.50,000/-** under Section 112(a) and penalty of **Rs.50,000/-** under Section 117 of the Customs Act on **M/s Bari Udyog**, 21, Industrial Area, A.B. Road., Morena (M.P)- 476001;

i. I hereby hold to liable for confiscation, the imported goods of proportionate assessable value of **Rs.1,76,42,864/-** under Section 111(o) of the Customs Act, 1962. However, since the goods are not available for physical confiscation, I impose redemption fine of **Rs.1,50,000/-** in lieu of confiscation under Section 125 and penalty of **Rs.50,000/-** under Section 112(a) and penalty of **Rs.50,000/-** under Section 117 of the Customs Act on **M/s MG Oils**, 47, Ramkrishna Ganj, Ghaspura, Khandwa, Madhya Pradesh- 450001;

(Nitin Saini)
Commissioner of Customs,
Custom House Kandla

F. No. GEN/ADJ/COMM/232/2024-Adjn-O/o Commr-Cus-Kandla

DIN: 20260571ML000000CCA4

To:- the notice/Co-noticee

- 1) M/s Global Healthcare Billing Partners Pvt Ltd, 4th Floor, Imperia Building, Plot No.8 Besides D-Mart, Sardar Nagar, Old Chhani Road, Vadodara, Gujarat-390002 & M/s Global Healthcare Billing Partners Pvt Ltd, RVI Towers, 7th Floor, No -149, Velachery Tambaram Main Road, Pallikaranai, Chennai – 600 100, Tamil Nadu, India.
- 2) M/s PARADEEP PHOSPHATES LTD, PPL Township, Paradeep, Odisha, India – 754145.
- 3) M/s Shri Kamta Nath Edible Oils, Plot No.15 Druv Nagar, Pachimpuri,

- Shastripuram, Agra, Uttar Pradesh-282007.
- 4) M/s VKC Nuts Pvt Ltd, D-63, Sector A-2, Tronica City, Industrial Area Loni, Ghaziabad, Uttar Pradesh -
 - 5) M/s Tamil Naadu Edible Oils Pvt Ltd, J-14/7, Newno-84/7, IIIrd Floor, IIIrd Avenue, Anna Nagar East, Chennai, Tamilnadu-600102
 - 6) M/s Agarwal Oil Refiner, Near Industrial Area Revenue, Village Changeri, Fatehnagar Teh., Mavli, Udaipur, Rajasthan-313205
 - 7) M/s Mahesh Oil Industries, Plot No.1, Survey No.84, Vill. Ajapat, Tal. Anjar, Kutch, Gujarat- 370110
 - 8) M/s Bari Udyog, 21, Industrial Area, A.B. Road., Morena (M.P)- 476001
 - 9) M/s MG Oils, 47, Ramkrishna Ganj, Ghaspura, Khandwa, Madhya Pradesh-450001

Copy to:-

- 1) The Joint Development Commissioner, O/o the Zonal DGFT, 4th Floor, Shastri Bhawan, Annexe 26, Haddows Road, Chennai-600006.
- 2) The Additional Commissioner (CCO), Customs, Ahmedabad Zone, Ahmedabad
- 3) The Additional Director General, DRI, Hyderabad Zonal Unit, H.No.10-2-289/57/1 &2, Suryavanshi Residency, II Cross Road, Shanthinagar, Masab Tank, Hyderabad - 500028.
- 3) The Deputy / Assistant Director, CEIB, New Delhi.
- 4) The Asst Commr. (EDI), Customs Kandla for uploading on the website.
- 5) The Asst Commr. (TRC), Customs Kandla for necessary action.