

Adjn



**OFFICE OF THE PRINCIPAL COMMISSIONER  
OF CUSTOMS**  
**CUSTOMS HOUSE, MUNDRA, KUTCH-  
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<b>A</b>	<b>FILE NO./फ़ाइल संख्या</b>	GEN/ADJ/ADC/1962/2025-Adjn
<b>B</b>	<b>OIO NO./आदेश संख्या</b>	MCH/ADC/ZDC/403/2025-26 dated 27.11.2025
<b>C</b>	<b>PASSED BY/जारीकर्ता</b>	DIPAK ZALA, ADDITIONAL COMMISSIONER, CUSTOM HOUSE, MUNDRA.
<b>D</b>	<b>DATE OF ORDER/आदेश की तारीख</b>	27.11.2025
<b>E</b>	<b>DATE OF ISSUE/जारी करने की तिथि</b>	27.11.2025
<b>F</b>	<b>SCN No. &amp; Date/कारण बताओ नोटिस क्रमांक</b>	SCN Waived as per Importer's request
<b>G</b>	<b>NOTICEE/ PARTY/ IMPORTER</b> नोटिसकर्ता/पार्टी/आयातक	Shri Harihar Maharaj Charitable Trust IEC Code: 0810017083
<b>H</b>	<b>DIN/दस्तावेज़ पहचान संख्या</b>	20251171MO0000777C40

1. यह आदेश संबंधित को निःशुल्क प्रदान किया जाता है।
2. This Order - in - Original is granted to the concerned free of charge.
3. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
4. Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

**“सीमाशुल्क आयुक्त (अपील),  
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,  
नवरंगपुरा, अहमदाबाद 380 009”**

**“THE COMMISSIONER OF CUSTOMS (APPEALS),  
HAVING HIS OFFICE AT 4<sup>TH</sup> FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,  
NAVRANGPURA, AHMEDABAD-380 009.”**

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

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

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

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

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

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

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

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

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

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

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

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

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

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### **BRIEF FACTS OF THE CASE**

1. Shri Harihar Maharaj Charitable Trust, No. 1, K D Hospital, SGVP Circle, Sardar SG Highway, Ahmedabad-382421, IEC Code: 0810017083 (hereinafter referred to as 'M/s. Harihar Maharaj' or 'the importer') is running KD Hospital engaged in providing healthcare services.

**2.** Whereas, specific intelligence gathered by the officers of Directorate of Revenue Intelligence, Nellore Sub Regional Unit, Hyderabad Zonal Unit (hereinafter referred to as DRI) indicated that M/s Harihar Maharaj had imported goods with description “Elekta Versa HD Digital Linear Accelerator” and “Flexitron HDR 10 Channel Brachytherapy System” under CTI 9022 1490 by claiming ineligible benefit under entry No. 563A of Notification No. 50/2017-Customs as amended and paid Basic Customs Duty @7.5% instead of Standard Basic Customs Duty @15%. Accordingly, investigation was initiated by DRI.

**3.** M/s. Harihar Maharaj had imported the following goods under Bill of Entry No. 9458079 dated 12.04.2025 through Mundra SEZ Port, Mundra (INMUN1). The details are as under:-

Sl. No.	Description of goods and Port of Import	Classification adopted	Value in Rs.	Rate of duty (BCD) paid	Name of the supplier	Remarks
01	Elekta Versa HD Digital Linear Accelerator	9022 1490	13,81,76,535	7.5%	Elekta Solution s AB, Sweden	The importer paid <a href="#">BCD@7.5%</a> By availing benefit under
02	Flexitron HDR 10 Channel Brachytherapy System	9022 1490	1,36,33,265	7.5%		entry No. 563A of Notification No. 50/2017-Customs dated 30.06.17.

**4.** Heading 9022 is furnished below:

9022	APPARATUS BASED ON THE USE OF X-RAYS OR OF ALPHA, BETA, GAMMA OR OTHER IONISING RADIATIONS, WHETHER OR NOT FOR MEDICAL, SURGICAL, DENTAL OR VETERINARY USES, INCLUDING RADIOGRAPHY OR RADIOTHERAPY APPARATUS,X-RAY TUBES AND OTHER X-RAY GENERATORS, HIGH TENSION GENERATORS, CONTROL PANELS AND DESKS, SCREENS, EXAMINATION OR TREATMENT TABLES,	
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	CHAIRS AND THE LIKE	
	- Apparatus based on the use of X-rays, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus :	
90221200	-- Computed tomography apparatus	10%
90221300	-- Other, for dental uses	10%
902214	-- Other, for medical, surgical or veterinary uses :	
90221410	--- X-ray generators and apparatus (non-portable)	15%
90221420	--- Portable X-ray machine	15%
90221490	--- Other	15%

From the above, it is noticed that 'Apparatus based on the use of x-rays' for medical, surgical or veterinary uses falls under sub-heading 902214.

**5.** From the information available in the website of Technology Development Board, Department of Science & Technology, medical linear accelerator (LINAC) is described as under:

*A medical linear accelerator (LINAC) machine is most commonly used for external beam radiation treatments for patients with cancer. It delivers high-energy x-rays or electrons to the region of the patient's tumor. The product is an improved version of existing products in the market. These treatments can be designed in such a way that they destroy the cancer cells while sparing the surrounding normal tissue. The LINAC is used to treat all body sites, using conventional techniques, Intensity Modulated Radiation Therapy (IMRT), Volumetric Modulated Arc Therapy (VMAT), Image Guided Radiation Therapy (IGRT), Stereotactic Radiosurgery (SRS) and Stereotactic Body Radiotherapy (SBRT).*

**6.** Information available on open platform at site [radiologyinfo.org](http://radiologyinfo.org), medical linear accelerator (LINAC) is described as under:

*A medical linear accelerator (LINAC) machine is the device most commonly used for external beam radiation treatments for patients with cancer. It delivers high-energy x-rays or electrons to the region of*

*the patient's tumor. These treatments can be designed in such a way that they destroy the cancer cells while sparing the surrounding normal tissue. The LINAC is used to treat all body sites, using conventional techniques, Intensity Modulated Radiation Therapy (IMRT), Volumetric Modulated Arc Therapy (VMAT), Image Guided Radiation Therapy (IGRT), Stereotactic Radiosurgery (SRS) and Stereotactic Body Radiotherapy (SBRT).*

*The linear accelerator uses microwave technology (similar to that used for radar) to accelerate electrons in a part of the accelerator called the "wave guide," then allows these electrons to collide with a heavy metal target to produce high-energy x-rays. These high energy x-rays are shaped as they exit the machine to conform to the shape of the patient's tumor and the customized beam is directed to the patient's tumor. The beam is usually shaped by a multi leaf collimator that is incorporated into the head of the machine. The patient lies on a moveable treatment couch and lasers are used to make sure the patient is in the proper position. The treatment couch can move in many directions including up, down, right, left, in and out. The beam comes out of a part of the accelerator called a gantry, which can be rotated around the patient. Radiation can be delivered to the tumor from many angles by rotating the gantry and moving the treatment couch.*

**7.** From the above, it appears that the item 'Elekta Versa HD Digital Linear Accelerator' is an apparatus based on the use of X-rays. Hence, the appropriate classification for the said item is 9022 14. Its primary function is not generation of x-rays. It is used for image guided therapy solution. Accordingly, it cannot be termed as X-ray generators or apparatus and hence does not fall under 9022 1410. As the said item is not portable, it cannot be classified under 9022 1420 either. Hence, the appropriate classification for "Elekta Versa HD Digital Linear Accelerator" is CTI 9022 1490. It is seen from the Bill of Entry that M/s. Harihar Maharaj classified the items "Elekta Versa HD Digital Linear Accelerator" and "Flexitron HDR 10 Channel Brachytherapy System" under CTI 9022 1490.

**8.** From the Bill of Entry, it is observed that the importer availed the benefit of exemption under entry No. 563A No. of Notification No. 50/2017-Customs dated 30.06.2017 which is mentioned below:

Sl. No.	HSN Code	Description of good	Duty
563A	9018 90	All goods, other than the following, -	7.5%

99 or 9022 (except 9022 90 10 or 9022 90 30	X-ray machines for medical, surgical, dental or veterinary use (9022 14 20 or 9022 14 90); The following goods for use in manufacture of goods mentioned at (i) above, namely: - Static User Interface (9018 90 99); X-Ray Diagnostic Table (9022 90 40); Vertical Bucky (9022 90 90); X-Ray Tube Suspension (9022 90 90); High Frequency X Ray Generator (>25KHz) (9022 14 10); X-Ray Grid (9022 90 90); Multi Leaf Collimator/ Iris (9022 29 00 or 9022 90 90). [(h) Flat Panel Detector, including Scintillators (9022 90 90); X-ray Tube (9022 30 00)	
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It is clear from the above that exemption is not available to X-ray machines falling under CTI 9022 1490. As the importer classified the items viz. “Elekta Versa HD Digital Linear Accelerator” and “Flexitron HDR 10 Channel Brachytherapy System” under CTI 9022 1490, they are not eligible to claim the benefit of exemption and are liable to pay standard Tariff rate @15%.

**9.** From the foregoing, it appears that the importer has wrongly availed the benefit of exemption under Notification No. 50/2017-Customs (Sl. No. 563A) and paid **BCD@7.5%** instead of 15% on import of the impugned goods.

**10.** Further, M/s. Harihar Maharaj are liable to pay IGST @12% as the imported items fall under Sl. No. 222 of Schedule-II of Notification No. 50/2017-IGST Rate dated 30.06.2017 which is furnished below:

#### **Schedule-II- IGST-12%**

Sl. No	Tariff Item	Description of the goods
222	9022	Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examinations or treatment tables, chairs and the light

A letter dated 13.06.2025 issued by DRI to importer wherein asked to submit the reasons for availing the exemption under entry No. 563A No. of Notification No. 50/2017-Customs. In response, Importer i.e. M/s. Harihar Maharaj vide email dated 20.06.2025 submitted that they accept the department's interpretation and there was no malafide intention in availing the exemption and they are prepared to pay the differential duty along with applicable interest as per the provisions of Customs Act.

**11.** It is noticed that at the time of filing Bill of Entry, M/s. Harihar Maharaj short-paid BCD@7.5% instead of 15% and paid IGST @18% instead of 12%. After the issue has been raised by DRI, they filed for re-assessment of Bill of Entry for payment of BCD@15% and IGST@12% instead of 18% on import of the two items viz. "Elekta Versa HD Digital Linear Accelerator" and "Flexitron HDR 10 Channel Brachytherapy System". Assessable Value and duty liability are tabulated below:

Sl No	Name of the item	Assessable Value
1	Elekta Versa HD Linear Accelerator with accessories	13,81,76,535
2	Flexitron HDR 10 Channel Brachytherapy System	1,36,33,265
	Total	15,18,09,800

Sl. No.	Name	Duty paid while filing original BE (BCD-7.5% & IGST@18%) (Rs.)	Duty paid at the time of re-assessment (BCD-15% & IGST@12%) (Rs.)	Duty short- paid (Rs.)
1	Assessable Value	15,18,09,800	15,18,09,800	
2	BCD	1,13,85,735	2,27,71,470	1,13,85,735
3	Health Cess	75,90,490	75,90,490	0
4	SWS	18,97,623	30,36,196	11,38,573
5	IGST	3,10,83,057	2,22,24,955	-88,58,102

Total duty (2+3+4+5)	5,19,56,905	5,56,23,111	36,66,206
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**12.** M/s. Harihar Maharaj vide letter dated 17.07.2025 informed that they paid the differential Customs duty along with interest vide Challan Number 2055793988 dated 11.07.2025 amounting to a total of Rs.37,98,792/- (Duty-Rs.36,66,206/-, Interest-Rs. 1,32,586/-). The challan was verified in website <https://foservices.icegate.gov.in/#/epayment/enquiry>, in terms of para 3(e) of Circular No. 27/2024-Customs dated 23.12.2024 and the same was found to be proper. They also forwarded re-assessed Bill of Entry and requested for closure of proceedings under section 28(2) of Customs Act, 1962.

### **DISCUSSION AND FINDINGS**

**13.** I have carefully gone through the facts of the case and documents placed before me. I find that M/s. Harihar Maharaj imported goods with description “Elekta Versa HD Digital Linear Accelerator” and “Flexitron HDR 10 Channel Brachytherapy System” under CTH 9022 1490 vide Bill of Entry No. 9458079 dated 12.04.2025 and wrongly availed the benefit of concessional rate of duty under serial No. 563A of Notification No. 50/2017-Customs as amended dated 30.06.20217.

**14.** I find that imported goods are a medical linear accelerator (LINAC) machine, which is most commonly used for external beam radiation treatments for patients with cancer. It delivers high-energy x-rays or electrons to the region of the patient's tumor. In view of this, it is evident that goods, having methodology of producing x-rays, should be excluded from the concessional rate of duty under serial No. 563A of Notification No. 50/2017-Customs as amended dated 30.06.20217.

**15.** I find that the benefit of concessional rate of duty under serial No. 563A of Notification No. 50/2017-Customs as amended dated 30.06.20217 is not available to X-ray machines falling under CTI 9022 1490. Also the importer classified the items viz. “Elekta Versa HD Digital Linear Accelerator” and “Flexitron HDR 10 Channel Brachytherapy System” under CTI 9022 1490, the subject CTH falls into exclude category of the said notification.

**16.** I find that the importer voluntarily paid the differential duty of Rs. 37,98,792/- (Duty- Rs.36,66,206/-, Interest-Rs. 1,32,586/-)



vide ICEGATE payment receipt (Challan Number 2055793988 dated 11.07.2025 and requested for closure of proceedings under section 28(2) of Customs Act, 1962.

**17. Section 28 of the Customs Act, 1962** is reproduced below –

***Recovery of duties not levied or not paid or short levied or short paid or erroneously refunded***

*(1) Where any duty has not been levied or not paid or short - levied or short - paid or erroneously refunded, or any interest payable has not been paid, part - paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis - statement or suppression of facts, -*

*(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been 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: Provided that before issuing notice, the proper officer shall hold pre - notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;*

*(b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of, -*

*(i) his own ascertainment of such duty; or*

*(ii) the duty ascertained by the proper officer, the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part - paid. Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.*

*(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made there under in respect of such duty or interest;*

**18.** Thus, in terms of Section 28 *ibid*, if the person has paid the short-levied duty along with interest and inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice in those cases where the duty was short-levied for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts, therefore, there are no grounds for invoking Section 28(4) of Customs Act, 1962.

**19.** I find that the importer voluntarily paid the differential duty of Rs. 37,98,792/- (Duty- Rs.36,66,206/-, Interest-Rs. 1,32,586/-)

vide ICEGATE payment receipt (Challan Number 2055793988 dated 11.07.2025 and requested for closure of proceedings under section 28(2) of Customs Act, 1962.

**20.** In view of the above facts of the case and findings on record, I pass the following order:-

**ORDER**

I order for conclusion of the proceedings in respect of this matter is hereby treated as concluded in terms of 28(2) of the Customs Act, 1962 without prejudice to any other actions that may be taken under the Customs Act, 1962.

**Dipak Zala,  
Additional  
Commissioner,  
Custom House,  
Mundra.**

To,

Shri Harihar Maharaj Charitable Trust,  
No. 1, K D Hospital, SGVP Circle,  
Sardar SG Highway, Ahmedabad-382421.

**Copy to:**

1. The Assistant Director, DRI, Sub-Regional Unit, Nellore. (Email: [dri-nlrsru@gov.in](mailto:dri-nlrsru@gov.in))
2. The DC/AC of Customs, (RRA/TRC/EDI), Mundra.
3. Guard File.