

प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन”, पहली मंजिल, पुराने हाई कोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380009
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, AHMEDABAD
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DIN: 20240871MN0000555C81

PREAMBLE

A	फाइल संख्या/ File No.	:	F. No. VIII/10-212/ICD-Khod/OA/HQ/2023-24
B	कारण बताओ नोटिस संख्या-तारीख / Show Cause Notice No. and Date	:	F. No. VIII/10-212/ICD-Khod/OA/HQ/2023-24 dated 06.03.2024
C	मूल आदेश संख्या/ Order-In-Original No.	:	116/ADC/VM/O&A/2024-25
D	आदेश तिथि/ Date of Order-In-Original	:	07.08.2024
E	जारी करनेकी तारीख/ Date of Issue	:	07.08.2024
F	द्वारापारित/ Passed By	:	Vishal Malani, Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम औरपता / Name and Address of Importer / Passenger	:	M/s. Marini India Private Limited , Av/39-40- 41, GIDC Sanand-II, Industrial Estate, Bol, Ahmedabad, Gujarat
(1)	यह प्रति व्यक्ति के उपयोग के लिए निःशुल्क प्रदान किया जाता है जिन्हे यह जारी किया जाता है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्त किया तारीख के ६० दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क)अपील(, ४वि मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच)५.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथकेवल पांच)५.00) रुपये पे न्यायलय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को ७.५ %अधिकतम १० करोड़ शुल्क हम करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, १९६२ के धरा १२९ के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

M/s. Marini India Private Limited, Av/39-40-41, GIDC Sanand-II, Industrial Estate, Bol, Ahmedabad, Gujarat (herein after referred to as "M/s. Marini" or the "importer" for the sake of brevity), having Import Export Code (IEC) 0510042511, is registered with Goods and Services Tax Department with GSTIN 24AAGCM6488F1Z8 and has imported goods, through Inland Container Depot, Khodiyar, Ahmedabad.

2. It was observed that goods falling under Customs Tariff Heading 8479 of the First Schedule to the Customs Tariff Act, 1975 (herein after referred to as the "CTA, 1975) attract different Integrated Goods and Services Tax (IGST) Rates under Schedule II and Schedule III of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, as amended. While S. No. 201 of Schedule II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 covers "Composting Machines" falling under Customs Tariff Heading 8479 of the CTA, 1975 with IGST Rate of 12%, S. No. 366 of Schedule III of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 covers "Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter (other than Composting Machines)" falling under Customs Tariff Heading 8479 of the CTA, 1975 with IGST Rate of 18%.

2.1 The relevant entries at S. No. 201 of Schedule - II and S. No. 366 of Schedule - III of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, as amended, are as follows -

SCHEDULE - II 12%

Sl. No.	Chapter / Heading / Sub-heading/ item	Description of Goods
201	8479	Composting Machines

SCHEDULE - III 18%

Sl. No.	Chapter / Heading / Sub-heading/ item	Description of Goods
366	8479	Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter (other than Composting Machines)

3. It was further observed that M/s. Marini has imported various "Spare Parts for Asphalt Plant" falling under Customs Tariff Item 84799090 of the CTA, 1975 under Bills of Entry No. 7678361 dated 16.05.2020 and 7827080 dated 05.06.2020, wherein IGST has been paid @ 12% under S. No. 201 of Schedule II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017. The goods imported by M/s. Marini are not "Composting Machines", and therefore, the said goods are not entitled for concessional rate of IGST of 12% under S. No. 201 of Schedule II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017.

3.1 The said imported goods falling under Tariff Item 84799090 of the CTA, 1975, imported by M/s. Marini are covered under S. No. 366 of Schedule-III

of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, as amended, and attract IGST rate of 18%.

3.2 The aforesaid observation was communicated to M/s. Marini vide letter F. No. VIII/48-98/ICD/AR-64/2021-22/2023 dated 08.12.2023, with a request to pay the differential IGST amount along with applicable interest and to submit the payment particulars. However, M/s. Marini did not respond to the aforesaid communication.

4. The import of goods has been defined in the Integrated Goods and Service Tax Act, 2017 (herein after referred to as the "IGST Act, 2017") as bringing goods in India from a place outside India. All import shall be deemed as inter-state supplies and accordingly integrated tax shall be levied in addition to the applicable Customs duties. The IGST Act, 2017 provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of Customs are levied on the said goods under the Customs Act, 1962. Section 5 of the Integrated Goods and Services Tax Act, 2017 stipulates that "Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 (51 of 1975) on the value as determined under the said Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962.

5. As per sub-section (7) of Section 3 of the CTA, 1975, any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent, as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8) or sub-section (8A), as the case may be.

6. From the Bills of Entry filed by M/s. Marini at the time of import of the said goods, it is observed that they have wrongly claimed the inadmissible benefit of IGST of 12% under S. No. 201 of Schedule II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, as amended, for the products imported under the aforesaid 2 Bills of Entry, though the said products appear appropriately covered under S. No. 366 of Schedule III of Notification No. 1/2017-Integrated Tax (Rate), as amended, and attract IGST Rate of 18%. The deliberate attempt to evade payment of duty is evident from the fact that M/s. Marini has correctly mentioned S. No. 366 of Schedule III of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 for the products imported under previous Bills of Entry (e.g. Bill of Entry No. 5442450 dated 25.10.2019) as well as subsequent Bills of Entry (e.g. 8028372 dated 29.06.2020, 8246975 dated 22.07.2020) and has paid appropriate IGST @ 18%.

7. Even after pointing out / communicating to M/s. Marini vide letter dated 08.12.2023 that the imported items attracted IGST rate of 18% under S. No. 366 of Schedule III of Notification No. 1/2017-Integrated Tax (Rate), and requesting them to pay the differential short paid Customs Duty (IGST), along with applicable interest, M/s. Marini neither responded to the aforesaid letter dated 08.12.2023, nor paid the short paid duty, which shows that they had clear intention to evade payment of duty, as they suppressed the material facts and deliberately not mentioned correct S. No. of IGST Rate Notification and not paid the appropriate Customs Duty (IGST).

8. After introduction of self-assessment through amendment in Section 17 of the Customs Act, 1962 vide Finance Act, 2011, it is the responsibility of the importer to correctly declare the description, classification, applicable exemption Notification, applicable duties, rate of duties and its relevant Notifications with appropriate Serial number of the Notification etc., in respect of imported goods and pay the appropriate duty accordingly.

9. It, therefore evident that M/s. Marini has willfully contravened the provisions of Section 17(1) of the Customs Act, 1962 inasmuch as they have failed to correctly self-assess the impugned goods and have also contravened the provisions of sub-sections (4) and (4A) of Section 46 of the Customs Act, 1962 inasmuch as they have failed to ensure the accuracy and completeness of the information given therein.

10. From the above, it can be seen that the importer had intentionally not declared correct S. No. of IGST Rate Notification applicable to the imported goods in the Bills of Entry of the said imported goods and suppressed the said material facts with an intent to evade payment of appropriate Customs Duty (IGST) and cleared the said imported goods without paying appropriate Customs Duty (IGST). Even after pointing out / communicating that they have not declared correct S. No. of IGST Rate Notification applicable to the imported goods and have short paid Customs Duty (IGST), they have not paid the same.

11. It is further evident that M/s. Marini has indulged in willful mis-statement and suppression of facts inasmuch as they have filed Bills of Entry mentioning Sl. No. 201 of Schedule – II of Notification No. 1/2017-Integrated Tax (Rate) with IGST @ 12%, which is applicable to “Composting Machines” whereas the goods imported by them were “Spare Parts for Asphalt Plant” which are covered under Sl. No. 366 of Schedule III of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, with IGST @ 18%, and thereby short paid Customs duty (IGST) of **Rs. 2,99,632/- (Rupees Two Lakh Ninety-Nine Thousand Six Hundred and Thirty-Two Only)**, as mentioned in **Annexure – A** to the Show Cause Notice dated 06.03.2024. The Customs duty (IGST) thus short levied and short paid by M/s. Marini is recoverable from them under sub-section (4) of Section 28 of the Customs Act, 1962, by invocation of extended period of five years, along with appropriate interest at applicable rate under Section 28AA of the Customs Act, 1962.

12. As per clause (m) of Section 111 of the Customs Act, 1962, any goods brought from a place outside India which do not correspond in respect of value or in any other particular with the entry made under this Act, shall be liable to confiscation. As the goods imported by M/s. Marini under aforesaid Bills of Entry did not correspond with S. No. 201 of Schedule – II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, as amended, mentioned in the said Bills of Entry filed by M/s. Marini, the said goods totally valued at **Rs. 46,13,272/- (Rupees Forty-Six Lakh Thirteen Thousand Two Hundred and Seventy-Two Only)**, as mentioned in **Annexure – A** to the Show Cause Notice dated 06.03.2024, is liable for confiscation under Section 111(m) of the Customs Act, 1962.

12.1. The aforesaid acts of omission and commission on the part of M/s. Marini rendered them liable to penalty as provided under Section 112(a) of

the Customs Act, 1962, in as much that the goods India brought from a place outside India which do not correspond in respect of value or in any other particular with the entry made under this Act.

12.2. The aforesaid acts of suppression of facts and wilful mis-statement by M/s. Marini led to short levy of Customs duty thus rendering them liable for penalty under Section 114A of the Customs Act, 1962, in as much as the Basic Customs Duty amounting to **Rs. 2,99,632/-** (IGST) was short levied by reason of wilful mis-statement and suppression of facts with a malafide intention of evasion of Customs duty.

SHOW CAUSE NOTICE:-

13. Accordingly a Show Cause Notice vide F. No. VIII/10-212/ICD-Khod/OA/HQ/2023-24 dated 06.03.2024 was issued to **M/s. Marini India Private Limited**, whereby they were called upon to show cause to the Joint/Additional Commissioner of Customs having his office at 2nd Floor, Custom House, Near All India Radio, Navrangpura, Ahmedabad – 380009, as to why –

- (i) The imported goods viz. "Spare Parts for Asphalt Plant" imported by them, as detailed in **Annexure-A** to the Show Cause Notice, should not be held to be covered under Sl. No. 366 of Schedule – III of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, with IGST @ 18% and not under Sl. No. 201 of Schedule –II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, with IGST @ 12%;
- (ii) The imported goods valued at **Rs. 46,13,272/- (Rupees Forty-Six Lakh Thirteen Thousand Two Hundred and Seventy-Two Only)**, as detailed in **Annexure-A** to the Show Cause Notice, imported and self-assessed by them, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962, and as the said goods had already been cleared, Redemption Fine in lieu of confiscation should not be imposed under Section 125 of the Customs Act, 1962.
- (iii) The Customs duty (IGST) amounting to **Rs. 2,99,632/- (Rupees Two Lakh Ninety-Nine Thousand Six Hundred and Thirty-Two Only)** short levied and short paid by them, as detailed in **Annexure-A** to the Show Cause Notice, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;
- (iv) Interest at applicable rate under Section 28AA of the Customs Act, 1962, on the aforesaid amount of short levied and short paid Customs duty (IGST) mentioned at sub-para (c), should not be charged and recovered from them;
- (v) Penalty should not be imposed on them under Section 112(a) of the Customs Act, 1962;

- (vi) Penalty should not be imposed on them under Section 114A of the Customs Act, 1962.

14. M/s. Marini was also informed that they have the right to opt for closure of these proceedings under Section 28(6) of the Customs Act, 1962. If they so decide, then in terms of Section 28(5) of the Customs Act, 1962, they may pay the Duty demanded in this Show Cause Notice in full or in part, as may be accepted by them, and the interest payable thereon under Section 28AA, and penalty equal to fifteen percent of the Duty specified in this notice or the Duty so accepted by them, within 30 days of receipt of the Show Cause Notice dated 06.03.2024 and inform the adjudicating authority of such payment in writing.

SUBMISSION:-

15. In response to the Show Cause Notice vide F. No. VIII/10-212/ICD-Khod/OA/HQ/2023-24 dated 06.03.2024, M/s Marini presented a submission dated 10.05.2024, wherein they submitted a challan bearing no. 7222 dated 28.03.2024. The date of realization of the challan with Bank of Baroda is 30.03.2024.

PERSONAL HEARING:-

16. Accordingly, opportunity to be heard in person was given to M/s Marini on 24.07.2024.

16.1. During the course of personal hearing authorized representative of M/s Marini reiterated the fact that they have made the payment of differential amount of IGST and requested for closure in terms of Section 28(6) of the Customs Act, 1962.

DISCUSSION AND FINDINGS:-

17. I have gone through the Show Cause Notice, the Submissions made by M/s Marini India Private Limited, Ahmedabad, the averments made by the representative during the course of personal hearing as well as available records of the case.

18. From the records available it is evident that M/s Marini has availed benefit of lesser rate of IGST at 12% under S.No. 201 of Schedule II of Notification No. 01/2017-Integrated Tax (rate) dated 28.06.2017 on goods i.e. machines imported by them i.e. "Composting Machines" even though the goods imported by M/s. Marini are not "Composting Machines", and therefore, the said goods are not entitled for concessional rate of IGST of 12% under S. No. 201 of Schedule II of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017. The said imported goods falls under Tariff Item 84799090 of the CTA, 1975, imported by M/s. Marini are covered under S. No. 366 of Schedule-III of Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017, as amended, and attract IGST rate of 18%. IGST on the goods

Thus, there was short payment of duty and accordingly, a show Cause Notice dated 06.03.2024 was issued to M/s Marini India Private Limited, Ahmedabad.

19. I find that the Show Cause Notice proposes that as there was wrong self assessment the imported goods are liable for confiscation under section 111 (m) of the Customs Act, 1962.

Section 111(m) of the Customs Act, 1962 reads as follows :

"[any goods which do not correspond in respect of value or in any other particular] [Substituted by Act 36 of 1973, Section 2, for certain words (w.e.f. 1.9.1973).] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54] [Substituted by Act 27 of 1999, Section 108, for " in respect thereof;" (w.e.f. 11.5.1999).];"

19.1. I find that it is evident from the facts of the case that the actual product that was imported did not correspond to the goods declared by the importer. Thus, the imported goods by the importer are liable for confiscation in terms of Section 111(m) of the Customs Act, 1962,

20. I find that the Show Cause Notice also proposes demand of differential duty of Rs. 2,99,632/- under Section 28(4) along with interest under Section 28AA of the Customs Act, 1962. In this regard, Section 28(4) and Section 28AA of the Customs Act, 1962 states that:

"28(4) *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 wilful mis-statement; or*
- c) Suppression of facts*

By the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [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 show cause notice."

"28AA. [Interest on delayed payment of duty. [Inserted by Act 22 of 1995, Section 51 (w.e.f. 26.5.1995).]

- [(1)] [Inserted by Act 25 of 1978, Section 7 (w.e.f. 1.7.1978).] [Subject to the provisions contained in section 28-AB, where a person,] [Substituted by Act 33 of 1996, Section 61, for " Where a person" (w.e.f. 28.9.1996).][chargeable with the duty determined under sub-section (2) of section 28, fails to pay such duty within three months from the date of such determination, he shall pay, in addition to the duty, interest [at such rate not below [ten per cent.] [Inserted by Act 22 of 1995, Section 51 (w.e.f. 26.5.1995).][and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette] [Substituted by Act 10 of 2000, Section 80, for certain words (w.e.f. 12.5.2000).]], on such duty from the date immediately after the expiry of the said period of three months till the date of payment of such duty:Provided that where a person, chargeable with duty determined under sub-section (2) of section 28 before the date on which the Finance Bill, 1995 receives the assent of the President, fails to pay such duty within three months from such date, then, such person shall be liable to pay interest under this section from the date immediately after three months from such date, till the date of payment of such duty."

20.1. I find that from the facts of the case it is amply clear that the goods imported by the importer are wilfully mis-declared by them to avail benefit of lesser rate of IGST i.e. IGST @ 12% instead of IGST @ 18%. This they are

15. I find that it is amply clear that M/s Marini India Private Limited, Ahmedabad has short paid the duty by clearing the impugned goods i.e. the parts of the machine ("composting machines"; CTH 8479) by declaring them under Sr. No. 201 of Schedule II of the IGST Notification No. 01/2017, dated 28.06.2017 and discharging IGST @ 12%. Infact only the "composting machines" are covered under S.No. 201 of Schedule II of the IGST Notification No. 01/2017 dated 28.06.2017. The parts of the machine are not covered under the Sr. No. 201 of Schedule II of the IGST Notification No. 01/2017, dated 28.06.2017 (Chapter head 8479) at lower rate of IGST @12% under Sr. No. 201 of Schedule II of the IGST Notification No. 01/2017, dated 28.06.2017 . The Machines and mechanical appliances having individual functions that fall under heading 8479, which are not covered under any other schedule of the said notification, are classifiable under Sr. No. 366 of Schedule III of the said

notification which covers "Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter (other than Composting Machines)". The goods classifiable under Schedule III of the said notification attract higher IGST @18%. Thus, there was a short payment of IGST.

16. I find that authorized representative of M/s Marini, during the course of personal hearing has stated that they realized their mistake and that have discharged the differential duty liability (IGST) along with interest and penalty. M/s Marini also submitted a challan bearing no. 7222 dated 28.03.2024. against the Show Cause Notice dated 06.03.2024.

17. Section 28(4), Section 28(5) and Section 28(6) of the Customs Act, 1962 reads as under:

" Section 28(4)- 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 wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 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 28(5)- Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

Section 28(6) - Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5)."

Also Section 28AA of the Customs Act, states that:

"[28AA. Interest on delayed payment of duty--(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

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

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,--

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and


(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]”

18. I find that M/s Marini, has accepted the violation of Section 28(4) of the Customs Act, 1962 and have discharged the differential duty along with interest under Section 28AA of the Customs Act, 1962 along with penalty at 15% as envisaged under Section 28(5) of the said Act. I also find that the Noticee has requested that since they have discharged their liabilities, proceedings against them may please be concluded in terms of para 17 of the Show Cause Notice. As the differential duty liability along with applicable interest and penalty at 15% have been paid, I find that the proceedings against M/s Marini India Private Limited, Ahmedabad can be concluded under the provisions of Section 28(6) of the Customs Act, 1962. I also find that in view of first proviso to section 125(1) of the Customs Act, 1962 proceedings are deemed to be conclude under provision of sub-section (2) of section 28 or under clause (i) of subsection (6) of the section in respect of goods which are not prohibited or restricted, no such fine shall be imposed. As in present case, goods are not of prohibited or restricted nature, no fine in lieu of confiscation is to be imposed.

19. I view of above, I pass the following order:

ORDER

I order to conclude the proceedings initiated vide Show Cause Notices F.No. VIII/10-212 /ICD-Khod/O&A/HQ/2022-23 dated, 06.03.2024 issued by the Additional commissioner of customs, Ahmedabad under Section 28(6) of the Customs Act, 1962.


7/8/24

(Vishal Malani)
Additional Commmissioner

DIN : 20240871MN0000555C81

F. No. VIII/10-212/ICD-Khod/OA/HQ/2023-24

Date :07.08.2024

BY SPEED POST/E-MAIL/HAND DELIVERY/THROUGH NOTICE BOARD

To,
M/s. Marini India Private Limited,
Av/39-40-41, GIDC Sanand-II,
Industrial Estate, BOL, Ahmedabad, Gujarat

Copy to :

- (i) The Principal Commissioner, Customs- Ahmedabad for information please.
- (ii) The Deputy Commissioner of Customs, ICD - Khodiyar, Ahmedabad.
- (iii) The Superintendent, Customs, H.Q. (Systems), Ahmedabad, in PDF format for uploading on website of Customs Commissionerate, Ahmedabad.
- (iv) The Superintendent (Task Force), Customs-Ahmedabad.
- (v) Guard File