

अपर आयुक्त सीमा शुल्क कार्यालय, हजीरा पोर्ट प्रा. लिमिटेड हजीरा बाय- पास रोड, चोरियाशी पोस्ट हजीरा- 394270.	 सत्यमेव जयते	<b>OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS, HAZIRA PORT PVT. LTD. HAZIRA BY- PASS ROAD, CHORIYASHI AT &amp; POST HAZIRA - 394270.</b>
दूरभाष: 0261-2207685		e-mail: <a href="mailto:hazira.import@gov.in">hazira.import@gov.in</a>

**PREAMBLE**

A	फाइल संख्या / File No.	:	F.No.GEN/ADJ/ADC/1749/2025-AH-PORT-HZR-CUS
B	कारण बताओ नोटिस संख्या / Show Cause Notice No. and date	:	F. No.VIII/10-17/O&A/ADC/Shakti/2019 DATED 19.06.2019
C	मुल आदेश संख्या / Order-In-Original No.	:	<b>10/ADC/SRV/Hazira(Import)/2025-26</b>
D	द्वारा प्रेरित आदेश /ORDER PASSED BY	:	<b>SHREE RAM VISHNOI</b> अपर आयुक्त/ ADDITIONAL COMMISSIONER सीमा शुल्क, सूरत /CUSTOMS, SURAT
E	आदेशतिथि / Date of Order	:	21.01.2026
F	जारी करने की तारीख /Date of Issue	:	21.01.2026
G	डा.अ.न./DIN	:	<b><u>20260171MN000000E3EC</u></b>
H	आयातक का नाम और पता/Name and Address of Importer/Noticee	:	M/s Shakti Insulated Wires Pvt. Ltd., 624/2A, G.I.D.C. Industrial Estate, Valia Road, Ankleshwar, Dist-Bharuch, Gujarat.

1. जिस व्यक्ति के लिए आदेश जारी किया गया है, उसके व्यक्तिगत उपयोग के लिए प्रति निशुल्क प्रदान की है।

1. This copy is granted free of charge for the private use of the person to whom it is issued.

२. इस आदेश से अपने को व्यथित महसूस करनेवाला कोई भी व्यक्ति आयुक्त (अपील), सीमा शुल्क, 4th मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद- ३८०००९ के यहाँ अपील कर सकता है। इस तरह की अपील, पार्टी को इस आदेश के सौंपे जाने अथवा डाक के प्राप्त होने के साठ दिन के अन्दर सीमा शुल्क (अपील) नियम, १९६२ के अंतर्गत फार्मस सी. ए. १ और २ दी जानी चाहिए। इस अपील पर नियमानुसार कोट की स्टाम्प लगा होना चाहिए।

2. Any person deeming himself aggrieved by this order, may prefer an appeal against the order to the Commissioner of Customs (Appeal), 4th Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009, in Form C. A. 1 & 2 as prescribed under Customs (Appeal), Rules, 1962. The appeal must be filed within sixty days from

the date of receipt of this order either by the post or by the person. It should bear a court fee stamp of appropriate value.

३. अपील के साथ निम्नलिखित चीजे संलग्न जाए।

3. The following documents must be enclosed alongwith the appeal.

(क) अपील की प्रति, तथा (a) A copy of the appeal and

(ख) आदेश यह प्रति या अन्य आदेश की प्रति, जिस नियमानुसार कोट फी स्टाम्प लगा हो।

(b) Copy of this order or another copy of the order, which must bear court fee stamp of appropriate value.

४. अपीलीय ज्ञापन के साथ शुल्क भुगतान / जुर्मा ना / अर्थ दंड का सबूत भी संलग्न करे अन्यथा सीमा शुल्क अधि नि यम, 1962 की धारा 129 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारि ज कि या जा सकता है।

4. Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 129 of the Customs Act, 1962.

५. अपील प्रस्तुत करते समय यह सुनि श्चि त करे की सीमा शुल्क (अपील) नि यम, 1982 और

सिस्टेट प्रक्रि या (प्रोसीजर) नि यम, 1982 के सभी नि यमो का पूरा पालन हुआ है।

5. While submitting the Appeal, the Customs (Appeals) Rules, 1982 should be adhered to in all respects.

६. इस आदेश के खिलाफ आयुक्त (अपील) के समक्ष अपील करते समय, शुल्क या शुल्क और जुर्मा ना वि वाद या दंड में हैं, जहां अकेले दंड वि वाद में है, जहां वि वाद या दंड, में मांग की हैं उस वि वाद की रकम के 7.5% के भुगतान करना होगा।

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

## **BRIEF FACTS OF THE CASE**

M/s Shakti Insulated Wires Pvt. Ltd., 624/2A, G.I.D.C. Industrial Estate, Valia Road, Ankleshwar, Dist-Bharuch, Gujarat (herein after referred to as 'M/s SIWPL' for the sake of brevity) had imported several consignments of goods described as "Copper Rod Nominal Diameter 8mm with ASTM", during the period from June, 2017 to August, 2017, at Hazira Port. The said goods were imported from Republic of Korea, by classifying the same under tariff item No. 74071020 and availing the benefit Customs Notification No. 152/2009 dated 31.12.2009 (Serial No. 593) as amended by Customs Notification No. 66/2016 dated 31.12.2016, which at Serial No. 597 provides for Nil Basic Customs Duty for the goods falling under heading 7405 to 7407, of Korean origin.

Sr.No.	Bill of Entry No. & date	Assessable value (in Rs.)
1	2223847 dated 24.06.2017	9855420
2	2240088 dated 26.06.2017	9658838
3	2476820 dated 17.07.2017	9878807
4	2476879 dated 17.07.2017	9814191
5	2476882 dated 17.07.2017	9878807
6	2543979 dated 21.07.2017	9746919
7	2763942 dated 08.08.2017	9649749

2. During the theme based audit conducted by the Nhava Sheva Customs Audit Commissionerate, on the theme "FTA benefit on import of Copper Rods from South Korea under Notification No. 152/2009-Customs dated 31.12.2009", it was observed that many importers were importing "wires in coil form" and availing the FTA benefit under the aforesaid notification by mis-declaring the description of goods as "Copper Rods" falling under the CTH 7407 since wire in coil form falling under CTH 7408 was not entitled for FTA benefit. Considering all the relevant documents relating to the above imports and during scrutiny of documents such as Bills of Lading, Invoice, packing list, invoice-cum Packing List, COO, Bills of Entry etc., it was revealed that M/s SLWP had wilfully mis-declared the description "coils of copper wire" as "Copper Rods" and classified the same under tariff item No.74071020. Based on the definition of 'bars and rods, and wire, as mentioned in chapter notes 1(d) and (f) of chapter 74 of the first Schedule of the Customs Tariff Act, 1975 and as per rule 1 of the General Rules of Interpretation the imported goods should in fact had to be classified under tariff item No. 74081190. In this manner, M/s SLWPL had wrongly availed the benefit of customs Notification No.152/2009 dated 31.12.2009 (serial No.593) as amended by customs Notification No. 66/2016 dated 31.12.2016 (Sr. No. 597).

3. It was observed that M/s SIWPL submitted preferential Certificate of Origin (COO) in respect of import of "Copper Rod Nominal Dia 8 MM with ASTM" issued for CTSH 74071020 under India Korea CEPA. Thus, the COO produced by the importer did not pertain to the goods imported. Therefore,

the preferential treatment was not available to the subject goods as they were not covered by the COO presented to the port customs. On further scrutiny of the said COO, it was found that the origin criterion was mentioned as CTH, thus, indicating that the COO had been issued under the Product Specific Rule (PSR) and not the general rule. PSRs were provided in Annex 3-A of Chapter 3 of India Korea CEPA. The HS code in which the goods had been issued under the subject COO was 74071020. The PSRs mentioned in Annex 3-A did not cover CTH 74071020, for which the preferential COO had been issued under India Korea CEPA. On this ground also, the COO was invalid. Even if the goods were rightly declared as coils under CTH 74081190 in the COO, the same was not available for preferential treatment as no preferential treatment has been agreed for coils (CTH 74081190) of Korean Origin imported into India under Customs Notification No. 152/2009 dated 31.12.2009 (Serial No. 593) as amended by Customs Notification No. 66/2016 dated 31.12.2016 (Sr. No. 597). Accordingly, all the 7 COOs issued were not in conformation to the Product Specific Rules of the Rules of Origin as agreed under India Korea CEPA and did not pertain to the imported consignments and therefore, the preferential treatment could not be extended to the import of subject goods.

4. In the instant case, the subject goods were covered under CTH 74081190 (which was not covered under the said Notification) instead of the declared CTH 74071020 and benefit of Customs Notification 152/2009 dated 31.12.2009 (Serial No. 593) as amended by Customs Notification No. 66/2016 dated 31.12.2016 (Sr. No. 597) was not available to the goods falling under CTH 74081190. Hence, BCD at the rate of 5% was leviable on the goods falling under CTH 74081190. M/s SIWPL had wilfully mis-declared the description and misclassified the goods to evade payment of Customs duty. They had been regularly importing these goods and thus, were well aware about the nature and condition of the said goods i.e. wire in Coil form. Therefore, the importer suppressed these vital facts from the department and cleared these goods by self-assessing the same under CTH 7407 claiming the benefit of Customs Notification No. 152/2009 dated 31.12.2009 (Serial No. 593) as amended by Customs Notification No. 66/2016 dated 31.12.2016 (Sr. No. 597), paying NIL BCD, as the said goods appear to be classifiable under CTH 7408. As such, the Importer had evaded the Customs duty by recourse to wilful mis-statement & suppression of facts. The duty short paid amounting to Rs.41,51,646/- on the goods cleared by M/s SIWPL under self-assessment was required to be demanded and recovered from the importer in terms of Section 28(a) of the Customs Act, 1962 along with interest and penalty. Accordingly, M/s. SIWLP was issued a show cause notice dated 19.06.2019 as to why: -

- (i) The classification of tariff item 74071020 mentioned in the 7 Bills of Entry should not be rejected and the goods be correctly classified under tariff item No.74081190;
- (ii) Differential Customs duty amounting to Rs.41,51,646 should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;
- (iii) Interest should not be recovered from them on the differential customs duty as at (ii) above, under Section 28AA of the Customs Act, 1962;
- (iv) The goods having assessable value of Rs.6,84,82,729/- covered under Bills of Entry should not be held as liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962;
- (v) Penalty should not be imposed on M/s. Shakti Insulated Wires Pvt Ltd under Section 112(a), 114a and 114AA of Customs Act,1962;

5. The original adjudicating authority, Joint Commissioner of Customs, Surat vide Order-in-Original No. 06/AKM/JC-SRT/2019 dated 19.11.2019 observed that:-

(i) from the definition of Chapter Note 1(d) of Chapter 74, if goods were in 'Coil', it was excluded from the definition of bars and rods; that from the documents viz., packing list, Bill of lading and COO that the imported goods were in coil form and therefore, did not fall under the definition of ' Bars & Rods' in view of the Chapter note 1(d) of Chapter 74 of the first Schedule of the Customs Tariff Act, 1975. The Rule I of General Rules of Interpretation states that, "The titles of Sections, Chapters and sub-chapter provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require according to the following provisions";

(ii) since the goods were excluded from CTH 7407, the most specific heading was CTH 7408. Thus, I hold that the imported goods in the instant case should be classified CTH 74081190 and not under CTH 74071020 as classified/declared by the importer claiming the benefit of 'NIL' BCD, under the India Korea CEPA under Customs Notification No. 152/2009 dated 31.12.2009; that scrutiny of the relevant documents relating to the above imports such as Bills of Lading, Invoice, Packing list, Invoice-cum Packing List, COO, Bills of Entry etc., provided by M/s SIWPL revealed that the imported goods were "Coils of Copper wire" and not " Copper Rods" and therefore were classifiable under tariff item No" 74081190. It was further revealed that M/s SIWPL had wilfully mis-declared the description as "Copper Rods" and classified the same under tariff item no. 74071020, to avail the

benefit of Customs Notification No. 152/2009 dated 31.12.2009 (Sr. No. 597) as amended. The classification of the imported goods had been made under CTSN 74081190 based on the definition of 'bars and rods' and 'wire' as mentioned in chapter notes 1(d) and (f) of chapter 74 of the first Schedule of the Customs Tariff Act, 1975 and as per rule 1 of the General Rules of Interpretation. Thus, the importer was liable to pay BCD @5% (merit rate) of the imported goods under CTSN 74081190 (not covered under CEPA benefit), in view of the fact that the importer had submitted Preferential Certificate of Origin (COO) in respect of import of "copper Rod Nominal Dia 8 MM with ASTM" issued for CTSN 74011020 under India-Korea CEPA. Thus, the COO produced by the importer did not pertain to the goods imported. Therefore, the preferential treatment cannot be extended to the subject goods as they were not covered by the COO presented to the port customs.

(iii) the subject goods had been imported from Korea while mis-declaring them under CTSN 74071020 as they were not matching with the ones declared in the COOs. Thus, the preferential treatment could be extended to the goods as they were not covered by the COO submitted.

(iv) On scrutiny of the COO that the origin criterion was mentioned as CTH, thus indicating that the COO had been issued under the product Specific Rule (PSR) and not the general rule. The HS code in which the goods had been issued under the subject COO was 74071020. The PSRs mentioned in Annex 3-A did not cover CTH 74071020, for which the preferential COO had been issued under India Korea CEPA", therefore the COO was invalid. Even if the goods were rightly declared as coils under CTH 74081190 in the COO, the same could not have been allowed preferential treatment as no preferential treatment had been agreed for coils (CTH 74081190) of Korean origin imported into India under Customs Notification No. 152/2009 dated 31.12.2009 (Serial No. 593) as amended by Customs Notification No. 6612016 dated 31.12.2016 (Sr. No. 597). Thus, the preferential treatment on imports covered by the COO was denied. All the 7 COOs issued in the instant cases were not in conformation to the Product Specific Rules of the Rules of Origin as agreed under India Korea CEPA and did not pertain to the imported consignments.

On the basis of the above, the adjudicating authority passed the following order:-

- (a) rejection of the classification of tariff item No.74071020 given in the 7 Bills of Entry and that the goods be correctly classified under tariff item No. 74081190 and;
- (b) confirmed the demand and order recovery of differential Customs duty amounting to Rs. 41,51,646/- under the provisions of Section 28(8) of Customs Act, 1962 with interest at applicable rate on the duty amount confirmed above in terms of Section 28AA of the customs Act, 1962.

(c) confiscation the goods having assessable value of Rs. 6,84,82,729/- covered under 7 Bills of Entry under Section 111(m) and 111(o) of the Customs Act, 1962, however, refrained from imposing redemption fine in lieu of confiscation.

(d) imposed penalty of Rs. 41,51,646/- under Section 114A of Customs Act, 1962 and penalty of Rs.25,00,000/- under Section 114AA of Customs Act, 1962.

6. Against the said Order-in-Original, M/s. SIWLP preferred an appeal before the Commissioner(Appeals), Ahmedabad, who vide Order-in-Appeal No.OIA-AHD-CUSTOM-000-APP-484-20-21 dated 22.12.2020 upheld the Order-in-Original passed by the original adjudicating authority.

7. Against the said Order-in-Appeal, M/s. SIWLP preferred an appeal before Hon'ble CESTAT, Ahmedabad, who decided the matter vide Final Order No.10237/2025 dated 09.04.2025. The findings are reproduced for convenience:-

*"14. We find that the goods which were in the coil form contrary to the definition of "bars and rods" contained in Customs Tariff Act, 1985, which are supposed to be not in coils as culled out above in para 3.1 and 3.2, were still declared as bars and rods and not as a wire by the appellant....."*

*14.1 The same were produced in coil form and were imported as per the packing list in coils. The statutory provisions being clear, no doubt, even from the literal interpretation, in the minds of anyone could be left that the same were not to be treated 'as bars and rods'. We, therefore, find that the certificate of origin as submitted was incorrect as the HSN is allied in most countries and could not have been different in South Korea. Therefore, with such apparent mistake, benefit has been correctly denied by the department. This is supplemented by the assertion of the party too, when they state that CL in COO refers to coil. We uphold finding in this regard and direct that Tariff Heading 74081190 is appropriate heading as indicated by the department. Therefore, exemption under CEPA notification was correctly denied and BCD @ 5% was correctly demanded, in Show Cause Notice dated 19.06.2019.*

*14.2. This brings us to the second issue about limitation, we find that the Bills of Entry in the instant case were filed from June 2017 to August 2017 and Show Cause Notice was issued on 19.06.2019. In the instant case, we find that in the relevant Bills of Entry in column of description of the goods, it was not declared that the goods were in coil form which was decisive factor in determining the correct classification. However, we also find that though not declared in the Bills of Entry, which is the most vital document in import, the party has claimed in the packing list that it was explicitly mentioned as "COPPER ROD NOMINAL DIA 8 MM WITH ASTM B 49 and in the detailed packing of the goods, the appellant had mentioned "Coil No"....."*

*14.3. The appellant has also mentioned that in the certificate of origin-CL is mentioned in the description portion which refers to coil. The department terms the same as cryptic reference to the coil trying to use the same as an alibi, if there were caught. We find that intention is to be construed with overall facts and circumstances, while the description is not*

*available in the Bills of Entry which is a most reliable document in the International imports, the same however, is available in the packing list and in an cryptic manner in the certificate of origin. It is not coming out from records, as to whether, these documents specially the packing list were submitted by the importer as part of the documents attached with Bills of Entry while seeking assessment by the party or not. We therefore, direct the adjudicating authority/assessing authority to verify this aspect and construe the limitation, accordingly. If, the description of the goods being in coils was sufficiently reflected in the documents like packing list and the same was provided in the system, then benefit on limitation which is beyond normal period can be permitted to the appellant. However, if the benefit on limitation is decided as not being available to the party, then extended period as well as penalty will sustain, accordingly. With this direction, we remand the matter to the Adjudicating Authority to examine on to limitation and come to the firm conclusion.*

*15. Appeal is partly allowed by way of remand.”*

8. Accordingly, M/s. SIWLP was granted an opportunity of virtual hearing on 24.09.2025, however, M/s. SIWLP failed to respond. Another opportunity was given on 06.10.2025. M/s. SIWLP vide their letter dated 06.10.2025 sought time for filing a defence reply. Another opportunity was given on 23.10.2025, however, M/s. SIWLP vide their letter dated 29.10.2025 informed this office that they had filed a Miscellaneous Application for rectification of mistake in case of CESTAT's Final Order No.10237/2025 dated 09.04.2025 and requested that the case may be kept in abeyance till the disposal of the said Miscellaneous Application. The said request was rejected by the adjudicating authority and a fresh date of virtual hearing was fixed on 18.12.2025. M/s. SIWLP vide their letter dated 17.12.2025 informed that since their Miscellaneous Application filed before CESTAT, Ahmedabad is still pending, a fresh hearing may be given to them after the disposal of the Miscellaneous Application.

### **DISCUSSION AND FINDINGS**

9. I have carefully gone through the records of the case and the CESTAT, Ahmedabad Final Order No.10237/2025 dated 09.04.2025.

10. The present case is being taken up for adjudication pursuant to the **remand order of the Hon'ble CESTAT, Ahmedabad, in Final Order No. 10237/2025 dated 09.04.2025**. It is noted that **more than three opportunities of hearing** had been granted to **M/s SIWLP**, but the firm failed to avail any of them. M/s SIWLP contended that their **Miscellaneous Application [ROM]** filed before CESTAT, Ahmedabad was pending, and on that basis, failed to appear before the adjudicating authority. However, there is **no stay order restraining the adjudicating authority** from deciding the matter. In view of the above, I proceed to decide the case **ex-parte on its merits**.

11. The issue in brief is that the Department has alleged that **M/s SIWLP** imported goods, viz., **“Copper Wire in coil form”**, while declaring the description as **“Copper Rods”** from **South Korea**, and availed the benefits of **Customs duty exemption under Notification No. 152/2009-Customs dated 31.12.2009**. M/s SIWLP submitted a **Preferential Certificate of Origin (COO)** in respect of the import of **“Copper Rod Nominal Dia 8 MM with ASTM”**.

However, the said Notification provides the exemption **only for goods falling under CTH 7405 to 7407**. The **Tariff Item for copper bars is 74071020**, whereas the **Tariff Item for copper wires falls under 74081190**. Consequently, the benefit of exemption was **denied to M/s SIWLP**.

Accordingly, the adjudicating authority **rejected the classification claimed by M/s SIWLP**, ordered **recovery of Customs duty of Rs. 41,51,646/- under Section 28 of the Customs Act, 1962, along with interest, confiscated the goods valued at Rs. 6,84,82,729/-**, and also **imposed a penalty of Rs. 41,51,646/- under Section 114A and Rs. 25,00,000/- under Section 114AA of the Customs Act, 1962**.

The **Commissioner (Appeals) upheld the order** of the adjudicating authority, following which M/s SIWLP **preferred an appeal before the Hon’ble CESTAT, Ahmedabad**.

12. I find that the Hon’ble CESTAT in its Final Order No.10237/2025 dated 09.04.2025 held that :-

- (i) Tariff Heading 74081190 is appropriate heading as indicated by the department. Therefore, exemption under CEPA notification was correctly denied and BCD @ 5% was correctly demanded, in Show Cause Notice dated 19.06.2019.
- (ii) and remanded the case back to the adjudicating authority with directions to ascertain whether packing list & other supporting documents accompanying the bills of entry filed by M/s. SIWLP were submitted to the Department at the time of filing of the said bills of entry, in order to decide whether of benefit of limitation was available to them.

13. From the above, I note that the **classification of the imported goods and the eligibility under CEPA Notification No. 152/2009-Customs dated 31.12.2009** have already been decided by the **Hon’ble CESTAT**. The **limited issue** to be decided before me at this stage is whether the **supporting documents**, such as the **Bill of Lading, invoice, and packing list**, were submitted by **M/s SIWLP** to the Department at the time of filing the relevant **Bills of Entry**, so as to determine the **limitation issue**.

14. I find that this aspect has been covered by the adjudicating authority in OIO No.06/AKM/JC-SRT/2019 dated 19.11.2019 passed by Joint Commissioner, Customs, Surat at para-8:-*(relevant portion reproduced)*

“8. In view of the above, and considering all the relevant documents relating to the above imports **were called for** and during scrutiny of the documents such as Bills of Lading, Invoice, Packing List, Invoice-cum packing list, COO, Bills of Entry etc., it was revealed that M/s. SIWLP had wilfully mis-declared the description “Coils of Copper wire” as “Copper Rods” and classified the same under tariff item no.74071020...” [emphasis supplied]

15. As per CBEC Circular No. 01/15-Customs dated 12/01/2015, read with Para 2.06 of Foreign Trade Policy 2015-20, the following mandatory documents were required to be submitted by the importer for import of goods into India:

1. Bill of Lading.
2. Commercial Invoice cum Packing List
3. Bill of Entry
4. Certificate of Origin

I have gone through all the mandatory documents filed by M/s. SIWLP in respect the following bills of entry in question.

Sr. No	Bill of Entry No. & date	Description mentioned in the documents				
		Bill of Entry	Bill of Lading	Commercial Invoice	Packing List	Certificate of Origin (COO)
1	2223847 dated 24.06.2017	Copper Rod Nominal Diameter 8mm with ASTM	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm
2	2240088 dated 26.06.2017	Copper Rod Nominal Diameter 8mm with ASTM	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm
3	2476820 dated 17.07.2017	Copper Rod Nominal Diameter 8mm with ASTM	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm
4	2476879 dated 17.07.2017	Copper Rod Nominal Diameter 8mm with ASTM	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm
5	2476882 dated 17.07.2017	Copper Rod Nominal Diameter 8mm with ASTM	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm
6	2543979 dated 21.07.2017	Copper Rod Nominal Diameter 8mm with ASTM	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm
7	2763942 dated 08.08.2017	Copper Rod Nominal Diameter 8mm with ASTM	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm	Copper Rod Nominal Diameter 8mm <b>(Six coils only)</b>	Copper Rod Nominal Diameter 8mm

16. From the above, I find that the **Bills of Entry** submitted by **M/s SIWLP** declared the goods as “**Copper Rod Nominal Diameter 8mm with ASTM**”. However, in the corresponding **Bill of Lading** and the **detailed packing list**, the goods were described as “**Coils**”. Further, **M/s SIWLP mis-classified the**

**actual goods, i.e., copper coils, under Tariff Item No. 74071020**, instead of the correct Tariff Item No. **74081190**.

This mis-classification appears to have been **deliberate**, aimed at availing the **FTA benefit** available for the import of **“Copper Rods”** from South Korea under **Notification No. 152/2009-Customs dated 31.12.2009**, which allowed a **‘NIL’ rate of Customs duty**. The said exemption is **not applicable to copper wire in coil form**. Accordingly, there is a **clear case of mis-declaration and mis-classification of the imported goods**, with an intention to **wrongly claim Customs duty benefits**.

17. The above facts are further corroborated by **CBEC’s letter No. 456/05/2017-CUS.V dated 14.09.2018**, addressed to the **Commissioner of Customs, JNCH, Nhava Sheva-III**, and forwarded to the **Commissioner of Customs, Ahmedabad** vide letter No. **S/2-Gen-PA-91/2017-18/JNCH dated 26.09.2018**. The letter clearly states that the **seven Certificates of Origin (COO) produced by M/s SIWLP did not pertain to the goods imported**, including the instant Bills of Entry.

The letter further notes that there was **no mechanism under the India-Korea CEPA for amending the Customs Tariff Heading (CTH) in the COO**. Accordingly, it is evident that **M/s SIWLP failed to comply with the conditions of Notification No. 152/2009-Cus dated 31.12.2009**, as amended, by **not producing a proper Certificate of Origin (COO) for the imported goods** in accordance with **Rule 15 of the Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of the Republic of India and the Republic of Korea) Rules, 2009**.

18. I find that there is catena of judgments wherein non-following of mandatory conditions of exemption Notification would result in confirming of demand of duty foregone. I refer to the Hon’ble Supreme Court in case of Dharmendra Textile Processors reported in 2008 (231) ELT-3 (SC), wherein it was observed that:- *(relevant excerpts reproduced)*

*“22. The law is well settled that a person who claims exemption or concession has to establish that he is entitled to that exemption or concession. A provision providing for an exemption, concession or exception, as the case may be, has to be construed strictly with certain exceptions depending upon the settings on which the provision has been placed in the Statute and the object and purpose to be achieved. If exemption is available on complying with certain conditions, the conditions have to be complied with. The mandatory requirements of those conditions must be obeyed or fulfilled exactly, though at times, some latitude can be shown, if there is a failure to comply with some requirements which are directory in nature, the non-compliance of which would not affect the essence or substance of the notification granting exemption....”*

19. Pursuant to the introduction of **self-assessment in Customs** with effect from April 2011, it is the **statutory duty of the importer** to correctly declare the **Customs Tariff Heading (CTH), assessable value, and the eligibility for any Notification** that provides a concessional rate of duty.

It is evident from the facts discussed above that **M/s SIWLP was aware of the correct classification of the imported goods but wilfully mis-declared both the classification and description** of the goods in the supporting documents, including the **Bill of Entry and packing list**, as noted earlier. Such mis-declaration was clearly made with the **intent to suppress material facts and evade payment of the full rate of Customs duty**.

The mis-classification and mis-declaration came to light only upon detection during a **Theme-Based Audit conducted by the Department**. Accordingly, given the **deliberate suppression of facts**, the invocation of the **extended period of five years under Section 28(4) of the Customs Act, 1962** for recovery of differential Customs duty, along with interest, was **fully justified**.

20. Notwithstanding the above, I note that the **first Bill of Entry, No. 2223847, is dated 24.06.2017**, and the **show cause notice was issued on 19.06.2019**, which falls **within the normal period of two years** prescribed under **Section 28(1)(a) of the Customs Act, 1962**.

21. I, therefore, hold that the **differential Customs duty of Rs. 41,51,646/-**, short-paid by the importer under **self-assessment**, is liable to be **demand and recovered** in accordance with **Section 28(4) of the Customs Act, 1962**, along with **interest under Section 28AA of the Customs Act, 1962**.

22. I find that **M/s SIWLP not only mis-declared the description of the goods but also deliberately mis-classified them** in order to wrongly claim the benefits of **Notification No. 152/2009-Customs dated 31.12.2009**, as amended, with a **clear intent to evade Customs duty**. By doing so, they have **contravened the provisions of Section 46(4) of the Customs Act, 1962**. Accordingly, the goods are **liable for confiscation under Sections 111(m) and 111(o) of the Customs Act, 1962**. Since the **impugned goods are liable to confiscation under Section 111(m)**, it is also necessary to **consider whether a redemption fine under Section 125(1) of the Customs Act, 1962** is appropriate in lieu of confiscation, particularly in respect of goods that are **not physically available for confiscation**.

Section 125 (1) of the Customs Act, 1962 reads as under:-

**“125 Option to pay fine in lieu of confiscation –**

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

I find that, although the goods are **not physically available for confiscation**, a **redemption fine is nonetheless imposable**, in view of the judgment of the **Madras High Court in M/s Visteon Automotive Systems India Ltd., reported at 2018 (009) GSTL 0142**. Further, I note that the **Hon'ble High Court of Gujarat**, in the case of **Synergy Fertichem Ltd. vs. Union of India, reported in 2020 (33) GSTL 513 (Guj.)**, has **relied on and followed the legal principle laid down by the Madras High Court**.

23. As regards the **imposition of penalties**, I find that **M/s SIWLP** deliberately **mis-classified and mis-described the goods** in the **Bills of Entry, Invoices, and Certificates of Origin (COO)**, as discussed in the earlier paragraphs, with the **intent to suppress material facts from the Department** and to **wrongly avail the benefit of concessional duty** under **Notification No. 152/2009-Customs dated 31.12.2009**, as amended. I find that, having **short-paid Customs duty of Rs. 41,51,646/-**, **M/s SIWLP is liable to a mandatory penalty of an equal amount under Section 114A of the Customs Act, 1962**. However, no penalty is imposed under **Section 112A of the Customs Act, 1962**, as the **penalty under Section 114A has already been levied**.

24. As regards the **penalty under Section 114AA of the Customs Act, 1962**, I find that **M/s SIWLP consciously prepared false and incorrect declarations in the import documents**. While the **Bills of Entry, Invoices, and Certificate of Origin (COO)** declared the goods as **"Copper Rods"**, the corresponding **Bills of Lading and packing lists** for the same shipments indicated the goods as **"coils"**. By producing an **incorrect Certificate of Origin (COO)** and preparing import documents, including **Bills of Entry and Invoices**, with **misstated description and classification of the imported goods** to wrongly claim the benefit of **concessional Customs duty**, **M/s SIWLP is also liable to a penalty under Section 114AA of the Customs Act, 1962**.

25. Accordingly, I pass the following order:-

#### O R D E R

- (i) I confirm the demand and order recovery of differential customs duty amounting to **Rs.41,51,646 (Rupees Forty One Lakhs Fifty One Thousand Six Hundred Forty Six only)** from M/s. SIWLP under the provisions of Section 28(4) of the Customs Act, 1962.
- (ii) I order to recover interest on the demand amount mentioned at (i) above under the provisions of Section 28AA of the Customs Act, 1962.

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- (iii) I order to confiscate the goods having assessable value of Rs.6,84,82,729/- covered under the Bills of entry in question under Section 111(m) and 111(o) of the Customs Act, 1962. I order imposition of redemption fine of **Rs.50,00,000/- (Rupees Fifty Lakhs only)** in lieu of confiscation under Section 125 of the Customs Act, 1962.
- (iv) I impose penalty of **Rs.41,51,646 (Rupees Forty One Lakhs Fifty One Thousand Six Hundred Forty Six only)** M/s. SIWLP under the provisions of Section 114A of the Customs Act, 1962.
- (v) I refrain from imposition of penalty under Section 112 of the Customs Act, 1962 as penalty has already been imposed under Section 114 of the Customs Act, 1962.
- (vi) I impose penalty of **Rs.25,00,000/- (Rupees Twenty Five Lakhs only)** M/s. SIWLP under Section 114AA of the Customs Act, 1962.

**(SHREE RAM VISHNOI)**  
ADDITIONAL COMMISSIONER

**DIN-20260171MN000000E3EC**

dated 21.01.2026

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To,

(i) M/s Shakti Insulated Wires Pvt. Ltd., 624/2A, G.I.D.C. Industrial Estate, Valia Road, Ankleshwar, Dist-Bharuch, Gujarat

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