



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

“सीमा शुल्क भवन,” पहली मंजिल, पुरानो हाईकोर्ट के सामने, नवरंगपुरा, अहमदाबाद – 380 009.

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PREAMBLE

A	फाइल संख्या / File No.	:	GEN/ADJ/ADC/1312/2025-ADJN-O/o PR COMMR-CUS-AHMEDABAD
B	कारणबताओनोटिस संख्या – तारीख / Show Cause Notice No. and Date	:	F. No. VIII/10-267/ICD-KHOD/O&A/HQ/2024-25 dated 23.07.2025
C	मूल आदेश संख्या / Order-In-Original No.	:	187/ADC/SR/O&A/HQ/2025-26
D	आदेश तिथि / Date of Order-In-Original	:	24.12.2025
E	जारी करने की तारीख / Date of Issue	:	24.12.2025
F	द्वारा पारित / Passed By	:	Shravan Ram, Additional Commissioner, Customs Ahmedabad.
G	आयातक का नाम और पता / Name and Address of Importer / Passenger	:	1. M/S. PRIMEAIR PARTS AND COMPRESSORS PVT. LTD., Plot No. 18, Tribhuvan Estate, Kathwada GIDC, Taluka Daskroi, Ahmedabad-382430
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश सेस्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्तिकी तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क (अपील), चौथी मंजिल, हड्डों भवन, ईश्वर भवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच (5.00) रुपये का न्यायालय 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 साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने वाले व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा 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, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

BRIEF FACTS OF THE CASE:

M/S. PRIMEAIR PARTS AND COMPRESSORS PVT. LTD., Plot No. 18, Tribhuvan Estate, Kathwada GIDC, Taluka Daskroi, Ahmedabad-382430 (herein after referred to as “M/s. Primeair Parts and Compressors Pvt. Ltd.” or “the importer”, for the sake of brevity), having Import Export Code Number **AAPCA9096G**, is registered with Goods and Services Tax Department with GSTIN **24AAPCA9096G1Z7**, and has imported goods through Inland Container Depot, Khodiyar, Ahmedabad.

2. Whereas, as pointed out by Analytics Report, it was observed that M/s. Primeair Parts and Compressors Pvt. Ltd. had imported “*Invertor*” by classifying under Tariff Item 8414.90.90 of CTA, 1975 and paid Customs Duty (BCD) @ 7.5%, Social Welfare Surcharge @ 10% and IGST @ 18% for certain items under following Bills of Entry (**RUD-1 of the SCN**) as per Table-1:-

Table-1

Sr. No.	Bill of Entry No.	BoE Date
1	4699769	18-02-2023
2	5971632	16-05-2023
3	7423932	19-08-2023
4	7733860	08-09-2023
5	6252427	15-11-2021
6	9005928	30-11-2023
7	9282442	18-12-2023
8	5758695	23-09-2024

3. Whereas, it was observed that ‘Invertors’ i.e. “Static Converters” have been specifically defined and mention in Sub-Heading 8504.40 and parts of Static Converter and parts of Static converter are covered in Tariff Entry 8504.90.90 of Customs Tariff Act, 1975. The tariff entry for Static Converters and parts for goods of Heading 8504 in the Customs tariff Act, 1975 is as below:

Chapter or heading or subheading	Item Description	Effective BCD Rate ADV
8504 40	- Static converters:	
8504 40 10	-- Electric inverter	20%
	-- Rectifier:	
8504 40 21	--- Dip bridge rectifier	20%
8504 40 29	--- Other	20%
8504 40 30	--- Battery chargers	20%
8504 40 40	--- Voltage regulator and stabilizers (other than Automatic)	20%

8504 40 90	--- <i>Other</i>	20%
<i>xxx xxx</i>		
<i>xxx xxx</i>		
8504 90	- <i>Parts:</i>	
8504 90 10	--- <i>Of transformers</i>	10%
8504 90 90	--- <i>Other</i>	15%

4. The imported goods i.e. Static converter classifiable under Sub-Heading 8504 40 and its parts classifiable under tariff entry 8504 90 90 are covered by Exemption Notification 57/2017-Cus dated 30.06.2017 (as amended). The relevant entry of Notification for the subject item is blow:

“S. No.”	Chapter or Heading or Sub-heading or tariff item	Description of goods	Standard rate	Condition No
13	8504 40	<i>All goods other than the following goods, namely: - (a) charger or power adapter; (b) solar inverter]</i>	10%	-
13A	8504 90 90	<i>All goods other than the following goods, namely: - (a) Printed Circuit Board Assembly of charger or power adapter; (b) Moulded Plastic of charger or power adapter”</i>	10%	-

In pursuance of notification, all the goods mentioned in Sub-Heading 8504 40 and tariff entry 8504 90 90 except the items mentioned in Sr. No. (a) & (b) of entry 13 and of 13A are exempted from BCD in excess of rate @10 ADV.

4.2 Further, the definitions/types of Static Converters as per HSN explanatory notes of Heading 8504 is reproduced below:

“ELECTRICAL STATIC CONVERTERS

The apparatus of this group are used to convert electrical energy in order to adapt it for further use. They incorporate converting elements (e.g., valves) of different types. They may also incorporate various auxiliary devices (e.g., transformers, induction coils, resistors, command regulators, etc.). Their operation is based on the principle that the converting elements act alternately as conductors and non-conductors.

The fact that these apparatuses often incorporate auxiliary circuits to regulate the voltage of the emerging current does not affect their classification in this group, nor does the fact that they are sometimes referred to as voltage or current regulators.

This group includes:

(A) *Rectifiers by which alternating current (single or polyphase) is converted to direct current, generally accompanied by a voltage change.*

(B) *Inverters by which direct current is converted to alternating current.*

(C) Alternating current converters and cycle converters by which alternating current (single or polyphase) is converted to a different frequency or Voltage.

(D) *Direct current converters by which direct current is converted to a different voltage.*

Electrical static converters may be used for different purposes, e.g.:

(1) *Converters to supply electricity to drive stationary machines or electric traction vehicles (e.g., locomotives).*

(2) *Supply converters, such as accumulator chargers (which consist essentially of rectifiers with associated transformer and current control apparatus), converters for galvanising and electrolysis, emergency power packs, converters for supply high-tension direct current, converters for heating purposes and for the current supply to installations electro-magnets.*

Also which classified here are converters known as high-tension generators (used particularly with radio apparatus, emission tubes, microwave tubes, ion-beam tubes) which convert the current from any source, usually the mains, into the direct high-tension current necessary for feeding the equipment concerned by means of rectifiers, transformers, etc.

This heading also includes stabilised suppliers (rectifiers combined with a regulator), e.g., uninterruptible power supply units for a range of electronic equipment.

xxx xxx

xxx xxx"

4.3 The classification of goods in the first Schedule i.e. Import Tariff is governed by the principles/Rules-General Rules of Interpretation (GIR) of the First Schedule mentioned therein. As per the rule 1 of General Rules for interpretation it is provided that the titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require.

The Section Note 2 of Section XVI and its explanation in HSN Explanatory Notes is essential for understanding classification for Static Converters and parts of Static Converter. The section Note 2 of Section XVI is as below:

"Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:

- (a)** *Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;*
- (b)** *Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading and parts which are suitable for use solely or principally with the goods of heading 85.24 are to be classified in heading 85.29;*
- (c)** *xxx xxx"*

The extract of the Section Note 2 of the HSN Explanatory Notes for Section XVI is reproduced below-

"In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the exclusions mentioned in Part (I) above. Separate headings are, however, provided for.

- (A)** *Parts of the engines of heading 84.07 or 84.08 (heading 84.09),*
- (B)** *Parts of the machinery of headings 84.25 to 84.30 (heading 84.31).*
- (C)** *Parts of the textile machines of headings 84.44 to 84.47(heading 84.48).*
- (D)** *Parts of the machines of headings 84.56 to 84.65 (heading 84.66).*
- (E)** *Parts of the office machines of headings 84.70 to 84.72 (heading 84.73).*
- (F)** *Parts of the machines of heading 85.01 or 85.02 (heading 85.03).*
- (G)** *Parts of apparatus of headings 85.19 or 85.21 (heading 85.22).*
- (H)** *Parts of apparatus of headings 85.25 to 85.28 (heading 85.29).*

(IJ) *Parts of apparatus of heading 85.35, 85.36 or 85.37 (heading 85.38).*

The above rules do not apply to parts which in themselves constitute an article covered by a heading of this Section (other than headings 84.87 and 85.48); these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine. This applies in particular to:

(1) *Pumps and compressors (headings 84.13 and 84.14)*

xxx xxx

xxx xxx

(9) Electrical transformers and other machines and apparatus of heading 8504.

xxx xxx

xxx xxx

(19) Insulating fittings for electrical machines, etc., of heading 85.47."

4.4 The classification of subject goods appeared to be done as per Section Note 2(a), which is not appropriate, as the static converter have specific entry in Heading 8504 of Customs Tariff Act, 1975 and is mentioned at Sr. No. 9 of exclusion list as mentioned above, therefore, when imported as an “individual article” or a “part specifically designed to work as a part of specific machine” of Chapter 84 or 85 is invariably to be classified only in Chapter Heading 8504 and not in the heading where the machine is classified as per Section Note 2(a). Therefore, by application of Rule 1 of GIR, Section Note 2(a) of Section XVI for Chapter 84 and 85 read with HSN explanatory notes of Section Note of Section XVI, the appropriate classification of Static converters is Sub-Heading 8504 40 and parts of Static Converters are suitable for use solely or principally with a Static Converters. Therefore, by application of Rule 1 of GIR, Section Note 2(a) & 2(b) of Section XVI for Chapter 84 and 85, the appropriate classification for parts of Static Converter is Sub-Heading 8504 90. The Static Converters include inverters, chargers, adapters and Bridge Rectifiers etc.

4.5 In view of above facts, it appeared that the “Invertor” are goods included in Sub-Heading 8504.40 of the Customs Tariff Act, 1975, therefore the same are required to be classified in its respective heading in view of Section Note 2(a) of Section XVI of the Customs Tariff Act, 1975. Further, it has inter-alia been provided in the Explanatory notes of harmonized System of Nomenclature for Section XVI that the rule, which provides that in general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43). It has been further provided that these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine; that this applies in particular to, among others, **“Invertor of Sub-Heading 8504.40”**.

4.6 Therefore, it can be inferred from above that when “Invertor” imported as an “individual article” or a “part specifically designed to work as a part of specific machine” of Chapter 84 or 85 is invariably to be classified only in Sub-Heading 8504 40, wherein effective rate of Basic Customs Duty is 10%, Social Welfare Surcharge is 10 by virtue of the Customs Notification No. 57/2017 (Sr. No. 13) dated 30.06.2017 for concessional rate of BCD.

5. On going through the details of the said Bills of Entries, it was observed that M/s. Primeair Parts and Compressors Pvt. Ltd. had imported “Invertor” by classifying under Tariff Item 8414.90.90 of Customs Tariff Act, 1975 and paid Customs Duty (BCD) @ 7.5%, Social Welfare Surcharge @ 10% and IGST @ 18% to evade the higher Basic Customs Duty. The details of differential duty calculation are given in Annexure-A of the SCN , and for ready reference it is given in Table-2 below:

Table-2

Sr. No.	BE NO	BE Date	Assess Value (Item)	Duty Paid			Duty Payable			Differential Duty Payable Total
				BCD	SWS	IGST	BCD	SWS	IGST	
1	4699769	18-02-2023	204713	15353	1535	39888	20471	2047	40902	6643
2	5971632	16-05-2023	27313	2048	205	5322	2731	273	5457	886
3	7423932	19-08-2023	927451	69559	6956	180714	92745	9275	185305	30096
4	7733860	08-09-2023	83133	6235	623	16198	8313	831	16610	2698
5	6252427	15-11-2021	5918	444	44	1153	592	59	1182	192
6	9005928	30-11-2023	42093	3157	316	8202	4209	421	8410	1366
7	9282442	18-12-2023	42193	3164	316	8221	4219	422	8430	1369
8	5758695	23-09-2024	79268	5945	595	15445	7927	793	15838	2572
			1412081	105906	10591	275144	141208	14121	282134	45822

5.1 Whereas, M/s. Primeair Parts and Compressors Pvt. Ltd. was inter-alia informed vide letter F. No. VIII/48-21/ICD/DAC-03-2023-24/2024 dated 22.02.2024 (**RUD-2**) that Invertor of heading 8504, when imported as “individual article” or “part specifically designed to work as part of specific machine” of Chapter 84 or 85 is invariably to be classified only in Chapter Heading 8504, wherein effective rate of Basic Customs Duty is 10%, Social Welfare Surcharge is 10% and Integrated Goods and Services Tax is 18%. It was further informed that they had imported “Invertor” under various Bills of Entry under Tariff Item 8414.90.90 of CTA, 1975 and paid 7.5% Basic Customs Duty, 10% Social Welfare Surcharge and 18% Integrated Goods and Services Tax, instead of Chapter Heading 8504, which has resulted in short levy of duty. Accordingly, M/s. Primeair Parts and Compressors Pvt. Ltd. was requested to pay the amount of short duty along with interest at applicable rate as per the provisions of the Customs Act, 1962 and intimate the payment particulars to this office at the earliest.

5.2 M/s. Primeair Parts and Compressors Pvt. Ltd. vide their letter dated 18.03.2024 (**RUD-3**), inter-alia submitted that “*it controls speed and torque of varying the frequency of the input electricity in a compressor so it is not a static convertor*”.

5.3 The argument of M/s. Primeair Parts and Compressors Pvt. Ltd. does not seem to be having any merit as per HSN Explanatory Notes, wherein it is stated that Electric Static Converters include “*Alternating current converters and cycle converters by which alternating current (single or polyphase) is converted to a different frequency or Voltage.*”.

5.4 Sub- Heading 8504.40 of Customs Tariff Act, 1975 covers above discussed devices i.e. “invertor”. It has been provided in the Explanatory notes of Section Note 2 of harmonized System of Nomenclature for XVI that the rule, which provides that in general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43). It has been further provided that these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine; that this applies in particular to, among others, “**Invertor of Sub-Heading 8504.40**”. Therefore, M/s. Primeair Parts and Compressors Pvt. Ltd. , classified their goods under Tariff Item 8414.90.90 of Customs Tariff Act, 1975, appeared not to be aligned with the Section Note 2 of harmonized System of Nomenclature for XVI.

6. RELEVANT LEGAL PROVISIONS:

6.1 Section 17(1) of the Customs Act, 1962:

“*An importer entering any imported goods under section 46 or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on Such goods.*”

6.2 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.”

6.3 Section 28AA of the Customs Act, 1962 states that:

“**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."

6.4 Section 46 of the Customs Act, 1962:

Entry of goods on importation.

"....

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

...

(4A) The importer who presents a bill of entry shall ensure the following, namely:

the accuracy and completeness of the information given therein;

the authenticity and validity of any document supporting it; and

compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force."

6.5 Section 111 of the Customs Act, 1962:

Confiscation of improperly imported goods, etc.

"The following goods brought from a place outside India shall be liable to confiscation: -

...

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;

..."

6.6 Section 112 of the Customs Act, 1962:

Penalty for improper importation of goods, etc.-

"Any person, -

(a) 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, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,

-

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided that where such duty as determined under sub-Section (8) of Section 28 and the interest payable thereon under Section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this Section shall be twenty-five per cent of the penalty so determined;"

6.7 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 of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined."

6.8 Section 114AA of the Customs Act, 1962:

Penalty for use of false and incorrect material. -

“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.”

7. 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 etc. in respect of said imported goods and pay the appropriate duty accordingly, whereas, in the instant case, the importer has failed to correctly classify 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 duty and thereby they have not paid the appropriate Customs Duty on the said imported goods.

7.1 It, therefore, appears that M/s. Primeair Parts and Compressors has willfully contravened the provisions of Section 17(1) of the Customs Act, 1962 in as much as they have failed to correctly self-assess the goods in question and have also contravened the provisions of sub-sections (4) and (4A) of Section 46 of the Customs Act, 1962 in as much as they have failed to ensure the accuracy and completeness of the information given therein.

7.2 From the above, it can be seen that the importer had intentionally not declared correct classification of 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 and cleared the said imported goods without paying appropriate Customs Duty. Even after pointing out / communicating that they have not appropriately classified the said imported goods and have short paid Customs Duty, they have not paid the same.

7.3 The aforesaid facts showed that the importer had resorted to willful misclassification of the said imported goods in the Bills of Entry of the said imported goods by suppressing the said material facts, which showed the ulterior motive of the importer to evade payment of applicable Customs Duty in respect of said imported goods cleared for home consumption vide Bills of Entry mentioned in **Annexure-A** of the show cause notice. The details of Customs Duty required to be paid and the amount of Customs Duty short paid by M/s. Primeair Parts and Compressors Pvt. Ltd. , in respect of said imported goods is detailed in **Annexure-A** of the show cause notice. Thus, **Customs Duty of Rs. 45,822/-** on the said imported goods cleared under Bill of Entries mentioned in **Annexure-A** the show cause notice is liable to be demanded under Section 28(4) 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.

7.4 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. Therefore, the goods valued at **Rs. 14,12,081/-** imported under the said Bills of Entries appear to be liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962 in as much as the same have been imported by mis-classification of the said imported goods.

7.5 The aforesaid acts of omission and commission on the part of M/s. Primeair Parts and Compressors Pvt. Ltd., appeared to have rendered them liable to penalty as provided under Section 112(a)(ii) of the Customs Act, 1962.

7.6 As already discussed, the Customs duty in the present case appeared to have been short levied and short paid by reason of willful mis-statement and suppression of facts on the part of M/s. Primeair Parts and Compressors Pvt. Ltd. , which appeared to have made them liable for penalty under Section 114A of the Customs Act, 1962.

7.7 The importer had resorted to willful mis-declaration of the said imported goods in the Bills of Entry of the said imported goods in spite of being fully aware of the products purchased/imported. Hence, for the said act of contravention on their part, M/s. Primeair Parts and Compressors Pvt. Ltd. appeared to be liable for penalty under Section 114AA of the Customs Act, 1962.

8. In view of above , M/S. PRIMEAIR PARTS AND COMPRESSORS PVT. LTD., PLOT NO.18, TRIBHUVAN ESTATE, KATHWADA GIDC, TALUKA DASKROI, AHMEDABAD-382430, was called upon to show cause to the Additional Commissioner of Customs, having his office at 2nd Floor, Custom House, Navrangpura, Ahmedabad, as to why:

- (a) The declared classification of the imported goods "Invertor" under Customs Tariff Item 8414 90 90 of the First Schedule to the Customs Tariff Act, 1975, imported under Bills of Entry given in Annexure-A to the Show Cause Notice, by M/S. PRIMEAIR PARTS AND COMPRESSORS PVT. LTD, should not be rejected;
- (b) The imported goods "Invertor" should not be held appropriately classifiable under Sub-Heading 8504 40 of the First Schedule to the Customs Tariff Act, 1975;
- (c) The imported goods having assessable value of **Rs. 14,12,081/- (Rupees Fourteen Lakhs Twelve Thousand Eighty-One Only)** as detailed in **Annexure-A** to the Show Cause Notice, 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;

- (d) The Customs Duty amounting to **Rs. 45,822/- (Rupees Forty Five Thousand Eight Hundred Twenty Two Only)** short paid, 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;
- (e) Interest at applicable rate under Section 28AA of the Customs Act, 1962, on Customs Duty mentioned at (d) above, should not be charged and recovered from them;
- (f) Penalty should not be imposed on them under the provisions of Section 112(a)(ii) of the Customs Act, 1962;
- (g) Penalty should not be imposed on them under Section 114A of the Customs Act, 1962;
- (h) Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962;

09. WRITTEN SUBMISSION AND PERSONAL HEARING

The Noticee submitted their written reply vide their letter dtd 20.09.2025 submitted on 26.09.2025. In this letter they interalia submitted that there is difference between a compressor inverter drive and general electrical inverter also known as static convertor. They submitted that an electrical or static inverter (85049090) is a device that converts DC into AC. This conversion is essential for powering AC devices from DC sources and are widely used in renewable energy and back up power systems. They further submitted that the compressor inverter Drive (84149090) they are importing is a type of AC drive which is a part of screw air compressor. It controls the speed and torque of a compressor by varying the frequency of the input electricity and manages the associated voltage or current variation. The further submitted that this type of drive is specifically designed for compressors and is not a static convertor.

10 PERSONAL HEARING:

The Personal Hearing in the matter was held on 12.11.2025 online in virtual mode. Shri Saurabh Tripathi , Director M/s Primeair Parts and Compressors Pvt. Ltd. attended the above PH on behalf M/s Primeair Parts and Compressors Pvt. Ltd held in virtual mode on 12.11.2025. He

submitted that they have not imported invertors but the goods imported by them are parts of compressor. He further referred to his reply submitted on 26.09.2025 and resubmitted the copy of same by email on 13.11.2025. They also submitted technical specifications of AC inverter Drive for Air Compressors. These specifications interalia stated its key features viz. energy saving up to 35-60%, Smooth start, advanced motor control and built in protection. It also described their intelligent control functions and benefits etc. This office further vide email dtd 01.12.2025 requested them to submit technical literature and other specifications of the goods imported by them with reference to the Ph held on 12.11.2025. The noticee vide reply e mail dtd 04.12.2025 referred and resubmitted the technical specifications of AC inverter drive for air compressors which were already submitted by them vide earlier e mail dtd 13.11.2025, and which have already been mentioned in the earlier part. No other additional submission or details were submitted by them.

11 DISCUSSION AND FINDINGS:

11.1 I have carefully gone through the Show Cause Notice, the Submissions made by the noticee in written e mail as well as during the course of the personal hearing and available records of the case. The issues for consideration before me in these proceedings are as under:-

11.2 Whether the declared classification of the imported goods "Invertors" under Customs Tariff Item 8414 90 90 of the First Schedule to the Customs Tariff Act, 1975, imported under Bills of Entries as per annexure-A to the Show Cause Notice by M/s Primeair Parts and Compressors Pvt. Ltd. , should not be rejected; and whether the imported goods "Invertors" should be held appropriately classifiable under Sub-Heading 8504 40 of the First Schedule to the Customs Tariff Act, 1975.

I find that the noticee vide their letter dated 20.09.2025 submitted on 26.09.2025 and emailed on 13.11.2025 submitted that that the compressor inverter Drive (84149090) they are importing is a type of AC drive which is a part of screw air compressor. It controls the speed and torque of a compressor by varying the frequency of the input electricity and manages the associated voltage or current variation. This argument of noticee does not seem to be having any merit as per HSN Explanatory Notes, wherein it is stated that Electric Static Converters include "***Alternating current converters and cycle converters by which alternating current (single or polyphase) is converted to a different frequency or Voltage.***"

Sub- Heading 8504.40 of Customs Tariff Act, 1975 covers above discussed devices i.e. "invertor". It has been provided in the Explanatory notes of Section Note 2 of harmonized System of Nomenclature for XVI that the rule, which provides that in general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43). It has been further provided that these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine; that this applies in particular to, among others, "**Invertor of Sub-Heading 8504.40**". Therefore, I find that M/s. Primeair Parts and Compressors Pvt. Ltd., wrongly classified their goods under Tariff Item 8414.90.90 of Customs Tariff Act, 1975, as it was not aligned with the Section Note 2 of harmonized System of Nomenclature for XVI.

In view of the same , I find that the "Invertor" are goods included in Sub-Heading 8504 40 of the Customs Tariff Act, 1975, therefore the same are required to be classified in its respective heading in view of Section Note 2(a) of Section XVI of the Custom Tarriff Act,1975. Further, I also find that it has *inter-alia* been provided in the Explanatory notes of harmonized System of Nomenclature for Section XVI that the rule, which provides that in general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43). I find it has been further provided that these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine; that this applies in particular to, among others, "**Invertor of Sub-Heading 8504 40**".

Therefore, I find from above that when "invertor" imported as an "individual article" or a "part specifically designed to work as a part of specific machine" of Chapter 84 or 85 is invariably to be classified only in Sub-Heading 8504.40, wherein effective rate of Basic Customs Duty is 10%, Social Welfare Surcharge is 10% by virtue of exemption Customs Notification No. 57/2017 dated 30.06.2017 (as amended). And accordingly I hold the impugned goods appropriately classifiable under Sub -Heading 850440 and reject the declared classification of the imported goods "Invertors" under Custom Tariff Item 84149090.

11.3 Whether *extended period can be invoked under Section 28(4)*

I find that in their self-assessment of the Bills of Entry, the noticee has failed to correctly classify the imported goods and suppressed the material facts with an intent to evade Customs duty, which was pointed out by the alert from DAC Analytics Note, which led to inquiry into the said Bills of Entry. I also find that,

the Noticee was inter-alia informed from field formation vide letter F. No. VIII/48-21/ICD/DAC-03-2023-24/2024 dated 22.02.2024 (**RUD-2 of the SCN**) that Invertor of heading 8504, when imported as “individual article” or “part specifically designed to work as part of specific machine” of Chapter 84 or 85 is invariably to be classified only in Chapter Heading 8504, wherein effective rate of Basic Customs Duty is 10%, Social Welfare Surcharge is 10% and Integrated Goods and Services Tax is 18%. It was further informed that they had imported “Invertor” under various Bills of Entry under Tariff Item 8414.90.90 of CTA, 1975 and paid 7.5% Basic Customs Duty, 10% Social Welfare Surcharge and 18% Integrated Goods and Services Tax, instead of Chapter Heading 8504, which has resulted in short levy of duty. The Noticee M/s. Primeair Parts and Compressors Pvt. Ltd. was requested to pay the amount of short duty along with interest at applicable rate as per the provisions of the Customs Act, 1962 and intimate the payment particulars to the field formation office at the earliest. The Noticee did not make any payment in this regard nor submitted any legally acceptable reply for not doing so. Therefore, I hold that the noticee knowingly mis-classified the imported goods and suppressed the material facts with an intent to evade Customs duty, and made themselves liable to pay differential duty under the provisions of section 28(4) of the Customs Act, 1962 with interest under Section 28AA.

Section 28 (4) is reproduced below as:-

“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 28AA of the Customs Act, 1962 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.]"

In view of above I hold the noticee liable to pay the short paid duty amounting to Rs. 45822/- along with appropriate interest.

11.4 Whether goods are liable for confiscation?

In view of my observations mentioned in the earlier paras I find that the noticee has wilfully suppressed the facts and mis-classified the impugned goods for evading Customs Duty at higher rate, therefore, the goods as per Annexure-A to the aforementioned SCN, valued at Rs. 14,12,081/- (Rupees Fourteen Lakh Twelve Thousand and Eighty One Only) as detailed in Annexure-A / - imported under the said Bills of Entry are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962 in as much as the same have been imported by mis-classification of the said imported goods.

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

“Section 111. *Confiscation of improperly imported goods, etc. – The following goods brought from a place outside India shall be liable to confiscation: -*

...

(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54.”

Section 125 reads as follows:

“(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 1 [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:”

11.5 Whether redemption fine is imposable

I find that the present case is not only about a dispute of classification, but also an outcome of inquiry/ DAC Note findings about mis-classification and mis-statement of the noticee in their past Bills of Entry for the import of “Invertor”. I hold that the goods of Annexure-A to the aforementioned SCN, valued at Rs. 14,12,081/- (Rupees Fourteen Lakh Twelve Thousand and Eighty One Only) imported under the said Bills of Entries are held to be liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962 in as much as the same have been imported by mis-classification of the said imported goods. Further, I find that in cases where the goods are not physically available for confiscation redemption fine is imposable in light of the judgment in the case of **M/s Visteon Automotive Systems India Ltd. reported at 2018 (009) GSTL 0142 (Mad)** wherein the Hon’ble High Court of Madras has observed as under:

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

Hon’ble High Court of Gujarat by relying on this judgment, in the case of **Synergy Fertichem Ltd. Vs. Union of India [2020 (33) G.S.T.L. 513 (Guj.)]**, held that even in the absence of the physical availability of the goods or the conveyance, the authority can proceed to pass an order of confiscation and also pass an order of redemption fine in lieu of confiscation. In other words, even if the goods or the conveyance has been released under Section 129 of the Act and, later, confiscation proceedings are initiated, then even in the absence of the goods or the conveyance, the payment of redemption fine in lieu of confiscation

can be passed. The ratio of the above case law is squarely applicable to the facts of the instant case and as such I hold that redemption fine is imposable on the subject goods under Section 125 of the Act.

11.6 Whether penalty under Section 114A and 112(a) is imposable

Section 112(a) reads as follows:

“Section 112. Penalty for improper importation of goods, etc..”

Any person, -

(a) 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, or

*...
shall be liable, -*

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty ¹ [not exceeding the value of the goods or five thousand rupees], whichever is the greater;”

Section 114A reads as follows:

“Section 114A. Penalty for short-levy or non-levy of duty in certain cases. -

*Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has 2 [****]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, the person who is liable to pay the duty or interest, as the case may be, as determined under 3 [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined”*

I hold that due to suppression of facts and wilful mis-statement by, M/s Primeair Parts and Compressors Pvt. Ltd. had led to short levy of Customs duty thus rendering them liable for penalty under Section 114A of the Customs Act, 1962. The SCN also proposed imposition of penalty under Section 112(a) of the Customs Act, 1962, on the Noticee. In the instant case, I have already found that the Noticee is liable to penalty under Section 114A of the Customs Act, 1962 and therefore penalty under Section 112 is not imposable in terms of the 5th proviso to Section 114A of the Customs Act, 1962. the same reads as under:

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

11.7 Whether penalty under Section 114AA and 117 is imposable

I find that in the Show Cause Notice penalty under Section 114AA of the Customs Act, 1962 has been proposed to be imposed in importer . Section 114AA of the Customs Act, 1962 says as under:

SECTION . [114AA. Penalty for use of false and incorrect material- 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.]

As discussed in the foregoing paras, it is evident that despite knowing the actual facts of the imported product and its actual classification, the importer , M/s Primeair Parts and Compressors Pvt. Ltd. had knowingly and intentionally made, signed or used the declaration, statements and /or documents and presented them to the Customs Authorities which were incorrect in as much as they were not representing the true, correct and actual classification of the imported goods. I therefore find and hold that for this act on the part of importer, M/s Primeair Parts and Compressors Pvt. Ltd. , they are liable for penalty in terms of the provisions of Section 114AA of the Customs Act.

I also find that in the Show Cause Notice penalty under Section 117 of the Customs Act, 1962 has been proposed to be imposed on importer .

Section 117 of the Customs Act, 1962:

Penalties for contravention, etc., not expressly mentioned.

“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.”

I find that since express penalties have already been imposed under Section 114A and 114 AA, in view of this, I Refrain to impose penalty under Section 117.

12. In view of the above discussion and findings, I pass the following order

Order

(a) I reject the declared classification of the imported goods “Invertors” under Customs Tariff Item 8414 90 90 of the First Schedule to the Customs Tariff Act, 1975, imported under Bills of Entries ,as per annexure-A to the Show Cause Notice, by M/s Primeair Parts and Compressors Pvt. Ltd.

(b) I hold the imported goods “Invertors” appropriately classifiable under Sub-Heading 8504 40 of the First Schedule to the Customs Tariff Act, 1975.

(c) I hold the imported goods having assessable value of Rs. 14,12,081/- (Rupees Fourteen Lakh Twelve Thousand and Eighty One Only) as detailed in Annexure-A to the Show Cause Notice, liable for confiscation under Section 111(m) of the Customs Act 1962, and as the impugned goods had already been cleared, I order to impose a Redemption Fine of **Rs.1,00,000/- (Rupees One Lakh Only)** in lieu of confiscation, under Section 125 of the Customs Act, 1962.

(d) I confirm the demand of the Customs Duty amounting to **Rs. 45,822/- (Rupees Forty-Five Thousand Eight Hundred and Twenty Two Only)**{ (BCD Rs. 35302/- + SWS Rs. 3,530/- + IGST Rs. 6,990/-)} short paid, as detailed in **Annexure-A** to the Show Cause Notice, under Section 28(4) of the Customs Act, 1962.

(e) I confirm the demand of Interest at applicable rate under Section 28AA of the Customs Act, 1962, on Customs Duty mentioned at (d) above, and order to recover the same.

(f) I **refrain** from imposing Penalty under the provisions of Section 112(a) (ii) of the Customs Act, 1962.

(g) I order to impose Penalty of **Rs.45822/- (Rupees Forty-Five Thousand Eight Hundred and Twenty Two Only) plus penalty equal to the applicable interest under Section 28AA of the Customs Act ,1962 payable on the Duty demanded and confirmed above on the noticee on them under Section 114A of the Customs Act, 1962. I give an option, under proviso 114A to the noticee to pay 25% of the amount of total penalty imposed, subject to the payment of total duty amount and interest confirmed and the amount of 25% of penalty imposed within 30 days of receipt of this order.**

(h) I order to impose Penalty of **Rs.75000/- (Rupees Seventy Five Thousand Only)** on them under Section 114AA of the Customs Act, 1962.

(i) I **refrain** from imposing Penalty under Section 117 of the Customs Act, 1962.

13. The Show Cause Notice bearing F. No. VIII/10-267/ICD-Khod/O&A/HQ/2024-25 dated 23.07.2025 is disposed of in above terms.

(SHRAVAN RAM)

Additional Commissioner

DIN: 20251271MN0000164781

F. No. VIII/10-267/ICD-Khod/O&A/HQ/2024-25

Date: **24.12.2025**

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

TO,

1. M/S. PRIMEAIR PARTS AND COMPRESSORS PVT. LTD.,

Plot No. 18, Tribhuvan Estate, Kathwada GIDC,

Taluka Daskroi, Ahmedabad-382430

Copy to:

- (i) The Commissioner of Customs, Ahmedabad. (Kind Attn : RRA Section)
- (ii) The Dy. Commissioner of Customs, ICD Khodiyar Ahmedabad.
- (iii) The Deputy Commissioner of Customs (Task Force), Ahmedabad.
- (iv) The System In-Charge, Customs, HQ, Ahmedabad for uploading on the official web-site.
- (V) Guard File.