	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा **OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,** **CUSTOM HOUSE: MUNDRA, KUTCH** **MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421** ई-मेल/ E-Mail: adj-mundra@gov.in	
A	फा. सं./ FILE NO.	GEN/ADJ/ADC/2332/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/219/2026-27
C	द्वारा पारित किया गया PASSED BY	**Dipak Zala,** Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	03-07-2026
E	जारी करने की तिथि DATE OF ISSUE	03-07-2026
F	कारण बताओ नोटिस सं. एवं तिथि SCN NO. & DATE	SCN Waived as per Importer's request
G	नोटिसी/पार्टी / आयातक NOTICEE/PARTY/ IMPORTER	M/s Ashoka Buildcon Limited (IEC 3199000801), S. No. 861, Ashoka House, Ashoka Marg, Vadala, Nashik, Maharashtra – 422 011

1. यह अपील आदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
   This Order - in - Original is granted to the concerned free of charge.
2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए 3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
   Any person aggrieved by this Order - in - Original may file an appeal under Section 128A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

   "सीमा शुल्क आयुक्त (अपील), चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"

   "The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."
3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
   Appeal shall be filed within three months from the date of communication of this order.
4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
   Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –
5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं°-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।
   The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।
   While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.
8. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (Appeals) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।
   An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

An intelligence developed by the officers of Directorate of Revenue Intelligence, Regional Unit, Jaipur (herein after referred as "DRI" for the sake of brevity) indicated that some importers of "Static Var Generator (SVG)" (hereinafter referred to as "the imported goods") have been evading payment of customs duty by wrongly classifying the Static Var Generator (SVG) under CTH 85437099. These importers were importing Static VAR Generator by classifying the same under CTH 85437099, paying BCD@7.5% and IGST @18%, however, Static VAR Generator is correctly classifiable under CTH 85044090, which attracts BCD @20% and IGST @18%. Thus, it appears that the importer evaded/short paid customs duty by misclassifying the imported goods under CTH 85437099. The Static VAR Generator imported by the importer was meant to be used in the Solar Power Plants/ Wind Power Plants and the importer was aware of the exact end-use of the subject imported goods. Despite being fully aware of the description and end use of the imported goods, these were wrongly classified under CTH 85437099 in the Bills of Entry filed for home clearance instead of its correct CTH 85044090 in order to evade the appropriate Customs Duty. This had also resulted in the short payment of other Customs levies viz. SWS and IGST as BCD forms part of the assessable value for computation of these duties.

Based on the above intelligence, summons under Section 108 of the Customs Act, 1962 bearing DIN No. 202412DDZ4000000E77B dated 27.12.2024, DIN No. 202502DDZ40000888B 31 dated 03.02.2025 and DIN No. 202502DDZ4000000DFFF dated 20.02.2025 were issued to M/s Ashoka Buildcon Limited (IEC 3199000801), S. No. 861, Ashoka House, Ashoka Marg, Vadala, Nashik, Maharashtra-422011 to submit documents and to tender evidence.

2. In response to summons dated 20.02.2025, Shri Arun Kashinath Bagul, Senior Executive Account & Finance Department of M/s Ashoka Buildcon Limited appeared on 28.02.2025 as an authorized representative of the importer and his statement was recorded under Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that:

- M/s Ashoka Buildcon Limited is engaged in work contract services of road, rail, bridge and transmission of power lines; that they had imported Static VAR Generators for work contract of M/s NTPC Limited for their Solar Plants situated at Chittargarh and Bikaner (Rajasthan); that they imported TBEA make Static VAR Generators under two Bills of Entry filed at Mundra Port.
- Being Senior Executive Account & Finance Department of M/s Ashoka Buildcon Limited, he is responsible for indirect taxes related work mainly GST and other indirect taxes; that he reports to Sh. Ravindra Vijayvargiya, Senior GM and Shri Paresh C Mehta, CFO of M/s Ashoka Buildcon Limited.
- M/s Ashoka Buildcon Limited had imported Static VAR Generator and some other machines required under work contract mechanism.
- M/s Ashoka Buildcon Limited had imported total 2 sets each of Static VAR Generator 50 MVAR SVG (Static VAR Generator) and 40 MVAR SVG vide Bill of Entry No. 5958460 and 5958461 both dated 05.10.2024 filed at Mundra Port, which were supplied by M/s. TBEA XI'AN Electric Technology Co., Ltd. China.
- On being asked about name and contact details of overseas supplier M/s. TBEA XI'AN Electric Technology Co. Ltd, he stated that Shri Kedar Ranade, Senior Manager (Purchase) of M/s Ashoka Buildcon Limited (kedar.ranade@ashokabuildcon.com) had dealt the communication related to purchase order with the overseas supplier; that the PO were communicated by them to **Shri Vaibhav Kaushik** (vaibhav.kaushik@tbea.com) of M/s. TBEA XI'AN Electric Technology Co. Ltd.
- that they had already submitted documents vide letter dated 13.01.2025 and he submitted copy of original purchase order.
- He was appraised about the fact that on going through the original purchase order submitted by him on the date of statement, the HSN of SVG is mentioned as 850300 where HSN of the SVG is mentioned as 854370 in the Purchase Order (PO) submitted by them vide letter dated 13.01.2025 and on being asked who had decided to modify/amend the CTH/ HSN as 854370 in the Purchase Order, he stated that the HSN code mentioned in the Purchase Orders was noticed as wrongly selected by the purchase team of M/s. Ashoka Builcon Ltd. before sharing it with the overseas supplier and the corrected/ amended purchase order dated 03.06.2024 with mentioned HSN Code as 854370 duly signed by M/s. Ashoka Builcon Ltd. was shared with the overseas supplier. Further, he stated that Shri Rajendra Burad, CEO after discussion with purchase and taxation team had decided to change the HSN Code from 850300 to 854370.
- On being asked to state end use of the Static VAR Generator imported by them from M/s. TBEA XI'AN Electric Technology Co. Ltd., China, he stated that in an electric power system, reactive power plays an important role to maintain the stability of the grid. Static VAR Generator widely known as SVG is one of

the devices which is being used for the compensation of Reactive Power in the electrical system. The compensation device based on voltage source converter had played a qualitative leap in reactive power compensation. It no longer uses large capacity capacitors and inductors, but realizes reactive transformation through power electronic devices of high-frequency and high-power. By using full-controlled PWM (Pulse Width Modulation) with carrier phase-shifting technology, compensate reactive power of load.

Applications of Static VAR Generator (SVG)-

When the grid voltage is higher, the SVG can send out the inductive reactive power to pull down the grid; when the grid voltage is lower, the SVG can send out the capacitive reactive power to lift the grid.

SVG can complete the conversion from rated capacitive reactive power to rated inductive reactive power in a very short time. This unparalleled response speed is fully capable of compensating load impact. The response time of SVG is less than 5ms.

SVG can suppress voltage flicker up to 5:1 or even higher. Because of the fast response speed of SVG, increasing the device capacity can continue to improve the ability to suppress voltage flicker.

SVGS are high performance, compact, flexible, modular that provide an instantaneous and effective response to power quality problems in low or high voltage electric power systems. They enable longer equipment lifetime, higher process reliability, improved power system capacity and stability, and reduced energy losses, complying with most demanding power quality standards and grid Codes.

Components of the SVG

The SVG solution comprised of the below items-

1. Disconnect switch.
2. Soft start unit.
3. Surge Arrestor.
4. Reactor, power unit.
5. Control system & protection system.
6. Auxiliary system.

- On being asked about the primary functions of Static VAR Generator (SVG) imported by them, he stated that the working principle of SVG is that SVG uses switchable power electronic devices (such as IGBTs) to form a self commutation bridge circuit, which is connected in parallel to the power grid

through a reactor. The amplitude and phase of the output voltage on the AC side of the bridge circuit are appropriately adjusted, or the AC side current is directly controlled. Quickly absorb or emit the required reactive power to achieve rapid dynamic adjustment of reactive power. As an active compensation device, it can not only track the impulse current of impulse loads, but also track and compensate for harmonic currents.

The voltage source inverter consists of two parts: a DC capacitor and an inverter bridge, where the inverter bridge is composed of switchable semiconductor devices IGBTs.

In work, by adjusting the switching of IGBT devices in the inverter bridge, the amplitude and phase of the voltage from DC inverter to AC can be controlled. Therefore, the entire device is **equivalent to a phase modulated power supply.** By detecting the required reactive power in the system, it is possible to quickly generate reactive power of equal magnitude and opposite phase, achieving on-site balance of reactive power and maintaining real-time high power factor operation of the system.

1. Static reactive power generator, English description: static var generator, Abbreviated as SVG. Also known as dynamic reactive power compensation device, or static synchronous compensator. It refers to a device that uses a self-commutation power **semiconductor bridge converter** for dynamic reactive power compensation.
2. In the power system, in order to reduce the power loss caused by the large amount of reactive current provided by the distribution network to the load, corresponding voltage level reactive power compensation devices need to be installed at each power receiving point to improve the transmission capacity of the power grid and save energy. At present, many industrial and mining enterprises use capacitor switching compensation, but the configuration of capacitor compensation is relatively low, and the stability of switching compensation devices is poor.

In other words, a Static Var Generator (SVG) uses power electronics to provide reactive power compensation in a dynamic and precise manner.

- that the Static VAR Generator (SVG) imported by M/s Ashoka Buildcon Limited does not contain any moving part and all the parts of imported Static VAR Generator (SVG) are stationary.
- that the Static VAR Generator (SVG) imported by them is combination of power electronics devices namely IGBTs, Capacitors and Inductors.
- that the Static VAR Generators imported by M/s Ashoka Buildcon Limited are solid state devices.

- On being asked who is responsible for filing of Bills of Entry, deciding CTH, payment of customs duty etc. on import of Static VAR Generator (SVG) by M/s Ashoka Buildcon Limited, he stated that the Bills of Entry were filed by the Customs House agent after confirmation from the indirect taxes of M/s Ashoka Buildcon Limited; that final responsibility of filing of Bills of Entry is with head of Indirect Taxation team namely Shri Ravindra Vijavargiya (Senior G M, Accounts & Finance); that the responsibility of deciding CTH, payment of customs duty etc. is being dealt by Shri Ravindra Vijavargiya; that in import of Static VAR Generator (SVG), they had taken services of Customs Broker namely M/s. Yusen Logistics (India) Private Limited, who on their behalf had filed the Bill of Entry at Mundra Port and got cleared the goods. He further stated that Customs Brokers had no role in deciding classification of the imported Static VAR Generators as the CTH of the same was decided by them and informed to the Customs Broker.
- On being asked to state what was the CTH declared by them in the Bills of Entry for "Static VAR Generator of various capacity", he stated that in all the Bills of Entry, they had declared description of the imported goods as 33KV 40 MVAR Static VAR Generator Set-TSVG-40/33-W-C and 50 KV 40 MVAR Static VAR Generator Set-TSVG-50/33-W-C and CTH as "85437099".
- He was appraised about the fact stated by him in his statement wherein he stated that when the grid voltage is higher, the SVG can send out the inductive power to pull down the grid; when the grid voltage is lower, the SVG can send out the capacitive reactive power to left the grid and on being asked whether he agree that SVGs work similar to a voltage regulator, he stated that the SVGs work similar to a voltage regulator as the SVG is used to control and stabilize the voltage of electric energy in grid.
- That the auxiliary systems are component of the SVG imported by them.
- He was shown relevant page of Customs Tariff covering CTH 8504 and on being asked to state whether the "Static VAR Generator TSVG-40/33W and TSVG-50/33W" imported by M/s Ashoka Buildcon Limited appears to be a Electrical Static Convertor and therefore merit classification under CTH 85044090, he after going through HSN Explanatory notes of Customs Tariff covering CTH 8504, requested for 15 days time to understand the explanatory notes to the HSN 8504 and types of electrical static convertors and to revert back for customs classification matter after consultation with management.
- He was shown relevant page of Customs Tariff covering CTH 8543 and more particularly the CTH 85437099 as declared by them in the Bills of Entry and on being asked to state what are the goods covered under the CTH 85437099 and whether the "Static VAR Generator" & "TBEA make Static VAR Generator (SVG)" imported by M/s Ashoka Buildcon Limited merit classification under CTH 85437099, he after going through relevant page of Customs Tariff covering CTH 8543 and CTH 85437099 stated that the CTH 85437099 is for Electrical

machines and apparatus having individual functions, not specified or included elsewhere in Chapter 85; that they have classified the Static VAR Generator imported by them under CTH 85437099 as it does not have any specific HSN Code. He further stated that these were classified under CTH 85437099 as the same was declared in the commercial invoice and bills of lading provided by the supplier. He further stated that after reading explanatory notes of HSN 8543 and 8504, he had understood the issue of classification of imported goods more precisely and will submit that the final decision of applicable HSN after consultation with management.

- He was shown printout of document wherein specific details of Static VAR Generator were mentioned. This document was received by the department from M/s. TBEA XI'AN Electric Technology Co. Ltd., China supplier of SVGs to M/s Ashoka Buildcon Limited and on being asked to offer his comments on it, he appended his dated signature on this paper in token of having seen /read the same and stated that he will discuss and revert back for customs classification matter.
- He was shown printout of operational principle for Static VAR Generators (SVG) downloaded from website of M/s. TBEA XI'AN Electric Technology Co. Ltd., China (supplier of SVGs) to M/s Ashoka Buildcon Limited and on being asked to offer his comments on it, he appended his dated signature on this paper in token of having seen /read the same and stated that he will revert back for customs classification matter after consultation with management.
- He was appraised about the fact that he has admitted that the imported Static VAR Generator had both the qualities i.e. they contain auxiliary systems like IGBTs and they act as voltage regulator and on being asked whether he agreed that SVGs imported by M/s Ashoka Buildcon Limited are a type of electrical static convertor which merits classification under CTH 85044090, he stated that he will revert back for customs classification matter after consultation with management.
- He was shown printout of commercial invoice SA20240615002 dated 15.06.2024 (PO No. 4200001742) issued by M/s. TBEA XI'AN Electric Technology Co. Ltd., China to M/s. Ostro Bhesada Wind Private Ltd. wherein the imported goods namely Static VAR Generator had been classified under CTH 85044090 by the supplier M/s. TBEA XI'AN Electric Technology Co. Ltd., China and on being asked to offer his comments on it, he appended his dated signature on this paper in token of having seen /read the same and stated that as per this document supplier (TBEA) had classified the Static VAR Generator under CTH/ HSN 85044090.
- On being asked to state reasons/ justification for classification of imported Static VAR Generator by M/s Ashoka Buildcon Limited under CTH 85437099, he stated that SVGs do not have specific tariff entry and the supplier had

mentioned the same CTH/HSN in the commercial invoice and other documents hence they had classified under CTH 85437099; that after understanding the explanatory notes to the HSN 8504 and understanding types of electrical static convertors, he have understood that the imported SVG are classifiable under other CTH/ HSN; that after discussion with management he will revert back about the final decisions on classification of imported goods.

3. The Static VAR Generator imported by M/s Ashoka Buildcon Limited were supplied by M/s. TBEA Xi'an Electric Technology Co. Ltd., China, therefore summons DIN No. 202504DDZ4000000EB25 dated 25.04.2025 and DIN No. 202505DDZ40000287643 dated 09.05.2025 and DIN No. 202505DDZ4000000C4E4 dated 30.05.2025 under Section 108 of the Customs Act, 1962 were issued to M/s. TBEA Xi'an Electric Technology Co. Ltd. In response to summons dated 30.05.2025, Shri Vaibhav Kaushik, Consultant (Sales), of M/s. TBEA Xi'an Electric Technology Co. Ltd. appeared on 03.06.2025 and his statement was recorded under Section 108 of the Customs Act, 1962, wherein he, inter alia, stated that: -

- M/s. TBEA Xi'an Electric Technology Co. Ltd., No. 70, Shanglinyuan 4th Road, High Tech, Zone Xi'an, China is engaged in manufacturing of Static VAR Generators. The sister concern of M/s. TBEA Xi'an Electric Technology Co. Ltd. namely M/s. TBEA Solar India Pvt. Ltd. is situated at Industrial Area, Talaguppe, Karnataka, Bidadi-562109, which manufactures Solar Invertors.
- He is Country Head Consultant (Sales) in TBEA Xi'an Electric Technology Co. Ltd. and he work as a link between M/s. TBEA Xi'an Electric Technology Co. Ltd., China and Indian Solar Developers, where he approach potential Indian solar developers with their products (Solar Invertors & Static VAR Generators) for marketing purpose and if the developer is interested in the product, the further dealing between Indian Developer and M/s. TBEA Xi'an Electric Technology Co. Ltd. is handled by him which includes deciding of price, schedule of supply, finalization of payment terms and details in export documents etc.
- M/s. TBEA Xi'an Electric Technology Co. Ltd. supply Static VAR Generators to various Indian importers; that their major customers of Static VAR Generator in India are:

(i) M/s Adani Green Energy Limited

(ii) M/s. Green Infra Wind Energy Limited

(iii) M/s. Green Infra Renewable Energy Limited

(iv) M/s. Jakson Green Private Limited

(v) M/s. Amara Raja Infra Private Limited

(vi) M/s. ABC Renewable Energy (RJ-01) Private Limited

(vii)M/s. Ambuja Cements Limited

(viii) M/s. Renew Solar Energy (Jharkhand One) Private Limited

(ix) M/s. Avaada Clean Project Private Limited

(x) M/s. AM Green Energy Private Limited

(xi) M/s. Ashoka Buildcon Limited

(xii)M/s. Tata Power Renewable Energy Limited

(xiii) M/s. Tata Power Solar Systems Limited

- M/s. TBEA Xi'an Electric Technology Co. Ltd. manufactures Static VAR Generators of various type of MVAR of capacities 30 MVar, 35 MVar, 40 MVar, 45 MVar, 50 MVar, 55 MVar, and 60 MVar.
- that for every supply of Static VAR Generators by M/s. TBEA Xi'an Electric Technology Co. Ltd. to Indian customer/importer, they had executed a purchase order/ agreement with them; that the PO were exchanged among Indian Developer/importer and M/s. TBEA Xi'an Electric Technology Co. Ltd.
- On being asked to state end use of the Static VAR Generator supplied by them he stated that in an electric power system, reactive power plays an important role to maintain the stability of the grid. Static VAR Generator widely known as SVG is one of the devices which is being used for the compensation of Reactive Power in the electrical system. The compensation device based on voltage source converter had played a qualitative leap in reactive power compensation. It no longer uses large capacity capacitors and inductors, but realizes reactive transformation through power electronic devices of high-frequency and high-power. By using full-controlled PWM (Pulse Width Modulation) with carrier phase-shifting technology, compensate reactive power of load.

Applications of Static VAR Generator (SVG)

When the grid voltage is higher, the SVG can send out the inductive reactive power to pull down the grid; when the grid voltage is lower, the SVG can send out the capacitive reactive power to lift the grid.

SVG can complete the conversion from rated capacitive reactive power to rated inductive reactive power in a very short time. This unparalleled response speed is fully capable of compensating load impact. The response time of SVG is less than 5ms.

SVG can suppress voltage flicker up to 5:1 or even higher. Because of the fast response speed of SVG, increasing the device capacity can continue to improve the ability to suppress voltage flicker.

SVG's are high performance, compact, flexible, modular that provide an instantaneous and effective response to power quality problems in low or high voltage electric power systems. They enable longer equipment lifetime, higher process reliability, improved power system capacity and stability, and reduced energy losses, complying with most demanding power quality standards and grid Codes.

Components of the SVG

The SVG solution comprised of the below items-

1. Disconnect switch.
2. Soft start unit.
3. Surge Arrestor.
4. Reactor, power unit.
5. Control system & protection system.
6. Auxiliary system.

- On being asked about the primary functions of Static VAR Generator (SVG) supplied by M/s. TBEA XI'AN Electric Technology Co. Ltd., China to various Indian importers (solar developers), he stated that SVG uses switchable power electronic devices (such as IGBTs) to form a self commutation bridge circuit, which is connected in parallel to the power grid through a reactor. The amplitude and phase of the output voltage on the AC side of the bridge circuit are appropriately adjusted, or the AC side current is directly controlled. Quickly absorb or emit the required reactive power to achieve rapid dynamic adjustment of reactive power. **As an active compensation device, it can not only track the impulse current of impulse loads, but also track and compensate for harmonic currents. Thus, it appears that SVG also regulate voltage and current.**

The voltage source inverter/convertor consists of two parts: a DC capacitor and an inverter bridge, where the inverter bridge is composed of switchable semiconductor devices IGBT

In work, by adjusting the switching of IGBT devices in the inverter bridge, the amplitude and phase of the voltage from DC inverter to AC can be controlled. **Therefore, the entire device is equivalent to a phase modulated power supply.** By detecting the required reactive power in the system, it is possible to quickly generate reactive power of equal magnitude and opposite phase, achieving on-site balance of reactive power and maintaining real-time high power factor operation of the system.

1. Static reactive power generator, English description: static var generator, Abbreviated as SVG. Also known as dynamic reactive power compensation

device, or static synchronous compensator. It refers to a device that uses a self commutation power semiconductor bridge converter for dynamic reactive power compensation.

2. In the power system, in order to reduce the power loss caused by the large amount of reactive current provided by the distribution network to the load, corresponding voltage level reactive power compensation devices need to be installed at each power receiving point to improve the transmission capacity of the power grid and save energy. At present, many industrial and mining enterprises use capacitor switching compensation, but the configuration of capacitor compensation is relatively low, and the stability of switching compensation devices is poor.

   In other words, a Static VAR Generator (SVG) uses power electronics to provide reactive power compensation in a dynamic and precise manner.

- that Static VAR Generator (SVG) supplied by M/s. TBEA XI'AN Electric Technology Co. Ltd., China does not contain any moving part. All the parts of Static VAR Generator (SVG) are stationary.
- That Static VAR Generator (SVG) supplied by M/s. TBEA XI'AN Electric Technology Co. Ltd., China is combination of power electronics devices namely IGBTS, Capacitors and Inductors.
- that the Static VAR Generators supplied by M/s. TBEA XI'AN Electric Technology Co. Ltd., China to Indian importers/customers are solid state device.
- that the auxiliary systems are component of the SVG supplied by M/s. TBEA XI'AN Electric Technology Co. Ltd., China.
- He was shown printout of document wherein specific details of Static VAR Generator were mentioned. This document was received by the department from M/s. TBEA XI'AN Electric Technology Co. Ltd., China and on being asked to offer his comments on it, he appended his dated signature on this paper in token of having seen /read the same and stated that he agreed with the contents of this document and agreed that the said documents has been issued by M/s. TBEA XI'AN Electric Technology Co. Ltd., China.
- He was shown printout of operational principle for Static VAR Generators (SVG) downloaded from website of M/s. TBEA XI'AN Electric Technology Co. Ltd., China and on being asked to offer his comments on it, he appended his dated signature on this paper in token of having seen /read the same and stated that agreed with the contents of this document and agreed that the said document belongs to M/s. TBEA XI'AN Electric Technology Co. Ltd., China.
- that as per his understanding of the functioning of Static VAR Generators and prevalent practice at M/s. TBEA XI'AN Electric Technology Co. Ltd, the correct

CTH/HSN of Static VAR Generators is 85044090, as the Static VAR Generators functions similar to Static Convertor.

- He was shown printout of commercial invoice SA20240615002 dated 15.06.2024 (PO No. 4200001742) issued by M/s. TBEA XI'AN Electric Technology Co. Ltd., China to M/s. Ostro Bhesada Wind Private Ltd. wherein the imported goods namely Static VAR Generator had been classified under CTH 85044090 by the supplier M/s. TBEA XI'AN Electric Technology Co. Ltd., China and on being asked to offer his comments on it, he stated that the first shipment of Static VAR Generator by M/s. TBEA XI'AN Electric Technology Co. Ltd., China was supplied to M/s. UPC Renewables (90 MVAr), wherein the HSN Code of the Static VAR Generator was declared as 85044090 by them; that thereafter, many Indian Importers had imported Static VAR Generator from M/s. TBEA XI'AN Electric Technology Co. Ltd., China.
- That as per instructions of M/s. Ostro Bhesada Wind Private Limited, they had declared the HSN code as 8504 4090, which is the correct HSN for the subject goods.
- On being asked whether M/s. TBEA XIAN ELECTRIC TECHNOLOGY CO. LTD. was providing HSN or CTH of the goods being sold/ exported by it to Indian Customers, he stated that for their first shipment was sold to M/s. UPC Renewables wherein they had mentioned HSN Code as 8504 4090; that thereafter M/s Adani Green Energy Limited had approached them and informed that they had imported Static VAR Generator from M/s. Mingyang Smart Energy Group Limited under HSN Code 85437099 and instructed them to mention HSN 85437099 for their shipments of Static VAR Generator and after that they started referring two HSN codes (85437099 and 85044090) to buyers with instructions to verify the applicability from their CHA while deciding HSN code and they used to mention HSN code in export document, which customer instructed them to mention.
- On seeing two invoices No. SA20250210001 dated 10.02.2025 & SA20250121001 dated 21.01.2025 respectively issued by M/s. TBEA XI'AN Electric Technology Co. Ltd., China in respect of Static VAR Generator exported to M/s. Fourth Partner Energy Pvt. Ltd. and M/s. Kleio Solar Power Private Limited he stated that as per M/s. TBEA XI'AN Electric Technology Co. Ltd., China, the Static VAR Generators are correctly classifiable under HSN 8504 4090 and in these cases Indian Importer also agreed with M/s. TBEA XI'AN Electric Technology Co. Ltd., China, and accordingly, they had declared HSN code as 85044090 in the shipping documents.
- On being asked to state reasons / grounds for classifying the same exported goods "Static VAR Generator" under different HSN/ CTH code i.e. 85437099 and 85044090 while exporting to Indian Importers, he stated that the exports shipments of M/s. TBEA XI'AN Electric Technology Co. Ltd., China to Indian importers are on CIF basis and they are not liable for any duty or tax in Indian

Territory; that they recommended use of HSN code 85044090 to India importers but some times Indian importers insist for declaration of HSN code as 85437099 and just to continue our business with them, they either mention other HSN code or sometime did not mention any HSN code in the shipping documents as per request of Indian importer.

- On being asked to state the process undertaken by M/s. TBEA XI'AN Electric Technology Co. Ltd. while negotiating with Indian importers for supply of Static VAR Generator, he stated that mostly all the negotiations with Indian importers takes place through mail, however sometime it also happens on mobile phone.

4. Whereas, Shri Arun Kashinath Bagul, Senior Executive Account & Finance Department of M/s Ashoka Buildcon Limited in his statement dated 28.02.2025 stated that he will revert back for customs classification of Static VAR Generator imported by them after consultation with management, however he has not submitted any clarification/documents with regard to classification of Static VAR Generator. Therefore, summons under Section 108 of the Customs Act, 1962 bearing DIN No. 202507DDZ400000000CB dated 02.07.2025 to appear for tendering statement on 23.07.2025 was issued to M/s Ashoka Buildcon Limited. In response to summons dated 02.07.2025, M/s Ashoka Buildcon Limited vide letter dated 23.07.2025 submitted that they were surprised to learn that the vendor has been supplying the same Static VAR Generator to multiple customers across India under different HSN codes (primarily 8543 and 8504) and based on this information, they by acting proactively and in good faith, has decided to voluntarily reclassify the SVG under HSN 85044090 for the sake of compliance and clarity; that during the course of the investigation as per Sl. No. 13 of Customs Notification No. 57/2017 dated 30.06.2017(amended vide Notification No.22/2018 dated 02.02.2018), the effective BCD rate under HS 8504 is 10% for all goods under CTH 8504.40, except for chargers, power adaptors, and Solar Inverters and accordingly, in light of the reclassification, they have paid the differential BCD of 2.5% amounting to Rs.19,54,899/- along with Interest of Rs.2,40,917/- and Penalty@15% amounting to Rs.2,93,235/- through Challan No. 1398134144 dated 23.07.2025 and accordingly, the importer had requested to close the investigation.

5. On scrutiny of the import data of M/s Ashoka Buildcon Limited and from the statements recorded as discussed in paras supra, it appears that the importer had misclassified imported Static VAR Generator under CTH 85437099 instead of its correct CTH 85044090 to evade payment of customs duty in two Bills of Entry. The details of the same are as under: -

Sr. No	Bill of Entry No.	Bill of Entry Date	Goods Description	Qty	CIF Value (INR)

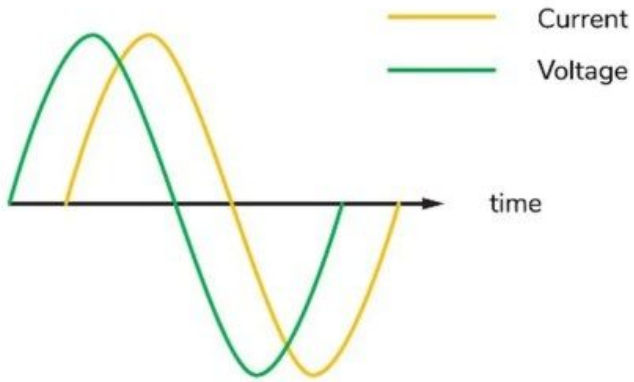
.					
1	5958460	05-10-2024	33KV 40MVAR STATIC VAR GENERATOR SET: TSVG-40/33-W-C	1	12629074
2			33KV 50MVAR STATIC VAR GENERATOR WITH MANDATORY SPARES M NO. TSVG-50/33-W-C	1	18200240
3	5958461	05-10-2024	33KV 40MVAR STATIC VAR GENERATOR SET: TSVG-40/33-W-C	1	12444101
4			33KV 50MVAR STATIC VAR GENERATOR WITH MANDATORY SPARES M NO. TSVG-50/33-W-C	1	16970000
Total				**4**	**60243415**

6. Classification of the Static VAR Generator (SVG) and its functions: -

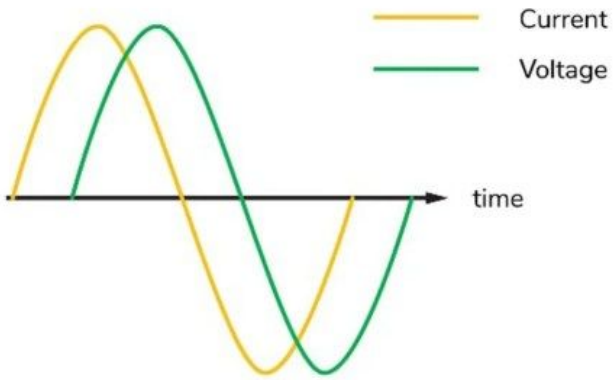
6.1 A Static VAR Generator (SVG) is a power electronic device used in electrical power systems to regulate and control active power and reactive power (measured in VARs, or Volt-Ampere Reactive) and improve power quality. It is a device used in electrical power systems to provide fast acting reactive power compensation. It regulates the voltage, power (active and reactive) level, enhances system stability, and improves power factor by dynamically absorbing or generating reactive power, depending on the grid's needs. It helps in maintaining the voltage stability of the grid by generating or absorbing reactive power, depending on the grid's needs. The basic principle of SVG is that Voltage Source Inverter (Voltage Sourced Converter, VSC for short) connects to power grid (load) through a shunt reactor or transformer and by adjusting the inverter AC output voltage amplitude and phase, or controlling the amplitude and phase of the AC current, SVG absorb or release reactive power rapidly and thus achieve the goal of fast dynamic adjusting reactive power.

When the power grid (load) is generating inductive or capacitive current, it makes load current lagging or leading the voltage.

(a) When grid is generating Inductive power, where current lags voltage, SVG detects the phase angle difference and generates a leading current into the grid making the phase angle of current almost the same as that of voltage on the transformer side, which makes fundamental power factor to unity.



(b) Similarly, when grid is generating Capacitive power, where current leads voltage, SVG detects the phase angle difference and generates a lagging current into the grid making the phase angle of current almost the same as that of voltage on the transformer side, which makes fundamental power factor to unity.



SVG is also capable of correcting load imbalance and compensating part of harmonic currents. It is a device used in electrical power systems to provide fast acting reactive power compensation. It regulates the voltage level, enhances system stability, and improves power factor by dynamically absorbing or generating reactive power, depending on the grid's needs. It helps maintain the voltage stability of the grid by generating or absorbing reactive power, depending on the grid's needs.

6.2 Components of a Static VAR Generator (SVG):

Static VAR Generator (SVG) is a power electronic device which has various components which allow it to function properly. The key components of a Static VAR Generator are as under:-

(i) **Voltage Source Inverter:** The core component of Static VAR Generator is the voltage-source inverter (VSI). The VSI converts DC power into AC power and is controlled by a sophisticated control system. The control system constantly measures the power system parameters, such as voltage and current, and adjusts the SVG's operation accordingly.

(ii) **External Controller:** The external controller takes the measurement of active power and reactive power of the HV bus bar from a separate potential transformer.

(iii) **Thyristor-switched capacitor (TSC):** A component that compensates for reactive power in electrical systems. It consists of a power capacitor, a bidirectional thyristor valve, and usually a current limiting reactor.

(iv) **Thyristor-controlled reactor (TCR):** A component that is often used with a TSC in an SVG. The reactor can be air- or iron-cored.

(v) **Harmonic filter:** A component that may be used in an SVG.

(vi) **Power Electronic Devices:**

- **IGBTs (Insulated Gate Bipolar Transistors)**: The primary switching devices used in SVGs for controlling the flow of reactive power. They enable rapid switching, allowing the SVG to respond quickly to changes in in grid conditions.

- **Diodes**: Used to facilitate current flow during different operational states, providing a path for reverse current.

(viii) **Energy Storage Elements**:

(a) **Capacitors**: Store electrical energy and discharge it to supply reactive power when needed. They play a crucial role in managing the voltage levels by providing a source of reactive power.

(b) **Inductors**: Sometimes included to manage reactive power by absorbing excess reactive power and providing additional filtering

6.3 Role/ Functions of a Static VAR Generator (SVG):

- **Voltage Regulation**: SVGs dynamically control reactive power, stabilizing the General Rules of Interpretation voltage.

- **Fast Response**: Unlike traditional compensators (like capacitor banks or synchronous condensers), SVGs are fast-acting, capable of responding to sudden changes in load or generation, thus improving the transient stability of the grid.

- **Power Factor Correction**: By controlling reactive power, SVGs help maintain a good **power factor**, reducing power losses and avoiding penalties for industrial users.
- **Improving Power Quality**: SVGs can reduce issues like voltage sags, voltage swells, and flickers, improving the overall **power quality**.

Thus, the SVG consists of a three phase voltage source converter (VSC) with a DC link capacitor. The VSC uses insulated gate bipolar transistors (IGBTs) as switching devices. The SVG controller senses the system voltage and current and adjusts the VSC output to provide the required reactive power. When the system voltage drops, the SVG injects capacitive reactive power by increasing the VSC output voltage. Similarly, when the system voltage rises, the SVG injects inductive reactive power by reducing the VSC output voltage. **(https://www.powerqualitystatcom.com/How-does-a-static-var-generator-work-id42758337.html)**

6.4 How a Static VAR Generator (SVG) Works: Functional Sequence of SVG

A Static VAR Generator's functional sequence can be broken down into these key steps:

(a) Sensing and Measurement

The SVG's control system constantly measures the grid's voltage at the point of common coupling (PCC) using voltage and current transformers (VTs and CTs). This data provides the real-time information needed to assess the grid's reactive power requirements.

(b) Control System Analysis

The measured voltage and current data are fed into the SVG's **control system**, which is typically a fast-acting digital signal processor (DSP). The control system compares the actual grid voltage to a pre-set reference voltage. The difference, or error signal, determines the amount and direction of reactive power needed.

(c) PWM Signal Generation

Based on the error signal, the control system generates a series of high-frequency pulses known as **Pulse Width Modulation (PWM) signals**. These signals are the "instructions" for the power switches (IGBTs) in the voltage source converter. The width and timing of these pulses are precisely controlled to generate an output voltage waveform that is either

in phase with the grid voltage (for generating reactive power) or out of phase (for absorbing reactive power).

(d) Voltage Source Converter (VSC) Operation

The Pulse Width Modulation (PWM) signals are sent to the **Voltage Source Converter (VSC)**, which is the heart of the Static VAR Generator (SVG). The VSC is typically a six-pulse or twelve-pulse inverter built with high-speed power electronic switches, most commonly **Insulated Gate Bipolar Transistors (IGBTs)**. The SVG's **Voltage Source Converter (VSC)**, which contains the IGBT switches, serves a dual purpose. While its primary function is to generate or absorb reactive power, it also acts as a rectifier. It draws a small amount of active power from the AC grid and converts it to DC to charge the DC link capacitor. The DC current in an SVG's DC link is created by a process of **AC-to-DC conversion** from the very electrical grid it's connected to. The SVG doesn't have an independent DC power source like a battery; it draws a small amount of **active (real) power** from the grid itself to maintain the voltage on its internal **DC link capacitor**. The DC link capacitor inside an SVG stores a small amount of energy to keep the internal voltage source stable. The capacitor is a **short-term energy buffer**, not a long-term power source. The VSC converts the DC voltage from the DC link capacitor into a three-phase AC voltage (**DC-to-AC conversion**). Thus, it appears that the Static VAR Generator (SVG) has a main unit called the Voltage Source Converter (VSC). This converter performs two main conversions:

1. AC to DC conversion: The VSC first takes a small amount of power from the AC grid and converts it into DC power. This DC power charges the DC link capacitor, which stores energy and keeps the voltage stable.
2. DC to AC conversion: The VSC then converts this stored DC power back into three-phase AC power. By adjusting this output, the SVG can generate or absorb reactive power to stabilize the grid.

(e) Reactive Power Exchange

The magnitude and phase of the AC voltage generated by the VSC determine the reactive power flow.

- **Voltage Support (Capacitive Mode):** If the grid voltage is low, the SVG's control system makes the VSC generate an output voltage **larger in magnitude** than the grid voltage. This causes the SVG to inject reactive power into the grid, raising the voltage.
- **Voltage Regulation (Inductive Mode):** If the grid voltage is high, the VSC generates an output voltage **smaller in magnitude** than the grid voltage. This causes the SVG to absorb reactive power from the grid, lowering the voltage.

(f) Harmonic Filtering

The rapid switching of the IGBTs in the VSC can introduce harmonics into the power system. To mitigate this, an **L-C filter** (or similar filter) is connected between the VSC and the grid. This filter smooths the output voltage waveform and ensures that the power injected or absorbed is a pure sinusoidal wave.

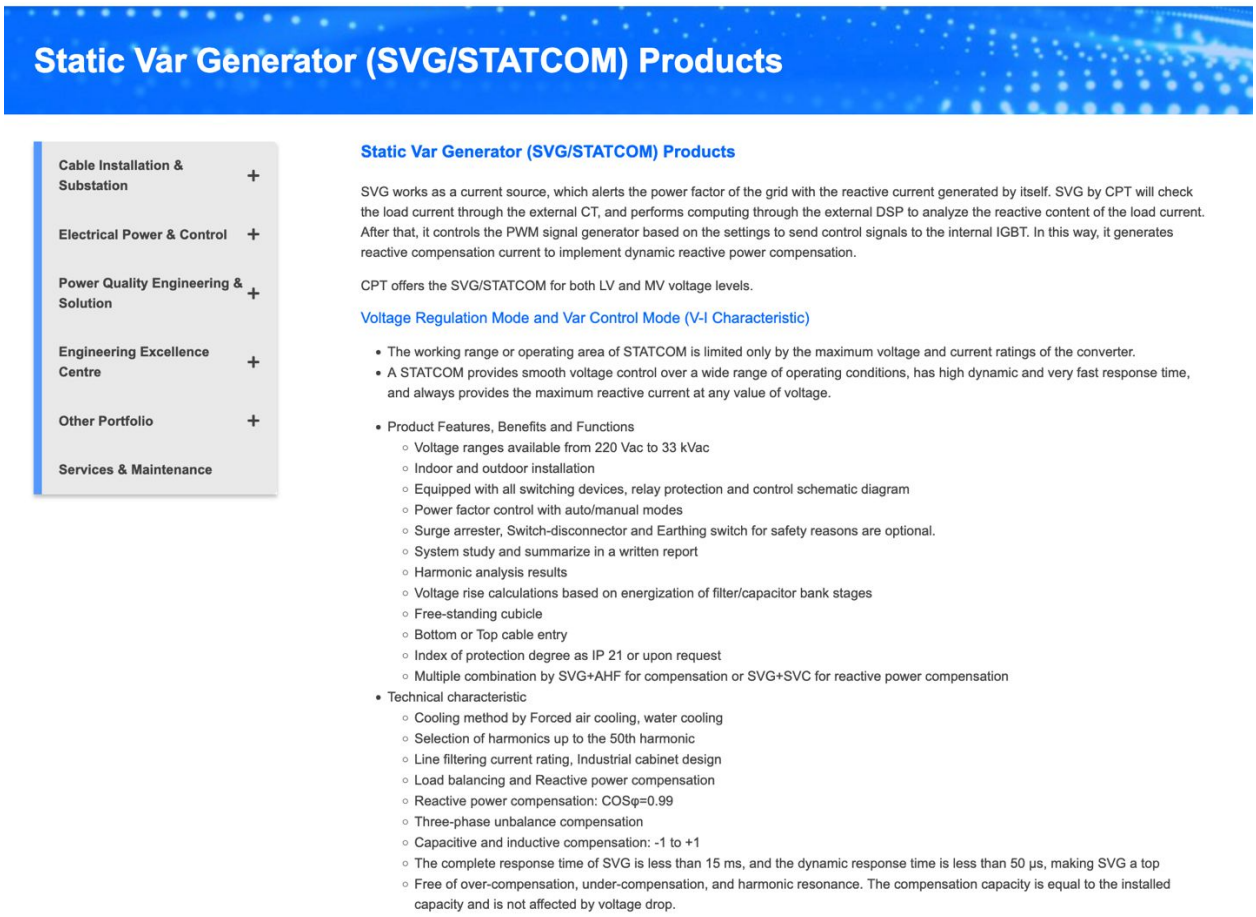
(g) Continuous Feedback

The entire process is a continuous closed-loop control system. The control system receives continuous feedback from the voltage and current sensors, allowing for rapid and precise adjustments to the reactive power output in real-time, typically within milliseconds. This makes the SVG a highly effective tool for dynamic voltage support and power quality improvement.

6.5 Applications of Static VAR Generator (SVG):

- **GRID Voltage Support**: To maintain stable voltage levels in transmission and distribution networks.
- **Power Factor Correction**: In industrial facilities to minimize losses and avoid penalties from utility companies.
- **Renewable Energy Integration**: SVGs are used in wind farms and solar power plants to stabilize the grid voltage during fluctuating power output.
- **Heavy Industrial Loads**: Used in industries with heavy inductive loads like steel plants, cement factories, and paper mills.

A Static VAR Generator (SVG) is also known as a Static Synchronous Compensator (STATCOM) as depicted in the below attachment.



(https://www.cptthailand.com/en/our-business/power-quality-engineering-solution/ static-var-generator-svgstatcom-products)

7. From the above stated details, facts, functions and working principle of Static VAR Generator (SVG), it appears that SVG is a type of Static Convertor/works similar to Static Converter. The characteristics and classification of Static Converter under the Customs Tariff is discussed in the paras below: -

7.1 A Static Converter is a device that converts electrical energy from one form to another (i.e. from Active power to Reactive power and vice versa) without using moveable mechanical components. It relies on solid-state electronic components such as diodes, transistors, and thyristors for the conversion process. The key functions of a Static Converter are as under: -

I. **Voltage Conversion:**

- Static converters can step up (increase) or step down (decrease) the voltage to meet specific needs.
- Example: Power adapters for charging mobile devices.

II. **Frequency Conversion:**

- They can also adjust the frequency of the electrical supply, useful in industrial processes.
- Example: Frequency converters for running motors at different speeds.

III. **AC/DC Conversion:**

- Alternating Current (AC) is converted to Direct Current (DC), or vice versa, depending on the application.
- Example: Solar inverters convert DC from solar panels to AC for household use.

7.2 Types of Static Converters

1. **Rectifiers**
   - **Function**: Convert AC to DC.
   - **Example**: Used in most electronic devices like smartphones and laptops to convert wall outlet AC into DC power for the device's battery.
   - **Types**: Half-wave, full-wave, and bridge rectifiers.
2. **Inverters**
   - **Function**: Convert DC to AC.
   - **Example**: Solar inverters in renewable energy systems, Uninterruptible Power Supply (UPS) for backup power.
   - **Types**: Pure sine wave inverters (high-quality AC) and modified sine wave inverters.
3. **DC-DC Converters**
   - **Function**: Adjust the voltage level of DC power (step-up or step-down).
   - **Example**: Used in electric vehicles (EVs) to manage battery voltage and regulate power to different components.
   - **Types**: Buck converters (step-down), boost converters (step-up), and buck-boost converters.
4. **AC-AC Converters**
   - **Function**: Change the voltage level or frequency of AC power.

- **Example**: Industrial applications like controlling motor speed or voltage in large machinery.
- **Types**: Cycloconverters and solid-state frequency changers.

7.3 How Static Converters Work

- **Solid-State Electronics**:
  - Static converters use semiconductor devices like diodes (for rectification), transistors (for switching), and thyristors (for high-power applications).
  - No moving parts, which ensures long lasting and reliable operation.

7.4 Applications of Static Converters

- **Power Supply Systems**:
  - Converters are integral to power supplies in electronics, ensuring consistent and reliable power delivery.
  - Example: Desktop computers, where the power supply unit (PSU) converts AC to DC and regulates voltage levels.
- **Renewable Energy Systems**:
  - Inverters are key in converting the DC generated by solar panels or wind turbines into usable AC for homes and businesses.
  - Example: : Grid-tie inverters for solar panels, allowing excess energy to be fed into the GRID.
- **Electric Vehicles (EVs)**:
  - DC-DC converters manage battery power and adjust voltage for various components, improving efficiency.
  - Example: Boost converters increase the voltage to power the electric motor.
- **Industrial Automation**:
  - AC-AC converters are used in motor control and machinery, allowing precise control of speed and power output.
  - Example: Variable frequency drives (VFDs) used in HVAC (Heating, Ventilation, and Air Conditioning) systems to control motor speeds.

7.5 How Static Converters falls under heading 8504.40

Static converters use semiconductor devices like diodes (for rectification), transistors (for switching), and thyristors (for high-power applications) and it had no moving parts, which ensures long-lasting and reliable operation. Further, according to the **Explanatory Notes** for **HSN 8504**, the heading specifically includes:

Static Converters such as:

- **Rectifiers**: These convert alternating current (AC) into direct current (DC). Examples include battery chargers and power supply units in electronic devices.
- **Inverters**: These convert DC into AC. Commonly found in solar power systems and backup power systems like UPS.
- **DC-DC Converters**: Convert DC power from one voltage level to another. For instance, step-down converters (buck) or step-up converters (boost) used in devices like electric vehicles, laptops, etc.
- **AC-AC Converters**: Convert AC from one voltage, power (active and reactive) or frequency to another, such as frequency converters used in industrial motor control.

In view of the above stated facts about Static Converters and Explanatory Notes for HSN 8504, it appears that Static Converters are Classified Under 8504.40 because of the following reasons: -

a. **Explicit Mention in Explanatory Notes**: The heading specifically includes "static converters" within its scope.
b. **Technical Definition**: Static converters, by definition, perform energy conversion without moving parts, aligning with the intent of Heading 8504.
c. **Versatility**: The variety of functions such as rectification, inversion, voltage stepping, power regulation and frequency conversion all fall under this category.

Heading 8504 also covers devices like electrical transformers and inductors, which, like static converters, deal with transforming or conditioning electrical power without the use of mechanical processes. This grouping reflects the logic of including static converters in this category, as they are all related to electromagnetic energy conversion or control. Therefore, Static Converters are appropriately classifiable under HSN 8504. Further, depending on the specific type of static converter, the classification can be further detailed under subheadings “8504.40-"Static Converters."

Thus, Static Converters (rectifiers, inverters, AC-AC Converters etc.) are classifiable under HSN Code 8504.40.

8. Similarity in Functions, Components and Application of Static Converters and Static VAR Generators (SVG) and their classification under HSN 8504.40

It appears that Static VAR Generators (SVGs) are a specific type of Static Converter, which is well supported by their similar operational principles, components, and functionalities. The SVG embody the fundamental principles of static conversion while serving a specialized role in reactive power management within electrical power systems. **Thus, a Static VAR Generator (SVG) is a type of static converter and therefore merits classification under HSN 8504**. A detailed explanation depicting similarity between Static VAR Generators (SVGs) and Static Converter is provided as under:-

(i) Definition Alignment

- **Static Converter:** A static converter is defined as a device that alters electrical parameters (voltage, power, current, frequency). It is a device that converts electrical energy (including active and reactive energy) from one form to another without using moving mechanical parts and using static parts like Diodes, Thyristor etc. This includes various types of power electronic devices used in electrical engineering.
- **SVG:** An SVG fits this definition as it employs solid-state devices (like IGBTs and diodes) to manage reactive power in electrical systems, operating without any mechanical components.

(ii) Functionality

- **Energy Management:** Both static converters and SVGs are designed to convert or control electrical energy. SVGs specifically focus on reactive power compensation, which is a crucial aspect of voltage/ power stabilisation, regulation and management while static convertors also do the same functions. **There is also conversion of AC to DC and DC to AC during the maintenance of the grid power.**
- **Real-Time Control:** SVGs dynamically adjust reactive power/ voltage output in response to changing grids conditions, similar to how other static converters manage power/ voltage flow.

(iii) Components

- **Similar Components: SVGs share many components with other static converters, including:**

- Power electronic devices (IGBTs, diodes)
- Capacitors and inductors for energy storage and filtering
- Control systems for real-time monitoring and adjustment

(iv) Application Context

- **Grid Support**: SVGs are utilized in electrical grids to improve power/ voltage quality and stability, much like other types of static converters that serve various applications (e.g., motor drives, renewable energy systems).

(v) Common Control Strategies

- **Advanced Control Techniques:** Both static converter and Static VAR Generator (SVG) employ similar control strategies, such as digital signal processing and algorithmic control, to optimize their performance based on system demands.

Thus, it appears that Static VAR Generators (SVGs) are a specific type of Static Converter and merit classification under CTH 8504.

9. Static VAR Generators (SVG) are correctly classifiable under CTH 8504

From above discussion, it is aptly clear that the "Static VAR Generator (SVG)" is a type of Static Convertor and merit classification under CTH 8504. M/s Ashoka Buildcon Limited had wrongly classified the "Static VAR Generator (SVG)" under CTH 85437099 in the Bills of Entry filed by them instead of its correct CTH 85044090 to evade payment of appropriate customs duty. The classification of any product under Customs Tariff is governed by the General Rules for the Interpretation of Import Tariff. The discussion for deciding correct classification, General rules of interpretation and HSN explanatory notes is as follows:-

9.1 General Rules of Interpretation 1 –This rule states that classification shall be determined according to the terms of the headings and any relevant Section or Chapter Notes. The following points apply in the instant case:

- **Chapter 85** of the Harmonized System covers **Electrical Machinery and Equipment** and includes devices like transformers, static converters, and electrical inductors.
- **Static VAR Generators (SVGs)** convert electrical energy in terms of **reactive power** and voltage management, aligning with the description of static converters
- Thus, the heading that is most relevant to the SVG is **8504**, which reads:

- **Heading 8504**: *Electrical transformers, static converters (for example, rectifiers) and inductors*.

- SVGs fit within this general description as they are **solid-state devices** designed for **reactive power compensation**, which inherently involves the conversion and control of electrical power/ voltage without mechanical movement (static).

Thus, **under General Rules of Interpretation 1**, SVGs clearly fall under **HSN 8504**, which is specific to static converters.

(ii) General Rules of Interpretation 3: Classification of Goods Classifiable Under Multiple Headings

- **GRI 3(a)** and **3(b)** indicate that since static converters (like SVGs) have a specific classification under 8504, **HSN 8543** would be less specific in comparison. Therefore, Static VAR Generator merit classification under HSN 8504.

(iii) General Rules of Interpretation 4: Goods Not Covered by Specific Headings

- Since SVGs have a clear and relevant heading in **HSN 8504**, **GRI 4** is not applicable. If there were no specific classification, then only 8543 could be considered, but this is not the case here.

(iv) General Rules of Interpretation 6 – Subheading Classification

- After identifying the correct heading (8504), General Rules of Interpretation 6 requires selecting the appropriate subheading. Within HSN 8504, the specific subheading that applies to SVGs is:

Possible Subheadings for SVG under 8504:

- **8504.40**: This subheading covers **static converters** (including inverters, rectifiers, voltage stabilizers, regulators etc).

- **8504.90**: This subheading covers **parts** of the apparatus of heading 8504, which might apply if only components of an SVG are being classified, rather than a complete unit.

Thus, on detailed analysis of functionality, components, and use of the Static VAR Generator and by applying the General Rules of Interpretation of Import Tariff, it appears that the Static VAR Generator merits classification under **HSN Code 8504.40** for customs purposes.

9.2 Explanatory Notes of HSN heading 8504.40

The explanatory notes of Chapter 8504 further clarify the inclusion of SVGs in heading 8504.40. According to these notes, static converters include devices such as rectifiers, inverters, and other electronic devices that perform power conversion without mechanical parts. Since SVGs operate using solid state electronics (like IGBTs) to **convert and control electrical power/ voltage without mechanical movement (static)** and manage reactive power, thus they satisfy the definition of static converters.

The explanatory notes of heading 8504.40 is reproduced here for reference in step wise manner along with drawing similarities with SVG.

- *"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."* This is the function of the SVG as apparatus used for converting the electric energy (active and reactive) for further use.

- *"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 SVG consist of the various components like IGBTs, diodes etc. The operation of Voltage Sourced Converters and IGBTs (Insulated Gate Bipolar Transistors) which is integral part of the SVG is indeed based on the principle of alternating between conductive and non-conductive states of semiconductors, allowing them to control and manage electrical power efficiently.

- *"The fact that these apparatus 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."* **Thus, though the auxiliary circuits, are integral to the operation of Static Var Generators, enhance the performance, safety, and reliability of SVGs by providing control, monitoring, protection, communication, and feedback capabilities. This further indicates that the broader categorization of the apparatus using the principle above has to be classified here irrespective of the auxiliary circuits.**

According to these notes, static converters falling under subheading 8540.40 include devices such as rectifiers, inverters, and other electronic devices that perform power conversion without mechanical parts. Since SVGs operate using solid-state electronics (like IGBTs) to manage electric (reactive) power, they satisfy the classification under 8504.40.

Based on the General Rules of Interpretation of import tariff and the explanatory notes of HSN heading 8504, it appears that the appropriate classification for a Static VAR Generator (SVG) is under HSN Code 8504.40.

9.3 The details of Static Var Generators (SVG) available on exporter/ supplier web site.

M/s Ashoka Buildcon Limited had imported Static VAR Generator from M/s TBEA Xi'an Electric Technology Co, Ltd., China. The operational principle for Static Var Generators (SVG) provided at the official website of TBEA Xi'an Electric Technology Co, Ltd., China is appended as under:-

> *"SVG, also known as Static Compensation (STATCOM), is the latest technology in dynamic reactive compensation field. The basic principle of SVG is that* ***Voltage source inverter*** *(Voltage Sourced Converter, VSC for short) connect to power grid through a shunt reactor or transformer, by adjusting the inverter AC output voltage amplitude and phase, or directly control the amplitude and phase of the AC current, absorb or release reactive power rapidly, achieve the goal of fast dynamic adjusting reactive power. When using direct current control, the AC side current can be controlled directly, which can not only track the impact current of compensating load, but also track the harmonic current. The system is a power source, and SVG could equivalent to another power source. After the two power sources are connected through a transformer or reactor,* ***SVG is equivalent to a controllable current source with adjustable output current."***

From the operational principle of SVG as appended above, it appears that the imported goods i.e. Static VAR Generator is one type of Electric Static Converter falling under CTH 850440 as defined in HSN.

9.4 Further, the classification of Static VAR Generator is to be determined in accordance with Note 4 of Section XVI of the Customs Tariff Act, 1975 (pertaining to Chapter 84 and 85). The Note 4 is reproduced as under:-

> *(4)Where a machine (including a combination of machine) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole to be classified in the heading appropriate to that function.*

As per the above Section note (4) a functional machine consisting of individual components is to be classified under the heading that provides for the overall function of the machine. **The primary function of the Static VAR Generator is to convert and supply electrical power and current (either leading or lagging).** This function is essentially the one of electric Converter. The function of converting

electrical energy in order to adapt it for further use falls within tariff heading 8504. Further, reference is drawn to the explanatory notes of WCO for CTH 8504 which is reproduced below:

"ELECTRICAL STATIC CONVERTERS

The apparatus of this group are used to convert electrical energy use. They incorporate converting elements (e.g., valves) of in order to adapt it for further 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."

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Thus, it appears that the functioning of Static VAR Generator is similar to Electric Static Converter and based on the above explanation also the appropriate classification of the Static VAR Generators is 85044090.

10. Why Static VAR Generators is not classifiable under 8543:

M/s Ashoka Buildcon Limited had wrongly classified the imported Static VAR Generator (SVG) under CTH 85437099 paying BCD@7.5% whereas Static VAR Generator (SVG) is rightly merits classification under CTH 85044090 wherein BCD@20% is payable (BCD@10% is payable as per Serial No. 13 of Notification No. 57/2017-Customs dated 30.06.2017 as amended by Notification No. 22/2018-Customs dated 02.02.2018). The CTH 8543 deals with Electrical machines and apparatus having individual functions, not specified or included elsewhere in Chapter 85 of the Customs Tariff. Therefore, it appears that Chapter 8543 which is a residual entry includes only those machines and apparatus which have individual functions and which are not included elsewhere in Chapter 85, whereas it appears that Static VAR Generators are capable of multiple functions namely regulating control of Voltage and Current, releasing and absorbing active/ reactive power etc. and thus, it appears that SVGs do not represent machines with individual functions

that are not included elsewhere and therefore, SVG cannot be classified under HSN 8543.

11. Evidences showing that Static VAR Generator is classifiable under CTH 85044090

During investigation various evidences were gathered which shows that Static VAR Generator is a type of Static Converter and merit classification under HSN 8504. The same are discussed as under: -

11.1 Details of "Static VAR Generator" received from M/s. TBEA XI'AN Electric Technology Co. Ltd., China

M/s Ashoka Buildcon Limited had imported the Static VAR Generator from M/s. TBEA XI'AN Electric Technology Co. Ltd., China. During investigation, /s. TBEA XI'AN Electric Technology Co. Ltd. had provided a sheet stating details of Static VAR Generator and from this sheet, it appears that the Static VAR Generator is a specific type of Static Converter specifically designed to dynamically control and compensate for reactive power in an electrical system.

A "static var generator" (SVG) is essentially a type of "static converter" that is specifically designed to dynamically control and compensate for reactive power in an electrical system, meaning it uses power electronics to precisely inject or absorb reactive power as needed, while a general static converter can be used for a wider range of power conversion tasks like voltage level adjustments or frequency changes, not necessarily focused on reactive power control alone; both utilize power electronic devices like IGBTs to achieve their functions, but the SVG has a more specialized control system to manage reactive power compensation based on real-time monitoring of the power grid.

- *Function:*

A static converter is a general term for a device that converts AC power using power electronics, while a static var generator is a specific type of static converter primarily used for reactive power compensation.

- *Control:*

A static var generator has advanced control systems to dynamically adjust the reactive power based on system conditions, whereas a general static converter might have simpler control mechanisms depending on its application.

- *Application:*

A static var generator is typically used to improve power factor and voltage stability in electrical grids, while a static converter can be used for various applications like motor speed control, DC power conversion etc.

A Static Var Generator (SVG) is a type of static converter because it uses power electronics to provide reactive power compensation in a dynamic and precise manner. SVGs are also known as Static Compensators (STATCOM).

Thus, it appears that Static VAR Generator is a type of Static Converter and therefore, merit classification under CTH 85044090.

11.2 Details regarding operational principle for Static VAR Generators (SVG) available at the supplier's (TBEA Xi'an Electric Technology Co, Ltd., China) official website.

"SVG, also known as Static Compensation (STATCOM), is the latest technology in dynamic reactive compensation field. The basic principle of SVG is that Voltage source inverter (Voltage Sourced Converter, VSC for short) connect to power grid through a shunt reactor or transformer, by adjusting the inverter AC output voltage amplitude and phase, or directly control the amplitude and phase of the AC current, absorb or release reactive power rapidly, achieve the goal of fast dynamic adjusting reactive power. When using direct current control, the AC side current can be controlled directly, which can not only track the impact current of compensating load, but also track the harmonic current. The system is a power source, and SVG could equivalent to another power source. After the two power sources are connected through a transformer or reactor, SVG is equivalent to a controllable current source with adjustable output current."

11.3 Shri Vaibhav Kaushik, Consultant (Sales), of M/s. TBEA Xi'an Electric Technology Co. Ltd. had accepted in his statement dated 03.06.2025 recorded under Section 108 of the Customs Act, 1962 that as per his understanding of the functioning of Static VAR Generators and prevalent practice at M/s. TBEA XI'AN Electric Technology Co. Ltd, **the correct CTH/HSN of Static VAR Generators is 85044090, as the Static VAR Generators functions similar to Static Convertor.** He further stated that they had cleared their first shipment of Static VAR Generator in India to importer namely M/s. UPC Renewables by classifying the same under HSN Code as 8504 4090. The relevant paras of his statement dated 03.06.2025 is reproduced as under:-

Question 13: *In view of the specifications, functions and details as stated by you above, please state what should be CTH/HSN of Static VAR Generators supplied by M/s. TBEA XI'AN Electric Technology Co. Ltd., China?*
Answer: *I state that as per my understanding of the functioning of Static VAR Generators and prevalent practice at M/s. TBEA XI'AN Electric Technology Co. Ltd,*

the correct CTH/HSN of Static VAR Generators is 85044090, as the Static VAR Generators functions similar to Static Convertor.

11.4 Classification of Static VAR Generator under CTH 85044090 by other Indian importers

On verification of import data of Static VAR Generators, it is noticed that the main supplier M/s TBEA XI'AN Electric Technology Co., Ltd, China has been exporting "Static VAR Generators" in India to various other importers by classifying the same under CTH 85044090. For example: - M/s Ostro Bhesada Wind Private Limited (IEC-AACCO1260H) vide BE No. 4480078 dated 12.07.2024 filed at port INNSA1 i.e. Nhava Sheva, Maharashtra imported Static VAR Generator by classifying the same under CTH 85044090, where the supplier of the product was M/s TBEA XI' AN Electric Technology Co., Ltd, China. Further, M/s TBEA XI'AN Electric Technology Co., Ltd, China, had also supplied Static VAR Generator to importer M/s Fourth Partner Energy Private Limited (IEC-910020108), wherein in the Invoice and Bill of Lading issued by M/s TBEA XI'AN Electric Technology Co., Ltd, China, the CTH mentioned was 85044090. The compliance certificate/document issued to M/s TBEA XI'AN Electric Technology Co., Ltd, China for the supply of these goods, which has been uploaded on e-sanchit under Bill of Entry No. 6979067 dated 30.11.2024, and imported by M/s Fourth Partner Energy Private Limited, clearly describes the product "Static VAR Generator" as a "Converter", which would fall under CTH 8504. Further, M/s TBEA XI'AN Electric Technology Co., Ltd, China, in the commercial invoice no. SA20250121001 dated 21.01.2025 issued to Kleio Solar Power Private Limited, Hyderabad had declared CTH 85044090 for Static Var Generator (SVG) and accordingly in the Bill of Entry No. 8278668 dated 10.02.2025 declaring CTH 85044090 was filed by the importer.

11.5 M/s Ashoka Buildcon Limited had initially mentioned HSN code of Static VAR Generator as 850300 in the Purchase Order issued to M/s TBEA XI'AN Electric Technology Co., Ltd, China for import of Static VAR Generator. However, the importer had subsequently issued a fresh Purchase Order to M/s TBEA XI'AN Electric Technology Co., Ltd. wherein the CTH was changed to 854370 and accordingly, the supplier M/s. TBEA Xi'an Electric Technology Co, Ltd. had mentioned HSN code 85437099 in export documents for imported Static VAR Generator supplied to the importer.

11.6 Thus, from the above stated facts it appears that Static VAR Generator merits classification under CTH 85044090 and M/s Ashoka Buildcon Limited had wrongly availed the benefits by misclassifying imported items "Static VAR Generator (SVG)" under CTH 85437099 and paying BCD @ 7.5% instead of its correct and proper CTH 85044090 wherein BCD @20% was payable (BCD@10% is payable as per Serial No. 13

of Notification No. 57/2017-Customs dated 30.06.2017 as amended by Notification No. 22/2018-Customs dated 02.02.2018).

11.7 M/s Ashoka Buildcon Limited vide its letter dated 23.07.2025 as discussed at para 4 supra submitted that they by acting proactively and in good faith, has decided to voluntarily reclassify the SVG imported by them under HSN 85044090 for the sake of compliance and clarity and accordingly, in light of the reclassification, they have paid the differential BCD of 2.5% amounting to Rs.19,54,899/- along with Interest of Rs.2,40,917/- and Penalty@15% amounting to Rs.2,93,235/- through Challan No. 1398134144 dated 23.07.2025. The importer had deposited differential customs duty by claiming benefit of Sr. No.13 of per Sl. No. 13 of Customs Notification No. 57/2017 dated 30.06.2017 as amended vide Notification No.22/2018 dated 02.02.2018. It is pertinent to mention that vide Notification No. 22/2018-Cus. dated 02.02.2018, Sr. No. 13 was inserted in Notification No. 57/2017-Customs dated 30.06.2017 wherein BCD@10% was prescribed for all goods falling under CTH 850440, other than charger or adapter of cellular mobile phones. The relevant Sr. No. 13 is appended as under: -

(1)	(2)	(3)	(4)	(5)
13	850440	All goods other than the following goods, namely (a) charger or power adapter; (b) solar inverter	10%	-

From the above, it appears that benefit of Serial No. 13 of Notification No. 57/2017-Customs dated 30.06.2017 as amended by Notification No. 22/2018-Cus. dated 02.02.2018 is available to the imported goods classifiable under CTH 850440. As discussed in paras supra, the imported Static VAR Generator is correctly classifiable under CTH 85044090, therefore, benefit of Sr. No. 13 of Notification No. 57/2017-Customs dated 30.06.2017 as amended is available to M/s Ashoka Buildcon Limited in the instant case. Therefore, differential duty is to be demanded from M/s Ashoka Buildcon Limited at effective rate of BCD @ 10% along with the applicable SWS and IGST.

12. From the above, it is evidently clear that the goods imported by M/s Ashoka Buildcon Limited declaring as "Static VAR Generator" were used in the Solar Power Plants. Further, it is pertinent to mention that the importer had declared CTH 85437099 in the Bills of Entry filed by them paying BCD@7.5%, whereas Static VAR Generator would correctly merit classification under 85044090 wherein effective BCD@10% is payable. The importer by wrongly classifying the subject imported

goods/declaring wrong CTH had evaded Customs duty amounting to Rs.19,54,899/- as detailed in attached Annexure-A and summarized as under:-

Sr. No.	Name of Port/ Customs Location	Total Assessable Value (Rs.)	Total Customs Duty Payable (Rs.)	Total Customs Duty Already Paid (Rs.)	Differential Duty Payable (Rs.)	Annexure of Diff. Duty Calculation
1	Mundra Sea Port (INMUN1)	60243415	18663410	16708511	1954899	**Annexure-A**
	Total	**6,02,43,415**	1,86,63,410	1,67,08,511	**19,54,899**	

13. The investigation revealed that M/s Ashoka Buildcon Limited had imported 4 Nos Static VAR Generator as detailed in para 5 supra by wrongly classifying the same under CTH 85437099 instead of its correct classification under CTH 85044090 as discussed in paras supra. By above stated wrong classification of the imported Static VAR Generator, the importer had evaded payment of Customs duty aggregating to **Rs.19,54,899/-** (Rupees Nineteen Lakhs Fifty Four Thousand Eight Hundred Ninety Nine only) as detailed in Annexure -A attached with this Show Cause Notice. The abstract of the import of Static VAR Generator made by the importer and the differential duty payable is as under: -

Sr. No.	Item Description	Total Quantity (Nos)	Total Assessable Value (Rs.)	Differential Customs Duty Payable (Rs.)	Annexure of Diff. Duty Calculation
1.	Static VAR Generator	4	6,02,43,415/-	19,54,899/-	A
	TOTAL	**4**	**6,02,43,415/-**	**19,54,899/-**	

14. Whereas, it appears that as detailed above the imported Static VAR Generator (SVG) is a specific type of Static Converter and merit classification under CTH 85044090. The importer had wrongly classified the imported Static VAR Generator (SVG) under CTH 85437099 in the Bills of Entry filed by them instead of its correct CTH 85044090 to evade payment of appropriate customs duty in the 2 consignments/Bills of Entry as detailed in attached Annexure-A. Further, as discussed in paras supra, it is evident that the importer was fully aware of the fact that the Static VAR Generator (SVG) are a specific type of Static Converter and merit classification under CTH 8504 and the subject goods imported by them were meant

to be used in the Solar Power Plants only. The importer was aware of the correct name, CTH and even the exact end-use of the subject imported goods, however despite being fully aware of the correct name, CTH and use of the imported goods, these were wrongly classified under CTH 85437099 in the Bills of Entry, to evade payment of appropriate Customs duty.

15. M/s Ashoka Buildcon Limited had subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Customs Act, 1962 in all their import consignments. Further, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, 1962 effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer by filing a Bill of Entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make an entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulation, 2018 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the Bill of Entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Under the scheme of self-assessment, it is the importer who must be doubly ensure that he declares the correct classification/CTH of the imported goods, applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods while presenting the Bill of Entry. **Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April 2011, it is the added and enhanced responsibility of the importer to declare the correct CTH, description, value, notification, etc. and to correctly determine and pay the duty applies in respect of the imported goods while presenting the Bill of Entry,** however, in the instant case the importer has completely failed in discharging his responsibility by mis-classifying the Static VAR Generator under CTH 85437099 instead of its correct CTH 85044090 and thereby evading payment of Customs duty amounting to **Rs. 19,54,899/-.**

16. The relevant provisions of law relating to the import of goods in general, the policy and rules relating to the liability of the goods to confiscation and penalty for improper importation under the provisions of Customs Act, 1962 and other relevant laws for the time being in force, are summarized as under: -

16.1 Provisions of Customs Act, 1962

Section 2 (22)– "Goods" *includes (a)- Vessels, aircraft & vehicles; (b) stores; (c) Baggage; (d) currency & negotiable instruments; and (e) any other kind of movable property."*

Section 2 (23)*– "**import**", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*

Section 11A. *Definitions. - In this Chapter, unless the context otherwise requires,-*

(a) "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;

Section 12– Dutiable goods – *"(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of Customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 or any other law for the time being in force, on goods imported into India or exported from India."*

Section 17- Assessment of duty

1. *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.*
2. *The proper officer may verify the 12 [the entries made under section 46 or section 50 and the self- assessment of goods referred to in sub-section and for this purpose, examine or test any imported goods or export goods or such part there of as may be necessary.*

[Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.]

(3) For [the purposes of verification] under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.]

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter 16[***] and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re- assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

(6) Where re-assessment has not been done or a speaking order has not been passed on re-assessment, the proper officer may audit the assessment of duty of the imported goods or export goods at his office or at the premises of the importer or exporter, as may be expedient, in such manner as may be prescribed.

Explanation – For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 before the date on which the Finance Bill, 2011 receives the assent of the President, such imported goods or export goods shall continue to be governed by the provisions of section 17 as it stood immediately before the date on which such absent is received.

Section 28. Recovery of [duties not levied or not paid or short-levied or short- paid] or erroneously refunded. –

(1)…….
(2)……
(3)……..
(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.

(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.

(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).

Section 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 there under, the person, who is liable to pay duty in accordance with the provisions of section 28,

shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten percent 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.

Section 46- Entry of goods on importation:

(1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [in such form and manner as may be prescribed] :

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner:

Provided further that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that a bill of entry may be presented 10[at any time not exceeding thirty days prior to] the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.]

(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: –

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) 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.]

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

Section 110AA. Action subsequent to inquiry, investigation or audit or any other specified purpose.-

Where in pursuance of any proceeding, in accordance with Chapter XIIA or this Chapter, if an officer of customs has reasons to believe that––
(a) any duty has been short-levied, not levied, short-paid or not paid in a case where assessment has already been made;
(b) any duty has been erroneously refunded;
(c) any drawback has been erroneously allowed; or
(d) any interest has been short-levied, not levied, short-paid or not paid, or erroneously refunded,

then such officer of customs shall, after causing inquiry, investigation, or as the case may be, audit, transfer the relevant documents, along with a report in writing –

(i) to the proper officer having jurisdiction, as assigned under section 5 in respect of assessment of such duty, or to the officer who allowed such refund or drawback; or

(ii) in case of multiple jurisdictions, to an officer of customs to whom such matter is assigned by the Board, in exercise of the powers conferred under section 5,

and thereupon, power exercisable under sections 28, 28AAA or Chapter X, shall be exercised by such proper officer or by an officer to whom the proper officer is subordinate in accordance with sub-section (2) of section 5]

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 transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of Section 54.

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

Section 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 goods39[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:*

[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, [no such fine shall be imposed]:
Provided further that] , without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

[(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

16.2 THE GENERAL RULES FOR THE INTERPRETATION OF IMPORT TARIFF - *Classification of goods in this Schedule shall be governed by the following principles:*

Rule 1: 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, according to the following provisions

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:
(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.
(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character;

(b) Subject to the provisions of (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such

goods. However, this provisions does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

6. For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub headings and any related sub headings Notes and, mutatis mutandis, to the above rules, on the understanding that only sub headings at the same level are comparable. For the purposes of this rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

16.3 The Foreign Trade (Development and Regulation) Act, 1992

Section 11: *Contravention of provision of this Act, rules, orders and exports and import policy:- (1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the export and import policy for the time being in force.*
(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the export and import policy, he shall be liable to a penalty not exceeding one thousand rupees or five times the value of the goods in respect of which any contravention is made or attempted to be made, whichever is more.
(3) Where any person, on a notice to him by the Adjudicating Authority, admits any contravention, the Adjudicating Authority may, in such class or classes of cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.
(4) A penalty imposed under this Act may, if it is not paid, be recovered as an arrear of land revenue and the Importer-exporter Code Number of the person concerned, may, on failure to pay the penalty by him, be suspended by the Adjudicating Authority till the penalty is paid.
(5) Where any contravention of any provision of this Act or any rules or orders made thereunder or the export and import policy has been, is being, or is attempted to be, made, the goods together with any package, covering or receptacle and any conveyances shall, subject to such requirements and conditions as may be prescribed, be liable to confiscation by the Adjudicating Authority.
(6) The goods or the conveyance confiscated under sub-section (5) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be.

Foreign Trade (Regulation) Rules, 1993

Rule 11*: Declaration as to value and quality of imported goods:-On the importation into, or exportation out of, any Customs ports of any goods, whether liable to duty or not, the owner of such goods, shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.*

Rule 14*: Prohibition regarding making, signing of any declaration, statement or documents:-No person shall make, sign or use or cause to be made, signed or used any declaration, statement or*

document for the purposes of obtaining a license or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

(2) No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any licence or importing or exporting any goods.

Demand of Differential Duties of Customs short levied and short paid by reason of mis-statement and suppression of facts:

17. The facts and evidences discussed in detail at paras supra reveal that the importer was aware of the fact that imported Static VAR Generator (SVG) are a specific type of Static Converter and merit classification under CTH 85044090 as they were the ultimate users of the imported goods. Shri Arun Kashinath Bagul, Senior Executive Account & Finance Department of M/s Ashoka Buildcon Limited, in his statement dated 28.02.2025 recorded under Section 108 of the Customs Act, 1962, admitted that the imported Static VAR Generator were used in the solar power plants by them. Further, Shri Vaibhav Kaushik, Consultant (Sales), of M/s. TBEA Xi'an Electric Technology Co. Ltd. had accepted in his statement dated 03.06.2025 recorded under Section 108 of the Customs Act, 1962 that as per his understanding of the functioning of Static VAR Generators and prevalent practice at M/s. TBEA XI'AN Electric Technology Co. Ltd, the correct CTH/HSN of Static VAR Generators is 85044090, as the Static VAR Generators functions similar to Static Convertor. The importer was aware that a no. of other importers had also classified the subject imported goods under CTH 85044090. Thus, it appears that M/s Ashoka Buildcon Limited was aware of the fact that correct classification/CTH of the imported Static VAR Generator is 85044090 wherein BCD@20% is payable (BCD@10% is payable as per Serial No. 13 of Notification No. 57/2017-Customs dated 30.06.2017 as amended by Notification No. 22/2018-Customs dated 02.02.2018), however with intent to evade payment of applicable duties of customs the importer had wrongly classified the Static VAR Generator under CTH 85437099 and paid BCD@7.5% only, in the Bills of Entry filed by them.

18. Thus, the facts and evidences discussed in paras supra clearly establish that the importer resorted to willful mis-statement and mis-declaration of the CTH of the imported goods with an intent to evade payment of the applicable customs duty on the above mentioned "Static VAR Generator" imported by them. The importer had misclassified the imported goods under CTH 85437099 even through the importer was fully aware of the fact that the Static VAR Generator merit classification under CTH 85044090. The importer had contravened the provisions of Section 46 of the Customs Act, 1962 in as much as the importer had not disclosed the correct classification of the imported goods before the customs authorities. M/s Ashoka Buildcon Limited failed to declare the true nature of the imported goods before the Customs authorities, that the imported Static VAR Generator is a type of Static Converter and failed to determine correct classification as per the nature of the

imported goods. These acts of omission and commission clearly shows willful mis-declaration and suppression of fact on the part of importer M/s Ashoka Buildcon Limited. Therefore, Section 28(4) of the Customs Act, 1962, invoking extended period for demand of duty is amply applicable in the instant case. The Annexure-A containing details of "Static VAR Generator" imported by M/s Ashoka Buildcon Limited by wrong classification have been prepared and the differential duty evaded by them had been calculated. The differential Customs duty totally aggregating to **Rs. 19,54,899/-** (Rupees Nineteen Lakhs Fifty Four Thousand Eight Hundred Ninety Nine only) leviable on "Static VAR Generator" imported and cleared under Bills of Entry as listed in attached Annexures A, by wrongly classifying under CTH 85437099 and short paid/not paid by M/s Ashoka Buildcon Limited is, therefore, liable to be demanded and recovered from them as per provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

19. Whereas, M/s Ashoka Buildcon Limited was engaged in the import of Static VAR Generator and from the discussion in paras supra, it is evident that the goods imported by M/s Ashoka Buildcon Limited were used by them in the Solar Power Plants. The importer was aware of the correct name, classification/CTH and even the exact end-use of the imported goods, however, despite being fully aware of the correct name, classification/CTH and end use of the imported goods, these were wrongly classified under CTH 85437099 in the Bills of Entry filed before customs authority instead of their correct classification under CTH 85044090 by M/s Ashoka Buildcon Limited, to evade payment of appropriate Customs duty. It appears that importer resorted to misclassification deliberately and intentionally to evade the payment of appropriate customs duty. Further, as per provisions of Section 46 of the Customs Act, 1962, the importer had to file Bill of Entry mentioning therein the correct classification/CTH of the goods imported and shall, at the foot thereof, make and subscribe to a declaration as to the truthfulness of the contents of Bills of Entry. However, it appears that M/s Ashoka Buildcon Limited had subscribed to false/ wrong declarations and had deliberately wrongly declared the CTH of the imported goods. Thus, by the above acts of omission and commission M/s Ashoka Buildcon Limited has contravened the provisions of Section 46 of the Customs Act, 1962 and Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 read with Rules 11 & 14 of the Foreign Trade (Regulation) Rules 1993, in as much as the importer had not disclosed the correct classification/CTH of the imported goods before the Customs authorities while filing the Bills of Entry at the time of the importation of the goods. The same was done to evade the payment of applicable Basic Customs Duty leviable thereon under Section 12 of the Customs Act, 1962, at the rates specified in the first Schedule to the Customs Tariff Act, 1975. This has also resulted in short-payment of other Customs levies viz. Social Welfare Cess and IGST as BCD forms part of assessable value for computation of these duties. This act of

mis-classification of the subject imported goods by M/s Ashoka Buildcon Limited has rendered 4 Nos of subject imported goods totally valued at Rs.6,02,43,415/- (as detailed in Annexure-A) liable to confiscation as per the provisions of Section 111(m) of the Customs Act, 1962.

20. The aforesaid acts of omission and commission tantamount to mis-declaration and suppression of facts by the importer with intent to evade payment of duty. The wrong classification of the subject imported Static VAR Generators resulted into short payment of customs duty amounting to **Rs. 19,54,899/-** as detailed in table of Para 14 supra. The aforesaid acts of omission and commission tantamount to wilfull mis-declaration and suppression of facts by the importer with intent to evade payment of duty. For these acts of omission and commission, the importer appears to have rendered themselves liable to penalty under Section 112(a)(ii) and /or 114A of the Customs Act, 1962.

Voluntary payments made during the investigation:

21. During investigation, M/s Ashoka Buildcon Limited had deposited Rs.19,54,899/- (Rupees Nineteen Lakh Fifty Four Thousand Eight Hundred Ninety Nine only) towards differential duty, Rs. 2,40,917/- (Rupees Two Lakh Forty Thousand Nine Hundred Seventeen only) towards interest and Rs. 2,93,235/- (Rupees Two Lakh Ninety Three Thousand Two Hundred Thirty Five only) towards penalty@15% vide challan as mentioned below. Therefore, the payment made by the importer is required to be appropriated against the demand of differential duty and interest and penalty. The details of payments made are as under: -

Sr. No.	Challan No. & Date	Bill of Entry No. & Date	Differential Duty (Rs.)	Interest (Rs.)	Penalty (Rs.)
1	1398134144 dated 23.07.2025	5958460 and 5958461 both dated 05.10.2024	19,54,899/-	2,40,917/-	2,93,235/-
Total			**19,54,899/-**	**2,40,917/-**	**2,93,235/-**

22. Request of importer for closure under Section 28(6) of the Customs Act, 1962.

22.1. Vide letter dated 23.07.2025, M/s Ashoka Buildcon Limited informed that they have paid the differential duty, applicable interest and 15% penalty, and requested for the closure of the case under Section 28(6) of the Customs Act, 1962, without the issuance of a Show Cause Notice.

22.2 In this context, the relevant provisions of Section 28 of the Customs Act, 1962 is reproduced hereunder:

> *"(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.*
>
> *(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)."*

22.3 In the present case, the importer has paid the differential duty, along with interest under Section 28AA, and 15% penalty in terms of Section 28(5) of the Customs Act, 1962 as detailed below: -

S. No	Differential Duty (Rs.)	Interest (Rs.)	15% Penalty (Rs.)	Total (Rs.)	Challan No/date
1	**19,54,899/-**	**2,40,917/-**	**2,93,235/-**	**24,89,051/-**	**1398134144 dated 23.07.2025**

DISCUSSION AND FINDINGS

23. I have carefully gone through the Investigation Report dated 11.12.2025 issued under Section 110AA of the Customs Act, 1962 by the Directorate of Revenue Intelligence, Jaipur Regional Unit, submissions made by M/s Ashoka Buildcon Limited vide letter dated 23.07.2025, and all the evidences placed on record.

24. I find that the imported goods i.e. "Static VAR Generator (SVG)" is a power electronic device which operates on the principle of a Voltage Source Converter (VSC) — it uses solid-state semiconductor devices (IGBTs) to absorb or release reactive power dynamically without any moving mechanical parts. Heading 8504 of the Customs Tariff specifically covers "Electrical transformers, static converters (for example, rectifiers) and inductors" and the HSN Explanatory Notes thereto clarify that static converters are apparatus used to convert electrical energy in order to adapt it for further use, operating without moving parts, and that the fact that such apparatus are sometimes referred to as voltage or current regulators does not affect their classification under this heading. Since SVG performs exactly this function — conversion and control of electrical energy through solid-state electronics without mechanical movement, I find that SVG squarely falls within the ambit of CTH 85044090 as a Static Converter. CTH 85437099, being a residual entry applicable only to goods not covered elsewhere in Chapter 85, is not applicable when a specific heading exists. I, therefore, hold that the correct classification of the imported "Static VAR Generator (SVG)" is **CTH 85044090**.

25. I find that this finding is corroborated by the statements recorded during investigation under Section 108 of the Customs Act, 1962. Shri Arun Kashinath Bagul, Senior Executive, Account & Finance Department of M/s Ashoka Buildcon Limited, in his statement dated 28.02.2025, admitted that the SVGs work similar to a voltage regulator and after reading the Explanatory Notes to HSN 8504 and 8543 he had understood the classification issue more precisely. Shri Vaibhav Kaushik, Consultant (Sales) of M/s TBEA Xi'an Electric Technology Co. Ltd., the overseas supplier, in his statement dated 03.06.2025, unequivocally stated that the correct CTH/HSN of Static VAR Generators is 85044090 as they function similar to Static Converters, and that their very first shipment of SVG to India to M/s UPC Renewables was itself declared under HSN 85044090.

26. The above finding is further corroborated by import data on record showing that the same supplier M/s TBEA XI'AN Electric Technology Co. Ltd. had classified SVG under CTH 85044090 in invoices raised to other Indian importers — M/s Ostro Bhesada Wind Private Limited (BE No. 4480078 dated 12.07.2024), M/s Fourth Partner Energy Private Limited (BE No. 6979067 dated 30.11.2024), and M/s Kleio Solar Power Private Limited (BE No. 8278668 dated 10.02.2025). It is also significant that M/s Ashoka Buildcon Limited had initially mentioned HSN 850300 in their

original Purchase Order dated 08.05.2024 which was subsequently and consciously amended to 85437099, clearly establishing that the misclassification was not inadvertent. The voluntary reclassification by M/s Ashoka Buildcon Limited to CTH 85044090 vide their letter dated 23.07.2025, without any contest whatsoever, is itself a conclusive acceptance of the correct classification.

27. I further find that the issue of waiver of issuance of Show Cause Notice has already been settled by the Hon'ble Supreme Court in the case of Commissioner of Customs vs. Virgo Steel [2002 (141) E.L.T. 598 (S.C.)], wherein it was held that-

> *"15. ……., if we consider the mandatory requirement of issuance of notice under Section 28 of the Act, it will be seen that the requirement is provided by the Statute solely for the benefit of the individual concerned, therefore, he can waive that right. In other words, this section casts a duty on the Officer to issue notice to the person concerned of the proposed action to be taken. This is not in the nature of a public notice nor any person other than the person against whom the proceedings are initiated has any right for such a notice. Thus, this right of notice being personal to the person concerned, the same can be waived by that person".*

Accordingly, I find that the request of M/s Ashoka Buildcon Limited vide letter dated 23.07.2025 for closure of the case without issuance of Show Cause Notice is maintainable in law.

28. As mandated under Section 28(6) of the Customs Act, 1962, the proper officer is required to determine the duty payable under Section 28(4) together with the interest leviable under Section 28AA and ascertain whether the duty, interest, and penalty at the rate of fifteen percent have been discharged in full. Where the entire liability stands paid, the proceedings are deemed to be concluded in terms of Section 28(6)(i) of the Customs Act, 1962. Accordingly, I proceed to determine the differential duty payable under Section 28(4), interest payable under Section 28AA, and penalty@15% of the said duty and verify whether such amounts have been paid by the importer under Section 28(5) of the Customs Act, 1962.

29. I find that the differential duty payable on account of the above misclassification is determined as **Rs. 19,54,899/-** (Rupees Nineteen Lakh Fifty Four Thousand Eight Hundred Ninety Nine only). The interest and penalty payable are determined as under:-

Total Differential Duty (Rs.)	**Interest u/s 28AA (Rs.)**	**Penalty @15% u/s 28(5) (Rs.)**	**Total Amount Payable (Rs.)**
19,54,899/-	2,40,917/-	2,93,235/-	24,89,051/-

30. Thus, the total amount (Duty + Interest + Penalty@15%) payable is determined as **Rs. 24,89,051/-** (Rupees Twenty Four Lakh Eighty Nine Thousand Fifty One only) and M/s Ashoka Buildcon Limited has paid the said amount of **Rs. 24,89,051/-** under Section 28(5) of the Customs Act, 1962 vide Challan No. 1398134144 dated 23.07.2025, as detailed in Para 22.3 above. Since the importer has voluntarily paid the amount of differential duty, interest at the applicable rate, and penalty@15%, totally amounting to **Rs. 24,89,051/-** under Section 28(5) of the Customs Act, 1962, I find that the proceedings initiated against M/s Ashoka Buildcon Limited are deemed to be concluded in terms of Section 28(6)(i) of the Customs Act, 1962.

CONFISCATION OF GOODS-

31. I find that the goods imported by M/s Ashoka Buildcon Limited covered under Bill of Entry No. 5958460 and 5958461, both dated 05.10.2024, were liable to confiscation under Section 111(m) of the Customs Act, 1962, on account of misclassification. However, the first proviso to Section 125(1) of the Customs Act, 1962 provides that where the proceedings are deemed to be concluded under clause (i) of sub-section (6) of section 28 in respect of goods which are not prohibited or restricted, no redemption fine shall be imposed. Since the goods are neither prohibited nor restricted and proceedings have been deemed to be concluded under Section 28(6)(i) of the Customs Act, 1962, redemption fine is not imposable.

32. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

The proceedings initiated in the matter of import of Static VAR Generator (SVG) vide Bills of Entry Nos. 5958460 and 5958461 both dated 05.10.2024 filed by M/s Ashoka Buildcon Limited (IEC 3199000801), are hereby deemed concluded in terms of Section 28(6)(i) of the Customs Act, 1962.

33. This order is issued without prejudice to any other action that can be taken against the importer or any other person under the provisions of the Customs Act, 1962 or any other law for the time being in force.

Digitally signed by Dipakbhai Zala
Date: 03-07-2026 17:05:59

(Dipak Zala)
Additional Commissioner of Customs
Customs House, Mundra

To,

M/s Ashoka Buildcon Limited (IEC 3199000801),
S. No. 861, Ashoka House, Ashoka Marg, Vadala,
Nashik, Maharashtra – 422 011

Copy to:

1. The Additional Director, DRI, Regional Unit, Jaipur – 302 005
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra
4. Guard File