

	<p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. PHONE : 02838-271426/271163 FAX :02838-271425 E-mail id- adj-mundra@gov.in</p>	
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A	FILE NO.	F. No. GEN/ADJ/ADC/281/2025-Adjn
B	ORDER-IN-ORIGINAL NO.	MCH/ADC/AKM/272/2024-25
C	PASSED BY	AMIT KUMAR MISHRA ADDITIONAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA.
D	DATE OF ORDER	29.01.2025
E	DATE OF ISSUE	29.01.2025
F	SCN NUMBER & DATE	SCN Waived on Importer's request
G	NOTICEE/ PARTY/ IMPORTER	1. M/s. TOYOTA TSUSHO INDIA PRIVATE LIMITED
H	DIN NUMBER	20250171MO0000777CBC

1. यहआदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा128 A के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-

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:

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

**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN**

**ROAD,
NAVRANGPURA, AHMEDABAD-380 009.”**

3. उक्तअपील यहआदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

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

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 be accompanied by –

- i. उक्त अपील की एक प्रति और A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

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

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

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

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

BRIEF FACTS OF THE CASE

1. M/s. Toyota Tsusho India Private Limited (hereinafter referred to as TTIPL for short), No. 33 and 34, E-Commerce Section Auto Park Amenities, Bidadi Industrial Area, Bidadi, Ramanagaram, Bengaluru Rural, Karnataka, 562109 holders of IEC No. 0799000973 are importers of motor vehicle parts from its group companies in Japan, Singapore, Thailand and Poland for supply to Original Equipment Manufacturer, M/s. Toyota Kirloskar Motor Private Limited (TKML) and other motor vehicle manufacturers. M/s TTIPL is the trading arm of Toyota Group of Companies, and they have their business operations at New Delhi, Manesar, Ahmedabad, Visakhapatnam, Mumbai, Pune, Bengaluru and Chennai, with the headquarters in Bangalore, Karnataka. The Corporate office of TTIPL is located at Unit No 2002, 20th Floor, World Trade Centre, Brigade Gateway Campus, 26/1 Dr Rajkumar Road, Malleshwaram, Rajajinagar, Bangalore 560055.

2. Analysis of import data revealed that M/s TTIPL had imported various motor vehicle parts such as Motor Assy Holder W/O Fan-RHD, Motor Assy Holder W/O Fan-LHD, Motor Assy W Holder Spec B YSD RH, Motor Assy W Holder Spec B YSD LH, etc and wrongly availed the benefit of concessional rate of duty under SI. Nos. 377AA, 485A and 581B of Notification No 50/2017-Customs dated 30.06.2017. On a reasonable belief that the improper availment of notification benefits has resulted in substantial duty evasion; further investigations were taken up by the officers of Directorate of Revenue Intelligence(DRI), Bengaluru Zonal Unit(BZU).

3. Investigation was also simultaneously carried out with respect to the classification of Motor Assembly Power Seat under tariff heading 8501 1019 and the eligibility of concessional duty under SIL.No 1294 of FTA Notification No 46/2011-Customs dated 01-06- 2011 on the Motors imported under tariff heading 8501 5390. The issue relating to the classification of Motor Assembly Power Seat was not taken up further as it was found that the classification adopted by the importer under 8501 1019 was correct. As regards the wrong availment of FTA benefit under Notification No 46/2011-Customs dated 01-06-2011 on the motors imported under 8501 5390, it was found during investigation that the customs authorities at the port of import had raised the same issue and the importer had voluntarily paid the entire duty foregone to the extent of Rs 4.37 crores along with interest of Rs 53.04 lakhs for the benefit wrongly availed in the year 2021. Since the payments were made before the commencement of DRI investigations, this issue was also not taken up for any further action.

4. The contents of this investigation report are limited to the following issues:

a) Wrong availment of concessional duty in terms of SI. Nos. 485A and 581B of Notification No 50/2017-Customs dated 30- 06-2017 in as much as the items under import are used in motor vehicles.

b) Wrong availment of concessional duty in terms of SI.No 377AA of Notification No 50/2017-Customs dated 30-06-2017 in as much as the Country of Origin of the imports are from USA.

Search proceedings:

5. The premises of M/s. Toyota Tsusho India Private Limited., situated at 33 and 34, Industrial Area Bidadi, Ramanagar, Bengaluru Rural, Karnataka-562109 was searched under a search authorization on 12.07.2023 and the proceedings were recorded in a Mahazar drawn at the said premises. (Annexure M-1).

Statement of key persons:

6. As part of the investigation, statements of key personnel of the importer's company were recorded under Section 108 of the Customs Act 1962. The contents of the statements recorded which are relevant to this investigation report are detailed below:

6.1. A statement of Shri. Venkatesh D, Assistant Manager, Global Parts Division SBU, M/s. TTIP, was recorded under Section 108 of the Customs Act, 1962 on 12.07.2023 (Annexure S-1) wherein, inter-alia he stated as under:

(i) TTIP is a trading company and is a subsidiary of Toyota Tsusho Corporation (TTC), Japan. They import auto components and related automobile parts and supply to Tier-1, Tier-2 and Original Equipment Manufacturers (OEMs).

(ii). TTIP imports Automotive components parts which are used in the manufacture of automobile cars. They supply their automotive parts to many companies which are all Automobile manufacturers/Tier-1/Tier-2 Vendors. Tier-2 vendors are sub suppliers to Tier -1 who in-turn supply to OEMs of Automobile cars. Some of their Tier-1 Customers are Toyota Boshoku India Private Limited and Toyota Gousei India Private Limited. Some of their Tier-2 customers are Sensara Private limited, Fine Components and their OEM customer is Toyota Kirloskar Motor Limited.

(iii). He stated that they are claiming exemption benefits under various Notifications for the imports made; that they avail most of the exemption benefits under Sl.No. 485A of Notification No. 50/2017-Customs dated 30.06.2017.

(iv) On being shown the provisions of Notification No 21/2021-Customs dated 31-03-2021 which amends entry Sl.No 485A of Notification No 50/2017-Customs dated 30-06-2017 with effect from 1st April 2021, making motors classifiable under heading 8501 as ineligible for the concessional rate of duty if they are suitable for use in motor vehicles, and on being asked if they are eligible for the said concession claimed by them, he agreed that the entry S.No. 485A of Notification No 50/2017-Customs dated 30-06-2017 is not applicable to the goods imported by them from 1st April 2021 onwards as they are used in motor vehicles. However, he stated that they have paid the differential BCD along with interest for some of the imports made under Sl.No 485A and agreed to revert with the details of payment.

6.2. Further statement of Shri. Venkatesh D, Assistant Manager, Global Parts Division SBU, M/s. TTIPL, was recorded under Section 108 of the Customs Act, 1962 on 21.08.2023 (Annexure S-2) "wherein, inter-alia he stated as under:

(i) The major function of M/s TTIPL is trading. The Company has different business verticals In India which are engaged in trading in automobile components, chemicals, plastic and rubber and non-ferrous metals. In addition, there is another business vertical called Machinery SBU which exclusively deals with setting up the assembly/process line for Toyota group of companies as well as other companies. This business vertical does not trade in any components. They only provide the service of setting up the machines and their maintenance. During maintenance, if any parts are required to be imported, this Machinery SBU imports the parts for use in the machines.

(ii) He stated that he is working in the business vertical called Global Parts and Logistics headed by Shri. Lokesh, who is the Deputy Head. Global Parts SBU deals with the trading of auto components. He is also associated with the Automotive SBU (Strategic Business Unit) which is engaged in the export of cars (Complete Built Unit) to Nepal and Bhutan.

(iii) On being asked to provide the details of payment of differential duty for wrongly availing the benefit of Sl.No 485A of Notf No 50/2017-Customs dated 30-06-2017, from April 2021, he stated that during the period 1st April 2021 to June 2023, there are 72 Bills of Entry wherein they have claimed the benefit of SLNo 485A of Notf. No. 50/2017-Customs. The total duty foregone in respect of these 72 Bills of Entry is Rs 2,26,72,548 /- Of these 72 BOEs, there are 4 Bills where the components imported claiming the benefit of SI. No. 485A are machinery components. The total duty foregone in respect of the machinery spares imported under the said 4 BOEs is Rs 5,49,681.20. These machinery components are imported by the Machinery SBU and supplied to units as machinery spares. He submitted copies of the 4 Bills of Entry along with copies of the invoice raised to other units as machinery spares. (Annexure E-1 to E4). He stated that since these components are used as machinery spares and not for automobiles, they have rightly availed the benefit of S].No 485A of NN 50/2017 on these 4 BOEs.

(iv). He also stated that with respect to 63 BOEs, wherein they have availed tid 'benefit of SI.No.485A, they are' auto components and he agreed that they are not eligible for the benefit of Sl.No 485A. He stated that in respect of the said 63 BOEs, they have paid the total differential duty (BCD+SWS+IGST) of Rs. 2,16,27,579.44 along with interest of Rs 43,84,431/- He submitted a statement of the 63 BsOE (Annexure E-5) along with copies of 7 payment challans (Annexure E-6 to E-12) for payment of differential duty of Rs 2,16,27,579.44 and interest of Rs 43,84,431/-.

(v) He also stated that with respect to the remaining 5 BsOE viz.

No 3390131 dt 01-04-2021, No 3444639 dt 05-04-2021, No 3451975 dt 06-04-2021, No 3474721 dt 07-04-2021 and No 6068881 dt 30-10-2021, pertaining to INBLR4 and INHSU6, they are still to pay the differential duty of Rs. 4,95,287/- . He undertook to pay the differential duty along with interest.

(vi) On pointing out that M/s TTIPPL have availed the benefit of Sl.No 581B of Notification No 50/2017-Customs dated 30-06-2017 from April 2021 which is also not eligible for goods suitable for use in motor vehicles, he stated that during the period 1st April 2021 to June 2023, they have filed 64 Bills of Entry i.e 58 bills for home consumption, 3 bills for ex-bond and 3 warehouse bills, wherein they have claimed the benefit of Sl.No 581B of Notf. No. 50/2017-Customs; that in respect of 49 Bills of Entry (46 Bills for home consumption and 3 ex-bond bills connected to 3 warehousing bills), the imported components are used in automobiles and they are not eligible for the benefit of Sl.No. 981B and that they have paid the differential duty of Rs 2,41,469/- along with interest of Rs 61,953/-. He submitted the copy of the challan (Annexure E-13) for payment of differential duty and interest.

(vii) He stated that in respect of 3 BOEs viz. No 4124937 dt 10-01-2023, No 4400867 dt 29-01-2023 and No 5373547 dt 04-04- 2023, the items under import are Gravity Shock Recorder and Field Data Recorder and Thermo Recorder. He submitted copies of the said Bills of Entry (Annexure E-14 to E-16) and stated that the said items are not auto components, but they are instruments for measuring the temperature and shocks of the container in the course of its journey in the high seas. They use these instruments for logistics purposes to monitor the effect of the container's movement on the goods contained in the container. Therefore, since these measuring instruments are not ~used-in automobiles, they are eligible for the benefit of Sl.No. 581B of Notf. No. 50/2017.

(Viii.) He also stated that in respect of 4 BSOE viz. No 5849432 dt 14- 10-2021, No 4378887 dt 19-06-2021, No 2241417 dt 31-08-2022 and No 4773387 dt 23-02-2023, the items under import are 'Metal Detector". He submitted copies of the 4 Bills of Entry along with the local supply invoice. (Annexure E-17 to E-20) He stated that this item is for industrial use and is not used as an automobile component. The metal detector is used in the machine which stitches the air bag. While stitching the air bag, there are chances that the needle will break and remain in the air bag. In such cases, the metal detector will detect the presence of the needle in the air bag and alert the operator. He stated that since the said part is not used in motor vehicles, they are rightly eligible for the benefit of Sl.No 581B of Notf. 50/2017.

(ix) He further stated, in respect of the following 5 BOEs the items of import are not used in automobiles and the details of the items are submitted in the following Table:

S.	BOE No &	Imported	Use of the Imported Item
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No	Date	Item	
1	6320520 dt. 19-11-2021	Load Cell	The load cell is used in the body pressing machine to test the power load of the machine.
2	6535186 dt. 22-06-2023	IR Sensor	This sensor is used in the robotic painting shop, and it senses smoke/flash or fire in the robot process line.
3	6125767 dt. 26-05-2023	Temperature Sensor	This part is supplied to Titan, who use it to build heating machines for the TKAP rotor line. The sensor is used to sense the heat temperature in the heating machine.
4	9957599 dt. 10-08-2022	Marker Sensor	The marker sensor is used for Automated Guided Vehicles (AGVs). AGVs are robotic machines that move from one location to another along a specified track, and the sensor senses the track in the production line.
5	7169959 dt. 21-01-2022	Flow meter Marker Sensor Obstacle Sensor	Used in fuel feeding-Used to check the flow of fuel. The obstacle marker sensor is used for Automated Guided Vehicles (AGVs). AGVs are robotic machines that move from one location to another along a specified track, and the sensor detects obstacles in the path of movement along the track.

He stated that since the above parts are not used in motor vehicles, they are rightly eligible for the benefit of Sl. No 581B of Notf. No. 50/2017.

(x) On pointing out that M/s TTIPL have availed the benefit of Sl. No. 377AA of Notification No 50/2017-Customs dated 30-06-2017 in respect of the imports from USA and on being informed that by virtue of the corrigendum to Notf. No. 50/2017-Customs issued on 5th Feb 2021, goods imported from USA are not eligible for the benefit of SL.No 377AA, he stated that in respect of the following 5 Bills of Entry, the goods have been imported from USA and they have wrongly availed the benefit of Sl.No 377AA of Notf No 50/2017-Customs dated 30-06-2017; that they have paid the differential duty of Rs 4,09,411/- along with interest of Rs 1,39,731/-and he submitted the copy of the duty paid challan. (Annexure E-21)

S. No	B/E No & Date	Duty Foregone (Rs)
1	2766822 dt 15-02-2021	57,774

2	3364301 dt 30-03-2021	86,133
3	3600568 dt 17-04-2021	89,421
4	3982695 dt 18-05-2021	87,777
5	5203660 dt 26-08-2021	88,305

He stated that in respect of Bill of Entry No 5472344 dt 17-09- TTQ ~ 2621 where the imports were from USA, they had filed the Bill claiming the benefit of Sl.No. 377AA of Notf. No. 50/2017- Customs. However, a query was raised by the Customs authorities at the time of assessment regarding ineligibility of Sl.No 377AA and accordingly they submitted a reply to the query and withdrew their claim for Sl.No 377AA and the said B/E was assessed at merit rate of 25%. He submitted the copy of the said B/E. (Annexure E-22).

6.3. A statement of Shri. Sajjad Sayed, Senior Manager, Trade Compliance, M/s. TTIPL, was recorded under Section 108 of the Customs Act, 1962 on 27.09.2023 (Annexure S-3) wherein, interalia he stated as under:

(i). He stated that at Toyota Tsusho, he monitors compliances to customs laws and ensures that customs policies and procedures are being followed by the organization at business level; that he is also responsible for checking whether any new regulations introduced by the Government has an impact on their business. As part of the trade compliance, he verifies the logistic trade compliance of their service providers viz CHA, transporters and freight forwarders and at times warehouse operators also. This is also a mandatory requirement of AEO Cell, SVB. They have an AEO T-3 status and they also have a status holder certificate from DGFT. He also monitors export incentive claims by the organization and its utilization. As part of the Trade Compliance team, he is responsible for ensuring that all SBUs in Toyota Tsusho correctly follow the customs procedures and rules.

(ii) He stated that he reports to CIP (Corporate Investment & Promotion) which is the legal team in their organization and that Trade compliance is part of this corporate team.

(iii) He stated that each SBU in Toyota Tsusho is independent in its functioning. All customs related day to day work which includes the customs documentation at ports are independently handled at each business unit. He does not monitor the day to day customs related functioning with regard to imports and exports. It is only when the SBU faces some issue such as any doubts regarding classification or when any query is raised by the customs regarding classification, notification eligibility or valuation, that the matter is escalated to him by the SBU. Only then he delves deep into the matter and takes the advice of the external consultants and legal advisors and advises the SBU on resolving the matter with the custom authorities. He stated that the Trade' Compliance*team is a small unit 'afid ever sincé he joined this organization (which is July 2022) he has been following this system where, on matters of classification, he only gets into the picture when any issue crops up.

Otherwise, it is the SBU which independently handles determination of classification. SBUs seek his support in cases where a response is required to be made to customs queries or SCNs, etc.

(iv) On pointing out that before DRI took up the investigation, TTIPL had made some payments of differential duty towards the wrong availment of Sl.Nos 485A and 581B. However, it was only after the investigation by DRI that they have made the complete payment of differential duty towards the wrong availment of Sl.Nos 485A and 377AA; that their actions give the impression that they have attempted to evade payment of the full differential duty and have made the full payments only after DRI took up the investigation. He stated that there is no intention to mis declare and evade payment of customs duty. In respect of the wrong availment of Sl.No 485A; that Patli Customs had raised a query regarding the incorrect availment of concessional duty under Sl.N 485A; that they realized that those imports were the motors which are to be supplied to Subros for automotive application and hence, in respect of all Bills filed in the northern customs locations where they claimed Sl.No 485A, they had made the payment of the differential duty; that they were under the understanding that the imports made by the GPD (Global Parts Division) SBU at the southern ports of Bangalore and Hosur were only for machinery parts and hence eligible for Sl.No 485A benefit and so they did not take any action in making any differential duty payment for the imports at Bangalore and Hosur; that only after DRI officers visited and informed about the ineligible availment of notification, they once again verified their data and took action to make all the payments of differential duty for Sl.No 485A which includes the imports made at Bangalore, Hosur and Mundra port.

(v.) He stated that with regard to the incorrect availment of Sl.No. 581B and 377AA, he was not aware about the ineligible availment of those Sl.Nos. It was only after DRI officers visited their unit and informed them about the ineligible availment of the concessional duty in respect of Sl.Nos 581B and 377AA, they took corrective measures and paid the differential duty. He also stated that there were only a few shipments where they had claimed the benefit of Sl.Nos 581B and 377AA and the differential duty along with interest of Rs 5,49,142/- (for Sl. No ». 877AA) and Rs: 3,03,422/- (for Sl.No 581B) has been paid. He once again stated that there was no intention to avoid any payment of appropriate duty.

7. Analysis and conclusions of the investigation:

7.1. From the statements deposed by Shri. D. Venkatesh, Assistant Manager, Global Parts Division and Shri. Sajjad Sayed, Senior Manager, Trade Compliance, M/s TTIPL and the several documents submitted by M/s TTIPL during the investigation, the following facts emerge:

(i) M/s TTIPL is the trading arm of the Toyota group of companies.

(ii) M/s TTIPL have different business verticals such as the Global Parts Strategic Business Unit (SBU) which trades in automobile components; the Machinery SBU which provides the service of setting up of the machines and its maintenance in the assembly/ process line for Toyota group of companies and other automobile companies; the Automotive SBU which is engaged in the export of cars to Nepal and Bhutan.

(iii) M/s TTIPL import automobile components which are supplied to their OEM M/s Toyota Kirloskar Motor Ltd as well as Tier 1 and Tier 2 vendors who in turn supply their products to automobile manufacturers.

(iv) M/s TTIPL also import components which are used by the Machinery SBU as spares for maintenance of machines.

7.2. During the period April 2021 to June 2023, M/s TTIPL imported motors of different types falling under tariff heading 8501 at a concessional rate of 10% adv. by availing the benefit of Sl.No 485A of Notf. No. 50/2017-Customs dated 30-06-2017. During the same period M/s TTIPL have also imported components such as Sensor vacuum, marker sensor, temperature sensor, etc falling under tariff heading 9031 8000 at a concessional rate of 7.5% adv by availing the benefit of Sl.No. 581B of Notf. No. 50/2017-Customs dated 30-06-2017.

7.3. The Notification 50/2017-Customs dated 30.06.2017 was amended vide Notification No. 02/2021-Customs dated 01.02.2021 wherein Sl. Nos. 485A and 581B were inserted. The relevant amendments read as below.

“(77) After S. No. 485 and the entries relating thereto, the following Sl. No. and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)	(6)
485A	8501 10			-	-
	8501 20 00				
	8501 31				
	8501 32				
	8501 33				
	8501 34	All goods	10%		
	8501 40				
	8501 51				
	8501 52				
	8501 53				

“(90) After S. No. 581A and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)	(6)
581B	9031 80 00	All goods	7.5%	-	-

7.4. Subsequently, vide Notification 21/2021-Customs dated 31.03.2021 the said Sl. Nos. 485A and 581B were amended with effect from 1st April 2021 as follows:

(iii) Against S.No.485A, for the entry in column (3), the following entries shall be substituted, namely: -

“All goods other than those suitable for use in —

- i. *motor vehicles falling under heading 8702 or 8704;*
- ii. *motor cars falling under heading 8703; or*
- iii. *motorcycles falling under heading 8711”;*

(xvii) Against S.No.581B, for the entry in column (3), the following entries shall be substituted, namely: -

“All goods other than those suitable for use in —

- i. *motor vehicles falling under heading 8702 or 8704;*
- ii. *motor cars falling under heading 8703; or*
- iii. *motorcycles falling under heading 8711”;*

7.5. Therefore, with effect from 1st April 2021, the concessional rate of duty under the entries SI.No. 485A and 581B is not available to goods falling under the specified tariff headings if they are suitable for use in motor vehicles/motor cars/motor cycles. M/s TTIPL have admitted that the goods imported by them availing the benefit of Sl.Nos. 485A and 581B of Notification No 50/2017-Customs dated 30- 06-2017 as amended are used in manufacture of motor vehicles and hence they are not eligible for the benefit of concessional duty. The importer has stated that they have discharged the payment of differential duty along with interest on the said exemption wrongly availed. The claim made by M/s TTIPL was verified and the observations are as follows:

Wrong availment of Sl. No. 485A of Notf. No. 50/2017-Customs:

7.6. During the period April 2021 to June 2023 the import data of M/s Toyota Tsusho indicates that they have availed the benefit of SI.No 485A in respect of 72 Bills of Entry. The worksheet for the 72 Bills of Entry in 227-line entries is enclosed as Annexure W-1. The duty foregone in respect of these 72 BOEs is Rs 2,26,72,548/-. The port wise data of duty foregone in respect of the 72 BOEs is as below:

Port Code	2021	2022	2023	Grand Total
INAMD4	255,584			255,584
INBLR4	235,362	18,498	44,339	298,199
INDEL4	495,669			495,669
INHSU6	259,925			259,925
INMAA1			486,844	486,844
INMUN1	5,126,276	9,271,558	423,933	14,821,767
INPTL6	4,62,6755	1,427,805		60,54,560
Grand Total	10,999,571	10,717,861	955,116	22,672,548

7.7. Out of the 72 BOEs indicated in Annexure W-1, Shri. Venkatesh D, Assistant Manager in his statement dated 21-08-2023 (Annexure S-2) has stated that the goods imported vide 4 bills viz. BOE No 5644343 dt 24-04-2023, 5815780 dt 05-05-2023, 9012560 dt 07-06-2022 and 2941424 dt 10-08-2022 are machinery spares and not used in automobiles. He submitted the copies of the invoices along with the end use of the items and technical data about the item to substantiate his claim. (Annexure E-1 to E-(4). On verification of the documents, it is seen that the goods imported vide the aforementioned Bills of Entry were meant for the following purpose:

B/E No & Date	Item	End Use	End Use Description
5644343 dt 24-04-2023	NIDEC Gear Motor Series DCK35 Parts	Toyota Kirloskar Auto	Gear motor is used in conveyor
5815780 dt 05-05-2023	Assist Motor KL20230112-01-01 S-04100V-BH	Toyota Kirloskar Auto	Used for roller conveyors in assembly line
9012560 dt 07-06-2022	AC Servo Motor (TS4609 N2085 E200)	Toyota Industries Engine India Pvt Ltd	Used in Nutrunners where tightness of fasteners happens
2941424 dt 10-08-2022	Agitator Motor 20-1200RPM BL1200	Cataler India Auto Parts Ltd	Used in slurry mixing room

It is evident from the end use described above that the above mentioned goods are not suitable for use in motor vehicles. They are in the nature of machinery spares and not used in automobiles. Therefore, they are eligible for the benefit of Sl.No. 485A of Notification No 50/2017-Customs dated 30-06-2017 as amended. The duty rightly foregone in respect of the above mentioned 4 BOEs is Rs 5,49,681/-.

7.8. In respect of the remaining 68 Bills of Entry (72 - 4), the importer admits that the motors are used in automobiles and are hence not eligible for the benefit of Sl. No 485A of the said Notification. The differential duty payable on the remaining 68 BOEs due to wrong availment of Sl.No 485A is Rs 2,21,22,867/- (Rs 2,26,72,548 - 5,49,681). It was found that the importer voluntarily paid the differential duty of Rs. 2,12,03,647/- along with interest of Rs 43,48,716/- in respect of 62 bills of entry prior to the DRI investigation. (Annexure E-5) The details of payment are indicated below:

Sl. No	Customs Port	TR 6 Challan No & Date	Total Differential Duty (Rs.)	Interest (Rs.)
1	Mundra port	560/27.06.2023	13848633	2610144
2	Mundra port	559/27.06.2023	549201	148736
3	Delhi Air Cargo	733/08.06.2023	279658	80405

4	Delhi Air Cargo	732/08.06.2023	2106011	49623
5	Patparganj ICD	123/31.05.2023	6054560	1402111
6	Ahmadabad Air Cargo	470/30.06.2023	255584	57697
	Total diff. duty paid before DRI investigation		21203647	4348716

7.9. With respect to the remaining 6 BOEs viz. No 4083524 dt 07-01-2023, 3390131 dt 01-04-2021, No 3444639 dt 05-04-2021, No 3451975 dt 06-04-2021, No 3474721 dt 07-04-2021 and No 6068881 dt 30-10-2021, the differential duty of Rs 9,19,220/- and interest of Rs 1,97,601/- was paid only after the DRI initiated the investigation. The worksheet pertaining to the differential duty in respect of the above-mentioned 6 bills of entry is enclosed as Annexure W-2. Copies of T.R 6 Challans dated 28-07-2023, 25-08-2023 and 24-08-2023 are enclosed as Annexure E-13, E-23 & E-24. The port-wise details of differential duty and interest is detailed below:

Port Code	2021	2022	2023	Grand Total
INMUN1	-	-	423,933	423,933
INHSU6	259,925	-	-	259,925
INBLR4	235,363	-	-	235,363
Total	495,288	-	423,933	919,221

The port wise a detail of payment of differential duty and interest under this category (485A) which was made during the DRI investigation is as detailed below:

Sl. No	Port Code	Total Differential Duty (Rs.)	Interest (Rs.)	TR 6 Challan No & Date	Annexure
1	INMUN1	423,933	35,715	TR 6 Challan No 834 dt 28-07-2023	E-12
2	INHSU6	259,925	93,122	TR 6 Challan No 72 dated 25.08.2023	E-23
3	INBLR4	235,363	68,764	TR 6 Challan No 7176 dated 24.08.2023	E-24
Total		919221	197601		

Wrong availment of SI.No 581B of Notf. No 50/2017-Customs

7.10. It is seen from the import data pertaining to M/s TTIPL that during the period April 2021 to June 2023, they have availed the benefit of Sl.No. 581B of Notification No 50/2017-Customs dated 30- 06-2017 as amended in respect of 61 BOEs. Shri. Venkatesh D, Assistant Manager M/s TTIPL was asked to justify their eligibility to the benefit of this SI. No. 581B since it appeared that the components imported under cover of the 61 Bills of Entry were suitable for use in automobiles. Shri. Venkatesh D, Assistant Manager M/s TTIPL in his statement dated 21-08-2023 (Annexure S-2) has admitted that in respect of the components imported vide 49 Bills of Entry, the same are used in automobiles and hence they are not eligible for the benefit of concessional duty under Sl.No 581B. He stated that the differential duty arising in respect of these 49 bills of entry amounting to Rs 2,41,469/- has been paid along with interest of Rs 61,953/- and he furnished a copy of the T.R.6 Challan No 1260 dated 28-07-2023 as proof of payment. The list of the 49 Bills of Entry in 57-line entries is enclosed in worksheet Annexure W-3. The port-wise details of differential duty and interest paid under this category is detailed below:

Duty Foregone (Rs)

Port Code	2021	2022	2023	Grand Total
INPTL6	169364	72,105	-	2,41,469

7.11. In respect of the following 12 Bills of Entry where the duty forgone amounts to Rs 6,94,655.60, the items imported by availing the benefit of concessional rate of duty under Sl. No. 581B are components used for purposes other than for motor vehicles. The details are as given below:

SI.No	B.E. No. & date	Item description	End use
1	4124937 dated 10.01.2023	Gravity Shock Recorder & Field Recorder	These items are instruments for measuring the temperature and shocks of the container in the course of its journey in the high seas. Used for logistics to monitor the effect of the container's movement on the goods contained in the container.
2	4400867 dated 29.01.2023	Gravity Shock Recorder & Field Recorder	
3	5373547 dated 04-04-2023	Thermo Recorder	
4	5849432/ dated 14-10-2021	Metal Detector	This item is for industrial use. The metal detector is used in the machine which stitches the air bag. While stitching the air bag, there are chances' that' the
5	4378887/ dated 19-06-2021	Metal Detector	
6	2241417/ dated	Metal Detector	

	31-08-2022		needle will break and remain in the air bag. In such the metal detector detect the presence of the needle in the air bag and alert the operator.
7	4773387/ dated 23-02-2023	Metal Detector	
8	6320520 dt 19-11-2021	Load Cell	The load cell is used in the body pressing machine to test the power load of the machine.
9	6535186 dt 22-06-2023	IR Sensor	This sensor is used in the robotic painting shop, and it senses smoke/flash or fire in the robot process line.
10	6125767 dt 26-05-2023	Temperature Sensor	This part is supplied to Titan, who use it to build heating machines for the TKAP rotor line. The sensor is used to sense the heat temperature in the heating machine.
11	9957599 dt 10-08-2022	Marker Sensor	The marker sensor is used for Automated Guided Vehicles (AGVs). AGVs are robotic machines that move from one location to another along a specified track, and the sensor senses the track in the production line.
12	7169959 dt - 21-01-2022	- Flow meter - Marker Sensor - Obstacle Sensor	Used in fuel feeding-Used to check the flow of fuel. The obstacle marker sensor is used for Automated Guided Vehicles (AGVs). AGVs are robotic machines that move from one location to another along a specified track, and the sensor detects obstacles in the path of movement along the track.

7.12. A summary of the importer's eligibility to Sl.No 581B of Notification No 50/2017-Customs dated 30-06-2017 as amended is as follows:

S. No	Goods	No. of BOE	Duty Foregone (Rs)	Remarks
1	Auto Components	49	2,41,469/-	Not eligible. Differential duty and interest paid.

2	Measuring Instruments / Metal Detector / Load Cells & Sensors	12	6,94,655.60/-	Not used in automobiles. Hence eligible.
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Wrong availment of Sl. No. 377AA of Notf No 50/2017-Customs:

7.13. A verification of the import data revealed that in respect of the following 6 Bills of Entry M/ TTIPL had imported goods from USA and availed the benefit of Sl. No. 377AA of Notf. No. 50/2017-Customs dated 30-06-2017.

S. No	B/E No & Date	Duty Foregone (Rs)
1	2766822 dt 15-02-2021	57,774
2	3364301 dt 30-03-2021	86,133
3	3600568 dt 17-04-2021	89,421
4	3982695 dt 18-05-2021	87,777
5	5472344 dt 17-09-2021	87,366
6	5203660 dt 26-08-2002	88,805

7.14. Entry Sl. No. 377AA was inserted in Notification No 50/2017-Customs dated 30-06-2017 vide amendment Notification No 02/2021-Customs dated 01-02-2021 read with corrigendum dated 05-02-2021 and reads as under:

SL. No	Chapter or Heading or Sub-heading or Tariff Item	Description of Goods	Standard Rate	IGST	Condition
377AA	7318 15 00 7318 16 00 7318 29 90	All goods	10%	-	-

In the principal notification No 50/2017-Customs dated 30-06-2017, a second proviso was inserted with effect from 04-08-2018 vide Notification No 49/2018-Customs dated 20-06-2018 which read as follows:

“Provided further that nothing contained in entries against serial numbers 14, 21B, 21C, 21D, 24A, 24B, 26A, 32A, 177, 177A, 249A, 250A, 371A, 371B, 376A and 377A of the said Table, shall apply to goods originating in the United States of America”.

A corrigendum dated 05-02-2021 was issued to Notification No 02/2021-Customs dated 01-02-2021 which amended the principal Notification No 50/2017-Customs dated 30-06-2017. By the corrigendum, the second

proviso was amended and entry 377AA was inserted with effect from 24 February 2021. The effect of this corrigendum is that with effect from 24 February 2021, the benefit of SI. No. 377AA of Notification No 50/2017-Customs dated 30-06-2017 will not be available in respect of imports from USA.

7.15. M/s TTIPL continued to avail the benefit of Sl. No. 377AA even after 224 February 2021. On being pointed out, Shri. Venkatesh D, Assistant Manager, M/s TTIPL in his statement dated 21-08-2023 (Annexure 8-2) admitted that they have wrongly availed the benefit of Sl. No. 377AA in respect of 5 Bills of Entry (listed at Sl. Nos 1 to 5 of Table at Para 7.13.) where the country of origin of the imports is the USA. However, in respect of BOE No. 5203660 dated 28.08.2021 (listed at Sl. Nos. 6 of Table at Para 7.13.), the importer had stated that benefit of 377AA was not availed because of a query raised at the -port. The duty foregone in respect of, the 5,.BOEs. amounts to Rs -. 4,09,411/- (Annexure W-4) The port wise data of duty foregone in respect of the 5 BOEs is as follows:

Duty Foregone (Rs)

Port Code	2021	2022	2023	Grand Total
INDEL4	409411	-	-	409411

The importer has paid differential duty of Rs 4,09,411/- along with interest of Rs 1,39,731/- vide T.R 6 Challan No. 1840 dated 16-08- 2023. (Annexure E-21)

8. Summary of differential duty payments made consequent to DRI investigation:

Amount (In Rs)

Wrong availment of Notf No 50/2017-Customs dated 30-06-2017				
SL. No of Notf	No. of Bills of Entry covered in DRI investigation	Differential Duty in r/o BOE mentioned in column 2	Interest Paid on Duty at column no.3	Worksheet for Differential Duty
485A	6	9,19,221	1,97,601	Annexure W-2
581B	49	2,41,469	61,953	Annexure W-3
377AA	5	4,09,411	1,39,731	Annexure W-4
Total	60	15,70,101	3,99,285	

8.1. The port wise payments of differential duty and interest in relation to the wrong availment of Notification No 50/2017-Customs dated 30-06-2017 (Sl. Nos. 485A, 581B and 377AA) is detailed below:

Port Code	Year in which notification wrongly claimed	Differential Duty (Rs)	Interest (Rs)	Date of payment of differential duty & Interest
NMUN1	2023	4,23,933	35,715	28-07-2023
INHSU6	2021	2,59,925	93,122	25-08-2023
INBLR4	2021	2,35,363	68,764	24-08-2023
INPLT6	2021 & 2022	2,41,469	61,953	28-07-2023
INDEL4	2021	4,09,411	1,39,731	16-08-2023
Total		15,70,101	3,99,285	

9. The importer, vide letter dated 05-02-2024 (Annexure E-25), requested for closure of proceedings under Section 28(2) of Customs Act, 1962. Therefore, it is evident from the above that the importer fully agrees that he is not eligible for the benefit of concessional rate of duty under Sl.Nos 485A and 581B (w.e.f 18th April 2021) and under 377AA of Notification No 50/2017-Customs (w.e.f 224 February 2021). It has been admitted that they have availed the benefit of concessional rate inadvertently and have paid the differential duty along with interest on being informed by the DRI officers during the course of investigation. Subsequent imports made by the importer are without availing the benefit under Sl.Nos 485A, 581B and 377AA of 50/2017 dated 30.06.2017.

Action under Section 28(2) of the Customs Act, 1962.

10. The relevant provisions of Section 28 of the Customs Act, 1962, are reproduced below: -

“Section 28. Recovery of duties not levied or not paid or shortlevied or short- paid or erroneously refunded. –

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

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or shortpaid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

Provided that before issuing notice, the proper officer shall hold prenotice consultation with the person chargeable with duty or interest in such manner as may be prescribed;

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

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or partly paid.

Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.

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

Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of subsection (1) shall be deemed to be concluded."

11. The investigations made in this case have not unearthed any evidence to suggest that there is a malafide intention on the part of the importer to evade payment of applicable duties. Further, there is no material evidence to suggest that there is any collusion or misdeclaration /mis-statement or suppression of facts. The depositions made by the concerned persons in their statements also do not indicate any willful intent on their part to wrongly avail the benefit of Notification No 50/2017-Customs and thereby evade payment of customs duty.

12. Further, immediately on being informed by DRI officers that they were not eligible for the benefit of Notification No 50/2017- Customs dated 30-06-2017 as amended in respect of 60 bills of entry and that they were required to pay the duty foregone to the extent of Rs 15,70,101/-, the importer has immediately made good the full payment of differential duty along with interest of Rs 3,99,285/- under Section 28AA of the Customs Act and requested vide letter dated 05-02-2024, for closure of proceedings under Section 28(2) of the Customs Act, 1962. Therefore, this case falls within the ambit of the provisions of Section 28(1)(b) of the

Customs Act. As per Section 28(2) of the said Act, where the payment of duty and interest has been made in terms of Section 28(1)(b), no show cause notice shall be served on the importer under Section 28(1)(a) or any penalty levied in respect of such duty and interest paid.

13. Since the entire differential duty liability along with applicable interest is paid by M/s. Toyota Tsusho India Private Limited, the investigation initiated by DRI against them merits consideration for closure without issue of show cause notice in terms of Section 28(2) of the Customs Act, 1962.

14. Since the present case having a differential duty liability of Rs 15,70,101/- involves imports from multiple jurisdictions, in terms of Notification No.28/2022-Customs (N.T) dated 31.03.2022 read with Section 110AA of the Customs Act, 1962, the Additional Commissioner of Customs or Joint Commissioner of Customs in whose jurisdiction the highest amount of duty, or refund, arises will be the proper officer for initiating action under Section 28 of the Customs Act, 1962. In this case the highest amount of duty is from INMUN1'i.e. Mundra Port as can be seen from the Table below:

Port	Duty (Rs)	Interest (Rs)	Payable (Rs)	Paid (Rs)
NBLR4 (Bangalore Air Cargo)	2,35,363	68,704	3,04,127	3,04,127
INDEL4 (Delhi Import)	4,09,411	1,39,731	5,49,142	5,49,142
INHSU6 (Chennai II Import)	2,59,925	93,122	3,53,047	3,53,047
INMUN1 (Mundra)	4,23,933	35,715	4,59,648	4,59,648
INPTL6 (Delhi ICD Import)	2,41,469	61,953	3,03,422	3,03,422
Total	15,70,101	3,99,285	19,69,386	19,69,386

15. Waiver of Show Cause Notice

The Importer M/s Toyota Tusho India Pvt, Ltd. vide his letter dt. 28.01.2025 has submitted in this office that they have made the payment of the differential duty alongwith the applicable interest. They humbly

request to close this case under section 28(2) of the Customs Act, 1962 following principles of natural justice. Further, they don't want any Personal Hearing (PH) or Show Cause Notice (SCN).

16. Discussion and Findings

16.1 I find that M/s. Toyota Tsusho India Private Limited (hereinafter referred to as TTIPL for short), No. 33 and 34, E-Commerce Section Auto Park Amenities, Bidadi Industrial Area, Bidadi, Ramanagaram, Bengaluru Rural, Karnataka, 562109 holders of IEC No. 0799000973 are importers of motor vehicle parts from its group companies in Japan, Singapore, Thailand and Poland for supply to Original Equipment Manufacturer, M/s. Toyota Kirloskar Motor Private Limited (TKML) and other motor vehicle manufacturers. They had imported various motor vehicle parts such as Motor Assy Holder W/O Fan-RHD, Motor Assy Holder W/O Fan-LHD, Motor Assy W Holder Spec B YSD RH, Motor Assy W Holder Spec B YSD LH, etc and wrongly availed the benefit of concessional rate of duty under SI. Nos. 377AA, 485A and 581B of Notification No 50/2017-Customs dated 30.06.2017. On a reasonable belief that the improper availment of notification benefits has resulted in substantial duty evasion further investigations were taken up by the officers of Directorate of Revenue Intelligence (DRI), Bengaluru Zonal Unit(BZU).

16.2 The contents of this investigation report are limited to the following issues:

a) Wrong availment of concessional duty in terms of SI. Nos. 485A and 581B of Notification No 50/2017-Customs dated 30- 06-2017 in as much as the items under import are used in motor vehicles.

b) Wrong availment of concessional duty in terms of SI.No 377AA of Notification No 50/2017-Customs dated 30-06-2017 in as much as the Country of Origin of the imports are from USA.

16.3 I find that the period April 2021 to June 2023, M/s TTIPL imported motors of different types falling under tariff heading 8501 at a concessional rate of 10% adv. by availing the benefit of S1.No 485A of Notf. No. 50/2017-Customs dated 30-06-2017. During the same period M/s TTIPL have also imported components such as Sensor vacuum, marker sensor, temperature sensor, etc falling under tariff heading 9031 8000 at a concessional rate of 7.5% adv by availing the benefit of Sl.No. 581B of Notf. No. 50/2017-Customs dated 30-06-2017. However, with effect from 1st

April 2021, the concessional rate of duty under the entries Sl.No. 485A and 581B is not available to goods falling under the specified tariff headings if they are suitable for use in motor vehicles/motor cars/motor cycles.

16.4 Wrong availment of Sl. No. 485A of Notf. No. 50/2017-Customs

I find that during the period April 2021 to June 2023 the import data of M/s Toyota Tsusho indicates that they have availed the benefit of Sl.No 485A in respect of 72 Bills of Entry. The worksheet for the 72 Bills of Entry in 227-line entries is enclosed as Annexure W-1. The duty foregone in respect of these 72 BOEs is Rs 2,26,72,548/-. Out of the 72 BOEs indicated in Annexure W-1, it has been unravelled that the goods imported vide 4 bills viz. BOE No 5644343 dt 24-04-2023, 5815780 dt 05-05-2023, 9012560 dt 07-06-2022 and 2941424 dt 10-08-2022 are machinery spares and not used in automobiles. Thus The duty rightly foregone in respect of the above mentioned 4 BOEs is Rs 5,49,681/-.

16.4.1 Further, I find that that the importer voluntarily paid the differential duty of Rs. 2,12,03,647/- along with interest of Rs 43,48,716/- in respect of 62 bills of entry prior to the DRI investigation and that w.r.t. 6 BOEs viz. No 4083524 dt 07-01-2023, 3390131 dt 01-04-2021, No 3444639 dt 05-04-2021, No 3451975 dt 06-04-2021, No 3474721 dt 07-04-2021 and No 6068881 dt 30-10-2021, the differential duty of Rs 9,19,220/- and interest of Rs 1,97,601/- was paid.

17. Wrong availment of Sl.No 581B of Notf. No 50/2017-Customs

17.1 I find that M/s TTIPL that during the period April 2021 to June 2023, they have availed the benefit of Sl. No. 581B of Notification No 50/2017-Customs dated 30-06-2017 as amended in respect of 61 BOEs. It has been found that in respect of the components imported vide 49 Bills of Entry, the same are used in automobiles and hence they are not eligible for the benefit of concessional duty under Sl. No. 581B. He stated that the differential duty arising in respect of these 49 bills of entry amounting to Rs. 2,41,469/- has been paid along with interest of Rs. 61,953/-.

17.2 In respect of the rest 12 Bills of Entry where the duty forgone amounts to Rs. 6,94,655.60/-, I find that the items imported by availing the benefit of concessional rate of duty under Sl. No. 581B are components used for purposes other than for motor vehicles which renders the availment right and no repayment to Customs is needed.

18. Wrong availment of Sl. No. 377AA of Notf. No. 50/2017-Customs:

18.1 I find that vide 6 Bills of Entry M/ TTIPL had imported goods from USA and availed the benefit of Sl. No. 377AA of Notf. No. 50/2017-Customs dated 30-06-2017. I find that they have wrongly availed the benefit of Sl. No. 377AA in respect of 5 Bills of Entry where the country of origin of the imports is the USA. However, in respect of 01 BOE No. 5203660 dated 28.08.2021 the importer had stated that benefit of 377AA was not availed because of a query was raised at the -port. The duty foregone in- respect of, the 05 BOEs amounts to Rs -. 4,09,411/-. The Importer has paid Rs. 4,09,411/- along with the applicable interest of Rs. 1,39,731/-.

19. Summary of differential duty payments made consequent to DRI investigation:

19.1 I find that the importer has made payment of the differential duty along with interest the same is reproduced as below:

Wrong availment of Notf No 50/2017-Customs dated 30-06-2017					Amount (In Rs)
SL. No of Notf	No. of Bills of Entry covered in DRI investigation	Differential Duty in r/o BOE mentioned in column 2	Interest Paid on Duty at column no.3	Worksheet for Differential Duty	
485A	6	9,19,221	1,97,601	Annexure W-2	
581B	49	2,41,469	61,953	Annexure W-3	
377AA	5	4,09,411	1,39,731	Annexure W-4	
Total	60	15,70,101	3,99,285		

19.2. I also find the break out of the port wise payments of differential duty and interest in relation to the wrong availment of Notification No 50/2017-Customs dated 30-06-2017 (Sl. Nos. 485A, 581B and 377AA), the same is produced as below detailed below:

Port Code	Year in which notification wrongly claimed	Differential Duty (Rs)	Interest (Rs)	Date of payment of differential duty & Interest
INMUN1	2023	4,23,933	35,715	28-07-2023
INHSU6	2021	2,59,925	93,122	25-08-2023

INBLR4	2021	2,35,363	68,764	24-08-2023
INPLT6	2021 & 2022	2,41,469	61,953	28-07-2023
INDEL4	2021	4,09,411	1,39,731	16-08-2023
Total		15,70,101	3,99,285	

20.**Order**

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

अमित कुमार मिश्रा

अपर आयुक्त, सीमा शुल्क

सीमा शुल्क भवन मुंद्रा

सेवा में,

M/s. Toyota Tsusho India Private Limited
No. 33 and 34, E-Commerce Section Auto Park Amenities,
Bidadi Industrial Area, Bidadi, Ramanagaram,
Bengaluru Rural, Karnataka, 562109

Copy to,

1. The ADG, DRI, BZU, No. 8(P)2, 14 Stage, 3rd Block, HBR Layout, opp. BDA Complex, Kalyan Nagar Post, Bengaluru, Karnataka - 560043.
2. The Dy./Asstt. Commissioner (Legal/Prosecution), Custom House, Mundra.
3. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
4. The Dy./Asstt. Commissioner (EDI), Custom House, Mundra.
5. Notice Board (to display on Notice Board for all Noticees).
6. Guard File.

