O/C

प्राप्त किया/RECEIVED
प्रधान आयुक्त का कार्यालय
प्रेषण अनुभाग/DISPATCH SECTION
सीमा शुल्क मुख्यालय, अहमदाबाद.
CUSTOMS HQ, AHMEDABAD.
दिनांक/Date. 03/11/26
हस्ताक्षर/Sign.....

प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
सीमा शुल्क भवन, आल इंडीया रेडियो के पास, नवरंगपुरा , अहमदाबाद 380009
दुर भाष (079) 2754 46 30 **फैक्स** (079) 2754 23 43
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, AHMEDABAD
CUSTOMS HOUSE, NEAR ALL INDIA RADIO, NAVRANGPURA, AHMEDABAD 380009
PHONE: (079) 2754 4630 FAX (079) 2754 2343 E-mail: cus-ahmd-adj@gov.in

निबन्धित पावती डाक द्वारा / By SPEED POST A.D.

फासं./ F. No.: VIII/10-07/Pr. Commr/O&A/2025-26
DIN: 20261171MN0000BF70F4

आदेश की तारीख/Date of Order : 30.10.2026
जारी करने की तारीख/Date of Issue : 03.11.2026

द्वारा पारित :- **मनीष कुलहरी, आयुक्त**
Passed by :- Manish Kulhary, Commissioner

मूल आदेश संख्या :

Order-In-Original No: AHM-CUSTM-000-COMMR-18-2026-27 dtd. 30.10.2026 in the case of M/s. Kosol Energie Private Limited, situated at 193, Kalthia House, Satyagrah Chhavni, Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat - 380015.

1 जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।
1. This copy is granted free of charge for private use of the person(s) to whom it is sent.

2. इस आदेश से असंतुष्ट कोई भी व्यक्ति इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार, सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, दुसरी मंज़िल, बहुमाली भवन, गिरिधर नगर पुल के बाजु मे, गिरिधर नगर, असारवा, अहमदाबाद-380 004 को सम्बोधित होनी चाहिए।
2. Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Asarwa, Ahmedabad – 380004.

3. उक्त अपील प्रारुप सं. सी.ए.3 में दाखिल की जानी चाहिए। उसपर सीमा शुल्क (अपील) नियमावली, 1982 के नियम 3 के उप नियम (2) में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियाँ में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न

की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। अपील से सम्बंधित सभी दस्तावेज भी चार प्रतियोँ में अग्रेषित किए जाने चाहिए।

3. The Appeal should be filed in Form No. C.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Customs (Appeals) Rules, 1982. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.

4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं, चार प्रतियों में दाखिल की जाएगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलगन की जाएंगी (उनमें से कम से कम एक प्रमाणित प्रति होगी)

4. The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)

5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।

5. The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.

6. केंद्रिय सीमा शुल्क अधिनियम,1962 की धारा 129 ऐ के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।

6. The prescribed fee under the provisions of Section 129A of the Customs Act,1962 shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

7. इस आदेश के विरूद्ध सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण में शुल्क के 7.5% जहां शुल्क अथवा शुल्क एवं जुरमाना का विवाद है अथवा जुरमाना जहां शीर्फ जुरमाना के बारे मे विवाद है उसका भुकतान करके अपील की जा शकती है।

7. An appeal against this order shall lie before the Tribunal 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".

8. न्यायालय शुल्क अधिनियम, 1870 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर उपयुक्त न्यायालय शुल्क टिकट लगा होना चाहिए।

8. The copy of this order attached therein should bear an appropriate court fee stamp as prescribed under the Court Fees Act, 1870.

Subject: - Show Cause Notice File No. VIII/10-07/Pr. Commr/O&A/2025-26 dated 01.01.2026 issued by the Principal Commissioner of Customs, Customs, Ahmedabad to M/s. M/s Kosol Energie Private Limited (IEC: 2406003311), having registered office at 193, Kalthia House, Satyagrah Chhavni, Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat -380015.

Brief Facts of the Case:

M/s Kosol Energie Private Limited (IEC: 2406003311), having registered office at 193, Kalthia House, Satyagrah Chhavni, Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat -380015 and Corporate office at Kalthia Corporate House, PRL Colony, Near Oxygen Park, Sindhubhavan Road, Ahmedabad, Gujarat 380059 (hereinafter referred to as 'the Importer' or 'the Noticee' or 'M/s KEPL' for the sake of brevity), is engaged in manufacture of Solar Photovoltaic Module, Solar Rooftop, Solar Light etc. The Noticee imported **"Aluminium Frame Alloy – Silver Anodized/Aluminium Frames"** from China for use in the manufacture of Solar Panels/Solar Modules. The subject goods were imported from M/s Suzhou Sentong Photovoltaic Co. Ltd., China.

2. Officers of the Directorate of Revenue Intelligence, Jaipur Regional Unit (DRI, Jaipur) developed specific intelligence indicating that the Importer was importing "Aluminium Frame Alloy - Silver Anodized"/"Aluminium Frames" for manufacture of Solar Panels/Solar Modules by resorting to misclassification of the goods under Customs Tariff Item (CTI) 76101000, thereby evading the Anti-Dumping Duty imposed on "Anodized Aluminium Frames for Solar Panels/Modules" vide Notification No.16/2024-Customs (ADD) dated 27.09.2024. The intelligence further indicated that the subject goods imported from China were covered by the said Anti-Dumping Duty notification, whereas the Importer had continued to declare the goods under CTI 76101000, which did not attract the applicable Anti-Dumping Duty.

3. The Government of India, Ministry of Finance, Department of Revenue, vide **Notification No.16/2024-Customs (ADD) dated 27.09.2024**, imposed Anti-Dumping Duty on the goods described as "Anodized Aluminium Frames for Solar Panels/Modules", originating in or exported from China PR. The said notification covered the subject goods falling under tariff items 76109010, 76109030 or 76169990 of the First Schedule to the Customs Tariff Act, 1975. The notification was issued pursuant to the Final Findings dated **29.06.2024** of the Directorate General of Trade Remedies (DGTR) in the matter concerning "Anodized Aluminium Frames for Solar Panels/Modules", wherein the designated authority had found that the subject goods were being exported from China PR at dumped prices and that such dumped imports had caused material injury/retardation to the domestic industry and had recommended imposition of Anti-Dumping Duty. Accordingly, summons bearing DIN No. 202410DDZ4000000CD37 dated 16.10.2024 to appear on 23.10.2024 was issued to the Importer to tender statement and to submit documents related to import of Aluminium Frames.

4. During investigation, the import data and Bills of Entry pertaining to the subject goods imported by the Importer were scrutinised. It was observed that the Importer had imported the subject Anodized Aluminium Frames/Aluminium Frames from China and had declared the goods under CTI 76101000. It was further noticed that, after issuance of Notification No.16/2024-Customs (ADD) dated 27.09.2024, the Importer had filed five Bills of Entry at ICD Khodiyar (Ahmedabad) and one Bill of Entry at JNCH, Nhava Sheva, declaring the subject goods under CTI 76101000. The six Bills of Entry covered by the investigation were filed during the period **30.09.2024 to 09.10.2024** and involved import of **1,46,569 Kgs** of "Aluminium Frame Alloy - Silver Anodized/Aluminium Frames", having a total assessable value of **Rs.4,54,06,495/-**. The goods were imported from M/s Suzhou Sentong Photovoltaic Co. Ltd., China.

5. During the course of investigation, the statement of Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of the Importer was recorded under Section 108 of the Customs Act, 1962 on 23.10.2024, in which he inter alia stated that M/s Kosol Energie Private Limited is an engineering company engaged in manufacture of Photovoltaic/Solar Modules and Solar Panels; it is engaged in obtaining Government contract for establishing Solar Plants and their maintenance for the tendered period and it also supplies Solar Modules and Solar Panel in the domestic market; that he was responsible for handling import sourcing, customs clearance and logistics and, along with his team, was looking after import clearances, filing of Bills of Entry and other customs activities, including keeping track of Customs circulars/notifications and classification of commodities in the Bills of Entry; that they imported Solar Cell ARC Tempered Glass, Anodized Aluminium Frames and PV Ribbon from China and EVA Backsheet from Korea for manufacture of Solar Modules and Solar Panels; that the Aluminium Frames were coated/anodized with silver to prevent corrosion and increase their durability and that the Aluminium Frame Alloy-Anodized/Aluminium Frames imported by the Importer were used exclusively in the manufacture of Solar Panels and Solar Modules; that they had imported such Aluminium Frames only from China. During his statement, Shri Jitendra Narendra Modi was confronted with the Final Findings dated 29.06.2024 issued by the DGTR in respect of "Anodized Aluminium Frames for Solar Panels/Modules". He stated that the said Final Findings proposed imposition of Anti-Dumping Duty on "Anodized Aluminium Frames for Solar Panels/Modules" originating in or exported from China PR. He further confirmed that, after 27.09.2024, the Importer had imported five consignments at ICD Khodiyar and one consignment at Nhava Sheva, declaring the goods as Aluminium Frame Alloy-Anodized/Aluminium Frame and classifying the same under CTI 76101000. On being shown the relevant tariff entry, Shri Jitendra Narendra Modi stated that CTI 76101000 covers

aluminium doors, windows and their frames and thresholds for doors. He further stated that since the Anodized Aluminium Frames imported by the Importer were specifically meant for manufacture of Solar Panels and Solar Modules, the same were not classifiable under CTI 76101000. On being shown Heading 7616, he stated that Heading 7616 covers **"Other articles of Aluminium"** and, since there was no specific tariff entry for the subject goods, the Anodized Aluminium Frames imported by the Importer were correctly classifiable under **CTI 76169990**. He further stated that they had been declaring the CTH of the Aluminium Frames as 76101000 since long, even before imposition of Anti-Dumping Duty vide Notification No.16/2024-Customs (ADD) dated 27.09.2024, and had continued to declare the same classification even after issuance of the said notification. He agreed that the Anodized Aluminium Frames imported under the subject Bills of Entry were correctly classifiable under CTI 76169990 and that Anti-Dumping Duty imposed vide Notification No.16/2024-Customs (ADD) dated 27.09.2024 was payable thereon. He further stated that the supplier of the subject goods was M/s Suzhou Sentong Photovoltaic Co. Ltd. and, accordingly, Anti-Dumping Duty @ USD 577 per MT was payable in terms of Sl. No. 6 of the said notification. Shri Jitendra Narendra Modi initially stated that the Anti-Dumping Duty had not been paid at the time of home clearance because the six Bills of Entry were **ex-bond Bills of Entry** and the corresponding warehouse Bills of Entry had been filed prior to 27.09.2024, on the basis of which the Importer had considered that no Anti-Dumping Duty was payable at the time of clearance from the warehouse. However, after being apprised of the relevant provisions of the notification and the Customs Act, 1962, he agreed that Anti-Dumping Duty @ USD 577/MT was payable on the subject goods.

6. During investigation, summons were also issued to the Customs Brokers who had handled the clearance of the subject goods, namely M/s Parikh Clearing Agency Private Limited, Ahmedabad, which handled the clearances at ICD Khodiyar, and M/s Total Sea-land Logistics Private Limited, Mumbai, which handled the clearance at JNCH, Nhava Sheva. Their statements were recorded under Section 108 of the Customs Act, 1962.

6.1. **Shri Rupin Kishor Parikh**, Managing Director of M/s Parikh Clearing Agency Private Limited, in his statement dated 23.10.2024, stated that his firm had handled various import consignments of Aluminium Frame Alloy-Anodized and other solar-related goods imported by M/s Kosol Energie Private Limited at ICD Khodiyar. He stated that the Importer provided the import documents viz. Bill of Lading, Invoice, Packing List, analysis document if applicable along with the details of CTH and that the Customs Broker prepared the checklist on the basis of the details provided by the Importer and,

after confirmation by the Importer, filed the Bills of Entry. He further stated that, after 27.09.2024, his firm had filed five Bills of Entry for home clearance of Anodized Aluminium Frames at ICD Khodiyar declaring the description as Aluminium Frame Alloy-Anodized and CTH as 76101000.

6.2. Similarly, **Shri Ramesh Shamarao Lohar**, Senior Executive of M/s Total Sea-land Logistics Private Limited, Mumbai, in his statement dated 12.11.2024, stated that his firm had handled one import consignment of Aluminium Frames imported by M/s Kosol Energie Private Limited at JNCH, Nhava Sheva. He stated that the Importer provided the import documents along with the CTH, on the basis of which the Customs Broker prepared the checklist and, after confirmation by the Importer, filed the Bill of Entry. The said Bill of Entry, filed after 27.09.2024, declared the imported goods as "Aluminium Frame" under **CTH 76101000**.

6.3. When shown the relevant tariff entries, Shri Rupin Kishor Parikh and Shri Ramesh Shamarao Lohar also stated that CTI 76101000 specifically covers aluminium doors, windows and their frames and thresholds for doors, whereas the Aluminium Frames imported by M/s Kosol Energie Private Limited were intended for manufacture of Solar Modules/Solar Panels and were therefore not classifiable under CTI 76101000. They stated that the goods were appropriately classifiable under CTI 76169990, being "Other" articles of Aluminium, as there was no specific tariff entry covering the subject goods. After going through the Notification No. 16/2024-Customs (ADD) dated 27.09.2024 they stated that Anodized Aluminium Frames imported vide Bills of Entry mentioned in their statement were imported from China hence covered under this notification and antidumping duty at the rate @577 USD per MT was payable by the importer as per sr. no. 6 of the subject notification.

7. From the statement of Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of the Importer, it emerged that the Aluminium Frame Alloy-Anodized/Aluminium Frames imported by the Importer were used exclusively in manufacturing of Solar Panels and Solar Modules by them. Further, Shri Jitendra Narendra Modi agreed in his statement that "Anodized Aluminium Frames" imported by them is correctly classifiable under CTI 76169990 and antidumping duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 is payable by them. Further, the customs brokers who had handled clearance of these imported goods had also admitted in their respective statements that the Aluminium Frames imported by the subject importer were correctly classifiable under CTI 76169990 and anti-dumping duty at rate @577 USD per MT was payable by the importer as per sr. no. 6 of the Notification No. 16/2024-Customs (ADD) dated 27.09.2024.

8. The investigation thus revealed that the subject goods were Anodized Aluminium Frames specifically used for manufacture of Solar Panels/Solar Modules and not classifiable as doors, windows or their frames and thresholds for doors covered under CTI 76101000. The subject goods were accordingly proposed to be classified under CTI 76169990 under Heading 7616, which covers "Other articles of Aluminium", there being no specific tariff entry for such Solar Panel/Solar Module Aluminium Frames.

9. Antidumping duty (ADD) was imposed on the "Anodized Aluminium Frames for Solar Panels/Modules" imported from China, under Section 9A of the Customs Tariff Act, 1975 read with Rules 18 & 20 of the Customs Tariff (Identification, Assessment and collection of Anty Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 vide Notification No.16/2024-Customs (ADD) dated 27.09.2024. By virtue of Section 9A(8) of the Customs Tariff Act, 1975, the relevant provisions of the Customs Act, 1962 apply to such duty. In respect of goods cleared from a warehouse under Section 68 of the Customs Act, 1962, Section 15(1)(b) prescribes the date of presentation of the Bill of Entry for home consumption as the relevant date for determining the applicable rate of duty. Accordingly, the applicability of anti-dumping duty to the present consignments is required to be examined with reference to the respective ex-bond Bills of Entry.

9.1. It was further observed that Notification No.16/2024-Customs (ADD) dated 27.09.2024 specifically covered "Anodized Aluminium Frames for Solar Panels/Modules" originating in or exported from China PR and prescribed Anti-Dumping Duty thereon. On congruent reading of Section 9A of the Customs Tariff Act, 1975 as amended and Section 15 of the Customs Act, 1962, as amended, it appeared that the relevant date for determination of payment of Antidumping duty would be the date of presentation of the Bill of Entry for home consumption. Since the six Bills of Entry were filed between **30.09.2024 and 09.10.2024**, i.e. after issuance of the said notification, therefore, Anti-Dumping Duty was leviable on the subject goods as mentioned in attached Annexure-A. In respect of the goods supplied by M/s Suzhou Sentong Photovoltaic Co. Ltd., the applicable Anti-Dumping Duty was **USD 577 per MT** as per Sl. No. 6 of Notification No.16/2024-Customs (ADD).

10. It was clear that the Importer had imported Aluminium Frame Alloy-Anodized/Aluminium Frames for manufacture of Solar Panels and Solar Modules and the imported goods were correctly classifiable under CTI 76169990. Further, it appeared that Notification No.16/2024-Customs (ADD) dated 27.09.2024 imposing Antidumping duty on the Anodized Aluminium Frames for Solar Panels/Modules imported from China was in the public domain and hence the Importer was fully aware about the said notification,

however, despite being fully aware of the notification and imposition of anti-dumping duty on the Anodized Aluminium Frames for Solar Panels/Modules, the importer had wilfully misclassified the subject imported goods under CTI 76101000 and had not paid the Anti-dumping Duty on the subject imported goods. Thus, it is evident that the importer had wilfully evaded the applicable Anti-Dumping Duty (ADD) on the imported goods imported vide Bills of Entry as detailed in attached Annexure-A.

10.1. It was therefore alleged that, by declaring the subject goods having total assessable value of Rs. 4,54,06,495/- under CTI 76101000 instead of the correct CTI 76169990, the Importer had avoided payment of the applicable Anti-Dumping Duty. The misclassification also resulted in consequential non-payment/short-payment of IGST. The differential Customs Duty, comprising Anti-Dumping Duty and differential IGST, was worked out to **Rs.84,33,084/-**, as detailed in Annexure-A to the Show Cause Notice. The summary of the differential customs duty (anti-dumping duty + IGST) payable by the importer is as under: -

Sr. No.	Custom House Code	Bill of Entry No. and Date	Quantity of goods (Kgs)	Assessable Value (Rs.)	Differential Duty Payable (Rs.)
1.	ICD- Khodiyar (INSBI6)	5876137 dated 30.09.2024	35700	11771840	2055132
2.		5886960 dated 30.09.2024	14721	4856065	847440
3.		5890759 dated 01.10.2024	35288	10845983	2031414
4.		6016336 dated 08.10.2024	13090	3851289	747755
5.		6016337 dated 08.10.2024	7140	2354368	411026
6.	JNCH Nhava Sheva (INNSA1)	6039388 dated 09.10.2024	40630	11726950	2340318
Total			**1,46,569**	**4,54,06,495**	**84,33,084**

11. The importer had subscribed to a declaration regarding the truthfulness of the contents of the Bills of Entry under Section 46(4) of the Customs Act, 1962. Under the self-assessment regime introduced w.e.f. 08.04.2011 by amendment to Section 17, the importer is responsible for correctly declaring the description, classification, value, applicable notification and determining and paying the correct duty. Further, Regulation 4 of the Bill

of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018 provides that filing of the electronic declaration and generation of the Bill of Entry number amounts to completion of self-assessment. Thus, the onus was on the importer to correctly assess and pay the applicable duty. However, the importer failed to discharge this responsibility by misclassifying the subject Aluminium Frames, not declaring the applicable notification and not paying the Anti-Dumping Duty (ADD).

12. The facts and evidence revealed that the importer had imported Anodized Aluminium Frames for manufacture of Solar Panels and Solar Modules and had misclassified the same under CTI 76101000 instead of the correct CTI 76169990 to evade ADD imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024. Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of M/s Kosol Energie Private Limited, and the concerned Customs Brokers, in their statements, accepted the applicability of the said notification and ADD on the subject goods. Since the notification was in the public domain, the importer was aware of its applicability but did not pay the ADD on the imported Aluminium Frames covered under the Bills of Entry detailed in Annexure-A.

13. The importer, being aware of the applicability of Notification No. 16/2024-Customs (ADD) dated 27.09.2024, wilfully misclassified the imported goods under CTI 76101000 instead of CTI 76169990 and failed to declare the applicable notification and pay ADD, thereby contravening Sections 17 and 46 of the Customs Act, 1962 read with Section 9A of the Customs Tariff Act, 1975. The non-payment of ADD also resulted in short-payment of IGST. This wilful misclassification of the imported goods and non-payment of Anti-Dumping Duty (ADD) by the Importer had rendered 1,46,569 Kgs of the subject imported goods valued at Rs.4,54,06,495/- liable to confiscation under Section 111(m) of the Customs Act, 1962.

14. The importer was engaged in manufacture of Solar Panels and Solar Modules and was fully aware of the end-use of the imported Aluminium Frames. Despite such knowledge, the importer did not declare the correct end-use and deliberately misclassified the goods under CTI 76101000 and failed to declare Notification No. 16/2024-Customs (ADD) dated 27.09.2024 with an intent to evade ADD. Thus, the facts and evidences discussed above clearly show that the importer resorted to wilful misclassification of the subject imported goods and suppression of facts that the subject goods were imported for use in manufacture of Solar Panels and Solar Modules and had not mentioned Notification No. 16/2024-Customs (ADD) dated 27.09.2024 in the Bills of Entry with an ulterior motive of evading payment of the applicable anti-dumping duty on the imported goods. The acts of wilful misclassification and

suppression of material facts attracted the provisions of Section 28(4) of the Customs Act, 1962. Accordingly, differential customs duty comprising ADD and differential IGST amounting to **₹84,33,084/-** in respect of the Bills of Entry detailed in Annexure-A is liable to be demanded and recovered under Section 28(4), along with applicable interest under Section 28AA. Further, by wilful misclassification of the subject imported goods and non-payment of customs duty (anti-dumping duty), the Importer had also rendered 1,46,569 Kgs of Aluminium Frames totally valued at Rs. 4,54,06,495/- liable to confiscation as per the provisions of Section 111(m), and the importer is liable to penalty under Sections 112(a) and 112(b) of the Customs Act, 1962.

15. Notification No. 16/2024-Customs (ADD) dated 27.09.2024 was in the public domain and the importer was aware of its applicability. By knowingly evading the ADD, M/s Kosol Energie Private Limited rendered itself liable to penalty under Section 114A of the Customs Act, 1962. Further, by knowingly making false and incorrect declarations, wilfully misclassifying the goods under CTI 76101000 instead of CTI 76169990 and not declaring the applicable notification in the Bills of Entry, the importer rendered itself liable to penalty under Section 114AA of the Customs Act, 1962.

16. Shri Jitendra Narendra Modi, Assistant Manager (EXIM), was responsible for import clearances, filing of Bills of Entry, classification of goods and compliance with Customs notifications. In his statement dated 23.10.2024 recorded under Section 108 of the Customs Act, 1962, he admitted that the Anodized Aluminium Frames were correctly classifiable under CTI 76169990, were used exclusively in manufacture of Solar Panels and Solar Modules and attracted ADD under Notification No. 16/2024-Customs (ADD) dated 27.09.2024. Despite being aware of the applicability of ADD, he failed to ensure payment thereof in respect of five Bills of Entry filed at ICD Khodiyar and one Bill of Entry filed at JNCH, Nhava Sheva. It was therefore alleged that his acts/omissions had rendered the subject goods liable to confiscation under Section 111(m) and rendered him liable to personal penalty under Section 112(a)(ii) of the Customs Act, 1962.

17. The Importer had voluntarily deposited the said differential duty of Rs.84,33,084/-, interest of Rs.3,05,539/- and penalty of Rs.12,64,963/-, under Challan No. 984 & 985 both dated 26.12.2025, 302/2246 dated 30.12.2024 and 3651526191 dated 16.10.2024. Their sufficiency and appropriation are considered in the findings below.

18. In view of the above, Show Cause Notice No. VIII/10-07/Pr. Commr./O&A/2025-26 dated 01.01.2026, was issued to M/s Kosol Energie Private Limited (IEC: 2406003311), 193, Kalthia House, Satyagrah Chhavni,

Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat -380015 calling upon them to Show Cause in writing to the Principal Commissioner of Customs, Ahmedabad having his Office at Custom House, Nr. All India Radio, Income Tax Circle, Navrangpura, Ahmedabad -380009, as to why:-

(i) The classification of the impugned goods "'Aluminium Frame Alloy - Silver Anodized/ Aluminium Frames" imported vide Bills of Entry, mentioned in Annexure A to the show cause notice, as declared by them under Customs Tariff Item 76101000 should not be rejected and the said goods should not be reclassified under Customs Tariff Item 76169990 of the Customs Tariff Act, 1975, with applicable rate of duty i.e. BCD @10%, SWS @10% of BCD, Anti-Dumping Duty @577 USD/MT and IGST @18%.;

(ii) The differential Customs Duty amounting to Rs.84,33,084/- (Rupees Eighty Four Lakhs, Thirty Three Thousand and Eighty-Four only), short paid on the impugned goods imported vide the Bills of Entry, as mentioned in Annexures - A to the show cause notice, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with the applicable interest thereon under Section 28AA of the Customs Act, 1962 and as to why the duty amount of Rs.84,33,084/- (Rupees Eighty Four Lakhs, Thirty Three Thousand and Eighty-Four only) and interest amount of Rs.3,05,539/- (Rupees Three Lakh, Five Thousand, Five Hundred and Thirty Nine only) paid by them voluntarily should not be appropriated and adjusted towards their above duty and interest liability;

(iii) The impugned goods viz. 1,46,569 Kgs of "Aluminium Frame Alloy - Silver Anodized/ Aluminium Frames" imported vide Bills of Entry, as mentioned in Annexure A to the show cause notice, valued at Rs. 4,54,06,495/- (Rupees Four Crore, Fifty Four Lakh, Six Thousand, Four Hundred and Ninety Five only), should not be held liable to confiscation under Section 111 (m) of the Customs Act, 1962. Since the same are not physically available for confiscation why fine in lieu of confiscation should not be imposed upon them under Section 125 of the Customs Act, 1962;

(iv) Penalty should not be imposed upon them under Section 112 (a) and 112(b) of the Customs Act, 1962;

(v) Penalty should not be imposed on them under Section 114A of the Customs Act, 1962 and as to why the amount of Rs.12,64,963/- (Rupees Twelve Lakh, Sixty Four Thousand, Nine Hundred and Sixty

Three only) paid by them voluntarily should not be appropriated and adjusted towards their above penalty liability and

(vi) Penalty should not be imposed upon them under Section 114AA of the Customs Act, 1962 for the reasons discussed in paras supra.

18.1. Show Cause Notice No. VIII/10-07/Pr. Commr./O&A/2025-26 dated 01.01.2026 was issued to Shri Jitendra Narendra Modi, Assistant Manager (EXIM), M/s Kosol Energie Private Limited (IEC: 2406003311), 193, Kalthia House, Satyagrah Chhavni, Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat -380015 calling upon to show cause in writing to the Principal Commissioner of Customs, Ahmedabad within 30 days of the receipt of Notice as to why penalty should not be imposed on him under Section 112 (a)(ii) of the Customs Act, 1962.

19. DEFENCE SUBMISSION:

No separate paragraph-wise reply to the Show Cause Notice was submitted by the Noticee. However, vide letter dated 31.05.2026, the Noticee referred to the payment of differential duty, interest and fifteen per cent penalty and requested conclusion of proceedings under Section 28(6) of the Customs Act, 1962. The said letter, together with the submissions made during personal hearing on 06.10.2026, has been considered.

20. PERSONAL HEARING:

Personal Hearing in the matter was held on 06.10.2026. Shri Ronak Prajapati, EXIM Manager, M/s Kosol Energie Pvt Ltd. appeared for personal hearing on behalf of both the noticees. He stated that they had paid differential Customs duty, along with interest and penalty before the issuance of show cause notice. He also requested leniency in imposing penalty on Shri Jitendra Modi and requested to finalize the case accordingly.

21. DISCUSSION AND FINDINGS:

I have carefully gone through the Show Cause Notice dtd. 01.01.2026 and record of personal hearing as well as compilation of statutory provisions.

21.1. I find that the present case came into light when on the basis of intelligence gathered by the DRI, an enquiry was initiated against M/s. Kosol

Energie Private Limited, who were engaged in import of "Aluminium Frame Alloy - Silver Anodized"/ "Aluminium Frames" for manufacturing of Solar Panels and Solar Modules, by resorting to mis-classification of these imported goods under Customs Tariff Item 76101000, thereby they have evaded Anti-Dumping duty imposed vide Notification No.16/2024- Customs (ADD) dated 27.09.2024. The Government of India vide Notification No.16/2024-Customs (ADD) dated 27.09.2024 imposed anti-dumping duty on the "Anodized Aluminium Frames for Solar Panels/Modules" falling under tariff item 7610 9010, 7610 9030 or 7616 9990 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in, or exported from China PR. Thus, it appeared that M/s Kosol Energie Private Limited was liable to pay the Antidumping Duty not paid under Section 28(4) of the Customs Act, 1962 (hereinafter referred to as "the Act") along-with applicable interest under Section 28AA of the Act. Further, it appeared that as the goods were imported by wilful misclassification of the imported goods and suppression of facts that the impugned goods were actually classifiable under CTH 76169990 attracting antidumping duty and imported for use in manufacture of Solar Panels and Solar Modules and by not paying the applicable Antidumping Duty, the said goods were liable for confiscation under Section 111(m) of the Act and M/s. Kosol Energie Private Limited had rendered itself liable to applicable penalty under Section 112 (a), 112(b), 114A and 114AA of the Act. Further, Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of the importer also rendered himself liable for penalty for his alleged role in the present case.

21.2. From the facts of the case, I have to decide whether the classification of the imported goods i.e. "Aluminium Frame Alloy - Silver Anodized/ Aluminium Frames" declared under CTI 76101000 is liable to be rejected and whether the goods are required to be reclassified under CTI 76169990 and the importer is liable to pay the applicable Anti-Dumping Duty as well differential IGST of **Rs. 84,33,084/-**, alongwith applicable interest of **Rs. 3,05,539/-** in terms of Section 28AA of the Customs Act, 1962. I also have to decide whether the importer is liable for penalty under Section 112 (a), 112(b), 114A & 114AA of the Customs Act, 1962, and whether the impugned goods, imported vide the Bills of Entry mentioned in Annexure-A to the Show Cause Notice and having

assessable value of **Rs. 4,54,06,495/-** imported through various Ports are liable to confiscation or otherwise. I also have to decide whether Shri Jitendra Narendra Modi, Assistant Manager (EXIM), M/s KEPL, is liable for penalty under Section 112(a)(ii) of the Customs Act, 1962 for his alleged role in the evasion of above said Customs Duty liability.

22. I note that the importer is engaged in manufacturing of the Solar Photovoltaic Module, Solar Rooftop, Solar Light etc., for which they import various goods viz. Solar Cell ARC Tempered Glass, Anodized Aluminium Frames, PV Ribbon from China and EVA Backsheet from Korea. I further note that the Government of India vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 imposed Anti-Dumping Duty on "Anodized Aluminium Frames for Solar Panels/Modules", originating in or exported from China PR and falling under the tariff items 7610 9010, 7610 9030 or 7616 9990 of the First Schedule to the Customs Tariff Act, 1975. The investigation revealed that, subsequent to the issuance of the said notification, the Noticee filed five Bills of Entry at ICD Khodiyar and one Bill of Entry at JNCH, Nhava Sheva, for clearance of the impugned goods by classifying the same under CTI 76101000. It is alleged in the SCN that the subject goods were actually classifiable under CTI 76169990 on which Antidumping Duty was applicable vide Notification No.16/2024- Customs (ADD) dated 27.09.2024.

22.1. I find that Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of the Importer, in his statement dated 23.10.2024, confirmed and accepted that the "Aluminium Frame Alloy - Anodized/Aluminium Frames" imported by them were used exclusively in manufacturing of Solar Panels and Solar Modules. After carefully reading the relevant notification and the tariff entries, he further accepted that the "Anodized Aluminium Frames" imported by them were correctly classifiable under CTI 76169990 and that Anti-Dumping Duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 was applicable to their imported goods and payable by them. I further find that the Customs Brokers who had handled the clearance of the imported goods also admitted, in their respective statements, that the Aluminium Frames imported by the importer were correctly classifiable under CTI 76169990 and that Anti-

Dumping Duty at the rate of USD 577 per MT was payable by the importer on the imported goods in terms of Sr. No. 6 of Notification No. 16/2024-Customs (ADD) dated 27.09.2024. I find that, although the Noticee has accepted the proposed classification of the impugned goods under CTI 76169990 and has also discharged the differential duty liability arising therefrom, the question of correct classification of the imported goods is nevertheless required to be independently examined and determined on the basis of the description, nature and use of the goods and the relevant entries of the Customs Tariff. Now, I proceed to examine the same.

22.2. I find that the Noticee had declared the impugned goods under CTI 76101000. I further note that the CTI 76101000 covers Aluminium doors, windows and their frames and thresholds for doors. The relevant extract of CTH 7610 is appended as under:-

7610	*Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures*
7610 10 00	***Doors, windows and their frames and thresholds for doors***

From the above, it is clear that the scope of CTI 76101000 is confined to aluminium doors, windows, their frames and thresholds for doors. The expression "their frames" occurring in CTI 76101000 is required to be read in the context of the goods specifically mentioned therein, namely doors and windows. The said tariff entry cannot, therefore, be extended to cover every article described generally as an "aluminium frame". In other words, the mere fact that an article is made of aluminium and has the physical form of a frame does not, by itself, render it classifiable under CTI 76101000. The article must be a door, window, frame of a door or window, or a threshold for a door so as to fall within the specific scope of the said tariff item. In the present case, the description of the goods, the statements recorded during the investigation, and the admitted use of the goods clearly establish that the impugned goods are anodized aluminium frames specifically designed and imported for use in the manufacture of Solar Panels/Solar Modules. Shri Jitendra Narendra Modi,

Assistant Manager (EXIM) of the Noticee, in his statement dated 23.10.2024, categorically stated that the imported aluminium frames were used exclusively in the manufacture of Solar Panels and Solar Modules. The Customs Brokers who handled the clearance of the impugned goods also confirmed that the said goods were aluminium frames intended for use in Solar Panels/Solar Modules and were not doors, windows or frames thereof. I further find that the description and use of the impugned goods are not in dispute. The goods are neither aluminium doors nor aluminium windows, nor are they frames of doors or windows or thresholds for doors. They are specialized anodized aluminium frames intended for incorporation into Solar Panels/Solar Modules. Accordingly, I find and hold that the classification adopted by the Noticee under CTI 76101000 is not supported by the scope and description of the said tariff entry, and I, therefore, reject the same.

22.3. Having held that the impugned goods are not covered under CTI 76101000, I now proceed to determine their appropriate classification. I note that the impugned goods are admittedly articles made of aluminium and are imported in the form of finished/anodized aluminium frames designed exclusively for the assembly and manufacture of Solar Panels/Solar Modules. I find that no specific tariff entry under Heading 7610, or elsewhere in Chapter 76, specifically covers such aluminium frames for Solar Panels/Solar Modules. Heading 7616 serves as a residual heading covering "Other articles of aluminium." Under this heading, CTI 76169990 specifically covers "Other." The relevant extract of CTH 7616 is appended as under: -

7616 ***Other articles of Aluminium***
7616 99 10 --- Expanded metal of aluminium and aluminium alloys
7616 99 20 --- Chains
7616 99 30 ---
Bobbins ***7616***
99 90 --- Other

From the above, I find that the relevant tariff structure under 76169990 provides for classification of articles of aluminium which are not more specifically covered under any preceding heading or tariff item of Chapter 76. The scheme of classification makes it clear that where an article of aluminium

is not covered by a more specific preceding heading, it would appropriately fall under Heading 7616 as an "other article of aluminium". In the present case, the impugned goods cannot be classified under CTI 76101000 merely because they are described as "frames", since, as discussed above, CTI 76101000 specifically relates to doors, windows and their frames and thresholds for doors. The impugned goods have an altogether different identity, design and end-use. I also find that the description of the goods as "Anodized Aluminium Frames for Solar Panels/Modules" is specifically recognized in Notification No. 16/2024-Customs (ADD) dated 27.09.2024, which covers such goods falling, inter alia, under tariff item 76169990. The notification, by itself, does not determine the classification of the goods; however, the description of the goods therein, read with the undisputed nature and use of the imported goods, reinforces the conclusion that anodized aluminium frames specifically meant for Solar Panels/Solar Modules are distinguishable from the frames covered under CTI 76101000. In the instant case, there is no dispute regarding the identity and end use of the goods. The Noticee itself, through its authorized employee, has admitted that the goods are anodized aluminium frames used exclusively in the manufacture of Solar Panels/Solar Modules and that the same are not classifiable under CTI 76101000. The Customs Brokers who handled the clearance of the goods also confirmed the same position. The subsequent payment of the differential duty, interest and penalty by the Noticee, though not by itself determinative of classification in law, is also consistent with the Noticee's acceptance of the proposed classification. Therefore, on a harmonious reading of the tariff structure and having regard to the description, nature and admitted end-use of the impugned goods, I hold that "Aluminium Frame Alloy – Silver Anodized"/"Aluminium Frames" imported by the Noticee for exclusive use in the manufacture of Solar Panels/Solar Modules are not classifiable under CTI 76101000 and the impugned goods appropriately merit classification under CTI 76169990 as "Other articles of aluminium".

22.4. I further find that Anti-Dumping Duty was imposed on "Anodized Aluminium Frames for Solar Panels/Modules" originating in or exported from

China PR under Notification No. 16/2024-Customs (ADD) dated 27.09.2024. The said duty was imposed under Section 9A of the Customs Tariff Act, 1975. In terms of Section 9A(8) of the Customs Tariff Act, 1975, the provisions of the Customs Act, 1962 relating to the determination of the rate of duty are applicable to Anti-Dumping Duty as they apply in relation to duties leviable under the Customs Act, 1962. Further, in terms of Section 15 (1)(a) of the Customs Act,1962 the date of presentation of Bill of Entry is the relevant date for determining the rate of duty and Section 15(1)(b) of the Customs Act, 1962 is applicable with respect to imposition of Anti-Dumping duty in terms of Section 9A(8) of the Customs Tariff Act, 1975. I find that the six Bills of Entry (5 Bills of Entry at ICD-Khodiyar (INSBI6) and 1 Bill of Entry at JNCH, Nhava Sheva (INNSA1)) involved in the present case were ex-bond Bills of Entry filed during the period from 30.09.2024 to 09.10.2024, i.e., after the issuance of Notification No. 16/2024-Customs (ADD) dated 27.09.2024. Therefore, in terms of the applicable provisions relating to determination of the rate of duty, the Anti-Dumping Duty imposed under the said notification was applicable to the impugned goods at the time of their clearance for home consumption. The contention of the Noticee that the corresponding warehousing Bills of Entry had been filed prior to the issuance of the Anti-Dumping Duty notification does not alter the duty liability arising at the time of filing of the ex-bond Bills of Entry. Accordingly, I find that the applicable Anti-Dumping Duty was payable in respect of all the six Bills of Entry involved in the present proceedings.

22.5. During the period from 30.09.2024 to 09.10.2024, the importer had filed total 6 Bills of Entry as detailed in Annexure-A to the SCN for import of 1,46,569 Kgs of Aluminium Frames having total assessable value of Rs. 4,54,06,495/- by intentionally misclassifying the same under CTI 76101000 and by not paying applicable anti-dumping duty levied vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024. The non-payment of Anti-Dumping Duty also resulted in consequential short-payment of IGST. The total differential duty liability in respect of the six Bills of Entry was worked out to Rs. 84,33,084/-, and the same was demanded from the importer under

the provisions of Section 28(4) of the Customs Act, 1962, along with appropriate interest under the provisions of Section 28AA, ibid. In view of the discussions in para supras, I find that the differential duty amounting to Rs. 84,33,084/- is liable to be recovered from the Noticee under Section 28(4) of the Customs Act, 1962.

22.6. On examination of the facts of the case, I note that the importer 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. Further, consequent upon the introduction of the self-assessment regime through the amendments made to Section 17 of the Customs Act, 1962, effective from 08.04.2011, the primary responsibility for correct assessment of imported goods rests upon the importer. I find that with the introduction of self-assessment, it is the added and enhanced responsibility of the importer to declare the correct description, value, Notification, etc. and to correctly determine and pay the duty applicable in respect of the imported goods. Further, in the self-assessment regime, the onus is on the importer to correctly classify the goods properly, mention the applicable Notifications and pay applicable duties. I find that in the instant case, the Noticee declared the impugned goods under CTI 76101000, whereas the goods were correctly classifiable under CTI 76169990. As a consequence of such incorrect classification, the Noticee did not discharge the applicable Anti-Dumping Duty under Notification No. 16/2024-Customs (ADD) dated 27.09.2024 and the consequential differential IGST. I further find that the impugned goods were imported by the Noticee for its own manufacturing activity and the nature and end-use of the goods were within its knowledge. The Noticee was aware that the goods were anodized aluminium frames specifically meant for use in Solar Panels/Solar Modules. The Anti-Dumping Duty Notification No. 16/2024-Customs (ADD) dated 27.09.2024, was already in force when the six ex-bond Bills of Entry in the present case were filed. The Noticee was, therefore, required to correctly determine the classification of the goods and the duty liability applicable on the date relevant for determination of the rate of duty. I also find that the facts regarding the actual nature of the goods, namely that

they were anodized aluminium frames specifically meant for use in Solar Panels/Solar Modules, were within the exclusive knowledge of the Noticee. The Noticee nevertheless continued to declare the goods under CTI 76101000, an entry specifically covering doors, windows and their frames and thresholds for doors, and thereby failed to discharge the applicable Anti-Dumping Duty. Had the department not initiated enquiry against the importer, the said act of misclassification on the part of importer to evade the duty of Customs liable to be deposited to the Government Exchequer would not have come to light and remained un-noticed. Therefore, the incorrect self-assessment and consequential non-payment/short-payment of duty resulted in the short levy/non-payment of the applicable Customs duty. In view of the above facts and circumstances, I hold that the extended period is rightly invoked and the duty is liable to be recovered under the provisions of Section 28 (4) of the Customs Act, 1962 along with interest in terms of Section 28AA of the Customs Act, 1962 apart from imposition of penalty.

22.7. I find that, during the course of investigation and prior to the issuance of the Show Cause Notice, the Noticee agreed to the objection of the DRI, accepted the duty liability and voluntarily paid the differential duty amounting to Rs. 84,33,084/-. Since I have held that the differential duty of Rs. 84,33,084/- was payable by the Noticee, the amount already paid by the Noticee is liable to be appropriated against the demand of differential duty under Section 28 (4) of the Customs Act, 1962.

22.8 I find that on the above differential duty of Rs. 84,33,084/-, during investigation, the importer has also paid interest amounting to Rs. 3,05,539/- voluntarily and amount thus paid is liable to be appropriated against the demand of interest under the provisions of Section 28AA of the Customs Act, 1962.

22.9 I further find that the Importer has already paid the penalty amounting to Rs. 12,64,963/- (15% of differential duty amount of Rs.84,33,084/-) voluntarily and same is liable to be appropriated against the penalty in terms of Section 28(5) of the Customs Act, 1962. This payment is considered under

Section 28(5), and is not treated as a separate adjudicated penalty under Section 114A.

23. I find that during the course of personal hearing, the representative of the noticee submitted that prior to issuance of show cause notice, they paid the differential duty of Rs. 84,33,084/- along with interest of Rs. 3,05,539/- and penalty of Rs. 12,64,963/- (15% of differential duty amount of Rs.84,33,084/-). I note that the importer vide letter dated 31.05.2026 also submitted that they have paid the differential duty, applicable interest and 15% penalty and requested to close the proceedings by issuance of appropriate order as provided under Section 28(6) of the Customs Act, 1962. Although the deposits preceded service of the notice, they were specifically tendered and accepted towards the liabilities covered by the notice. On examining the records and the verified calculations, I am satisfied that the statutory conditions for conclusion under Section 28(6)(i) stand fulfilled.

24. I find that in the instant case, Show Cause Notice was issued to the importer, M/s Kosol Energie Private Limited, for the demand of differential duty under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA, and for imposition of penalties under Sections 112 (a), 112(b), 114A, and 114AA of the Customs Act, 1962. Additionally, the goods imported were proposed to be confiscated under Section 111(m) of the Customs Act, 1962, with a corresponding penalty under Section 112 (a) of the Act, on the grounds that the importer had mis-classified the goods under CTI 76101000 and not paid the antidumping duty, resulting in non-payment of customs duty for 06 Bills of Entry filed during the period from 30.09.2024 to 09.10.2024. I further find that the importer has already accepted the correct classification of the imported goods under CTI 76169990 and applicability of the antidumping duty and acknowledged that they were declaring the CTI of "Aluminium Frames" imported by them under CTI 76101000 since long, even before imposition of Anti-Dumping duty vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 on the subject goods, therefore, even after subject notification, they continued the same CTI i.e. 76101000 and did not discharge the applicable Anti-Dumping duty. They further contended that the

six Bills of Entry in question were Ex-Bond Bills of Entry, and since the corresponding Into-Bond (warehouse) Bills of Entry were filed prior to 27.09.2024, they operated under the belief that no ADD was payable at the time of home clearance. I find that the aforesaid contention of the importer is not legally tenable. As already discussed and held in the preceding paragraphs, in terms of Section 15(1)(b) of the Customs Act, 1962 read with Section 9A(8) of the Customs Tariff Act, 1975, the relevant date for determination of the applicable rate of duty in respect of goods cleared from a warehouse is the date on which the Bill of Entry for home consumption is presented. In the instant case, the relevant date is, therefore, the date of filing of the respective Ex-Bond Bills of Entry. Since the Notification imposing Anti-Dumping Duty was already in force on the dates on which the said Ex-Bond Bills of Entry were filed, the importer was liable to discharge the applicable Anti-Dumping Duty. The fact that the corresponding Warehouse Bills of Entry had been filed prior to 27.09.2024 does not alter the legal position. I also find that the importer has, by its own admission, been continuously declaring the impugned goods under CTI 76101000 even prior to the imposition of Anti-Dumping Duty. Such continued misclassification cannot be accepted as a valid justification or excuse for non-payment of the applicable Anti-Dumping Duty after the said duty became leviable. The importer was required to correctly declare the classification of the goods and discharge the duty liability applicable on the date of clearance for home consumption. Further, as already held above, the impugned goods are correctly classifiable under CTI 76169990 and not under CTI 76101000. The declaration of the goods under an incorrect tariff classification, resulting in non-payment of applicable Anti-Dumping Duty, amounts to mis-declaration of the goods and renders the same liable to confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, I hold that the impugned goods, having an assessable value of Rs. 4,54,06,495/-, are liable to confiscation under Section 111(m) of the Customs Act, 1962. However, I also find that during the investigation, and prior to the issuance of the Show Cause Notice dated 01.01.2026, the importer voluntarily paid the differential duty of Rs. 84,33,084/- along with interest of Rs. 3,05,539/- and penalty of Rs. 12,64,963/- (15% of differential duty amount of

Rs.84,33,084/-). In view of the aforesaid voluntary payment of the differential duty, interest and penalty by the importer prior to issuance of the Show Cause Notice, I find that proceeding initiated vide Show Cause Notice No. VIII/10-07/Pr. Commr./O&A/2025-26 dated 01.01.2026 needs to be concluded in terms of the provision of Section 28 (6) (i) of the Customs Act,1962 without prejudice to the provisions of Section 135, 135A and 140 of the Customs Act, 1962.

24.1. I find that once the goods are held liable for confiscation, penalty under Section 112 of the Customs Act, 1962 are attracted. Penal provisions under Section 112 of the Customs Act, 1962 in the case of dutiable goods, other than prohibited goods are subject to the provisions of Section 114A of the Customs Act,1962 and as per fifth proviso to Section 114A of the Customs Act, 1962, where any penalty has been levied under Section 114A, no penalty shall be concurrently levied under Section 112 of the Customs Act, 1962. In the present case, the differential customs duty amounting to Rs. 84,33,084/- in relation to the imported goods, has been duly demanded and confirmed under the provisions of Section 28(4) of the Customs Act, 1962. This is to be levied alongside the applicable interest under Section 28AA and the imposition of penalties under Section 114A of the Act. Consequently, the invocation of penal action under Section 112 (a) & (b) of the Customs Act, 1962, becomes inapplicable and non-invocable in the present circumstances. Additionally, the importer has voluntarily discharged the differential duty liability, along with the accrued interest and a penalty quantified at 15% of the duty, as delineated in the Show Cause Notice, prior to its formal issuance. In view of the entire factual matrix stated above, I find that the proceeding against the importer under Section 28 (4), 28AA, Section 111(m), Section 112 (a), Section 112 (b), Section 114A and 114AA of the Customs Act, 1962 are deemed to be conclusive as per the provision of Section 28 (6) (i) of the Customs Act, 1962. The conclusion recorded above follows from compliance with Sections 28(5) and 28(6)(i). Accordingly, no further penalty is imposed upon the Noticee under Sections 112(a), 112(b), 114A or 114AA in respect of the matters covered by such conclusion.

24.2. As regards Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of the Noticee, I find that the Show Cause Notice proposes imposition of penalty upon him under Section 112(a)(ii) of the Customs Act, 1962, for his alleged role in handling documentation, matters relating to classification and import clearance. I find that, though Shri Jitendra Narendra Modi, in his statement, explained the nature and use of the imported goods and accepted the classification proposed during the investigation, the records available before me do not bring out any independent or specific evidence establishing that he had personally devised, directed or knowingly participated in any deliberate act to evade duty. I also take note of the fact that the Noticee has accepted the duty liability and, prior to the issuance of the Show Cause Notice, discharged the differential duty, applicable interest and penalty (15% of total duty liability). In the overall facts and circumstances of the case, I have considered the reference to "other persons" in Section 28(6)(i), Circular No.11/2016-Customs dated 15.03.2016, including its stated limitation concerning seizure and confiscation proceedings, and the separate treatment of confiscation below. The personal penalty proposed against Shri Modi arises from the same duty-related acts or omissions covered by the statutory conclusion recorded above. I hold that the said personal penalty proceedings also stand concluded. No penalty is therefore imposed upon him under Section 112(a)(ii).

24.3. Regarding the issue of fine in lieu of confiscation, I find that as per Section 125 (1) of the Customs, Act, 1962, it is mandatory for the officer adjudging confiscation of the goods, other than the goods the importation or exportation whereof is prohibited under the Customs Act, 1962 or under any other law for the time being in force, to give to the owner of goods, or where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit. However, first proviso to Section 125 (1) of the Customs Act, 1962 provides that where the proceeding are deemed to be concluded under provision 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. Thus, in the present

case, I find that the impugned goods having assessable value of Rs. 4,54,06,495/- held liable for confiscation is neither prohibited nor restricted and the proceedings are deemed to be concluded under Section 28 (6)(i) of the Customs Act, 1962 and since the requirements for deemed conclusion under Section 28(6)(i) have been fulfilled, no redemption fine is imposable by virtue of the first proviso to Section 125(1).

25. In view of the foregoing discussion and findings, I pass the following order.

::ORDER::

25.1 I reject the declared classification of the subject goods, viz. 'Aluminium Frame Alloy - Silver Anodized/ Aluminium Frames' imported by M/s. Kosol Energie Private Limited under Customs Tariff Item No. 76101000 (as detailed in Annexure A to the Show Cause Notice) and order to re-classify the said goods under Customs Tariff Item No. 76169990 of the Customs Tariff Act, 1975 and reassess the subject Bills of Entry accordingly;

25.2 M/s Kosol Energie Private Limited has already paid the differential duty alongwith interest demanded under Section 28 (4) and Section 28AA, respectively of the Customs Act, 1962 vide the Show Cause Notice No. VIII/10-07/Pr. Commr./O&A/2025-26 dated 01.01.2026 and they have also paid the penalty equal to fifteen percent of the duty demanded in the notice as provided under Section 28 (5) of the Customs Act, 1962. I order to confirm the demand of duty and interest demanded in the said Show Cause Notice and order to appropriate the total amount of **Rs. 1,00,03,586/-** (Rupees One Crore, Three Thousand, Five Hundred and Eighty-Six only) paid by the importer against **duty of Rs. 84,33,084/-**, **Interest of Rs. 3,05,539/-** and **Penalty of Rs. 12,64,963/-.** Hence, the proceeding in respect of Show Cause Notice No. VIII/10-07/Pr. Commr./O&A/2025-26 dated 01.01.2026 is hereby treated as concluded in terms of the provision of Section 28 (6)(i) of the Customs Act, 1962 without prejudice to the provisions of Section 135, 135A and 140 of the Customs Act, 1962.

25.3 I hold that the imported goods viz. 1,46,569 Kgs of "Aluminium Frame Alloy - Silver Anodized/ Aluminium Frames" having assessable value of **Rs. 4,54,06,495/-** imported through Various Ports vide Six Bill of Entry are liable for confiscation under Section 111 (m) of the Customs

Act, 1962. However, in view of the first Proviso to Section 125 (1) of the Customs Act, 1962 and deemed conclusion of the proceeding under Section 28 (6) (i) of the Customs Act, 1962, I do not impose any fine in lieu of confiscation under Section 125 (1) of the Customs Act, 1962.

25.4 I refrain from imposing any penalty on M/s. Kosol Energie Private Limited under Section 112(a) and 112(b) of the Customs Act, 1962;

25.5 I No further penalty is imposed upon M/s Kosol Energie Private Limited under Sections 114A or 114AA in respect of the matters covered by the statutory conclusion recorded above.

25.6 No penalty is imposed upon Shri Jitendra Narendra Modi, Assistant Manager (EXIM), M/s Kosol Energie Private Limited under Section 112(a)(ii), for the reasons recorded in paragraph 24.2.

26. This order is issued without prejudice to any other action that may be taken under the provisions of the Customs Act, 1962 and Rules/Regulations framed thereunder or any other law for the time being in force in the Republic of India.

27. The Show Cause Notice No. VIII/10-07/Pr. Commr./O&A/2025-26 dated 01.01.2026 is disposed off in above terms.

30/X/26

D/C **(Manish Kulhary)**
Commissioner,
Customs, Ahmedabad

F. No. VIII/10-07/Pr. Commr./O&A/2025-26 **Date: 30.10.2026**

DIN: 20261171MN0000BFT0F4

To,

(1) M/s Kosol Energie Private Limited (IEC: 2406003311),
193, Kalthia House, Satyagrah Chhavni,
Opp. ISCON Mega Mall, S.G. Highway,
Ahmedabad, Gujarat -380015.

(2) Shri Jitendra Narendra Modi, Assistant Manager (EXIM),
M/s Kosol Energie Private Limited (IEC: 2406003311),
193, Kalthia House, Satyagrah Chhavni,

Opp. ISCON Mega Mall, S.G. Highway,
Ahmedabad, Gujarat -380015.

Copy To:

1. The Chief Commissioner of Customs, Gujarat Customs Zone, Ahmedabad;
2. The Additional Director General, Directorate of Revenue Intelligence, Jaipur Zonal Unit, Jaipur;
3. The Assistant/Deputy Commissioner, ICD Khodiyar;
4. The Deputy/ Assistant Commissioner, HQ Systems, Customs Ahmedabad, for uploading on the official website;
5. The Deputy/ Assistant Commissioner, HQ Recovery Cell, Customs Ahmedabad;
6. Guard File.