

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात - 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT - 370421 EMAIL: group5-mundra@gov.in</p>	
A	File No.	CUS/APR/MISC/1386/2025-Gr 5-6-O/o Pr Commr-Cus-Mundra
B	Order-in-Original No.	MCH/ADC/ZDC/737/2025-26
C	Passed by	Dipak Zala, Additional Commissioner, Custom House, Mundra
D	Date of Order	30-03-2026
E	Date of issue	30-03-2026
F	SCN No. & Date	SCN CUS/APR/MISC/1386/2025-Gr 5-6 dated 01-04-2025
G	Noticee/Party/Importer/ Exporter	M/s Zodiac Energy Limited (IEC-0899000941) having address at Upper Ground Floor, 4-5-6, Milestone Building, Nr. Drive In Cinema, Drive-In Road, Ahmedabad, Gujarat, 380054
H	DIN No.	20260371MO000919506

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“ सीमा शुल्क आयुक्त (अपील),

7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009”

“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA

Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”

3. उक्त अपील यह आदेश 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 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.

5. 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, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क 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:-

M/s Zodiac Energy Limited (IEC-0899000941) having address at Upper Ground Floor, 4-5-6, Milestone Building, Nr. Drive In Cinema, Drive-In Road, Ahmedabad, Gujarat, 380054 (hereinafter also referred to as "the importer" for the sake of brevity") has filed Bill of Entry No. 8605029 dated 03-11-2023 for the import of goods i.e. Floating Solar System covered under CTH 89079000 for home consumption.

The details are as below:

Table:1

BE No	BE Date	Item Description	Assess Val (In Rs.)	Duty levied @ 13.08% (BCD 10% SWS 1% and IGST 5%) BCD concession of 30% (In Rs.)
8605029	03-11-2023	FLOATING SOLAR SYSTEM	6483589.21	848377.6

2. During the analysis of the data of import made at Custom House, Mundra for the period Oct-2023 to March-2024, Audit observed that M/s ZODIAC ENERGY LIMITED has filed Bill of entry no. 8605029 dated 03-11-2023 of assessable value Rs. 64,83,589/- for import of FLOATING SOLAR SYSTEM under CTH 8907 9000. The importer has paid duty at the rate of 13.08% (BCD 10% SWS 1% of BCD and IGST 05%) by claiming concession of 30% of BCD under Notification 50/2018-cus.

3. Audit found that imported goods "FLOATING SOLAR SYSTEM" also known as floating photovoltaics, is a solar power system that uses photovoltaic panels that float on water instead of being fixed to land or buildings. The panels are mounted on structures that are anchored to the bottom or shoreline of a body of water, such as a lake, reservoir, canal, or pond. These systems are increasingly used as a renewable energy solution due to the availability of water surfaces and the cooling effect on the panels, which enhances efficiency.

3.1 Further, it is found that the exporter M/s SUNGROW FPV SCI. & TECH.CO., LTD specializes in floating photovoltaic (FPV) systems, which allow solar panels to be installed on water bodies such as reservoirs, lakes, and oceans. The company offers a wide range of FPV solutions, including platforms, mounting structures, and design services, to help deploy solar systems efficiently on water surfaces. Therefore, the imported goods “floating solar systems” being a solar system and not merely a floating structure, should be classified under CTH 8541 4300 where duty is applicable @ 61.28% (BCD 40% SWS 10% of BCD and IGST 12%), instead of CTH 8907 9000.

4. The Heading under CTH 8541 and explanatory notes are reads as under:

85.41 - Semiconductor devices (for example, diodes, transistors, semiconductor-based transducers); photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED), whether or not assembled with other light-emitting diodes (LED); mounted piezo-electric crystals.

8541.10 - Diodes, other than photosensitive or light-emitting diodes (LED)

- Transistors, other than photosensitive transistors :

8541.21 -- With a dissipation rate of less than 1 W

8541.29 -- Other

8541.30 - Thyristors, diacs and triacs, other than photosensitive devices

- Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED) :

8541.41 -- Light-emitting diodes (LED)

8541.42 -- Photovoltaic cells not assembled in modules or made up into panels

8541.43 -- Photovoltaic cells assembled in modules or made up into panels

8541.49 -- Other

(B) PHOTSENSITIVE SEMICONDUCTOR DEVICES

This group comprises photosensitive semiconductor devices in which the action of visible rays, infra-red rays or ultra-violet rays causes variations in resistivity or generates an electromotive force, by the internal photoelectric effect.

Photoemissive tubes (photoemissive cells) the operation of which is based on the external photoelectric effect (photoemission), belong to **heading 85.40**.

The main types of photosensitive semiconductor devices are :

- (1) **Photoconductive cells (light dependent resistors)**, usually consisting of two electrodes between which is a semiconductor substance (cadmium sulphide, lead sulphide, etc.) whose electrical resistance varies with the intensity of illumination falling on the cell.

These cells are used in flame detectors, in exposure meters for automatic cameras, for counting moving objects, for automatic precision measuring devices, in automatic door opening systems, etc.

- (2) **Photovoltaic cells**, which convert light directly into electrical energy without the need for an external source of current. Photovoltaic cells based on selenium are used mainly in luxmeters and exposure meters. Those based on silicon have a higher output and are used, in particular, in control and regulating equipment, for detecting light impulses, in communication systems using fibre optics, etc.

Special categories of photovoltaic cells are :

- (i) **Solar cells**, silicon photovoltaic cells which convert sunlight directly into electric energy. They are usually used in groups as sources of electric power, e.g., in rockets or satellites employed in space research, for mountain rescue transmitters.

4.1 Whereas heading under CTH 8907 provides:

89.07 - Other floating structures (for example, rafts, tanks, coffer-dams, landing-stages, buoys and beacons).

8907.10 - Inflatable rafts

8907.90 - Other

This heading covers certain floating structures **not having** the character of vessels. They are generally stationary when in use and include :

- (1) pontoons of the hollow cylinder type used for the support of temporary bridges, etc. But pontoons having the character of vessels are **excluded (heading 89.01 or 89.05)**.
- (2) Floating tanks used to contain live crustaceans or fish.
- (3) Floating tanks used in certain harbours to supply ships with oil, water, etc.
- (4) Cofferdams being cases used in bridge building, etc.
- (5) Floating landing-stages.
- (6) Buoys, such as mooring buoys, marking buoys, light or bell buoys.
- (7) Beacons used for marking channels, navigational hazards, etc.
- (8) Re-floating appliances used to refloat boats.
- (9) Paravanes, a type of float used in mine-sweeping.
- (10) Rafts of all kinds including floating craft of circular shape, which inflate automatically on contact with the sea, for carrying shipwrecked persons.
- (11) Floating structures designed to function as dock-gates.

The heading also **excludes** :

- (a) Diving bells of the type comprising a metal chamber lowered or raised by external means (i.e., a lifting appliance); these are generally classified in **heading 84.79**.
- (b) Life-belts and life-jackets (classified according to their constituent material).
- (c) Sailboards (**heading 95.06**).

5. In view of the above, it appears that imported goods FLOATING SOLAR SYSTEM, also known as floating photovoltaics, is a solar power system. Its main function is to convert light into energy. Therefore, it appears that imported goods are more specifically covered under CTH 85414300 instead of 89079000. It appears that importer has wrongly classified the goods under CTH 89079000 and paid duty @13.08% (BCD 10% SWS 10% of BCD and IGST 05%, BCD concession of 30%) whereas the goods are rightly classifiable under CTH 85414300 wherein duty is applicable @ 61.28% (BCD 40% SWS 10% of BCD and IGST 12%). This has resulted in short payment of duty of Rs. 31,24,766/-. Details are as below:

Table:2

BE No	BE Date	Invoice No.	Item No.	Item Description	Assess Val (In Rs.)	Duty levied @ 13.08% (BCD 10% SWS 1% and IGST 5%) BCD concession of 30% (In Rs.)	Duty leviable @ 61.28% (BCD 40% SWS 4% IGST 12%) (In Rs.)	Diff duty payable (In Rs.)
8605029	03-11-2023	1	1	FLOATING SOLAR SYSTEM	6483589.21	848377.6	3973143.47	3124766

6. Relevant Legal Provisions, in so far related to the facts of the case are as under:

Section 17. Assessment of duty.

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

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

Section 28. 1[Recovery of 2[duties not levied or not paid or short levied or short- paid] or erroneously refunded.

(4) *Where any duty has not been 10[levied or not paid or has been short levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,*

- (a) *collusion; or*
- (b) *any wilful mis-statement; or*
- (c) *suppression of facts,*

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been 11[so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

[Section 28AA. Interest on delayed payment of duty.

(1) *Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section*

(2), *whether such payment is made voluntarily or after determination of the duty under that section. (2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.*

Section 46. Entry of goods on importation.

(4) *The importer while presenting a bill of entry shall 12 [* * *] make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, 13 [and such other documents relating to the imported goods as may be prescribed].*

14 [(4A) *The importer who presents a bill of entry shall ensure the following, namely:*

- (a) *the accuracy and completeness of the information given therein;*
- (b) *the authenticity and validity of any document supporting it; and*

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

Section 149. Amendment of documents.—

Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

Section 111. Confiscation of improperly imported goods, etc. (m)

2[any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3 [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54];

Section 112. Penalty for improper importation of goods, etc.-

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b)..... shall be liable,

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

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

*Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has 2 [****]been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under 3 [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:*

7. With the introduction of self-assessment under Section-17, more faith is bestowed on the importer, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As a part of self-assessment by the importer, they have been entrusted with the responsibility to correctly self-assess the duty. However, in the instance case, the importer intentionally abused this faith placed upon them by the law of the land. Therefore, it appears that the importer has wilfully violated the provisions of Section 17(1) of the Act in as much as Importer has failed to correctly self-assess the duty on the impugned goods and has also wilfully violated the provisions of sub-section (4) and (4A) of Section 46 of the Act. Therefore, the goods having assessable value of Rs. 64,83,589/-(Sixty four lakh eighty three thousand five hundred eighty nine Only) imported vide the Bill of Entry No.

8605029 dated 03-11-2023 appears liable for confiscation under Section 111(m) of the Customs Act, 1962.

8. Whereas it appears that the Importer has not paid the applicable duty which has resulted into short payment of duty of Rs. 31,24,766/- (Thirty one lakh twenty four thousand seven hundred sixty six Only) which is required to be recovered from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Act. For such act of omission and commission, the importer has rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.

9. Now, therefore, M/s. Zodiac Energy Limited (IEC-0899000941) are hereby called upon to show cause to the Additional Commissioner of Customs, Import Assessment, Custom House, Mundra, having office at 103, 1st Floor, PUB Building, 5B, Mundra (Kutch) Gujarat-370 421, as to why:

I. The above said goods having assessable value of Rs. 64,83,589/- (Sixty four lakh eighty three thousand five hundred eighty nine Only) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

II. Differential duty amounting to Rs. 31,24,766/- (Thirty one lakh twenty four thousand seven hundred sixty six Only) for the said goods imported vide above said Bill of Entry should not be recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

II. Penalty should not be imposed upon them under Section 114A of the Customs Act, 1962

PERSONAL HEARING AND WRITTEN SUBMISSIONS:

10. The above Show Cause Notice was issued to M/s. Zodiac Energy Limited (IEC-0899000941) for recovery of differential duty along with interest and imposition of penalty under the relevant provisions of the Customs Act, 1962. In response to the Show Cause Notice, importer submitted an amendment application vide letter dated 19.05.2025 (received on 10.06.2025).

11. In order to comply with the principles of natural justice, an opportunity for personal hearing was granted to the noticee vide letter dated 09.02.2026 & 10.03.2026 & 20.03.2026 for fixing the hearing. Subsequently, in response to the first Personal Hearing letter dated 09.02.2026, the importer, vide email dated 19.02.2026, requested adjournment of the hearing and consideration of the said amendment application. Further, in response to the second Personal Hearing letter dated 10.03.2026, the importer reiterated the same request of adjournment of the hearing and consideration of the said amendment application vide email dated 11.03.2026. Importer attended Virtual Personal Hearing on 27.03.2026 and stated that they will submit their submission after the Personal Hearing and submitted the submission vide email on 28.03.2026.

The importer M/s ZODIAC ENERGY LIMITED (IEC-0899000941) vide email dated 28.03.2026 submitted the following:

Submission /Reply:-

"We are grateful to your Honour for giving a patient hearing on 27.03.2026 in the

matter covered by Show Cause notice above (“notice”).

2. It is proposed in the notice to demand and recover duty amounting to Rs. 31,24,766/- under Section 28 (4) of Customs Act, 1962 along with interest under Section 28AA *ibid* and to impose penalty under Section 28A *ibid* on us for the following reason:

“5. ..it appears that imported goods FLOATING SOLAR SYSTEM, also known as floating photovoltaics, is a solar power system. Its main function is to convert light into energy. Therefore, it appears that imported goods are more specifically covered under CTH 85414300 instead of 89079000. It appears that importer has wrongly classified the goods under CTH 89079000 and paid duty @ 13.08% ..whereas the goods are rightly classifiable under CTH 85414300 ..”

3. At the outset, the allegations and averments leveled in the notice are hereby denied. Save and except what is specifically admitted herein, no part of the notice which is not expressly dealt with, shall be deemed to be admitted. The submissions made hereunder are independent of and without prejudice to each other.

4. We say and submit that we have not imported floating solar system and have tendered documentary evidence to support this fact. We have also made an application before **Ld. Deputy/Assistant Commissioner (Group-V), Custom House, Mundra**, for amendment of bill entry under Section 149 of Customs Act, 1962.

5. The application dated 19.12.2025 is reproduced below for the ease of ready reference:

We, M/s. Zodiac Energy Limited, Ahmedabad received a Letter of Intent (LOI) No. GSFC/BU-SU/RT/FLT SOLAR/2023 dated 23.05.2023 from M/s. Gujarat State Fertilizers & Chemicals Limited, Vadodara, for setting up 140 KW (AC) Roof Top Solar Power Project at GSFC, Baroda and 640 KW (AC) Roof Top & **Floating Solar** at GSFC Sikka Unit on EPC basis. A copy of the said LOI is enclosed herewith as **Annexure- “A”** for the ease of ready reference.

2. In pursuance to above, we entered into back-to-back agreements with various vendors, including M/s. Sungrow FPV Sci. & Tech. Co. Ltd., China for supply of floating bodies for modules, brackets for modules, aisle floating bodies, cover plate, multi-function floating bodies, equipment floating body, cable supports, anchoring truss and cable floating bodies, as per details given in para 5 of Technical Agreement dated 12.09.2023 entered between them. A copy of the said Technical Agreement is enclosed herewith as **Annexure-“B”**. It may be appreciated from para 6 of the said agreement that we had purchased main floating body, multi-function floating body, aisle floating body, cover plate and equipment floating body, from the said supplier.

3. Several critical components of the Floating Solar System like Transformer, Solar PV Cells (Modules), solar inverter, etc. that we were supposed to supply for erection of the Solar System at GSFC in terms of above LOI were procured from M/s. Powerlite Electricals Pvt. Ltd., Ahmedabad, M/s, Rayzon Solar Private Limited, Surat and M/s. Shenzhen Sofarsolar Co. Ltd., as per details given in their respective invoices, which are collectively enclosed herewith as **Annexure-“C”**.

4. The goods imported from M/s. Sungrow FPV Sci. & Tech. Co. Ltd., China were entered for clearance by us by way of filing Bill of Entry No. 8605029 dated 3.11.2023 with Custom House, Mundra. The bill of entry was filed on the basis of following amongst other documents received by us from M/s. Sungrow FPV Sci. & Tech. Co. Ltd.: -

(i) Technical Agreement dated 12.08.2023 between us and M/s. Sungrow containing details of items purchased by us from M/s. Sungrow.

(ii) Commercial Invoice No. SFIN231009-GSF101 dated 09.10.2023 for USD 77,048.00 describing the goods as “Floating Solar System” bearing Specification “SGF-PT50-M1, ETC.” The said

specification is the "Main Floating Body" duly described at Sl. No. 2 of the "list of supply" given in para 5 (3) of the Technical Agreement between us and M/s. Sungrow under the category "Float".

(iii) Bill of Lading No. A56DX30500 dated 15.10.2023 for 07 containers (3,212 packages) of goods along with a list attached thereto.

(iv) Certificate of Origin bearing Serial No. CCPIT410 01230004032, Certificate No. 0123111410000046 dated 16.10.2023 issued by China Council for the Promotion of International Trade, stating therein 3212 packages of Floating Solar System.

(v) Production Process and Description of the original material or components used to manufacture the imported goods, in Section I, Section III and Part B issued by M/s. Sungrow, clearly certifying that the imported goods were produced by blow moulding – plasticizing extrusion of high-density polyethylene.

(vi) Packing list showing 3,212 packages of goods meant for use in erecting Floating Solar System at GSFC.

5. The above documents were also tendered with your good office along with bill of entry. The same are collectively submitted herewith as **Annexure-"D"**. As a matter of fact, we were also having in our possession following documents, collectively annexed as **Annexure-"E"** that are all in line with our Technical Agreement with M/s. Sungrow:

(i) Purchase Order No. 4/SPV-GSFC/362/23-24 dated 10.08.2023 for "Comprehensive supply complete floaters, supporting structures, and other accessories for 755.37 KW for USD 77048/- (same as in invoice).

(ii) Proforma Invoice No. 1 dated 28.08.2023 issued by M/s. Sungrow for "supply of floating body along with required fitting accessories".

(iii) Proforma Invoice No. 2 dated 25.09.2023 issued by M/s. Sungrow for "supply of floating body along with required fitting accessories".

6. We had filed the bill of entry on the basis of description stated by the overseas supplier in the invoice, i.e. Floating Solar System, when read with details of invoice given in the bill of entry makes it clear that goods covered by the bill of entry were "**Floating Body (of Floating Solar System) along with required fitting accessories**" as per Specification SGF-PT50-M1 and not Solar System per se.

7. The solar panels, transformer, inverter, etc. which actually captures the sunrays for conversion into electricity were procured by us from other suppliers and not imported from M/s. Sungrow and hence, neither supplied by them nor covered by the bill of entry filed by us.

8. In view of above facts, it is requested to permit us to amend the description from "Floating Solar System" declared by us in the Bill of Entry No. 8605029 dated 03.11.2023 to "Floating Body along with required fitting accessories" as provided in Section 149 of the Customs Act, 1962 and re-assess the bill of entry, as per the requirement of law.

9. We deem it necessary to place it on record that the cause of making this application lies in one show cause notice F. No. CUS/APR/MIS/1386/2025-Gr.5-6 dated 01.04.2025 issued by Hon'ble Additional Commissioner, Custom House, Mundra demanding differential duty on "Floating Solar System" by proposing classification under CTH 85414300, being misguided by reading the description in the bill of entry in isolation. A copy of the Show Cause Notice is tendered herewith as **Annexure-"F"** for the ease of ready reference.

10. In case any other or further details/document and/or information is

needed in above connection, we may be informed accordingly for immediate compliance from our end.”

6. *When we received the notice(s) for personal hearing before your Honour; we made repeated requests to consider our application and amend the bill of entry, which would settle the dispute covered by the present notice.*

7. *Eventually, it was as recent as on 20.03.2026, i. e. after over 10 months of making the application for amendment, that M/s. Zodiac received a letter bearing F. No. CUS/APR/MISC/1386/2025-Gr. 5-6-O/o-Pr. Commr-Cus-Mundra of Ld. Appraiser, Group-V inter alia informing us that:*

*“..it is to inform that the request for amendment filed by you cannot be entertained at this stage. It is observed that a Show Cause Notice has already been issued in the matter based on the facts, declarations, and documents as originally submitted by you in the time of import. The proceedings have thus attained a quasi-judicial character, and any post facto amendment, if allowed, would alter the very basis of the Show Cause Notice and prejudice the ongoing adjudication. It is a settled legal position that adjudicating must be confined strictly to the scope and grounds of the Show Cause Notice, and permitting amendments at this stage would be contract to the **principles of natural justice, particularly the requirement of fair and transparent proceedings.***

..”

8. *Your Honour may kindly appreciate that none of the reasons advanced by Ld. Appraiser in his letter dated 20.03.2026 are specified in Section 149 for ignoring an application that is filed with the documentary evidence which was in existence at the time when goods were cleared, which is the sole criteria for authorizing amendment in the bill of entry. **It is a travesty of justice that no show cause notice or hearing, which is the cornerstone of principles of natural justice, was granted/issued before informing that the application “cannot be entertained” while emphasizing the requirement of fair and transparent proceedings in the same breath.***

9. *Hence, it is prayed to treat the application for amendment as our reply to the Show Cause Notice and give due consideration to all the documents submitted by us and drop the notice in toto.”*

DISCUSSIONS AND FINDINGS:

12. I have carefully gone through the records of the case and the allegations made in the Show Cause Notice dated 01-04-2025 issued under Section 28(4) of the Customs Act, 1962. An opportunity for personal hearing was granted to the noticee and recorded submission of the importer on 27-03-2026. I therefore find that sufficient opportunity as required under Section 122A of the Customs Act, 1962 has been provided and the principles of natural justice have been complied with.

13. Accordingly, I proceed to decide the case on the basis of the records available. The issues to be decided by me are:

I. Whether the above said goods having assessable value of Rs. 64,83,589/- (Sixty four lakh eighty three thousand five hundred eighty nine Only) are liable for confiscation under Section 111(m) of the Customs Act, 1962;

II. Whether Differential duty amounting to Rs. 31,24,766/- (Thirty one lakh twenty four thousand seven hundred sixty six Only) for the said goods imported vide above said Bill of Entry is recoverable under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

II. Whether Penalty is imposable imposed upon them under Section 114A of the

Customs Act, 1962.

14. Regarding the amendment request and written submission dated, I am of a view that the amendment request as per section 149 of the customs act, 1962 could not have been entertained after issuance of the SCN CUS/APR/MISC/1386/2025-Gr 5-6 dated 01-04-2025 which would be against the principle of natural justice, particularly the requirement of fair and transparent proceedings. However, no documents evidencing the subject goods being floating body and not floating solar body were submitted during the time of clearance. As per section 149 of Customs Act, 1962, *“Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.”* Hence, amendment request could not be considered.

15. Documents produced subsequent to the issuance of the Show Cause Notice carry significantly lesser evidentiary value as compared to contemporaneous documents that were in existence at the time of clearance and therefore cannot be relied upon to substantiate post-facto claims or justify amendment under the provisions of law.

16.1 Regarding the first issue, I have carefully examined the proposal made in the Show Cause Notice for confiscation of the impugned goods under Section 111(m) of the Customs Act, 1962. Section 111(m) provides that goods which do not correspond in respect of value, quantity, description or in any other material particular with the declaration made under the Act shall be liable to confiscation. In this present case, imported goods “FLOATING SOLAR SYSTEM” also known as floating photovoltaics, is a solar power system that uses photovoltaic panels that float on water instead of being fixed to land or buildings. The panels are mounted on structures that are anchored to the bottom or shoreline of a body of water, such as a lake, reservoir, canal, or pond. These systems are increasingly used as a renewable energy solution due to the availability of water surfaces and the cooling effect on the panels, which enhances efficiency. Further, it is found that the exporter M/s SUNGROW FPV SCI. & TECH.CO., LTD specializes in floating photovoltaic (FPV) systems, which allow solar panels to be installed on water bodies such as reservoirs, lakes, and oceans. The company offers a wide range of FPV solutions, including platforms, mounting structures, and design services, to help deploy solar systems efficiently on water surfaces. Therefore, the imported goods “floating solar systems” being a solar system and not merely a floating structure, should be classified under CTH 8541 4300 where duty is applicable @ 61.28% (BCD 40% SWS 10% of BCD and IGST 12%), instead of CTH 8907 9000. Therefore, I find that the goods imported vide Bill of Entry No. 8605029 dated 03-11-2023 are liable for confiscation under Section 111(m) of the Customs Act, 1962.

16.2 Once the goods are held liable for confiscation, the next question before me is whether to allow the release of the impugned goods on Redemption Fine. I find sub-section (1) of Section 125 of the Customs Act, 1962 prescribes that:

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

16.3 Further, I find that the Hon'ble courts in various judicial pronouncements have held that the physical availability of the goods does not have any significance for imposition of redemption fine under Section 125 of the Act. In this regard, I place my reliance on the following judgments:

(i) In case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) regarding imposition of Redemption Fine in absence of goods liable for confiscation, after observing decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc. reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), the Hon'ble Madras High Court held in para 23 of the judgment that "The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act."

(ii) In the case of Synergy Fertichem Pvt. Ltd. Vs State of Gujarat as reported in 2019(12) TMI 1213, the Hon'ble High Court of Gujarat, relying on the judgement of the Apex Court in the case of Weston Components Ltd. vs. Commissioner of Customs, New Delhi, has observed that "The per-requisite for making an offer of fine under Section 130 of the Act is pursuant to the finding that the goods are liable to be confiscated. In other words, if there is no authorisation for confiscation of such goods, the question of making an offer by the proper officer to pay the "redemption fine", would not arise. Therefore, the basic premise upon which the citadel of Section 130 of the Act rests is that the goods in question are liable to be confiscated under the Act. It, therefore, follows that what is sought to be offered to be redeemed, are the goods, but not the improper conduct of the owner to transport the goods in contravention of the provisions of the Act or the Rules."

16.4 It is amply clear from the said section that, where the confiscated goods are not prohibited for import, discretion has been vested in the adjudicating authority to decide the issue on the basis of the facts and circumstances involved. Accordingly, even though the goods are not physically available for confiscation as they have already been cleared for home consumption, I am empowered to impose redemption fine in lieu of confiscation.

17. Regarding the second issue, it is evident that the foreign supplier, M/s SUNGROW FPV SCI. & TECH. CO., LTD., is engaged in the manufacture and supply of integrated floating photovoltaic (FPV) systems meant for deployment of solar power plants on water bodies, and not in the supply of mere pontoons or generic floating structures. In the present import, the goods have been declared and dealt with as "FLOATING SOLAR SYSTEM", i.e. a floating photovoltaic system whose essential character and primary function are the conversion of solar radiation into electrical energy, rather than simply providing buoyancy. Applying the well-settled principles of classification under the General Rules for the

Interpretation of the Schedule, particularly specific description over a general/residual one and classification according to essential character, such goods are more appropriately classifiable under heading 8541, and specifically sub-heading 8541 4300, as photosensitive semiconductor devices/photovoltaic apparatus, and cannot be relegated to the residuary heading 8907 9000 covering "other floating structures". Consistent with the ratio of various Tribunal decisions that complete/functional solar power systems and photovoltaic generating equipment merit classification under heading 8541 in preference to headings for mere structures or supports, the impugned goods attract customs duty @ 61.28% (BCD 40%, SWS 10% of BCD and IGST 12%), whereas the importer has self-assessed them under CTH 8907 9000 at a concessional effective rate of 13.08% (BCD 10%, SWS 10% of BCD and IGST 5% with 30% BCD concession), resulting in short-payment of duty of Rs. 31,24,766/-, which is recoverable under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA and consequential penal liabilities.

18. Regarding the third issue, I find that as the goods are liable to confiscation under section 111(m) of the Customs Act, 1962, these are liable to be penalized under section 114A of the Customs Act, 1962.

19. In view of the foregoing discussion and findings recorded hereinabove, I pass the following order:

ORDER

I. I order to confiscation of the goods covered under Bill of Entry No. 8605029 dated 03-11-2023 having assessable value of Rs. 64,83,589/- (Sixty four lakh eighty three thousand five hundred eighty nine Only) under Section 111(m) of the Customs Act, 1962. However, as the goods have already been cleared for home consumption and are not physically available for confiscation, I impose a redemption fine of Rs.1,00,000/- (Rupees One Lakh only) under Section 125 of the Customs Act, 1962, in lieu of confiscation;

II. I confirm the demand of Differential duty amounting to Rs. 31,24,766/- (*Thirty one lakh twenty four thousand seven hundred sixty six Only*) for the goods imported vide Bill of Entry 8605029 dated 03-11-2023 which is recoverable under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

III. I impose a penalty of Rs. 31,24,766/- (*Thirty one lakh twenty four thousand seven hundred sixty six Only*) on the importer under Section 114A of the Customs Act, 1962. However, in terms of the proviso to Section 114A of the Customs Act, 1962, if the Noticee pays 25% of the penalty amount, along with the confirmed duty and interest, within thirty (30) days from the date of communication of this order, the penalty payable shall stand reduced to 25% of the duty so determined, subject to fulfillment of the conditions prescribed therein.

20. This order is issued without prejudice to any other action that may be taken against notice/importer or any other person(s) under the provisions of the Customs Act, 1962 and rules/regulations framed there under or any other law for the time being in force in the Republic of India.

2. The Show Cause Notice CUS/APR/MISC/1386/2025-Gr 5-6-O/o Pr Commr-Cus-Mundra dated 01-04-2025 against the noticee stands disposed of in the above terms.

Zala Dipakbhai Chimanbhai
ADDITIONAL COMMISSIONER
Additional Commissioner
Import Assessment Group-5,
Custom House, Mundra

To,

**M/s Zodiac Energy Limited (IEC-0899000941) address at
Upper Ground Floor, 4-5-6, Milestone Building,
Nr. Drive In Cinema, Drive-In Road,
Ahmedabad, Gujarat, 380054**

Copy to:

1. The Deputy Commissioner of Customs, Review Section, Custom House, Mundra.
2. The Deputy Commissioner of Customs, TRC, Custom House, Mundra.
3. The Deputy Commissioner of Customs, EDI, Custom House, Mundra
4. The Deputy Commissioner of Customs, Audit, Custom House, Mundra
5. Office copy.