

VIII/10-264/ICD-KHOD/O&A/HQ/2024-25  
OIO No. 298/ADC/SRV/O&A/2024-25



प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद  
“सीमा शुल्क भवन ,” पहली मंजिल ,पुराने हाई कोर्ट के सामने ,नवरंगपुरा,  
अहमदाबाद – 380 009.

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**PREAMBLE**

A	फ़ाइल संख्या / File No.	:	VIII/10-264/ICD-KHOD/O&A/HQ/2024-25
B	कारण बताओ नोटिस संख्या – तारीख / Show Cause Notice No. and Date	:	VIII/10-264/ICD-KHOD/O&A/HQ/2024-25 dated 20.03.2025
C	मूल आदेश संख्या / Order-In-Original No.	:	<b>298/ADC/SRV/O&amp;A/2024-25</b>
D	आदेश तिथि / Date of Order-In-Original	:	<b>26.03.2025</b>
E	जारी करने की तारीख / Date of Issue	:	<b>26.03.2025</b>
F	द्वारा पारित / Passed By	:	<b>SHREE RAM VISHNOI,</b> Additional Commissioner, Customs, Ahmedabad.
G	आयातक का नाम और पता / Name and Address of Importer / Noticee	:	<b>M/S. ANAS TAMPROC,</b> B 1/4, ILA SOCIETY, INDIA COLONY ROAD, THAKKARBAPANAGAR, AHMEDABAD – 380024.
(1)	यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हें यह जारी की गयी है।		
(2)	कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क)अपील(, चौथी मंजिल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।		
(3)	अपील के साथ केवल पांच) 5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:		
(i)	अपील की एक प्रति और;		
(ii)	इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच) 5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।		
(4)	इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5 % (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या इयूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।		

**BRIEF FACTS OF THE CASE:**

M/S. ANAS TAMPROC, a Partnership concern with Shri Patel Suraj, as one of the partners, having registered office at B 1/4, Ila Society, India Colony Road, Thakkarbapanagar, Ahmedabad - 380024 and **IEC- 0816921423** (here-in-after referred

to as ‘M/s. Anas’ or ‘the Importer’ or ‘the noticee’ for the sake of brevity) filed Bill of Entry No. 8000679 dated 25.01.2025 to import the goods i.e. various types of “lifting frames” through ICD Khodiyar. The details of the imported goods are given in Table-A:

Table-A

Sr. No.	Item	CTH declared by the importer in BoE (a)	Assessable Value in BoE (in Rs.) (b)	BCD declared by the importer in their BOE @ 7.5% (in Rs.) (c)	SWS declared by the importer in their BOE @ 10% of BCD (in Rs.) (d)	IGST declared by the importer @ 18% of AV+BCD+SWS (in Rs.) (e)	Total Duty Paid (in Rs.) (c+d+e)
1	Lifting Mechanism - A1 Lifting Frame	84289090	10,61,355	79,601	7,960	2,06,805	2,94,366
2	Lifting Mechanism - A1L Lifting Frame						
3	Lifting Mechanism - A1L-3TP Lifting Frame						
4	Lifting Mechanism - A3 - 2TP Lifting Frame						
5	Lifting Mechanism - IS20D Lifting Frame						
6	Lifting Mechanism - Folding Frame						

2. During the course of physical examination of the aforesaid goods, the examining officer observed that the goods are mis-declared in terms of the contents and description. The CTH of the all the goods i.e. from Sr. No. 01 to 06, mentioned in the aforesaid Bill of Entry was 84289090 (BCD @7.5%) i.e. as “other” machinery items under the classification “Other lifting, handling, loading or unloading machinery”. The CTH 84289090 is given as under:-

8428 - OTHER LIFTING, HANDLING, LOADING OR UNLOADING MACHINERY (FOR EXAMPLE, LIFTS, ESCALATORS, CONVEYORS, TELEFERICS)

...

8428 90 -- Other machinery:

...

8428 90 10 --- For coal handling

8428 90 20 --- For ash handling

**8428 90 90 --- Other**

**2.1** Interpretative Notes to the Chapter 8428 provides that *“With the exception of the lifting and handling machinery of headings 84.25 to 84.27, this heading covers a wide range of machinery for the **mechanical handling of materials, goods**, etc. (lifting, conveying, loading, unloading, etc.). They remain here even if specialised for a particular industry, for agriculture, metallurgy, etc. This heading is not limited to lifting or handling equipment for solid materials but also includes such machinery for liquids or gases.”* Thus it includes lifts, escalators, conveyors, teleferics etc.

**2.2** However, it appeared that the goods mentioned at Sr. No. 01 to 05 of the aforesaid Bill of Entry are specific type of Furniture having Label of *“Essential Standing Desk Frame”*. The CTH 94029010 is given as under:-

*9402 - MEDICAL, SURGICAL, DENTAL OR VETERINARY FURNITURE (FOR EXAMPLE, OPERATING TABLES, EXAMINATION TABLES, HOSPITAL BEDS WITH MECHANICAL FITTINGS, DENTISTS' CHAIRS); BARBERS' CHAIRS AND SIMILAR CHAIRS, HAVING ROTATING AS WELL AS BOTH RECLINING AND ELEVATING MOVEMENTS; PARTS OF THE FOREGOING ARTICLES.*

*940210 -- Dentists', barbers' or similar chairs and parts thereof*

*940290 -- Other*

**9402 90 10 --- Hospital beds with mechanical fittings**

**2.3** As such, the goods merit classification under CTH 9402: Medical, Surgical, Dental Or Veterinary Furniture (For Example, Operating Tables, Examination Tables, Hospital Beds With Mechanical Fittings, Dentists' Chairs); Barbers' Chairs And Similar Chairs, Having Rotating As Well As Both Reclining And Elevating Movements; Parts Of The Foregoing Articles). On further analysis of the goods, it was found that the proper classification of the goods should be under CTH 94029010 (BCD@ 10%).

**2.4** Classification of goods in the First Schedule i.e. Import Tariff is governed by the principles / Rules – **General Rules of Interpretation (GIR) of the First Schedule** mentioned therein.

***As per the Rule 1 of General Rules for Interpretation*** it is provided that *the titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. These notes have been given statutory backing and have been incorporated at the top of each Chapter.*

**2.5** As per the Explanatory Notes, the Chapter 94 covers, subject to the exclusions listed in the Explanatory Notes to this chapter:

*(1) All furniture and parts thereof (headings 94.01 to 94.03).*

(2) *Mattress supports, mattresses and other articles of bedding or similar furnishing, sprung, stuffed or internally fitted with any material, or of cellular rubber or plastics, whether or not covered (heading 94.04).*

(3) *Lamps and lighting fittings and parts thereof, not elsewhere specified or included, of any material (excluding those of materials described in Note 1 to Chapter 71), and illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included (heading 94.05).*

(4) *Prefabricated buildings (heading 94.06).*

*For the purposes of this Chapter, the term "furniture" means :*

**(A) Any "movable" articles (not included under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings, hotels, theatres, cinemas, offices, churches, schools, cafes, restaurants, laboratories, hospitals, dentists' surgeries, etc., or ships, aircraft, railway coaches, motor vehicles, caravan-trailers or similar means of transport. (It should be noted that, for the purposes of this Chapter, articles are considered to be "movable" furniture even if they are designed for bolting, etc., to the floor, e.g., chairs for use on ships). Similar articles (seats, chairs, etc.) for use in gardens, squares, promenades, etc., are also included in this category.**

**2.6** On further perusal of item mentioned at Sr. No. 06 of the aforesaid Bill of entry, it was noticed that the goods were declared as "Folding Frame". The same was also classified as "other" type machinery item falling under CTH 84289090 (BCD@ 7.5%). However, the goods were also found to be having label of "folding Conference Table". On further analysis of the goods, it was found that the proper classification of the goods should be under CTH 94031090 (BCD@25%). The CTH 94031090 is given as under:-

9403 - OTHER FURNITURE AND PARTS THEREOF.

940310 -- Metal furniture of a kind used in offices

9403 10 10 --- Of steel

**9403 10 90 --- Other**

**2.7** The CTH 9403 covers furniture and parts thereof, not covered by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritoirs, book-cases, and other shelved furniture, etc.), and also furniture for special uses such as furniture for (1) Private dwellings, hotels, etc. (2) **Offices**, (3) Schools, (4) Churches, (5) Shops, stores, workshops, etc., (6) Laboratories or technical offices etc. Thus it appeared that the item at Sr. no. 6 merits classification at 94031090.

**3.** It appeared that the importer has short paid duty as per given in Table-B below:

Table-B

S. No.	Item	CTH declared by the importer in BoE	Merit CTH	Assessable Value in BoE (in Rs.)	Duty paid	Revised Applicable SWS (in Rs.)	Duty Short paid
1	Lifting Mechanism - A1 Lifting Frame	84289090	94029010	2,36,564	65,611	73,288	7,677
2	Lifting Mechanism - A1L Lifting Frame		94029010	3,27,551	90,846	1,01,475	10,629
3	Lifting Mechanism - A1L-3TP Lifting Frame		94029010	1,54,677	42,900	47,919	5,019
4	Lifting Mechanism - A3 - 2TP Lifting Frame		94029010	1,09,184	30,282	33,825	3,543
5	Lifting Mechanism - IS20D Lifting Frame		94029010	1,31,020	36,338	40,590	4,252
6	Lifting Mechanism - Folding Frame		94031090	1,02,360	28,389	51,640	23,251
		TOTAL	10,61,355	10,61,355	2,94,366	3,48,737	54,371

**3.1** On being communicated about the discrepancies, Shri Patel Suraj, partner in M/s. Anas TaMProc, submitted vide their letter that there appeared to be an error on part of their consignor. As the subject goods appeared mis-declared, the consignment under Bill of Entry No. 8000679 dated 25.01.2025 was kept under seizure under Section 110 of the Customs Act, 1962 vide Panchnama dated 11.03.2025 and the Seizure Memo dated 11.03.2025 issued vide F. No. CUS/IFS/MISC/263/2024-ICD-AHMD, under the reasonable belief that the same were liable to confiscation under the provisions of Customs Act, 1962.

**4. VIOLATION OF VARIOUS LEGAL PROVISIONS:**

**Section 17(1) of the Customs Act, 1962** is reproduced below as:-

“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.”

**Section 46 (4) & (4A) of the Customs Act, 1962** states that:

“Section 46. Entry of goods on importation. –

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*(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].*

*(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.]”*

In the present case, it appeared that the M/s. Anas TaMProc had willfully indulged themselves in the contravention of the above provisions with a mala fide intention to evade applicable payment of applicable Customs Duty on their imported goods. By their above act, they appeared to have violated the provisions of Section 17 read with Section 46 of the Customs Act, 1962.

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

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

*...*

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

It appeared that the subject goods in the present case do not correspond in respect of value or classification and were liable to confiscation.

**Section 112** is reproduced below:-

***“112. Penalty for improper importation of goods, etc.-***

*Any person, -*

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

...

*shall be liable, -*

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

It appeared that the M/s. Anas TaMProc had made themselves liable to penalty under Section 112 of the Customs Act, 1962.

**Section 114AA of the Customs Act, 1962.** The text of the said statute is reproduced under for ease of reference:

*“If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, **any declaration**, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.”*

It appeared that the M/s. Anas TaMProc had made themselves liable to penalty under Section 114AA of the Customs Act, 1962.

**5.** It also appeared that the differential duty amount due to mis-declaration /misclassification of goods has led to short payment of a cumulative duty of **Rs. 54,371/- (BCD of Rs. 41,888/-, SWS of Rs. 4,189 /- and IGST of Rs. 8,294/-)** (refer Annexure-A).

**6.** Thereafter, a show cause notice dated 20.03.2025 was issued from F. No. VIII/10-264/ICD-KHOD/O&A/HQ/2024-25 to M/s. Anas TaMProc, having registered office at B 1/4, Ila Society, India Colony Road, Thakkarbapa Nagar, Ahmedabad – 380024, to show cause to the Additional Commissioner of Customs, Customs Ahmedabad as to why:

- i. The classification of the subject goods imported under the Bill of Entry bearing no. 8000679 dated 25.01.2025 by M/S. ANAS TAMPROC declared as CTH 84289090 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), should not be rejected;
- ii. the subject goods at Sr. 1 to 5 of the Bill of Entry bearing no. 8000679 dated 25.01.2025 should not be re-classified under CTH **94029010** of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and goods at Sr. 6 of the subject Bill of Entry should not be re-classified under CTH **94031090** and re-assess the Bill of Entry accordingly and applicable duties should not demanded and recovered on applicable rates;

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- iii. the goods placed under seizure vide seizure memo 11.03.2025 should not be confiscated under the provisions of Section 111 (m) of the Customs Act, 1962;
- iv. Penalty should not be imposed upon him under Section 112 and 114AA of the Customs Act, 1962.

**WRITTEN SUBMISSION AND PERSONAL HEARING:**

**7.** The importer vide their letter dated nil dated 24.03.2025 accepted their mistake in mis-classification and submitted that the error in classification appeared to originated from their consigner's end and they relied on the same in good faith in the information provided by the consigner. They also submitted that they understood the seriousness of the matter and ready to pay differential duties along with interest and also requested to take a lenient view in the matter and drop the provisions of penalty and confiscation.

**8.** The importer was given opportunity to be heard on 25.03.2025 and Shri. Suraj Patel, partner in M/s. Anas Tamproc attended the said personal hearing and reiterated their submission and requested for a lenient view in the matter.

**DISCUSSION & FINDINGS:**

**9.** I have gone through the facts of the case, the show cause notice, the extant provisions of the Customs Act, 1962 and the submissions of the noticee. Accordingly, the matter is taken up for decision on merits.

**10.** I find that the importer has filed Bill of Entry No. 8000679 dated 25.01.2025 to import the goods i.e. various types of "lifting frames" through ICD Khodiyar, and classified under **CTH 84289090**, which were appeared to be mis-classified. I find the the importer has accepted his mistake in their submission. Therefore, the issues before me are:-

- A. Whether are imported Goods by M/s. Anas Tamproc are mis-classified?
- B. Whether the imported Goods are liable for confiscation under Section 111 of Customs Act, 1962?
- C. Whether the importer is liable to penalty under Section 112 and 114AA of the Customs Act, 1962?

**10.1 Now, I proceed to decide whether are imported Goods by M/s. Anas Tamproc are mis-classified.**

**10.1.1** I find that during the course of physical examination of the aforesaid goods, the examining officer observed that the goods are mis-declared in terms of the contents and description. I find that the CTH of the all the goods i.e. from Sr. No. 01 to 06, mentioned in the aforesaid Bill of Entry was 84289090 i.e. as "other" machinery



items under the classification “Other lifting, handling, loading or unloading machinery”.  
The CTH 84289090 is given as under:-

8428 - OTHER LIFTING, HANDLING, LOADING OR UNLOADING MACHINERY (FOR  
EXAMPLE, LIFTS, ESCALATORS, CONVEYORS, TELEFERICS)

...

8428 90 -- Other machinery:

...

8428 90 10 --- For coal handling

8428 90 20 --- For ash handling

**8428 90 90 --- Other**

**10.1.2** I find from the Interpretative Notes to the Chapter 8428 that “With the exception of the lifting and handling machinery of headings 84.25 to 84.27, this heading covers a wide range of machinery for the **mechanical handling of materials, goods, etc.** (lifting, conveying, loading, unloading, etc.). They remain here even if specialised for a particular industry, for agriculture, metallurgy, etc. This heading is not limited to lifting or handling equipment for solid materials but also includes such machinery for liquids or gases.” Thus it includes lifts, escalators, conveyors, teleferics etc. However, it appears that the goods mentioned at Sr. No. 01 to 05 of the aforesaid Bill of Entry are specific type of Furniture having Label of “Essential Standing Desk Frame”.

**10.1.3** I find that the goods merit classification under CTH 9402, which includes ‘Medical, Surgical, Dental Or Veterinary Furniture (For Example, Operating Tables, Examination Tables, Hospital Beds With Mechanical Fittings, Dentists' Chairs); Barbers' Chairs And Similar Chairs, Having Rotating As Well As Both Reclining And Elevating Movements; Parts Of The Foregoing Articles’. The CTH 94029010 is given as under:-

9402 - MEDICAL, SURGICAL, DENTAL OR VETERINARY FURNITURE (FOR EXAMPLE, OPERATING TABLES, EXAMINATION TABLES, HOSPITAL BEDS WITH MECHANICAL FITTINGS, DENTISTS' CHAIRS); BARBERS' CHAIRS AND SIMILAR CHAIRS, HAVING ROTATING AS WELL AS BOTH RECLINING AND ELEVATING MOVEMENTS; PARTS OF THE FOREGOING ARTICLES.

940210 -- Dentists', barbers' or similar chairs and parts thereof

940290 -- Other

**9402 90 10 --- Hospital beds with mechanical fittings**

**10.1.4** I find as per the Explanatory Notes, the Chapter 94 covers, subject to the exclusions listed in the Explanatory Notes to this chapter:

(1) All furniture and parts thereof (headings 94.01 to 94.03).

(2) Mattress supports, mattresses and other articles of bedding or similar furnishing, sprung, stuffed or internally fitted with any material, or of cellular rubber or plastics, whether or not covered (heading 94.04).

*(3) Lamps and lighting fittings and parts thereof, not elsewhere specified or included, of any material (excluding those of materials described in Note 1 to Chapter 71), and illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included (heading 94.05).*

*(4) Prefabricated buildings (heading 94.06).*

*For the purposes of this Chapter, the term "furniture" means :*

*(A) **Any "movable" articles (not included under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose, to equip private dwellings, hotels, theatres, cinemas, offices, churches, schools, cafes, restaurants, laboratories, hospitals, dentists' surgeries, etc.,** or ships, aircraft, railway coaches, motor vehicles, caravan-trailers or similar means of transport. (It should be noted that, for the purposes of this Chapter, articles are considered to be "movable" furniture even if they are designed for bolting, etc., to the floor, e.g., chairs for use on ships). Similar articles (seats, chairs, etc.) for use in gardens, squares, promenades, etc., are also included in this category.*

**10.1.5** I further find for the item mentioned at Sr. No. 06 of the aforesaid Bill of entry that the goods were declared as *"Folding Frame"*. The same was also classified as *"other"* type machinery item falling under CTH 84289090. However, the goods were also found to be having label of *"folding Conference Table"*. On further analysis of the goods, it was found that the proper classification of the goods should be under CTH 94031090. The CTH 94031090 is given as under:-

*9403 - OTHER FURNITURE AND PARTS THEREOF.*

*940310 -- Metal furniture of a kind used in offices*

*9403 10 10 --- Of steel*

**9403 10 90 --- Other**

**10.1.6** The CTH 9403 covers furniture and parts thereof, not covered by the previous headings. It includes furniture for general use (e.g., cupboards, show-cases, tables, telephone stands, writing-desks, escritoirs, book-cases, and other shelved furniture, etc.), and also furniture for special uses such as furniture for (1) Private dwellings, hotels, etc. (2) **Offices**, (3) Schools, (4) Churches, (5) Shops, stores, workshops, etc., (6) Laboratories or technical offices etc.

**10.1.7** I also find from the letter of the noticee, submission dated 24.03.2025 and personal hearing record that the noticee have accepted the mistake of mis-classification of the imported goods and the error in classification appeared to originated from their consigner's end and they relied on the same in good faith in the information provided by the consigner.

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**10.1.8** From the above submission, I find that the importer admitted that mis-declaration. Therefore, based on the facts and acceptance by the noticee, I hold that the goods in this case at Sr. 1 to 5 of the Bill of Entry bearing no. 8000679 dated 25.01.2025 should be classified under CTH **94029010** and goods at Sr. 6 of the subject Bill of Entry should be classified under CTH **94031090**.

**10.1.9** In this regard, I find that Section 17(4) of the Customs Act stipulates that in cases where self-assessment is not done correctly, the proper officer may re-assess the duty leviable on such goods. The relevant text of the said statute is reproduced under:

*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.*

**10.1.10** Proper officer for assessment in terms of the provisions of Section 17(4) is the Appraiser or the Superintendent as stipulated at Sr. No. 5 of Notification No. 26/2022-Cus (NT). Accordingly, I find that the Bill of Entry is required to be re called for re-assessment and the Appraiser or the Superintendent is the proper officer to re-assess the Customs duty.

**10.2 Now, I decide whether the imported Goods are liable for confiscation under Section 111 of Customs Act, 1962.**

**10.2.1** I find from the foregoing Paras, that the imported goods have been mis-classified. With the introduction of self-assessment and consequent amendments to Section 17, it is the responsibility of the Importer to correctly classify, determine and pay the duty applicable in respect of the imported goods. In this case, the Importer misclassified imported goods, thereby violating Section 46(4) of the Customs Act, 1962.

**10.2.2** I hold that this act of commission and omission on the part of the Noticee has rendered the goods kept under seizure under Section 110 of the Customs Act, 1962 vide Panchnama-Seizure Memo dated 11.03.2025, are liable for confiscation under Section 111(m) of the Customs Act, 1962 read with Section 125(2) of the Customs Act, 1962 in as much as they mis-classified and mis-declared the products imported by them.

**10.2.3** I note that the importer in their reply has accepted the objections raised by the department and expressed their willingness to pay the applicable customs duty along with interest. They have further requested the release of goods. As the goods were confiscated and seized vide seizure memo dated 11.03.2025, in view of the request letter, I use my discretion to give an option to redeem the impugned seized cargo/goods on payment of a redemption fine, as provided under Section 125 of the Act. Section 125 reads as follows:

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*“(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1 [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit.”*

### **10.3 Now I decide whether the importer is liable to penalty under Section 112 and 114AA of the Customs Act, 1962.**

**10.3.1 Penalty under Section 112 of the Customs Act, 1962:** Further, Section 112 reads as follows:

***“SECTION 112. Penalty for improper importation of goods, etc.-***

*Any person, -*

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

*...*

*shall be liable, -*

*...*

***<sup>2</sup> [(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 ...”***

I find from the foregoing paras that the Noticee have mis-classified the goods to evade payment of Customs Duty, therefore, has rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962. I also hold that the noticee is liable for penalty under Section 112(a) of the Customs Act, 1962 due to their omissions and submissions.

**10.3.2 Penalty under Section 114AA of the Customs Act, 1962:** I find that the noticee submitted wrong declaration of the goods at the time of filing the said Bill of Entry. Further, I find that they have gave wrong information and failed to declare the actual details to the Customs Authorities for assessment. The importer vide their letter dated nil dated 24.03.2025 accepted their mistake in mis-declaration and submitted that the error in declaration appeared to originated from their consigner’s end and they relied on the same in good faith in the information provided by the consigner. Thus, I find that the noticee is liable for penalty under Section 114AA of the Customs Act, 1962.

**10.3.3** Further, to fortify my stand on applicability of Penalty under Section 114AA of the Customs Act, 1962, I rely on the decision of Principal Bench, New Delhi in case of **Principal Commissioner of Customs, New Delhi (Import) Vs. Global Technologies & Research (2023)4 Centax 123 (Tri. Delhi)** wherein it has been held that *“Since the importer had made false declarations in the Bill of Entry, penalty was also correctly imposed under Section 114AA by the original authority”*.

**11.** In view of the discussion and findings above, I pass the following order:

**ORDER**

- i. I reject the classification of the subject goods imported under the Bill of Entry bearing no. 8000679 dated 25.01.2025 by M/S. ANAS TAMPROC declared as CTH 84289090 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);
- ii. I order to reclassify the said goods at Sr. 1 to 5 of the Bill of Entry bearing no. 8000679 dated 25.01.2025 under CTH **94029010** and goods at Sr. 6 of the subject Bill of Entry under CTH **94031090** of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and re-assess the Bill of Entry accordingly. I order to recover the duties on applicable rates from M/s. ANAS TAMPROC;
- iii. I hold that the subject goods imported under Bill of Entry No. 8000679 dated 25.01.2025 and seized vide Panchnama-Seizure Memo dated 11.03.2025, are liable for confiscation under section 111(m) of the Customs Act, 1962. However, I give the importer M/s. ANAS TAMPROC, an option to redeem the same on payment of a fine of **Rs. 50,000/- (Rupees Fifty Thousand Only)** in lieu of confiscation in terms of the provisions of Section 125(1) of the Customs Act, 1962. In addition to redemption fine, the Importer would be liable for payment of applicable duties and other levies/charges in terms of Section 125(2) of the Customs act, 1962.
- iv. I impose a penalty of **Rs. 10,000/- (Rupees Ten Thousand Only)** on the importer M/s. ANAS TAMPROC under Section 112 (a) of the Customs Act, 1962 as discussed in foregoing Paras.
- v. I impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand Only)** on the importer M/s. ANAS TAMPROC under Section 114AA of the Customs Act, 1962 as discussed in foregoing Paras.

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**16.** The Show Cause Notice F. No. VIII/10-264/ICD-KHOD/O&A/HQ/2024-25 dated 20.03.2025 is disposed of in above terms.

**(SHREE RAM VISHNOI)**  
Additional Commissioner

DIN: 20250371MN000033103C

F. No. VIII/10-264/ICD-KHOD/O&A/HQ/2024-25

Date: **26.03.2025**

To,

**M/S. ANAS TAMPROC,**  
B 1/4, ILA SOCIETY, INDIA COLONY ROAD,  
THAKKARBAPANAGAR, AHMEDABAD – 380024

Copy to:-

- (i) The Principal Commissioner, Customs Ahmedabad (Kind Attention: RRA Section).
- (ii) The Assistant Commissioner of Customs, ICD – Khodiyar, Ahmedabad
- (iii) The Superintendent, Customs, H.Q. (Systems), Ahmedabad, in PDF format for uploading on website of Customs Commissionerate, Ahmedabad
- (iv) The Superintendent (Task Force), Customs-Ahmedabad
- (v) Guard File