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|  | <b>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा</b><br><b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,</b><br><b>CUSTOM HOUSE: MUNDRA, KUTCH</b><br><b>MUNDRA PORT &amp; SPL ECONOMIC ZONE, MUNDRA-370421</b><br>ई-मेल/ E-Mail: group5-mundra@gov.in |   |
|   | A   | फा /सं .FILE NO.  |
| B   | मूल आदेश सं.<br>ORDER-IN- ORIGINAL NO.  | MCH/ADC/ZDC/633/2025-26   |
| C   | द्वारा पारित किया गया<br>PASSED BY  | <b>Dipak Zala,</b><br>Additional Commissioner of Customs,<br>Custom House, Mundra                     |
| D   | आदेश की तिथि<br>DATE OF ORDER   | 12-02-2026  |
| E   | जारी करने की तिथि<br>DATE OF ISSUE  | 12-02-2026  |
| F   | कारण बताओ नोटिस सं एवं तिथि .<br>SCN NO. & DATE   | F.NO. CUS/APR/BE/MISC/1607/2023-<br>Gr 5-6 dated 27.02.2025   |
| G   | नोटिसीपार्टी / आयातक/<br>NOTICEE/PARTY/<br>IMPORTER   | M/s. National Seeds Corp Ltd<br>IEC No. 0588174157<br>Beej Bhavan Pusa Complex, New Delhi -<br>110012 |
| H   | डिन DIN   | 20260271MO0000000F71  |

- यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।  
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-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(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"  
"The Commissioner of Customs (Appeals), Mundra, 4<sup>TH</sup> Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."
- उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।  
Appeal shall be filed within three months from the date of communication of this order.
- 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 -
- उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।  
The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.
- अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
- अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में

पालन किया जाना चाहिए।

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

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

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

### **BRIEF FACTS OF THE CASE**

**M/s. National Seeds Corp Ltd** (IEC: 0588174157), having address at Beej Bhavan Pusa Complex, New Delhi-110012 (hereinafter also referred to as "the Importer/the Noticee" for the sake of brevity") had filed the Bill of Entry as detailed in Table-A below for importation of goods under CTH 84248200 by paying the IGST @12% (Schedule-II Sr. No. 195B). The details of said goods are as under:

**Table-A**

| BE No.  | Date       | Item No. of Inv. No. 1 | Description of goods           | Classification | Assessable value (in Rs.) | IGST Sr. No. (@12%) |
|---------|------------|------------------------|--------------------------------|----------------|---------------------------|---------------------|
| 7135628 | 06.03.2020 | 1                      | CENTRE PIVOT IRRIGATION SYSTEM | 84248200       | 1,21,93,904.75/-          | II195B              |
| 7135628 | 06.03.2020 | 2                      | CENTRE PIVOT IRRIGATION SYSTEM | 84248200       | 40,64,634.92/-            | II195B              |

2. An analysis of data (ANALYTICS REPORT - 25/2022-23) in respect of Import of goods classified under the sub-heading 8424 with regard to wrong claim of IGST rate @12% (Schedule-II, 195B) instead of **IGST rate @ 18%** applicable for such goods under **Schedule-III, Sr.No.325** of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017, resulting in short levy of IGST, was carried out by the NCTC, Mumbai. Based on the analysis, it is observed that entry 195B of Schedule-II (12%), refers goods, namely, *Sprinklers; drip irrigation system including laterals; mechanical sprayers* thereof, attract a lower IGST rate @ 12%. On scrutiny of the data of the imports made by the said Importer, M/s. National Seeds Corp Ltd under CTH 8424, it was noticed that the said importer had imported the goods mentioned in Table-A which is other than *Sprinklers; drip irrigation system including laterals; mechanical sprayers*.

3. The said Importer had filed Bill of Entry for home clearance of the goods (as mentioned in Table-A) under sub-heading 8424 of the first schedule of the Customs Tariff Act, 1975. The Importer discharged the tax of IGST @ 12% in terms of Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate).

4. The CTH - 8424 applies to "Mechanical Appliances (Whether or Not Hand-Operated) For Projecting, Dispersing or Spraying Liquids or Powders; Fire Extinguishers, Whether or Not Charged; Spray Guns and Similar Appliances; Steam or Sand Blasting Machines and Similar Jet Projecting Machine." The IGST

rate applicable to the goods of CTH - 8424 is prescribed vide Notification No. 01/2017-Integrated Tax (Rate) dated 28/06/2017, as amended. The relevant entries of the rate of IGST under Schedule-I and Schedule-III of IGST Notification 01/2017-IGST(Rate) dated 28.06.2017 for Heading 8424 are reproduced as under:

**Table-B**

| Sr. No. of Schedule of IGST Notification 01/2017 | IGST Rate | Chapter/Tariff item as per Schedule-I | Description of goods   |
|--|-----------|---------------------------------------|--|
| II-195B  | II (12%)  | 8424                                  | Sprinklers; drip irrigation system including laterals; mechanical sprayers   |
| III-325  | III(18%)  | 8424                                  | Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers). |

5. From the above Table, it is apparent that except for "Sprinklers; drip irrigation system including laterals; mechanical sprayers", listed at serial no. 195B of Schedule-II of the said Notification, no other items of CTH - 8424 is entitled for IGST Rate of 12%. It, therefore, appears that the imported goods mentioned in Table-A of CTH - 84248200 (not expressly falling under Schedule - II, i.e., other than "Sprinklers; drip irrigation system including laterals; mechanical sprayers" actually merits a levy of IGST at the rates specified in Schedule-III of Notification No. 01/2007 - Integrated Tax (Rate). The goods are liable to a higher IGST rate @ 18% under entry III-325.

6. Importer has cleared said goods at a lower IGST @ 12% under the aforementioned Serial number of Schedule II, instead of paying a higher IGST rate @ 18% applicable for said goods under Schedule-III, Sr.No. 325 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended). The short-levy of IGST @ 6% (i.e. 18% minus 12%) of goods classified under 84248200 is calculated as under:

**Table-C (in Rs.)**

| BE No.  | DATE       | Item No. of Invoice 01 | Description of goods           | Assessable value (in Rs.) | Short levied of IGST (18% minus 12%) |
|---------|------------|------------------------|--------------------------------|---------------------------|--------------------------------------|
| 7135628 | 06.03.2020 | 1                      | CENTRE PIVOT IRRIGATION SYSTEM | 1,21,93,904.75/-          | 7,31,634/-                           |
| 7135628 | 06.03.2020 | 2                      | CENTRE PIVOT                   | 40,64,634.92/-            | 2,43,878/-                           |

|       |  |  |                      |             |            |
|-------|--|--|----------------------|-------------|------------|
|       |  |  | IRRIGATION<br>SYSTEM |             |            |
| TOTAL |  |  |                      | 1,62,58,540 | 9,75,512/- |

Hence, as detailed in Table-C, importer has short paid Rs.9,75,512 /- as IGST duty.

**7. Relevant Legal provisions, in so far as they relate to the facts of the case:**

*A. Section 46 of the Customs Act, 1962 provides for filing of Bill of Entry upon importation of goods, which casts a responsibility on the importer to declare truthfully, all contents in the Bill of Entry.*

*Relevant portion of Section 46 (4) is reproduced below: -*

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

*B. Section 28 (4) of the Customs Act, 1962 provides that "Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -*

*a. collusion; or*

*b. any willful mis-statement; or*

*c. suppression of facts,*

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

*C. Section 28 (AA) of Customs Act, 1962 provides interest on delayed payment of duty-*

*(1) Where any duty has not been levied or paid or has been short levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-Section (2), or has paid the duty under sub-Section (2B), of Section 28, shall, in addition to the duty, be liable to pay interest at such rate not below ten percent and not exceeding thirty-six per cent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-Section (2), or sub-Section (2B), of Section 28, till the date of payment of such duty:*

*D. Section 114A of the Customs Act, 1962 deals with the penalty by reason of collusion or any willful mis-statement or suppression of facts. The relevant*

*provision is reproduced below:*

**114A - Penalty for short-levy or non-levy of duty in certain cases**

*Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-Section (8) of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined: Provided that where such duty or interest, as the case may be, as determined under sub-Section (8) of Section 28, and the interest payable thereon under Section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this Section shall be twenty-five per cent of the duty or interest, as the case may be, so determined: Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:*

**Section 125: Option to pay fine in lieu of confiscation.**

*(i) 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 [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:*

**8.** It appears that the importer has willfully mis-stated the facts & wrongly paid IGST on lower side by categorizing its goods under Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) which prescribes IGST duty @ 12% whereas, the goods attract IGST @ 18% under Serial No. 325 of Schedule-III of Notification No. 01/2017 – Integrated Tax (Rate).

**8.1** The import of goods has been defined in the IGST Act, 2017 as bringing goods in India from a place outside India. All import shall be deemed as inter-state supplies and accordingly integrated tax shall be levied in addition to the applicable Custom duties. The IGST Act, 2017 provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of Customs are levied on the said goods under the Customs Act, 1962. Section 5 of Integrated Goods and Service Tax Act, 2017 stipulates that "Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (51 of 1975) on the value as determined under the said Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act

1962."

**8.2** As per Sub Section 7 of Section 3 of Customs Tariff Act, 1975 any article which has been imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty percent, as is leviable under Section 5 of the Integrated Goods and Service Tax, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section 8 or sub-section 8A as the case may be.

**9.** In light of the documentary evidences, as brought out above and the legal provisions, it appears that the importer has willfully suppressed the facts and deliberately misclassified the imported goods with a malafide intention to evade the duty by wrongly taxing the said goods under Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) of the goods leading to short payment of customs duty.

**10.** Whereas, it is apparent that the importer/noticee was in complete knowledge of the correct nature of the goods nevertheless, the importer claimed undue notification benefit for the said goods in order to clear the goods by wrongly paying Customs duty on a lower side under Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) which prescribes IGST @ 12%. 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, the importer has been entrusted with the responsibility to correctly self-assess the duty. 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 impugned goods and has also willfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act.

**11.** As per Section 111(m) of the Customs Act, 1962, any goods which do not correspond in respect of value or in any other particular with the entry made under the Customs Act, 1962 are liable for confiscation under the said Section.

**12.** It appears that the importer wilfully listed the import goods in a Schedule which did not pertain to the impugned goods resulting into short levy of duty. Further, it appears that in respect of the Bill of Entry as detailed in above Table-A, such wrong claim of notifications benefit on the part of the importer has resulted into short levy of duty of Rs.9,75,512 /- (Rupees Nine Lakhs Seventy-five thousand five hundred Twelve only) which is recoverable from the importer under the provisions of Section 28(4) of the Customs Act, 1962 read with Section 5 of the Integrated Goods and Service Tax Act, 2017 along with interest as applicable under Section 28AA of the Act read with Section 50 of the Central Goods and Service Tax Act, 2017. Also, the said goods totally valued at Rs. 1,62,58,540/- imported under above-mentioned Bills of Entry appear to be liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962 in as much as the same have been imported by mis-declaring Sr No. 195B of Schedule-II in place of Sr. No. 325 of Schedule-III of the Notification No. 01/2017 IGST(Rate). For such act of omission and commission, the importer also appears to have rendered themselves liable to penalty under Section 114A /112(a) of the Customs Act, 1962.

**1 3 .** Accordingly, a Show Cause Notice bearing F.NO. CUS/APR/BE/MISC/1607/2023-Gr 5-6 dated 27.02.2025 was issued to M/s. National Seeds Corp Ltd (IEC: 0588174157) calling upon them to show cause as to

why:

**i.** The imported goods having declared assessable value of Rs. 1,62,58,540/- should not be held liable to confiscation under Section 111(m) of the Customs Act, 1962 for the act of mis-declaring Sr. No. 195B of Schedule- II in place of Sr. No. 325 of Schedule-III of the Notification No. 01/2017- IGST(Rate) dated 28.06.2017.

**ii.** The Serial No. 195B of Schedule-II of IGST Notification 01/2017 IGST(Rate) on the goods should not be denied and the same should not be taxed and re-assessed at correct rate of IGST @18% under Sr. No. 325 of Schedule III of IGST Notification No. 01/2017 as detailed in Table-C above;

**iii.** The differential duty worked out to Rs. 9,75,512 /- (Rupees Nine Lakhs Seventy-five thousand five hundred Twelve only) in respect of Bills of Entry as detailed in above table, should not be recovered under Section 28(4) of the Customs Act, 1962 read with Section 5 of the Integrated Goods and Service Tax Act, 2017 along with applicable interest thereon as per Section 28AA of the Customs Act, 1962 read with Section 50 of the Central Goods and Service Tax Act, 2017 as applicable;

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

### **SUBMISSIONS OF THE IMPORTER**

**14.** The importer M/s National Seeds Corp Ltd. vide letter No. Taxn./Customs/FY-2023-24/NSC/HO dated 22.02.2024 submitted the following:

**"Brief about the Company.**

*National Seeds Corporation Ltd is working under the administrative control of Ministry of Agriculture and Farmer's welfare. The objective of National Seeds Corporation Ltd is production and marketing of seeds PAN India and providing the seeds to farmers at reasonable rates.*

*NSC is having 8 Farms ,11 Regional Offices, 48 Area Offices in addition to about 200 nos. Production and Marketing centres at various places., 5 seed testing labs and one DNA finger printing lab to meet the demands of diverse agro ecological situations across the country. Besides production and distribution of quality seeds, NSC is also involved in the production of Tissue Culture Plants like banana. It also undertakes supply of seedlings/saplings of fruits crops through procurement from the MOU Partners. Seed marketing is carried out through three channels namely sale through dealers/distributors, Government (State/Central) and through its own sales counter. There are about 2,500 dealers of the Corporation who account for more than 69% of the sales turn over.*

*NSC plays a key role in the implementation of various schemes of the Government of India like integrated scheme for "Oil seeds, Pulses, Oil and Palm & Maize" (NMOOP), "National Food Security Mission (NFSM)" and "National Horticulture Mission" (NHM). It also provides technical support to the seed producing agencies including State Seed Corporations by imparting training of personnel engaged in the production of seeds in that organization. NSC is the nodal agency for the implementation of the Central Sector Scheme*

*to create infrastructure facilities for establishment of processing plants and storage godowns in different states in the private sector.*

**Submission/Reply:-**

*NSC had purchase Center Pivot Irrigation system which is a surface irrigation system with drippers / Sprinklers for irrigation and is covered under Sr.no. 195B, Heading/Sub-heading -8424 & applicable tax rate is 12% (IGST). Copy of Bill of Entry and GST rates is enclosed herewith.*

*As per the above reply c Center Pivot Irrigation system is covered under 12% and not 18%, hence the department is requested to withdraw the notice."*

**RECORDS OF PERSONAL HEARING**

15. Personal Hearing in the matter was held on 27.01.2026, Shri Anand Kumar Rawal, Officer (F&A), M/s National Seeds Corporation Ltd. appeared for the personal hearing and presented the facts of the case of M/s National Seeds Corp Ltd. He submitted his Identity Card issued by M/s National Seeds Corp Ltd.

He submitted that their imported goods are for agricultural use, not industrial use. Further, he reiterated their earlier submission dated 22.02.2024 in this regard and requested a liberal approach in the adjudication proceedings. They have nothing more to add.

**DISCUSSION AND FINDINGS**

16. I have carefully gone through the Show Cause Notice, the written submission dated 22.02.2024 submitted by the noticee, records of personal hearing on 27.01.2026, and all the documentary evidence available on record. The principles of natural justice stand duly complied with as the noticee has been afforded opportunity to present their case through written submission and personal hearing. Therefore, I proceed to decide the case on the basis of the facts, evidence on record and the submissions made by the noticee. The issues to be decided by me are:

(i) Whether the benefit of Sr. No. 195B of Schedule-II should be denied and the imported goods should be re-assessed at the correct rate of IGST @18% under Sr. No. 325 of Schedule-III of IGST Notification No. 01/2017;

(ii) Whether the goods covered under the Bills of Entry as per Table-A, supra having total assessable value of Rs. 1,62,58,540/- should be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

(iii) Whether the differential duty of Rs. 9,75,512/- should be recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA;

(iv) Whether penalty should be imposed under Section 114A of the Customs Act, 1962.

17.1 Regarding the first issue of correct IGST rate applicable to the imported goods as detailed in Table-A, supra, I need to examine the nature and function of these

goods as described and determine their correct IGST rate under the IGST Notification.

**17.2** I find that the importer has claimed IGST rate of 12% under Serial No. 195B of Schedule-II of Notification No. 01/2017-IGST(Rate) which covers 'Sprinklers; drip irrigation system including laterals; mechanical sprayers'. As per the Show Cause Notice, during the analysis by NCTC Mumbai (ANALYTICS REPORT - 25/2022-23), it was observed from the data analysis of Bills of Entry that 'Sprinklers; drip irrigation system including laterals; mechanical sprayers' covered under Serial No. 195B of Schedule-II attract IGST @ 12%. However, goods falling under CTH 8424 which are other than 'Sprinklers; drip irrigation system including laterals; mechanical sprayers' merit classification under Serial No. 325 of Schedule-III and attract IGST @ 18%.

**17.3** On scrutiny of the data of the imports made by the said importer, M/s. National Seeds Corp Ltd under CTH 8424, it was noticed that the said importer had imported the goods mentioned in **Table-A**, supra which is other than Sprinklers; drip irrigation system including laterals; mechanical sprayers.

**17.4** Further, I have carefully considered the submission made by the noticee in their reply dated 22.02.2024 alongwith the documents submitted and the oral submissions made during personal hearing on 27.01.2026. However, I find that the noticee has merely made an unsubstantiated assertion that the imported goods qualify as covered under Serial No. 195B without substantiating this claim with any technical specifications, operational details, or other evidence demonstrating the functional equivalence of "Centre Pivot Irrigation System" with "Sprinklers; drip irrigation system including laterals; mechanical sprayers" as contemplated under Serial No. 195B of Schedule-II of Notification No. 01/2017-IGST(Rate). The documents submitted by the noticee such as company profile and business details are general business documents which do not establish the classification or IGST rate applicability of the imported goods. The noticee's reliance on the fact that goods are for agricultural use is misplaced as the classification and rate of IGST on imports is governed by the IGST Act, 2017 read with Notification No. 01/2017-IGST(Rate) and not by the end-use of the goods. I find that Serial No. 195B of Schedule-II specifically covers only "Sprinklers; drip irrigation system including laterals; mechanical sprayers". The noticee has failed to demonstrate how their "Centre Pivot Irrigation System" falls within this specific description. The mere fact that the goods are used in agriculture does not automatically entitle them to the concessional rate under Serial No. 195B as there are numerous agricultural implements and machinery which do not qualify for this specific entry. I also find that the noticee has not disputed the facts regarding mis-declaration, the quantum of differential duty, or the legal provisions invoked in the Show Cause Notice. The submissions made by the noticee are general in nature, and do not address the specific charges made in the Show Cause Notice. Therefore, I find no merit in the submission of the noticee.

**17.5** I find that Serial No. 195B of Schedule-II of Notification No. 01/2017-IGST(Rate) specifically covers only "Sprinklers; drip irrigation system including laterals; mechanical sprayers" under CTH 8424 which attract IGST @ 12%. The imported goods described as "Centre Pivot Irrigation System" do not fall within the specific description covered under Serial No. 195B. Centre Pivot Irrigation System is a large-scale mechanized irrigation system with rotating arms mounted on

wheeled towers that spray water in a circular pattern, which is fundamentally different from simple sprinklers, drip irrigation systems including laterals, or mechanical sprayers envisaged under Serial No. 195B.

**17.6** I find that Serial No. 325 of Schedule-III of Notification No. 01/2017-IGST(Rate) covers CTH 8424 - "Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers)" which attract IGST @ 18%. The imported goods "Centre Pivot Irrigation System" clearly fall within this description as they are mechanical appliances for spraying/projecting water/liquids and are specifically excluded from the concessional rate under Serial No. 195B.

**17.7** I further find that Section 5 of the Integrated Goods and Services Tax Act, 2017 specifically provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962. Thus, IGST on imported goods is not governed by domestic GST provisions but is levied as additional duty under the Customs Tariff Act framework. The rate of IGST applicable on imported goods is determined by the Notification No. 01/2017-IGST(Rate) dated 28.06.2017 issued under Section 5 of IGST Act, 2017 read with Section 3 of the Customs Tariff Act, 1975. In the present case, the importer has wrongly claimed the benefit of Serial No. 195B of Schedule-II (12% IGST) instead of the correct entry Serial No. 325 of Schedule-III (18% IGST) of the said Notification, thereby short-paying the IGST leviable under Section 5 of IGST Act, 2017 read with Section 3 of Customs Tariff Act, 1975.

**17.8** Therefore, I find that the benefit of Serial No. 195B of Schedule-II claimed by the importer is not admissible and is hereby rejected. The imported goods as mentioned in **Table-A**, supra are liable to be re-assessed at IGST rate of 18% under Serial No. 325 of Schedule-III of Notification No. 01/2017-IGST(Rate).

**18.1** Regarding the second issue, I find that Section 111(m) of the Customs Act, 1962 provides for confiscation of "*any goods which do not correspond in respect of value or in any other particular with the entry made under this Act*". In the present case, I find that the importer declared the goods under CTH 84248200 and claimed IGST rate of 12% under Serial No. 195B of Schedule-II in the Bills of Entry. The correct IGST rate applicable to the goods is 18% under Serial No. 325 of Schedule-III as established above. This mis-declaration resulted in payment of IGST at 12% instead of 18%. The duty liability in the present case, is as follows:

| BE NO        | BE Date    | Item No | Item Description               | Ass Value            | Duty paid @ 12%    | Duty payable @ 18% | Differential @ Duty |
|--------------|------------|---------|--------------------------------|----------------------|--------------------|--------------------|---------------------|
| 7135628      | 06.03.2020 | 1       | CENTRE PIVOT IRRIGATION SYSTEM | 1,21,93,904.75       | 14,63,269          | 21,94,903          | 7,31,634            |
| 7135628      | 06.03.2020 | 2       | CENTRE PIVOT IRRIGATION SYSTEM | 40,64,634.92         | 4,87,756           | 7,31,634           | 2,43,878            |
| <b>Total</b> |            |         |                                | <b>1,62,58,540/-</b> | <b>19,51,025/-</b> | <b>29,26,537/-</b> | <b>9,75,512/-</b>   |

**18.2** I find that the goods do not correspond in respect of applicable IGST rate and schedule entry with the entry made in the Bill of Entry. The mis-declaration in the present case is a substantial mis-declaration that resulted in significant duty evasion amounting to **Rs. 9,75,512/-**. The mis-declaration in the present case has resulted in short payment of duty.

**18.3** I find that the importer has wilfully violated the provisions of Section 17(1) of the Act in as much as the importer has failed to correctly self-assess the duty on impugned goods and has also wilfully violated the provisions of Sub-sections (4) and (4A) of Section 46 of the Act. Therefore, I find that the goods are liable to confiscation under Section 111(m) of the Customs Act, 1962.

**18.4** 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."*

**18.5** 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."*

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.

**19.1** Regarding the third issue, I find that Section 28(4) of the Customs Act, 1962 provides that where any duty has not been levied or paid or has been short-levied or short-paid by reason of collusion, willful mis-statement or suppression of facts by the importer, the proper officer shall, within five years from the relevant date, serve notice requiring payment of the short-levied/short-paid duty.

**19.2** In the present case, I find that the importer has willfully mis-stated the facts by wrongly claiming benefit of Serial No. 195B of Schedule-II instead of correctly declaring applicability of Serial No. 325 of Schedule-III, thereby paying duty at 12% instead of the applicable rate of 18%. This resulted in short payment of differential duty amounting to **Rs. 9,75,512/-**.

**19.3** I find that the short payment of duty amounting to **Rs. 9,75,512/-** was by reason of willful mis-statement of facts in the Bills of Entry. The Show Cause Notice was issued within the extended period of five years as provided under Section 28(4) of the Customs Act, 1962 for cases involving willful mis-statement. Accordingly, I confirm the differential duty demand of **Rs. 9,75,512/-** (Rupees Nine Lakhs Seventy Five Thousand Five Hundred Twelve only) as detailed in **Table-C**, supra, recoverable under Section 28(4) of the Customs Act, 1962 alongwith applicable interest thereon under Section 28AA of the Customs Act, 1962.

**20.1** Regarding the fourth issue, I find that Section 114A of the Customs Act, 1962 provides for penalty where duty has been short-levied by reason of collusion or any willful mis-statement or suppression of facts. In the present case, I find that the

importer has willfully mis-declared the applicable IGST rate by claiming benefit of Serial No. 195B instead of Serial No. 325, paid duty at 12% when the applicable rate was 18%, resulting in short payment of duty amounting to Rs. 9,75,512/-.

**20.2** The mis-declaration amounts to a willful mis-statement of facts in the Bills of Entry. Considering the nature and gravity of the violation, the quantum of duty evaded and the deliberate nature of the mis-declaration, I find it appropriate to impose a penalty under **Section 114A** of the Customs Act, 1962.

**21.** In view of the foregoing discussion and findings, I pass the following order:

**ORDER**

**(i)** I order to deny the benefit of Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) on the imported goods and hold that the same are liable to be re-assessed at the correct rate of IGST @18% under Sr. No. 325 of Schedule-III of IGST Notification No. 01/2017;

**(ii)** I hold that the goods covered under the Bills of Entry as mentioned in Table-A, supra, having assessable value of **Rs. 1,62,58,540/-** (Rupees One Crore Sixty Two Lakhs Fifty Eight Thousand Five Hundred Forty only) are liable for confiscation under **Section 111(m)** of the Customs Act, 1962. However, I impose a Redemption Fine of **Rs. 1,50,000/-** (Rupees One Lakh Fifty Thousand only) under **Section 125** of the Customs Act, 1962, in lieu of confiscation;

**(iii)** I confirm the differential duty demand of **Rs. 9,75,512/-** (Rupees Nine Lakhs Seventy Five Thousand Five Hundred Twelve only) under Section 28(4) of the Customs Act, 1962 read with Section 5 of the Integrated Goods and Service Tax Act, 2017 along with applicable interest under **Section 28AA** of the Customs Act, 1962;

**(iv)** I impose a penalty of **Rs. 9,75,512/-** (Rupees Nine Lakhs Seventy Five Thousand Five Hundred Twelve only) under **Section 114A** of the Customs Act, 1962.

**22.** This order is issued without prejudice to any other action that may be taken against the importer or any other person(s) 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.

**23.** The Show Cause Notice No. CUS/APR/BE/MISC/1607/2023-Gr 5-6 dated 27.02.2025 stands disposed of in above terms.

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

**To,**

M/s. National Seeds Corp Ltd (IEC No. 0588174157)  
Beej Bhavan Pusa Complex,  
New Delhi - 110012

**Copy to:**

1. The Deputy Commissioner, Review Section, Custom House, Mundra
2. The Deputy Commissioner, TRC, Custom House, Mundra
3. The Deputy Commissioner, EDI, Custom House, Mundra
4. Guard File