



सीमा शुल्क आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS
केंद्रीय अधिनिर्णय प्रकोष्ठ, एन एस-V
CENTRAL ADJUDICATION CELL, NS-V
जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,
ताल-ऊरण, डिस्ट-राइगड़, महाराष्ट्र-४०० ७०७.
TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400 707.

DIN : 20251078NX0000000C23

Date of Order: 24/10/2025

F.No. S/10-616/2024-25/ADC/Gr.V/NS-V/CAC/JNCH

Date of issue: 24/10/2025

SCN No.: 1071/2024-25/ADC/Gr.V/CAC/JNCH

SCN Date: 10/09/2024

Passed By: Shri Mazid Khan

Joint Commissioner of Customs, CAC, NS-V, JNCH

Order-In-Original No. : 1022/2025-26/JC/GR.V/NS-V/CAC/JNCH

Name of Party/Noticee :- M/s. AL Mansoori Petroleum Services LLC.
(IEC-0316955370)

मूल आदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Tal : Uran, Dist : Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.2.00 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 2.00 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
- Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

1. **M/s. AL MANSOORI PETROLEUM SERVICES LLC (IEC-0316955370)** having address "R Tech Park,13th Floor, Western Express Highway, Goregaon East, Mumbai -400063 had imported goods having description as "**OILWELL EQUIPMENT-BATTERY MODULE, OILWELL EQUIPMENT-BARREL BATTERY, HQ650 KELLY STABLIZER, etc.**" and paid IGST @ 5% as per serial no. 234B of Schedule -I of IGST levy Notification No. 01/2017 -Integrated Tax (Rate) dated 28.06.2017 (*as amended by Notification No. 12/2019-Integrated Tax (Rate) dated 31/07/2019*).On the basis of the Analytics Report 18/2021-22 dated 01/06/2021 issued by the NCTC, Mumbai, on the issue of "wrong availment of concessional BCD rate and lower IGST rates on certain imported **INVERTERS** of sub-heading 8504 40 " the data pertaining to imports made under CTH 8504 made by the importer through JNCH (INNSA1) was analysed in detail. Accordingly, SCN no. 1071/2024-25/ADC/Gr.V/NS-V/CAC/JNCH dated 10.09.2024 was issued to the above importer, which inter-alia stated :
2. The Bills of Entry wherein goods have been classified under CTH 8504 9090 by paying IGST @ 5%. However, the said goods attract rate of IGST @ 18% from 01/08/2019 (as per Notification No. 12/2019-Integrated Tax (Rate) dated 31/07/2019). Therefore, the said goods were liable to be assessed at the IGST @ 18% instead of IGST @ 5%, which resulted in short payment of Customs duty. The details of bills of entry are as follows:

Sr. No.	BE No. & DATE	Description of goods	Total Assessable Value - Assessed	Total Duty - Assessed	IGST Amount - Assessed	IGST @ 18%	Difference in IGST
1	4958845/ 18.09.2019	OILWELL EQUIPMENT : BARREL BATTERY	13,38,797	66,940	66,940	240984	1,74,044
2	5892639/ 30.11.2019	OILWELL EQUIPMENT: BATTERY MODULE (BATTERIES NOT INCLUDED)	13,82,647	69,132	69,132	248877	1,79,744
3		OILWELL EQUIPMENT: BATTERY TEST BOX (BATTERIES NOT INCLUDED)	42,776	2,139	2,139	7700	5,561
4	5892881/ 30.11.2019	OILWELL EQUIPMENT: BATTERY MODULE (BATTERIES NOT INCLUDED)	13,82,398	69,120	69,120	248832	1,79,712
5		OILWELL EQUIPMENT: BATTERY TEST BOX (BATTERIES NOT INCLUDED)	42,866	2,143	2,143	7716	5,573
6	7184966/ 11.05.2020	OILWELL SPARES: HQ650 KELLY	6,57,836	32,892	32,892	118411	85,519

		STABILIZER					
7		OILWELL SPARES: HQ800 KELLY STABILIZER	5,29,270	26,464	26,464	95269	68,805
		TOTAL	53,76,591				6,98,956

2.1. The entry 234B of Schedule -I @ 5% has been introduced with effect from 01.08.2019 (Notfn. No. 12/2019- Integrated Tax (Rate) dated 31.07.2019). Accordingly, certain specified goods, namely, charger or charging station for electrically operated vehicles falling under 8504 attract a lower IGST @ 5%.

2.2. IGST entry I-234 B (@5%) is reproduced below:

234 B	8504	Charger or charging station for electrically operated vehicles
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2.3.

2.4. Goods “other than charger or charging station for electrically operated vehicles “, falling under heading 8504, attract a higher IGST rate @ 18% under serial No. 375 of Schedule- III (18%), as amended by (Notfn. No. 12/2019- Integrated Tax (Rate) dated 31.07.2019). The description of this entry is given below:

375	8504	Electrical Transformer, Static converters (for example, rectifiers) and inductors other than charger or charging station for electrically operated vehicles	18%
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2.5. The total assessable value of the BE items so imported is ₹ 53,76,591/- and it appears that a short levy of duty amounting to ₹ 6,98,956/- is recoverable from the Importer along with applicable interest and penalty.

2.6. In view of the above, Consultative letter bearing No. 2476/2021-22/JNCH(A2) dt.10.11.2021 was issued to the importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty alongwith applicable interest and penalty. However, no reply or submission is given by importer in this regard.

2.7. Relevant legal provisions for recovery of duty that appears to be evaded are reproduced here for the sake of brevity which are applicable in this instant case:

2.8. After the introduction of self-assessment vide Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including classification and calculation of duty, but in the instant case the subject goods have been mis-classified and duty amount has not been paid correctly.

2.9. **Section 17 (Assessment of duty)**, subsection (1) reads as: ‘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.'

2.10. Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded) reads as:

'(4) 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 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 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.

(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has 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 by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing. '

2.11. Section 46 (Entry of goods on importation), subsection (4) reads as:

'(4) 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.'

2.12. Section 111 (Confiscation of improperly imported goods etc.) reads as:

'The following goods brought from a place outside India shall be liable to confiscation:

- (o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force,*

in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;'

2.13. Section 112 (Penalty for improper importation of goods etc.) reads as:

'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*
- (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, 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 not exceeding the value of the goods or five thousand rupees, whichever is the greater;*
 - (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.'*

2.14. 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 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 sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.'

2.15. Whereas, consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in customs clearance. Section 17 of the Customs Act, effective from 08.04.2011 [CBEC's (now CBIC) Circular No 17/2011 dated 08.04.2011] provides for self-assessment of duty on imported goods by the Importer himself by filing a bill of entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the Importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the Importer who has to ensure that he declares the

correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the Importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

- 2.16. Therefore, in view of the above facts, it appears that the importer has deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to ₹ 6,98,956/-. Therefore, the differential duty, so not paid, is liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.
- 2.17. Section 111(o) of Customs Act, 1962 provides for confiscation of the goods if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which condition is not observed unless the non-observance of the condition was sanctioned by the proper officer. Section 111(m) of Customs Act, 1962 provides for confiscation of the goods if 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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54.
- 2.18. It appears that the Importer has failed to comply with the conditions mentioned above; therefore, it also appears that the imported goods are liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962.
- 2.19. It further appears that the Importer for the acts of omission and commissions mentioned above has rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act. 1962.
3. In view of the above, the importer was called to show cause as to why:
 - i) the declared IGST Notification No. 01/2017 dated 28.06.2017(as amended by Notification No.12/2019-Integrated Tax (Rate)Dated 31.07.2019) Sr.No.243B of Schedule I should not be rejected as assessed @ 5% IGST.
 - ii) Differential/short paid Duty amounting to **₹6,98,956/- (Rupees Six Lakh Ninety-Eight Thousand Nine hundred and Fifty-Six Only)** for the subject goods imported

- vide Bills of Entry should not be demanded under Section 28(4) of the Custom Act, 1962.
- iii) the IGST should not be assessed @ 18% in terms of Sr. No. 375 of Schedule III of the IGST Notification No. 01/2017 dated 28.06.2017; In addition to the duty short paid, interest on delayed payment of Custom Duty should not be recovered from the Importer under section 28AA of the Customs Act. 1962.
 - iv) The said subject goods imported vide Bills of Entry as detailed in table above having assessable value of **₹ 53,76,591/-(Rupees Fifty-Three Lakh Seventy-Six Thousand Five Hundred and Ninety-One Only)** should not be held liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962.
 - v) Penalty should not be imposed on them under Section 112(a)/114A of the Customs Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.

RECORDS OF THE PERSONAL HEARING

- 4. In order to comply the principal of natural justice, opportunities of personal hearing in the matter were provided to the Importer vide letter F.No. S/10-616/2024-25/ADC/Gr.VA/NS-V/CAC/JNCH dated 02.12.2024, 20.12.2024 and 13.01.2025 to appear before the adjudicating authority on 19.12.2024, 10.01.2025 and 28.01.2025, for their oral/written submission against the subject show cause notice. However, no one attended the personal hearing on any of the above dates.
- 4.1 In the meanwhile, due to the change in the adjudicating authority, opportunity for fresh personal hearing was granted to the importer on 11.07.2025 vide letter F.No. F. No. S/10-616/2024-25/ADC/Gr.VA/NS-V/CAC/JNCH dated 04.07.2025, however, the importer, vide e-mail dated 11.07.2025 requested for adjournment of the said personal hearing. Another opportunity of personal hearing was provided to the importer on 30.07.2025, which was attended by Shri Riyaz Gulam Jilani Shaikh, Country Director, Shri Naman Shah, Finance Lead and Shri Saurabh Kumar Sharma, Operation Manager, who submitted that they have paid lower rate of IGST @5% as they have been Essential Certificate by ONGGC which will be submitted by them. They further submitted that they requested for one week time to submit all the relevant documents.

WRITTEN SUBMISSIONS OF THE IMPORTER

- 5. The Noticee, vide their written submission dated 30.07.2025, submitted their reply, which inter-alia stated:
- 5.1 That, AIMansoori Petroleum Services LLC is providing directional drilling services to Oil and Natural Gas Corporation Ltd, which falls within meaning of petroleum exploration

operation and and eligible for IGST rate @ 5% as per serial number 404 of notification number No. 50/2017-Customs dated 50/2017 dated 30th June, 2017.

- 5.2 That they have submitted BoE and relevant Essentiality Certificates issued by Directorate General of Hydrocarbon for ready reference and perusal.
- 5.3 That, the goods are correctly imported and paid IGST at correct rates under notification no 50/2017 and same does not fall within Notification No': 1/2017 amended with Notification No: 12/2019 mentioned in the SCN.
- 5.4 That they assure of our full co-operation for any other information which may require and requested to grant opportunity to be heard in person before proceeding in this matter.

DISCUSSION AND FINDINGS

6. I have gone through the facts of the case, and material on record. I find that the Show Cause Notice proposes a recovery of differential IGST amounting to **₹6,98,956/- (Rupees Six Lakh Ninety-Eight Thousand Nine hundred and Fifty-Six Only)** under Section 28(4) of Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. The Show Cause Notice also proposes imposition of penalty on the importer under Section 112(a)/114A of the Customs Act, 1962 and confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962 of subject imported goods totally valued at **₹53,76,591/- (Rupees Fifty-Three Lakh Seventy-Six Thousand Five Hundred and Ninety-One Only)**.
7. It is alleged in the Show Cause Notice that the importer has wrongly covered the goods i.e. **'OILWELL EQUIPMENTS' AND 'OILWELL SPARES - KELLY STABLIZER'** by declaring lower rate of IGST under Sr. No. 234B of Schedule-I of IGST Notification No.01/2017 dated 28.06.2017 with IGST @ 5% and proposed for IGST @18% for the impugned goods as per Notification No.12/2019-Integrated Tax (Rate) dated 31.07.2019.
8. I have carefully gone through the records and facts of the case. I find that following issues emerges for decision in this case:
 - a. Whether the goods declared as **'OILWELL EQUIPMENT' and 'OILWELL SPARES'** are actually assessable with applicable IGST @18% as per IGST Notification No.01/2017 dated 28.06.2017 [as amended by Notification no. 12/2019-Integrated Tax (Rate) dated 31.07.2019] in place of Sr. No. 234B of Schedule-I of IGST Notification No.01/2017 dated 28.06.2017 with IGST paid@ 5% by the importer.
 - b. Whether the goods are liable for confiscation under Section 111(m) and/or 111(o) and the importer is liable for penalty under Section 112(a)/114A of the Customs Act, 1962.

9. I observe that the impugned goods i.e. 'OILWELL EQUIPMENTS' AND 'OILWELL SPARES - KELLY STABILIZER' were imported by the said importer vide Bill of Entry nos. 4958845 dt. 18.09.2019, 5892639 dt. 30.11.2019, 5892881 dt. 30.11.2019 and 7184966 dt.11.05.2020 and were declared under CTI 8504 9090. Further, I observe that the importer had paid IGST @5% by availing the notification benefit of Sr. No. 404(a) of Notification no. 50/2017-Customs dated 30.06.2017, whereas the SCN has alleged that the importer had availed the benefit of lower IGST in terms of Sl. No. 234B of Schedule-I of IGST Notification no. 01/2017 as amended vide Notification No. 12/2019-Central Tax (Rate) dated 31.07.2019.
10. Now, I have to decide whether the impugned goods were eligible for exemption under Notification no. 50/2017-Customs dated 30.06.2017 [Sr. No. 404(a)].

- 10.1 To decide the eligibility of above, relevant part of Notification no. 50/2017-Cus dated 30.06.2017, is reproduced below for ease of reference: -

50/2017-Customs dt. 30.06.2017

S. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Integrated Goods and Service Tax	Condition no.
1	2	3	4	5	6
404.	84 or any other Chapter	Goods specified in List 33 required in connection with: (a) petroleum operations undertaken under petroleum exploration licenses or mining leases, granted by the Government of India	Nil	5%	48
		or any State Government to the Oil and Natural Gas Corporation or Oil India Limited on nomination basis, (b) petroleum operations undertaken under specified contracts (c) petroleum operations undertaken under specified contracts under the New Exploration Licensing Policy (d) petroleum operations undertaken under specified contracts under the Marginal Field Policy (MFP) (e) coal bed methane operations undertaken under specified contracts under the Coal Bed Methane Policy			

CONDITION NO. 48

48.	If,- (a) the goods are imported by,- (i) the Oil and Natural Gas Corporation or Oil India Limited (hereinafter referred to as the "licensee") or a sub-contractor of the licensee and in each case in connection with petroleum operations to be undertaken under petroleum exploration licenses or mining leases, as the case may be, granted by the Government of India or any State Government on nomination basis; or (ii) an Indian Company or Companies, a Foreign Company or Companies, or a consortium of an Indian Company or Companies and a Foreign Company or Companies (hereinafter referred to as the "contractor") or a sub-contractor of the contractor and in each case in connection with petroleum operations to be undertaken under a contract with the Government of India; or (iii) an Indian Company or Companies, a Foreign Company or Companies, or a consortium of an Indian Company or Companies and a Foreign Company or Companies (hereinafter referred to as the "contractor") or a sub-contractor of such Company or Companies or such consortium and in each case in connection with petroleum operations or coal bed methane operations, as the case may be, to be undertaken under a contract signed with the Government of India, on or after the 1st day of April, 1998, under the New Exploration Licensing Policy, or on or after the 1st day of April 2001 in terms of the Coal Bed Methane Policy, or on or after the 14th day of October, 2015 in terms of the Marginal Field Policy, as the case may be;
	(b) where the importer,- (i) is a licensee, he produces to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, at the time of importation, the following, namely, a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the imported goods are required for petroleum operations referred to in sub-clause (i) of clause (a) and have been imported under the licences referred to in that sub-clause; (ii) is a contractor, he produces to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, at the time of importation, the following, namely:- (1) a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the imported goods are required for A. petroleum operations referred to in sub-clause (ii) of clause (a) and have been imported under the contract referred to in that sub-clause, or B. petroleum operations or coal bed methane operations referred to in sub-clause (iii) of clause (a), as the case may be, and have been imported under a contract signed under the New Exploration Licensing Policy or the Coal Bed Methane Policy or the Marginal Field Policy, as the case may be; and (2) a certificate, in the case of a contract entered into by the Government of India and a Foreign Company or Companies or, the Government of India and a consortium of an Indian Company or Companies and a Foreign Company or Companies, that no foreign exchange remittance is made for the imports of such goods undertaken by such Foreign Company or Companies; (c) where the importer is a sub-contractor, he produces to the Deputy Commissioner of

Customs or the Assistant Commissioner of Customs, as the case may be, at the time of importation, the following, namely:-

- (i) a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the imported goods are required for :-
 - (1) petroleum operations referred to in sub-clause (i) of clause (a) and have been imported under the licenses or mining leases, as the case may be, referred to in that sub-clause and containing the name of such sub-contractor, or
 - (2) petroleum operations referred to in sub-clause (ii) of clause (a) and have been imported under the contract referred to in that sub-clause and containing, the name of such sub-contractor, or
 - (3) petroleum operations or coal bed methane operations, as the case may be, referred to in sub-clause (iii) of clause (a) and have been imported under a contract signed under the New Exploration Licensing Policy or the Coal Bed Methane Policy or the Marginal Field Policy, as the case may be, and containing the name of such sub-contractor;
- (ii) an affidavit to the effect that such sub-contractor is a *bonafide* sub-contractor of the licensee or lessee or contractor, as the case may be;
- (iii) an undertaking from such licensee or lessee or contractor, as the case may be, binding him to pay any duty, fine or penalty that may become payable, if any of the conditions of this notification are not complied with by such sub-contractor or licensee or lessee or contractor, as the case may be; and
- (iv) a certificate, in the case of :-
 - (1) a petroleum exploration license or mining lease, as the case may be, granted by the Government of India or any State Government on nomination basis, that no foreign exchange remittance is made for the import of such goods undertaken by the sub-contractor on behalf of the licensee or lessee, as the case may be; or
 - (2) a contract entered into by the Government of India and a Foreign Company or Companies or, the Government of India and a consortium of an Indian Company or Companies and a Foreign Company or Companies, that no foreign exchange remittance is made for the import of such goods undertaken by the sub-contractor on behalf of the Foreign Company or Companies:

Provided that nothing contained in this sub-clause shall apply if such sub-contractor is an Indian Company or Companies;

(d) where the goods so imported by the licensee or a sub-contractor of the licensee, or the contractor or a sub-contractor of the contractor are sought to be transferred, the importer produces to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, at the time of such transfer, the following, namely:-

- (I) a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the said goods may be transferred in the name of another sub-contractor of the licensee or another licensee or a sub-contractor of such licensee, or another sub-contractor of the contractor or another contractor or a sub-contractor of such contractor (hereinafter referred to as the "transferee") and that the said goods are required for petroleum operations to be undertaken under :-
 - (I) petroleum exploration or mining leases referred to in sub-clause (i) of clause (a), or
 - (II) petroleum operations to be undertaken under a contract referred to in sub-clause (ii) of clause (a), or

- (III) petroleum operations or coal bed methane operations, as the case may be, to be undertaken under a contract referred to in (iii) of clause (a)
- (2) undertaking from the transferee to comply with all the conditions of the notification, including that he shall pay duty, fine or penalty that may become payable, if any of the conditions of the notification are not complied with by himself, where he is the licensee/ contractor or by the licensee/ contractor of the transferee where such transferee is a sub-contractor;
- (3) a certificate, -
- (I) in the case of a petroleum exploration license or mining lease, as the case may be, granted by the Government of India or any State Government on nomination basis, that no foreign exchange remittance is made for the transfer of such goods undertaken by the transferee on behalf of the licensee or lessee, as the case may be;
- (II) in the case of a contract entered into by the Government of India and a Foreign Company or Companies or, the Government of India and a consortium of an Indian Company or Companies and a Foreign Company or Companies, that no foreign exchange remittance is made for the transfer of such goods undertaken by the transferee on behalf of the Foreign Company or Companies, as the case may be:

Provided that nothing contained in this sub-clause shall apply if such transferee is an Indian Company or Companies.

(e) where the goods so imported are sought to be disposed of, the importer or the transferee, as the case may be, may pay the duty of customs which would have been payable but for the exemption contained herein, on the depreciated value of such goods subject to the condition that the importer or the transferee, as the case may be, produces before the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, having jurisdiction over the port of import, a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the said goods are no longer required for the petroleum operations or coal bed methane operations, and the depreciated value of the goods shall be equal to the original value of the goods at the time of import reduced by the percentage points calculated by straight line method as specified below for each quarter of a year or part thereof from the date of clearance of the goods, namely:-

- (i) for each quarter in the first year at the rate of 4 per cent.;
- (ii) for each quarter in the second year at the rate of 3 per cent.;
- (iii) for each quarter in the third year at the rate of 2.5 per cent.; and
- (iv) for each quarter in the fourth year and subsequent years at the rate of 2 per cent., subject to the maximum of 70 per cent.

LIST 33**List 33 (See S. No. 404 of the Table)**

- (1) Land Seismic Survey Equipment and accessories, requisite vehicles including those for carrying the equipment, seismic survey vessels, global positioning system and accessories, and other materials required for seismic work or other types of Geophysical and Geochemical surveys for onshore and offshore activities.
- (2) All types of drilling rigs, jackup rigs, submersible rigs, semi-submersible rigs, drill ships, drilling barges, shot-hole drilling rigs, mobile rigs, workover rigs consisting of various equipment and other drilling equipment required for drilling operations, snubbing units, hydraulic workover units, self elevating workover platforms, Remote Operated Vessel (ROV).
- (3) Helicopters including assemblies/parts.
- (4) All types of marine vessels to support petroleum operations including work boats, barges, crew boats, tugs, anchor handling vessels, lay barges and supply boats, marine ship equipment including water maker, DP system and Diving system.
- (5) All types of equipment/ units for specialised services like diving, cementing, logging, casing repair, production testing, stimulation and mud services, oil field related lab equipment, reservoir engineering, geological equipment, directional drilling, stimulation, Coil Tubing units, Drill Stem Testing (DST), data acquisition and processing, solids control, fishing (as related to downhole retrieval in oil field operations or coal bed methane operations), well control, blowout prevention(BOP), pipe inspection including Non Destructive Testing, coring, gravel pack, well completion and workover for oil/ gas/ CBM wells including wireline and downhole equipment.
- (6) All types of casing pipes, drill pipes, production tubing, pup joints, connections, coupling, kelly, cross overs and swages, Drive Pipes.
- (7) All types of drilling bits, including nozzles, breakers and related tools.
- (8) All types of oil field chemicals or coal bed methane chemicals including synthetic products used in petroleum or coal bed methane operations, oil well cement and cement additives, required for drilling, production and transportation of oil or gas.
- (9) Process, production and well platforms/ installation for oil, gas or CBM and water injection including items forming part of the platforms/ installation and equipment required like process equipment, turbines, pumps, generators, compressors, primemovers, water makers, filters and filtering equipment, telemetry, telecommunication, tele-control and other material required for platforms/ installations.
- (10) Line pipes for flow lines and trunk pipelines including weight-coating and wrapping.
- (11) Derrick barges, Mobile and stationary cranes, trenchers, pipelay barges, cargo barges and the like required in the construction/ installation of platforms and laying of pipelines.
- (12) Single buoy mooring systems, mooring ropes, fittings like chains, shackles, couplings marine hoses and oil tankers to be used for oil storage and connected equipment, Tanks used for storage of oil, condensate, coal bed methane, water, mud, chemicals and related materials.
- (13) All types of fully equipped vessels and other units /equipment required for pollution control, fire prevention, firefighting, safety items like Survival Craft, Life Raft, fire and gas detection equipment, including H2S monitoring equipment.
- (14) Mobile and skid mounted pipe laying, pipe testing and pipe inspection equipment.
- (15) All types of valves including high pressure valves.
- (16) Communication equipment required for petroleum or coal bed methane operations including synthesized VHF Aero and VHF multi-channel sets/ VHF marine multi-channel sets.
- (17) Non-directional radio beacons, intrinsically safe walkie-talkies, directional finders, EPIRV, electronic individual security devices including electronic access control system.
- (18) Specialized antenna system, simplex telex over radio terminals, channel micro wave systems, test and measurement equipment.
- (19) X-band radar transponders, area surveillance system.
- (20) Common depth point (CDP) cable, logging cable, connectors, geo-phone strings, perforation equipment and explosives
- (21) Wellhead and christmas trees, including valves, chokes, heads spools, hangers and actuators, flexible connections like chicksons and high pressure hoses, shut down panels.
- (22) Cathodic Protection Systems including anodes.
- (23) Technical drawings, maps, literature, data tapes, Operational and Maintenance Manuals required for petroleum or coal bed methane operations.
- (24) Sub-assemblies, tools, accessories, stores, spares, materials, supplies, consumables for running, repairing or maintenance of the goods specified in this List.

10.2 I observe that as per Sl. No. 404(a) of Customs Notification no. 50/2017-Cus dated 30.06.2017, the exemption of IGST at lower rate of 5% is applicable on the goods specified in column (3) off List 33 when imported by a specified person, in relation with petroleum operation under taken petroleum exploration licenses. Further, the said specified person may be a licensee, lessee, contractor or sub-contractor. Further, if the

importer is a sub-contractor, he will have to produce a certificate to the Deputy/Assistant Commissioner of Customs at the time of importation, issued by a senior official who is authorised by the Board of Directors of the concerned licensee or lease or contractor to issue such a certificate, certifying that the goods are intended for specified purpose along with an undertaking from such licensee or contractor and the subcontractor, liable to pay duty, fine or penalty that becomes payable, if any of the Conditions of the said notification are not complied with.

10.3 Further, I observe that as per Condition no. 48, point no. (c) of Notification no. 50/2017, as mentioned in detailed in Para 10.1 above :-

.....

" (c) Where the importer is a sub-contractor, he produces to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, at the time of importation, the following, namely:-

(i) a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the imported goods are required for:

(1) petroleum operations referred to in sub-clause (1) of clause (a) and have been imported under the licenses or mining leases, as the case may be, referred to in that sub-clause and containing the name of such sub-contractor, or

(2) petroleum operations referred to in sub-clause (ii) of clause (a) and have been imported under the contract referred to in that sub-clause and containing, the name of such sub-contractor, or

(3) petroleum operations or coal bed methane operations, the case may be. referred to in sub-clause (iii) of clause (a) and have been imported under a contract signed under the New Exploration Licensing Policy or the Coal Bed Methane Policy or the Marginal Field Policy, as the case may be, and containing the name of such sub-contractor,

(ii) an affidavit to the effect that such sub-contractor is a bonafide sub-contractor of the licensee or lessee or contractor, as the case may be:

(iii) an undertaking from such licensee or lessee or contractor, as the case may be, binding him to pay any duty, fine or penalty that may become payable, if any of the conditions of this notification are not complied with by such sub-contractor or licensee or lessee or contractor, as the case may be, and

(iv) a certificate, in the case of;

(1) a petroleum exploration license or mining lease, as the case may be. granted by the Government of India or any State Government on nomination basis, that no foreign exchange remittance is made for the import of such goods undertaken by the sub-contractor on behalf of the licensee or lessee, as the case may be, or

(2) contract entered into by the Government of India and a Foreign Company or Companies or, the Government of India and a consortium of an Indian Company or Companies and a Foreign Company or Companies, that no foreign exchange remittance is made for the import of such goods undertaken by the sub-contractor on behalf of the Foreign Company or Companies:

Provided that nothing contained in this sub-clause shall apply if such sub-contractor is an Indian Company or Companies:

10.4 I observe that the importer in their written submission has submitted the copies of Affidavits and Undertakings for only four invoices out of total 8 invoices, issued by Oil and Natural Gas Corporation Ltd., which states that the noticee/importer M/s Al Mansoori Petroleum Services LLC is subcontractor, which have been awarded various

contacts to execute the work for petroleum operations at on shore areas of ONGC in India. By the affidavits and undertakings, M/s ONGC has also informed that the imported goods will be used for specified purpose only as laid down in Customs Notification and they will pay any duties, fines or penalties that may become payable in the event of non-compliance of any of the condition of the Notification no. 50/2017-Cus dated 30.06.2017 (S.No. 404 of Table, List 33 and Condition no. 48).

- 10.5** However, I observe that the importer has not submitted any certificate/documentary evidence from Directorate General of Hydro Carbons of Ministry of Petroleum and Natural Gas, Government of India, as per the conditions of Notification no. 50/2017, discussed in Para 10.3 above.
- 10.6** In view of the discussions made in the preceding paras, it is ample clear that though the importer is a sub-contractor and executing work of petroleum operations on contract awarded by ONGC, the importer has not submitted any documents for availing the IGST benefit vide Notification no. 50/2017-Cus dated 30.06.2017 (S.No. 404 of Table, List 33 and Condition no. 48), which confirms their eligibility for the said IGST benefit.
- 10.7** Hence, in view of the absence of mandatory documents for claiming IGST benefit vide Notification no. 50/2017-Cus dated 30.06.2017 (S.No. 404 of Table, List 33 and Condition no. 48) I am of the considered view that the allegation levelled in the said SCN dated 10.09.2024 are justified and importer has wrongly availed the benefit of sl. No. 404(a) of Notification no. 50/2017 and had not paid the correct IGST @18% under S.No. 375 of Schedule-III, as per Notification no. 12/2019-Integrated Tax (Rate) dated 31.07.2019 in respect of goods imported vide Bills of Entry mentioned in the Table above. Hence, the demand of IGST@18% for classification of impugned goods, raised vide the subject show cause notice is sustainable and I hold the same.
- 11.** I observe that in the era of self-assessment, the onus is on the importer to make true and correct declaration in all aspects including calculation of duty and/or description of goods. The relevant sections of Customs Act are reproduced below for ease of reference:-
- 12. Section 17(1) Assessment of duty**, reads as:
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.
- 13. Further Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded)** reads as:

'(4) 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 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 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.

14. Thus, from material facts of the case, it is evident that the said importer, purportedly claimed wrong benefit of the said notification with the intent to pay lower duty and thereby caused lose to the govt. exchequer. The said act of the importer is nothing but wilful mis-statement with clear mens rea to pay lower duty at 5% IGST, where the impugned goods falls under 18% IGST at material time. By doing so, the importer evaded a total duty of **₹6,98,956/- (Rupees Six Lakh Ninety-eight Thousand Nine Hundred and Fifty-six only)**. Thus, I hold that the demand of duty under Section 28(4) of the Customs Act, 1962 is sustainable and I hold the same.
15. Further, since the demand of duty is sustainable in the instant case, the interest being accessory to the principal, the same is liable to be paid in accordance with Section 28AA of the Customs Act, 1962.
16. As I have already hold that the demand of duty for extended period under Section 28(4) of Customs Act, 1962 is sustainable in the case, I observe that the importer is liable for penal action under Section 114A of the Customs Act, 1962 and I hold the same.
17. I find that, on the basis of the facts and circumstances mentioned herein above, the importer has knowingly and deliberately indulged themselves in wilful mis-statement and alleged suppression of facts with regard to notification Sr. No., with an intent to evade the applicable duty. Thus, I am of considered view that by their aforesaid acts of omission and commission, the impugned goods are liable for confiscation under Section 111 (m) of the Customs Act, 1962 and I hold the same. However, I find the goods imported vide bills of entry as detailed above are not available for confiscation, but I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

"23. 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 regularized, 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 authorized by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III 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 the payment of the 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. We accordingly answer question No. (i)."

18. I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same have not been challenged by any of the parties in operation. Hence, I find that any goods improperly imported as provided in any sub-section of Section 111 of the Customs Act, 1962 are liable to confiscation and merely because the importer was not caught at the time of clearance of the imported goods, can't be given differential treatment. In view of the above, I find that the decision of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), which has been passed after observing the 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), is squarely applicable in the present case. Accordingly, I observe that the present case also merits the imposition of a Redemption Fine.
19. Now coming to the issue of penalties, I find that the impugned notice proposes a penalty under Section 112(a) and 114A of the Customs Act, 1962 on the notice firm. In this regard, I find that the importer has wrongly evaded legitimate customs duty. I find that, in the self-assessment regime, it is the bounden duty of the Importer to correctly assess the duty on the imported goods. In the instant case wrongly availed

the benefits of IGST notification by the importer of such repute having access to all legal aid, tantamount to suppression of material facts and willful mis-classification. The "mens rea" can be deciphered only from "actus-reus". Thus, providing the suppression of fact and claiming undue benefit by the said Importer taking a chance to clear the goods by misclassifying it, amply points towards their "mens rea" to evade the payment of duty. Thus, I find the Importer is liable for a penalty under Section 114A of the Customs Act, 1962.

20. In view of the above facts, I pass the following order.

ORDER

- (i) I reject the benefit of lower rate of IGST @5% availed by the importer **M/s AL MANSOORI PETROLEUM SERVICES LLC (IEC-0316955370)** and order to re-assess the Bills of Entry as mentioned in Table above, under Sr. No.375 of Schedule III (IGST @18%) of Notification No. 01/2017 dated 28.06.2017.
- (ii) I order to confirm the demand of differential IGST of **₹6,98,956/- (Rupees Six Lakh Ninety-eight Thousand Nine Hundred and Fifty-six only)** on the goods imported vide above Bills of Entry, under Section 28(4) of Customs Act, 1962.
- (iii) I order to recover applicable interest on the short-levied IGST as confirmed above from **M/s. AL MANSOORI PETROLEUM SERVICES LLC** under Section 28AA of the Customs Act, 1962.
- (iv) I order to confiscate the impugned goods having assessable value of **₹53,76,591/- (Rupees Fifty-three Lakh Seventy-six Thousand Five Hundred and Ninety-one only)** under Section 111(m) of the Customs Act, 1962, but since the same are not available as they have already been cleared, hence I impose a redemption fine of **₹5,00,000/- (Rupees Five Lakh only)** under Section 125 of the Customs Act, 1962 upon **M/s. AL MANSOORI PETROLEUM SERVICES LLC**.
- (v) I order to impose penalty of **₹6,98,956/- (Rupees Six Lakh Ninety-eight Thousand Nine Hundred and Fifty-six only)** (equivalent to differential IGST, as confirmed in para 20(ii) above) plus interest leviable thereon, on **M/s. AL MANSOORI PETROLEUM SERVICES LLC**, under Section 114A of Customs Act, 1962. If such duty and interest is paid within thirty days from the date of the communication of this order, the amount of penalty liable to be paid shall be 25% of the duty and interest, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.
- (vi) I refrain from imposing any penalty under Section 112(a) of Customs Act.

21. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved under the provisions of the Customs Act, 1962, and/or other law for the time being in force in the Republic of India.

(Handwritten signature)

(माजिद खान / MAZID KHAN)

संयुक्त आयुक्त सीमा शुल्क/ JT. COMMISSIONER OF CUSTOMS
सीएसी, एनएस-5, जेएनसीएच/ CAC, NS-V, JNCH

To,

1. AL Mansoori Petroleum Services LLC.
R Tech Park 13th Floor, Western Express Highway,
Goregaon East, Mumbai -400063 *EM 986 33 207 28 N*
2. CB- M/s. Freight Field (M) Pvt. Ltd. (AAACF2350DCH006)

Copy to:-

1. The Dy./Asstt Commissioner of Customs, Review Cell, JNCH.
2. The Dy./Asstt Commissioner of Customs, Recovery Cell, JNCH.
3. The Dy./Asstt. Commissioner of Customs, Group V, JNCH.
4. The Dy. /Asstt. Commissioner of Customs, AUDIT, Circle-D1, JNCH
5. The Dy./Asstt. Commissioner of Customs, EDI, JNCH....for uploading on website.
6. Notice Board (CHS Section), JNCH.
7. Office Copy.

