



ऑफिस ऑफ द कमिश्नर ऑफ कस्टम्स  
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V  
जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा,  
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,  
ताल-ऊरण, डिस्ट-राइगड, महाराष्ट्र-४००७०७.  
TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400 707.

F. No.: S/10-39/2025-26/ADC/GrVB/NS-V/CAC/JNCH Date of Order: 26.12.2025  
Date of issue: 26.12.2025

Passed By: **Shri Satish Kumar**

**Additional Commissioner of Customs, NS-V**

DIN-20251278NX0000888B7B

**Order-In-Original No. 1373/2025-26/ADC/GR.VB/NS-V/CAC/JNCH**

(Arising out of SCN No. 141/2025-26/ADC/Gr.VB/NS-V/CAC/JNCH dated 14.05.2025)

**Noticee: M/s. Williams Controls India Pvt. Ltd (IEC-3110007002)**

**मूलआदेश**

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
2. 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 1.50 रुपये मात्र कास्टांप 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 1.50 रुपये का स्टांप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. 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**

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. 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.1.50 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. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
3. 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 Case**

Whereas, **M/s. Williams Controls India Pvt. Ltd (IEC-3110007002)** having their principal place of business at J-1, S Block, MIDC Bhosari, Pune 411026, India (hereinafter referred to as 'Importer') had cleared their imported items vide Bill of Entries as mentioned in Table-A, Table-B, Table-C & Table-D.

2. During the Post Clearance Audit (PCA) it was noticed that M/s. Williams Controls India Pvt. Ltd (IEC-3110007002) (hereinafter referred to as the Importer) has filed Bills of Entry No. 3983843/ 31.12.2022 and 3864535/22.12.2022 at (INNSA1) Nhava Sheva Port, Dist. Raigad Maharashtra for the clearance of Parts of Tractor (1) 01WM132 WM132 403577 REV.A BODY SENSOR (Auto Parts for Captive Consumption) & 16WM160 WM160 (404952) REV.B ARM LEVER (Auto Parts for Captive Consumption) & 34 WM114 403777 REV.G LCV, Arm Lever having declared total assessable 14,09,461/ through Custom House Agent M/s Alcan Logistics LLP (CHA No. ABPFA3740HCH001). However, during the PCA it was noticed that the importer has mis-classified the impugned goods value of Rs. 14,09,461/-. The details are as under:-

**Table-A As per CL No.381/2023-24-B1**

| <b>BE No</b> | <b>BE Date</b> | <b>Full Description of imported goods</b> | <b>Declared CTH</b> | <b>AV (in Rs)</b> | <b>BCD 15% (in Rs)</b> | <b>SWS 10% (in Rs)</b> | <b>IGST 18% (SCH III, S.no 452N Of</b> | <b>Total differential IGST @28% (Sch IV-Sr. No. 70 of Notfn</b> |
|--------------|----------------|---|---------------------|-------------------|------------------------|------------------------|--|---|
|--------------|----------------|---|---------------------|-------------------|------------------------|------------------------|--|---|

|              |              |                              |              |             |            |           | <b>Notfn<br/>No<br/>01/20<br/>17) (in<br/>Rs)</b> | <b>No<br/>01/2017)<br/>(in Rs)</b> |
|--------------|--------------|------------------------------|--------------|-------------|------------|-----------|---|------------------------------------|
| 398384<br>3  | 31/1<br>2/22 | Reverse<br>gear Arm<br>Lever | 8708990<br>0 | 393391      | 59009      | 5901      | 82494   | 45830                              |
| 386453<br>5  | 22/1<br>2/22 | Reverse<br>gear Arm<br>Lever | 8708990<br>0 | 101607<br>0 | 15241<br>1 | 1524<br>1 | 213070  | 118372                             |
| <b>Total</b> |              |                              |              |             |            |           |   | <b>164202</b>                      |

2. Therefore, a CL. No. 381/2023-24-B1 dated 07.09.2023 (DIN 20230978NY000000FF00) was issued to importer asking them to pay the differential duty / short levied duty of Rs. 1,64,202/, applicable interest in terms of Section 28AA of the Customs Act, 1962 and penalty. In response, the Importer paid the differential duty IGST of Rs. 1,64,202/ due interest of Rs. 19,670/-and Penalty @ 15% of Rs. 24,630/- on the vide Challan No/ Cash No HC-102 dt 11.10.2023, HCM-914 dt 11.10.2023 & HCM-913 dt 11.10.2023 respectively.

3. Further, on the similar issue, for the past Bills of Entries, a CL. No. 464/2023-24-B1 dated 25.10.2023 (DIN 20231078NY0000111C59) was issued to the Importer asking them to pay the differential duty/short levied duty of Rs. 30,29,483/- along with applicable interest in terms of Section 28(4) of the Customs Act. 1962 and applicable penalty detailed below in Table-B w.r.t. 16 (Sixteen) BoE.

**(Table B-As per CL No 464/2023-24-B1)**

Item-wise details are enclosed in Annexure 'A'

| <b>Sr<br/>no</b> | <b>BE No.</b> | <b>BE Date</b> | <b>Short<br/>Paid/Sh<br/>ort<br/>Levied<br/>Duty<br/>(IGST)</b> | <b>Sr<br/>no</b> | <b>BE No.</b> | <b>BE Date</b>  | <b>Short<br/>Paid/Short<br/>Levied Duty<br/>(IGST)</b> |
|------------------|---------------|----------------|---|------------------|---------------|-----------------|--|
| 1                | 758326<br>6   | 4-May-<br>2020 | 178159  | 9                | 398361<br>8   | 31-Dec-<br>2022 | 266656   |

|                  |             |                 |        |                  |             |                 |                  |
|------------------|-------------|-----------------|--------|------------------|-------------|-----------------|------------------|
| 2                | 791658<br>9 | 16-Jun-<br>2020 | 90127  | 10               | 398440<br>3 | 31-Dec-<br>2022 | 87342            |
| 3                | 853169<br>9 | 19-Aug-<br>2020 | 132020 | 11               | 398536<br>3 | 31-Dec-<br>2022 | 32840            |
| 4                | 989620<br>0 | 10-Dec-<br>2020 | 301378 | 12               | 424941<br>2 | 19-JAN-<br>2023 | 513482           |
| 5                | 233423<br>8 | 13-Jan-<br>2021 | 134325 | 13               | 648620<br>1 | 01-Dec-<br>2021 | 411683           |
| 6                | 347103<br>1 | 7-Apr-<br>2021  | 46528  | 14               | 675991<br>8 | 20-Dec-<br>2021 | 383347           |
| 7                | 599309<br>7 | 26-Oct-<br>2021 | 36560  | 15               | 708189<br>7 | 14-Jan-<br>2022 | 182843           |
| 8                | 634218<br>8 | 20-Nov-<br>2021 | 34080  | 16               | 794598<br>5 | 21-Mar-<br>2022 | 198113           |
| <b>Sub-Total</b> |             |                 | 953177 | <b>Sub-Total</b> |             |                 | 2076306          |
| <b>Total</b>     |             |                 |        |                  |             |                 | <b>30,29,483</b> |

4. The above mentioned Bills of Entries (16 in no.) were facilitated through RMS. During Post Clearance Audit, it was noticed that the importer has mentioned Sr. No. 452N of Schedule-III of the Notfn No 01/2017 thereby availing the benefit of reduced duty + IGST as below:-

**Schedule III-18%**

| <b>Sr no.</b> | <b>Chapter/Heading/Sub-Heading/Tariff item</b> | <b>Description of goods</b>                   |
|---------------|--|---|
| 452N          | 87089900                                       | Hydraulics and its parts thereof for tractors |

4.1 Whereas, it appears that the above mentioned goods were parts & accessories of the Motor Vehicle of Customs Tariff Heading 8701 to 8705 (other than specified parts of tractors) and IGST @ 28% was applicable on the said goods in terms of Sr. No. 170 of Schedule IV of the Notification No 01/2017- (Integrated Tax Rate) dated 28.06.2017 as mentioned below:-

**Schedule IV-28%**

| <b>Sr no.</b> | <b>Chapter/Heading/Su</b> | <b>Description of goods</b> |
|---------------|---------------------------|-----------------------------|
|---------------|---------------------------|-----------------------------|

|                      |                              |  |
|----------------------|------------------------------|--|
|                      | <b>b-Heading/Tariff item</b> |  |
| 170 of Notfn 01/2017 | 8708                         | Parts and accessories of the motor vehicle of headings 8701 to 8705 [other than specified parts of tractors] |

4.2 However, it appears that the importer by way of mentioning incorrect Sr. No. 452N of Schedule III of Notification No 01/2017-(Integrated Tax Rate) dated 28.06.2017 instead of Sr. No. 170 of Schedule IV of Notification No. 01/2017-(Integrated Tax Rate) dated 28.06.2017 short paid total duty of Rs. 1,64,202/ (as per CL 381/2023-24-81 dt 07.09.2023) and Rs. 30,29,483/- (as per CL No 464/2023-24 B1 dt 25.10.2023). Accordingly, the importer was issued SCN No. 464/2023-24 B1 dt 25.10.2023 to pay the differential duty along with interest and applicable penalty.

5. In response, to the above said C.L. dated 25.10.2024, the Importer vide their reply letter dated 30.11.2023 stated that, out of the above mentioned 16 BoE the Bills of Entry 6486201 dt 01.12.2021; 6759918 dt 20.12.2021; 7081897 dt 14.01.2021 & 7945985 dt 21.03.2022, BE's are pertaining to Advance License and the same has been debited in License No. 3111000525/16.08.2021 as detailed below in Table-C.

**Table-C**

| <b>Sr No</b> | <b>BE No</b> | <b>BE Date</b> | <b>Short Paid/Short Levied Duty (IGST) (in Rs.)</b> | <b>Remarks</b>                               |
|--------------|--------------|----------------|---|--|
| 1            | 6486201      | 1-Dec-21       | 411683  | Debited in License No. 3111000525/16.08.2021 |
| 2            | 6759918      | 20-Dec-21      | 383347  | Debited in License No. 3111000525/16.08.2021 |
| 3            | 7081897      | 14-Jan-22      | 182843  | Debited in License No. 3111000525/16.08.2021 |
| 4            | 7945985      | 21-Mar-22      | 198113  | Debited in License No. 3111000525/16.08.2021 |
|              | <b>Total</b> |                | 11,75,986/-   |  |

6. Further, Out of 16 B's/Entries, in following 12 B's/Entries, the importer paid the differential duty-IGST of Rs. 18,53,497/- along with applicable Interest

vide Cash No. HCM-372 dt 04.01 2024 and HCM- 373 dt 04.01.2024 respectively. However, **applicable penalty was not paid by the Importer.**

7. Differential Duty paid by the Importer in following B's/Entries as per CL No.464/2023-24-81 dated 25.10.2023 is as detailed below in Table-D:-

**Table-D**

| Sr no.           | BE No.  | BE Date   | Short Paid/Short Levied Duty (IGST) (in Rs.) | Sr no.           | BE No.  | BE Date   | Short Paid/Short Levied Duty (IGST) (in Rs.) |
|------------------|---------|-----------|--|------------------|---------|-----------|--|
| 1                | 7583266 | 4-May-20  | 178159                                       | 7                | 5993097 | 26-Oct-21 | 36560  |
| 2                | 7916589 | 16-Jun-20 | 90127  | 8                | 6342188 | 20-Nov-21 | 34080  |
| 3                | 8531699 | 19-Aug-20 | 132020                                       | 9                | 3983618 | 31-Dec-22 | 266656                                       |
| 4                | 9896200 | 10-Dec-20 | 301378                                       | 10               | 3984403 | 31-Dec-22 | 87342  |
| 5                | 2334238 | 13-Jan-21 | 134325                                       | 11               | 3985363 | 31-Dec-22 | 32840  |
| 6                | 3471031 | 7-Apr-21  | 46528  | 12               | 4249412 | 19-Jan-23 | 513482                                       |
| <b>Sub Total</b> |         |           | <b>882537</b>                                | <b>Sub Total</b> |         |           | <b>970960</b>                                |
| <b>Total</b>     |         |           |  |                  |         |           | <b>18,53,497</b>                             |

**Grand Total (for Table-B & Table-C) = Rs. 11,75,986 + Rs. 18,53,497 = Rs. 30,29,483/-.**

Thus, the total duty short paid by mis-stating the Sr. No. 452N of Schedule-III of the Notification No 01/2017 in the BoE comes to Rs. 30,29,483/- which was paid by the importer during the course of PCA.

**8. Relevant Legal Provisions:**

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 has not been paid correctly.

9. 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:

9.1 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.

9.2 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 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.

(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 willful 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.*

(6) *Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section*

(3), *the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-*

(i) *that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or*

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5).

9.1 SECTION 28AA- Interest on delayed payment of duty

9.2 SECTION 46- Entry of goods on importation, subsection 46(4) reads as:

9.3 Section 111- (Confiscation of improperly imported goods etc.)

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

9.5 SECTION 114A- Penalty for short-levy or non-levy of duty in certain cases.

10 Acts of omission and commission by the Importer:

### **10 Invocation of extended period of demand under section 28(4) of the Customs Act, 1962.**

From perusal of the import data of the importer it is seen that, in this case the importer has self-assessed the Bills of Entry. However, they appears to have Short paid the duty due to Mis-Classification of the goods which are specially/specifically designed to be used in Automobiles under various chapter instead of CTH 8708 and thereby availing wrong BCD and IGST benefit. As the Importer got monetary benefit due to the above said act, it is apparent that the same was done deliberately with an intention to evade duty on the said goods in the Bills of Entry during self-assessment. Therefore, differential duty amount of Rs. 30,29,483/- (Thirty Lakhs Twenty Nine Thousand Four Hundred Eighty Three Rupees), is recoverable from the Importer under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the said Act.

Further, the Importer did not submit any explanation for adoption of different classification for the goods and paid the differential duty and interest in response to the CL issued as detailed in above paras. It also shows that the Importer was aware of the existence of correct classification of the goods. Hence, it appears that the Importer deliberately misclassified the goods with intention to pay lower duty.

Further, the Importer has not replied comprehensibly to the Paras raised. Therefore, from analysis of the circumstantial evidences and previous imports made by the Importer, it is observed that Importer had deliberately mis-classified the impugned goods as mentioned in the Audit Report. Therefore, department is well within their right to demand customs duty for extended period as stipulated under Section 28 (4) of the customs act, 1962.

**11** It is the bounden duty of the importer to ascertain correctness of the duty paid by him. In this case, Importer failed to correctly self-assess the duty on the

impugned goods. Further, it was the responsibility of the Importer to ascertain correctness of the declaration made by him.

Therefore, the impugned goods appear to have been imported in contravention of the section 17(1) as well as Section 46(4) of the Customs Act, 1962.

**12** It appears that the goods imported by the Importer did not match with entries made in the respective Bills of entry files for clearance of the impugned goods. Therefore, it appears that goods have been imported in to India in contravention to provision of the Customs Act, 1962 as enumerated above and thus, appear liable for confiscation under Section 111(m) of the Customs Act, 1962. It appears that the Importer is liable to penalty under Section 112 (a) for rendering the impugned goods liable for confiscation.

**13** Since the Importer was aware of the correct classification of the goods and there was deliberate attempt to misclassify the goods in order to pay lower amount of customs duty. Therefore, it appears that the Importer is liable to penalty under section 114A of the Customs Act, 1962.

#### **RECORDS OF THE PERSONAL HEARINGS AND WRITTEN SUBMISSION**

**14** In order to comply the Principle of Natural Justice, personal hearing letters were issued to the noticee with a request to appear before Adjudicating Authority for personal hearing on 18.06.2025, 11.07.2025 and on 23.07.2025. The importer, vide their letter dated 06.08.2025, authorized Mr. Sanjay Zumbre, Advocate and Consultant, to act, appear, and plead for them in the present matter. Shri Sanjay S. Zumbre, Authorized Representative of the noticee and Shri Ramakrishna Desai, Asstt. Manager of the noticee appeared for personal hearing and reiterated the written submission made by them.

**15** Further, he argued that since it was a bonafide mistake on their part and they have already deposited the duty with interest, no penalty is imposable under section 112 or 114 and therefore, the case may be decided accordingly. The importer in their submission dated 06.08.2025 have made following submissions:

*“Brief facts of the case:*

1) Williams Control India Pvt. Ltd (in short WCIPL), India is located at J-1 S Block, MIDC, Bhosari, Pune-411 0026 and is wholly owned subsidiary of Williams Controls Inc. WCIPL is importing goods from its Group companies and third parties for manufacture of the finished products in the factory at the above address.

2) WCI PL had filed 16 Bill of Entry numbers as mentioned in Table D of the Show Cause Notice for which Consultative Letter No. 464/2023-24-B1 dated 25.10.2023 was issued to the Importer asking the~ to pay the differential duty/short le~ty of Rs. 30,29,483/- along with applicable interest in terms of Section 28(4) of the

Customs Act. 1962. Accordingly a reply dated 30.11.2023 Gl.s submitted to the Audit section and differential duty along with interest of Rs. 18,53,497 /- was paid along with applicable Interest vide Cash No. HCM-372 dt 04.01.2024 and HCM- 373 dt 04.01.2024 respectively.

3) Out of the above 16 Bill of entires, 4 bill of entries Nos.-- 6486201 dt 01.12.2021; 6759918 dt 20.12.2021; 7081897 dt 14.01.2021 & 7945985 dt 21.03.2022, were pertaining to Advance License and the same has been debited in License No. 3111000525/16.08.2021 for the differential duty amounting to Rs.11,75,986/-. Hence total duty paid for 12 bill of entries was Rs. 18,53,497 /- and for the remaining 4 Advance Bill of entries Rs.11,75,986/-(Total Rs. 18,53,497/- + Rs.11,75,986/- = Rs. 30,29,483/- with interest during the course of PCA.(Please refer to Annexure I)

4) During Post Clearance Audit, it was noticed that the importer has mentioned Sr. No. 452N of Schedule-III of the Notfn No 01/2017 as "Hydraulics and its parts thereof for tractors" on which IGST was leviabale at 18%. However as per the show cause notice they were "Parts and accessories of the motor vehicle of headings 8701 to 8705 [other than specified parts of tractors]" falling under Sr. No. 170 of Schedule IV of the Notification No 01/2017-(Integrated Tax Rate) dated 28.06.2017 leviabale under 28% IGST.

5) The imported parts were used in the process of manufacture and were such that they could be used for both in the Tractors as well as Automobiles. During the relevant time after the goods were manufactured they were exported. While importing the goods it was not known where these goods would be ultimately used for Tractors or other automobiles. We import Solenoids and other parts and manufacture Sensors and Pedals and the same is exported to our Group Company Arens, USA, where they sell the goods to the Authorized Distributors, who further sell it to the OEMS and ultimate customers. Hence it is not known in advance, for what purposes the goods were used i.e. to be used in tractors or automobiles. We tried to get the end use certificates but it was difficult as the chain in the selling line was quite long.

6) On export of these goods, they were claiming IGST refund. Hence there was no loss to the exchequer as whatever IGST was paid while importing, we were getting refund of it when the goods were exported.

7) Hence they have paid the entire differentiaJ duty along with interest. However it would be wrong to presume that all the goods imported have been used in the Automobiles - and some parts may have gone in Tractors also.

8) Hence it is wrong to presume that they have malafide intentions to evade the duty. The goods are being exported and we are eligible for refund of IGST on imported goods and the goods are also imported under Advance License. It is the nature of our business that we do not know in advance which goods are going to

be used in Tractors and in Automobiles and also it is difficult to get the end use certificates from our end use customers.

9) Even though the CSH for imported goods is shown as 87089900 as parts of Tractors still there is no malafide intention as they are mentioning it as Parts of Automobiles and not as parts of Tractors. It is a bonafide mistake.

10) **It is mentioned in the Show Cause Notice in para 4.2 that a Show Cause Notice No. 464/2023-24 B1 dt 25.10.2023 was issued covering Rs. 30,29,483/-, mentioned** in the present SCN. It seems no such SCN has been issued and if it issued then the present SCN becomes superfluous and should be set aside on this ground itself.

11) The SCN mentions Section 17(1) whereby the responsibility of self-assessment is of the assess and if he has not correctly declared the classification, due to which there is short payment of duty, then he is liable under Section 28(4) of the Customs Act, for suppression and mis-statement along with interest under Section 28AA of the Customs Act. Also penalty under Section 112 and 114 A is imposable.

#### 16 **Submissions**

**A.** At the outset it is important to bring to notice the Business model, we are following. We import arm lever, other parts and Solenoids under Advance Licence and some items on payment of IGST. These parts are used captively to manufacture Pedals and Sensors which can be used in Tractors and ' Automobiles. We all know that the pedals and sensors are used as accelerators and can be used both in Tractors and Automobiles. When we were importing the parts for captive consumption .. and on the pedal and sensors were manufactured all such good were exported. The goods were exported to our Group Company Arens USA. Our Group Company were selling it to their authorized dealers in USA, who in turn would sell to OEMS. Hence it cannot be not know while importing the parts that after the finished goods are exported where it would be used.

**B.** It can be seen from the above explanation that we do not have any malafide intention to evade the duty and we have not wrongly classified the goods for claiming any benefit or to make loss to the Exchequer. Once the Pedals and Sensors are exported we claim refund on the IGST paid while importing the parts. Hence even if we pay 18% or 28%, we are going to get refund of the same. We have not misused or paid wrong Basic Customs Duty, but the bonafide mistake has happened for IGST for which we are claiming refund. (Please refer to Annexure II).

**C.** If we refer to the Bill of Entry nos. 3864535 dated 22/12/2022 and likewise other bill of entries mentioned in the SCN, it can be seen that the items in the description is mentioned as "Rev. A Body Sensor (ALITO PARTS FOR CAYFIVE CONSUMPTION) OR Rev B Arm Lever(ALITO PARTS FOR CAYFIVE CONSUMPTION (Please refer to Annexure IV). Nowhere it is written that the Parts were (Parts of Tractors). Hence if there was any malafide intention to evade duty and take

wrongful gain then such bonafide mistakes could not have been made. It clearly shows that by bonafide mistake the goods were shown as "Rev. A Body Sensor (AUTO PARTS FOR CAPTIVE CONSUMPTION) OR Rev B Arm Lever (AUTO PARTS FOR CAPTIVE CONSUMPTION) OR Rev B Arm Lever (AUTO PARTS FOR CAPTIVE CONSUMPTION), however claimed benefit under 18%.

**D.** The GST law was introduced in 2017 and in the initial period 2017 to 2021, there was lot of confusion in trade and same type of bonafide mistakes has been made by several companies and should not be considered as an act to evade duty or misclassification of goods.

**E.** The Dept. has not brought any deliberate evidences to show that there was wilful suppression or mis-statement to evade duty. The SCN just relies on the fact that the goods have been mis-classified to claim undue benefit. The Dept has not investigated the case properly to come with a positive evidence to show that the classification was wrongly done to claim the benefit. It has been held by Hon'ble Tribunal in Stonex India Pvt Ltd-vs\_commissioner of Customs Mundra (2024) 25 Centax 359 (Tri.-Ahmd), that wrong claim of classification or claim of exemption under wrong notification could not be treated as mis-declaration; hence, goods were not liable for confiscation nor was redemption fine and penalty imposable.

**F.** Had they investigated the case properly they could have got the evidences that all the imported goods after manufacture are exported and on which refund of IGST is claimed. Hence there is revenue neutrality and hence the allegation of wrongful availment of benefit would not stand the test of the time. It has been held in CCE Pune vs Coca / Cola India Pvt. Ltd. (Please refer to Annexure VI), by the Hon'ble Supreme Court that, if there was no evasion of duty or no actual export/import loss, harsh penalties should be waived. Hence if the Dept. has not suffered any revenue loss it should not impose hard punishment.

**G.** For invoking Section 28(4) of the Customs Act, strict care should be taken as held by decisions of various case laws. The onus of proof is on the Dept and the Dept. should prove that there was omission and commission on the part of the assessee and that there was collusion, misstatement or suppression of facts. In the case on hand it is mentioned above that we have clearly mentioned in the Bill of entries ""Rev. A Body Sensor (AUTO PARTS FOR CAPTIVE CONSUMPTION) OR Rev B Arm Lever(AUTO PARTS FOR CAPTIVE CONSUMPTION, however classified under the parts of Tractors entry of the notification. Hence it is a bonafide mistake and should be condoned, moreover keeping in view that it is revenue neutral as we are claiming the I GST refund of the duties paid during the imports. It has been held in Padmini Products vs CCE 1989 (43) E.L.T. 195 (S.C.) by the Hon'ble Supreme Court that, for invoking extended period of five years limitation duty should not had been paid, short-levied or short paid or erroneously refunded because of either any fraud, collusion or wilful misstatement or suppression of facts or contravention of any provision of the Act or Rules made thereunder. These

ingredients postulate a positive act, therefore, failure to pay duty or take out a licence is not necessary due to fraud or collusion or willful mis-statement or suppression of facts or contravention of any provisions of the Act. Likewise suppression of facts is not failure to disclose the legal consequences of a certain provision. Though the case pertains to the Central Excise still the provisions are para materia to Section 28(4) of the Customs Act and hence applicable in the present case as there was no suppression or misstatement but bonafide mistake. The imported goods were clearly mentioned in the Bill of Entries as used for automobiles but wrongly claimed concessional rate of duty. If there was malafide intention then instead of mentioning for Automobiles, we could have mentioned used for tractors.

**H.** Similarly it has been held by the Hon'ble Supreme Court in *Uniworth Textiles Ltd. Vs CCE Raipur 2013 (288) E.L.T. 161 (S.C.)* (Please refer to Annexure VIII) that, for invoking suppression, fraud and five years extended period, positive action betraying negative intention of wilful/ deliberate default is mandatory prerequisite- Use of "willful" introduces mental element, requiring look into mind of noticee by gauging their actions - Observation not founded on any material fact/ evidence, is not sufficient - Section 28 of Customs Act, 1962. - In our opinion, the main , body of the Section, in fact, contemplates ordinary default in payment of duties and leaves cases of collusion or wilful mis-statement or suppression of facts, a smaller, specific and more serious niche, to the proviso. Therefore, something more must be shown to construe the acts of the appellant as fit for the applicability of the proviso.

**I.** The SCN proposes to impose penalty under Section 112(a) of the Customs Act. The penalty cannot be imposed under Section 112(a) of the Customs Act as there is no violation of Section 111 of the Customs Act. The issue in this case is as regards classification and not improper importation. Further in this case it is shown above that the mistake of classifying the goods under wrong entry was not deliberate as though goods were classified under list III of the notification for 18% on the bill of entry it was mentioned that the goods were to be used in automobiles and not tractors.

**J.** The SCN proposes to impose penalty under Section 114A of the Customs Act. From the above facts it is demonstrated that there was a bonafide mistake and hence the extended period is not applicable. It has been held by the Hon'ble Supreme Court in *Pahwa Chemicals vs CCE 2005(189) ELT 257 (SC)* (Please refer to Annexure IX) that the penalty under Section nAC of Central Excise Act (Section 114A is para materia) is not proved.

**K.** It was held in *Devans Modern Breweries vs CCE 2006(202) ELT 744csc* (Please refer to Annexure X), by the Hon'ble Supreme Court that, Penalty can be imposed under Section 114A of the Customs Act of suppression of facts, wilful mis-statement etc. Hence SCN must indicate as to which of the various acts of

*commission and omission stated in proviso to section 11(1) have been committed. Mere general SCN is not sufficient.*

*L. It was held by the Hon'ble Supreme Court in the case of CCE vs Indian Aluminum (2010) 259ELT 12(SC) (Please refer to Annexure XI), that penalty under Section 114A of the Customs Act (Parallel provision under Section 11 AC of Central Excise Act) is punishment for an act of deliberate deception by the assessee with the intent to evade duty. In case of bonafide mistake Section 114A of the Customs Act is not applicable.*

*M. In CCE vs Pepsi Foods Ltd.(2011)250 ELT 481(Please refer to AnnexureXII) by 3 member bench of Hon'ble Supreme Court it has been confirmed that mens rea is necessary is necessary ingredient for imposing penalty under Section 114 A of the Customs Act.*

*N. While concluding we say and submit that based on our aforesaid submissions, the proceedings may be dropped forthwith.*

*O. The penalty under Section 112(a) and Section 114 A should not be imposed as there is no suppression of facts or malafide intention.*

*P. Any other order deem fit.*

*Q. We reserve our right to add, amend or alter the submission at the time of PH.*

*R. We further seek PH in the matter.”*

**16** The importer vide letter dated 19.12.2025 requested for additional submission and personal hearing and were allowed for the same and were issued personal hearing letter. In response they attended the personal hearing in person on same day and pleaded that penalty is not leviable in their case as there was no intent to evade any duty and therefore their case may be processed accordingly. In this connection they did not submitted any further submission and reiterated their submission made earlier both in written and during personal hearing.

### **DISCUSSION AND FINDINGS**

**17** I have gone through the facts of the case, material on case records, including the import documents and the submissions made by the Importer during personal hearings, I find that the following facts emerge:

**18** M/s. Williams Controls India Pvt. Ltd (IEC-3110007002) imported multiple consignments as detailed in Tables A to D of the subject Show Cause Notice (SCN) dated 14.05.2025. The goods were imported by way of mentioning incorrect Sr. No. 452N of Schedule III of Notification No 01/2017-(Integrated Tax Rate) dated 28.06.2017 instead of Sr. No. 170 of Schedule IV of Notification No. 01/2017-(Integrated Tax Rate) dated 28.06.2017 short paid total duty of Rs. 1,64,202/ (as per CL 381/2023-24-81 dt 07.09.2023) and Rs. 30,29,483/- (as per CL No 464/2023-24 B1 dt 25.10.2023).. Audit scrutiny revealed

misclassification of the imported goods resulting in short payment of customs duty aggregating as detailed above. The SCN proposed recovery of differential duty of Rs. **30,29,483/- (Rupees Thirty Lakhs Twenty Nine Thousand Four Hundred Eighty Three Only)** under Section 28(4) of the Customs Act, 1962, interest under Section 28AA and imposition of penalties under Sections 112(a) and 114A.

18.1. Now, on a careful perusal of the Show Cause Notice and case records, I find that following main issues are involved in this case which are required to be decided:

**(i) Whether the differential duty amounting to Rs. Rs. 30,29,483/- (Rupees Thirty Lakhs Twenty Nine Thousand Four Hundred Eighty Three Only) is recoverable under Section 28(4) and the above amount which is already deposited by the Importer as duty is to be appropriated against the above said demand of duty.**

**(ii) Whether interest is payable under Section 28AA.**

**(iii) Whether penalty under Sections 112(a) and 114A is imposable.**

**19** After having identified and framed the main issues to be decided, I now proceed to examine each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN; provision of the Customs Act, 1962, as well as Noticee' written and verbal submissions and documents / evidences available on record.

**20** The importer in their submission claimed that while importing the goods it was not known where these goods would be ultimately used for Tractors or other automobiles, and have not provided the end use certificates and hence not provided correct/proper declaration during importation. Further, the importer in their submission,

a) At point E of Para 16, they have quoted the case of M/s Stonex India Pvt Ltd-Vs\_Commissioner of Customs Mundra (2024) 25 Centax 359 (Tri.-Ahmd), that wrong claim of classification or claim of exemption under wrong notification could not be treated as mis-declaration; hence, goods were not liable for confiscation nor was redemption fine and penalty imposable. The quoted case is based on importation with analysis report without testing done for each consignment and different from the present case where the importer has Short paid the duty due to Mis-Classification of the goods which are specially/specifically designed to be used in Automobiles under various chapter instead of CTH 8708 and thereby availing wrong BCD and IGST benefit.

b) At point F of Para 16, they have quoted the case of CCE Pune vs Coca /Cola India Pvt. Ltd. (Civil Appeal No. 6525-6526 of 2001 decided on 25.4.2007). The quoted case has no revenue implication whereas in the present case duty is short paid by way of Mis-Classification of the goods which are specially/specifically designed to be used in Automobiles under various chapter instead of CTH 8708 and thereby availing wrong BCD and IGST benefit. Also in the present case the importer in their submission have claimed that they did not provided the end use certificates as clearly mentioned at point 5 of Para 15 and hence not provided correct/proper declaration during importation. Hence the present case is different and clearly have revenue implication as detailed above.

c) At point G of Para 16, the Importer have quoted the judgement in the case of M/s Padmini Products vs CCE 1989 (43) E.L.T. 195 (S.C.) which is different from the present case where duty is short paid by way of Mis-Classification of the goods which are specially/specifically designed to be used in Automobiles under various chapter instead of CTH 8708 and thereby availing wrong BCD and IGST benefit.

d) At point H of Para 16, they have quoted the case of M/s Uniworth Textiles Ltd. Vs CCE Raipur 2013 (288) E.L.T. 161 (S.C.) which is different from the present case as the present case has duty implication and the importer has not given end use certificate as clearly mentioned in Para 5 of their submission for the imported items and claimed lower duty as detailed above.

## **21. Liability for Confiscation under Section 111(m):**

a. Section 111 of the Customs Act, 1962 prescribes confiscation of improperly imported goods. Clause (m) thereof provides that “any goods which do not correspond in respect of value or in any other particular with the entry made under this Act” shall be liable to confiscation. The legislative intent behind Section 111(m) is to ensure veracity and accuracy of the particulars declared in the Bill of Entry, including value, quantity, description, classification and rate of duty.

b. In the instant case, I find that M/s Pur Energy Private Limited imported various items under the self-assessment procedure but misdeclared the classification headings (CTHs) in respect of Epoxy Plates, Aging Machines, Spot-Welding Machines and Cell Holders, thereby applying incorrect rates of Basic Customs Duty and IGST. The importer declared lower-rate tariff entries despite having previously imported identical goods under correct CTHs. This conscious and deliberate misdeclaration of classification and duty rate constitutes a material misstatement attracting the provisions of Section 111(m) of the Act. Hence, the goods imported under the Bills of Entry enumerated in Tables A to D of the Show Cause Notice are held liable to confiscation under Section 111(m).

c. However, it is noted that the subject goods have already been cleared and are not physically available for seizure. On the issue whether redemption fine can still be imposed in such circumstances, I rely upon the ratio of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Ltd. [2018 (9) G.S.T.L. 142 (Mad.)], wherein it was held as under:

“The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields... The availability of the goods is not necessary for imposing the redemption fine. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act... Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.”

d. The above legal view was subsequently followed by the Hon'ble Gujarat High Court in M/s Synergy Fertichem Pvt. Ltd. [2020 (33) G.S.T.L. 513 (Guj.)], reaffirming that redemption fine may be imposed even where the goods are no longer physically available, provided that confiscation is otherwise authorized under the Act. These decisions remain unchallenged and are therefore good law.

e. I further note that the judgment of the Hon'ble Madras High Court in Visteon Automotive Systems India Ltd. (supra) relied upon the earlier decision of the Hon'ble Bombay High Court in Finesse Creations Inc. [2009 (248) E.L.T. 122 (Bom.)], affirmed by the Hon'ble Supreme Court [2010 (255) E.L.T. A120 (S.C.)], which held that the power to impose redemption fine flows from the authority to confiscate under Section 111 and does not depend on physical custody of the goods.

f. In view of the above judicial pronouncements, I hold that though the goods imported by M/s Pur Energy Private Limited are not available for confiscation, the act of misdeclaration has rendered them liable for confiscation under Section 111(m). Therefore, a redemption fine is imposable under Section 125 of the Customs Act, 1962, as the importer's misdeclaration of classification and IGST applicability constitutes a material variance “in any other particular” within the meaning of Section 111(m).

**22. Differential duty totally amounting to Rs. 30,29,483/- (Rupees Thirty Lakhs Twenty Nine Thousand Four Hundred Eighty Three Only), as illustrated in Table A to Table D**

a. I find that the importer, in the instant case, has self-assessed the Bills of Entry. However, they appears to have Short paid the duty due to Mis-Classification of the goods which are specially/specifically designed to be used in Automobiles under various chapter instead of CTH 8708 and thereby availing wrong BCD and IGST benefit. As the Importer got monetary benefit due to the above said act, it is apparent that the same was done deliberately with an

intention to evade duty on the said goods in the Bills of Entry during self-assessment. Therefore, differential duty amount of Rs. 30,29,483/- (Thirty Lakhs Twenty Nine Thousand Four Hundred Eighty Three Rupees) is recoverable from the Importer under Section 28(4) of the Customs Act, 1962.

### **23. Interest under Section 28AA of the Customs Act, 1962.**

a. As per the provisions of Section 28AA of the Customs Act, 1962, any person who is liable to pay duty in accordance with Section 28 shall, in addition to such duty, be liable to pay interest at the rate specified under sub-section (2) of Section 28AA, irrespective of whether such payment is made voluntarily or after determination of the duty.

b. The statutory intent of Section 28AA is clear and mandatory — whenever there is a short-levy or short-payment of duty, the interest liability arises automatically as a consequence of such non-payment or delayed payment. The provision does not require any independent mens rea or separate adjudication.

c. In the present case, I have already held in the preceding paragraphs that the differential customs duty amounting to **Rs. 30,29,483/- (Thirty Lakhs Twenty Nine Thousand Four Hundred Eighty Three Rupees)** is recoverable from M/s. Williams Controls India Pvt. Ltd (IEC-3110007002) under Section 28(4) of the Customs Act, 1962,. Accordingly, in terms of Section 28AA, interest on the aforesaid amount of differential duty is also recoverable from the importer, calculated from the date of short-payment till the date of actual payment.

### **24. Penalty under Sections 112(a) and/or 114A of the Customs Act, 1962:**

a. I find that the importer, in the instant case, has wilfully misdeclared the classification of imported goods under incorrect Customs Tariff Headings (CTHs) with the intention to Short pay the duty due to Mis-Classification of the goods which are specially/specifically designed to be used in Automobiles under various chapter instead of CTH 8708 and thereby availing wrong BCD and IGST benefit, thereby claiming lower rates of duty than those actually applicable.

b. It is pertinent to note that the scheme of self-assessment, introduced vide the Finance Act, 2011 and codified under Section 17(1) of the Customs Act, 1962, casts an obligation on every importer to correctly assess the duty leviable on imported goods. Further, under Section 46(4) of the Act, the importer must declare truthfully the description, classification, value, and other particulars of the imported goods in the Bill of Entry, and subscribe to a declaration as to the accuracy and completeness of such particulars.

c. In the present case, the importer has failed to fulfil these obligations. They have misclassified goods which are specially/specifically designed to be used in Automobiles under various chapter instead of CTH 8708 and thereby availing wrong BCD and IGST benefit This clearly demonstrates a deliberate and

conscious misstatement with an intent to pay lesser duty. By such acts of omission and commission, M/s. Williams Controls India Pvt. Ltd (IEC-3110007002) **has rendered the impugned goods liable for confiscation under Section 111(m)** of the Customs Act, 1962, and thereby made themselves liable to penalty under Section 112(a) for improper importation of dutiable goods.

**d.** Since the improper importation of goods has also resulted in short levy of customs duty, which has been demanded under Section 28(4) of the Customs Act, 1962, the importer is further liable to penalty under Section 114A of the Act. However, it is observed that penalties under Sections 112(a)/112(b) and 114A are mutually exclusive. The fifth proviso to Section 114A specifically provides that where a penalty is imposed under Section 114A, no penalty shall be imposed under Section 112 or Section 114 in respect of the same act or omission. I also accept the submission of the Importer that they have paid all the applicable duty along with interest once the issue was pointed by the Department and has also accepted that this was a bonafiede mistake on their part.

**25.**In view of the above discussions, I pass the following order:

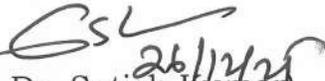
**ORDER**

I.I confirm the demand and order to recover the differential duty amounting to Rs. 30,29,483/- (**Rupees Thirty Lakhs Twenty Nine Thousand Four Hundred Eighty Three Only**), from M/s. Williams Controls India Pvt. Ltd (IEC-3110007002) under Section 28(4) of the Customs Act, 1962, along with interest under Section 28AA from the date of short-payment till the date of actual payment and I also order to appropriate the amount of duty and amount of interest already deposited by the Importer/Noticee against the above mentioned demand of duty and interest.

II.I impose a penalty of Rs. Rs. 30,29,483/- (**Rupees Thirty Lakhs Twenty Nine Thousand Four Hundred Eighty Three Only**) and interest under Section 114A of the Customs Act, 1962 on M/s. Williams Controls India Pvt. Ltd (IEC-3110007002); Provided that where such duty or interest, as the case may be, as determined under section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of this order, 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 proviso to Section 114A of the Customs Act, 1962.

**III.**Since penalty has been **imposed under Section 114A, no penalty is imposed under Section 112(a) as discussed in para 24 (d) above.**

**26..** This order is issued without prejudice to any other action that may be taken against the said company or persons or any other companies or persons concerned with the said goods, under the Customs Act, 1962, and /or any other law for the time being in force in the republic of India.

  
(डॉ. सतीश कुमार / Dr. Satish Kumar)

अतिरिक्त आयुक्त, सीमा शुल्क / Additional Commissioner of Customs

ग्रुप-VB, एनएस-V, जेएनसीएच / Gr.VB, NS-V, JNCH

To,

M/s. Williams Controls India Pvt. Ltd

(IEC-3110007002)

J-1, S-Block, MIDC, Bhosari,

Pune-411026.

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