

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V)
सीमाशुल्कआयुक्त (एनएस - V) का कार्यालय
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
TALUKA – URAN, DISTRICT - RAIGAD, MAHARASHTRA -400707
तालुका - उरण, जिला - रायगढ़ , महाराष्ट्र 400707

DIN – 26251178 NX 0000114677

Date of Orde:18.11.2025

F. No. S/10-133/2024-25/COMMR/GR-VA/NS-V/CAC/JNCH **Date of Issue:18.11.2025**

SCN No.: 1406/2024-25/COMMR/GR-VA/CAC/JNCH

SCN Date: 19.11.2024

Passed by: Sh. Anil Ramteke

Commissioner of Customs, NS-V, JNCH

Order No:270/2025-26/COMMR/NS-V/CAC/JNCH

Name of Noticees: M/s. MAHINDRA SUSTEN PRIVATE LIMITED(IEC-0310067731)

ORDER-IN-ORIGINAL

मूल - आदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D'Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम 1962 की धारा 129 (ए) के तहत इस आदेश के विरुद्ध सी.ई.एस.टी.ए.टी., पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच), 34, पी. डी'मेलो रोड, मस्जिद (पूर्व), मुंबई - 400009 को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal:-

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - सीए3, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

Time Limit - Within 3 months from the date of communication of this order.

समय सीमा - इस आदेश की सूचना की तारीख से 3 महीने के भीतर

Fee - फीस-

- (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.
- (क) एक हजार रुपये जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये या उस से कम है।
- (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 Lakh.
- (ख) पाँच हजार रुपये - जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये से अधिक परंतु 50 लाख रुपये से कम है।
- (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
- (ग) दस हजार रुपये - जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 50 लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favor of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति - क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीय कृत बैंक द्वारा सहायक रजिस्ट्रार, सी.ई.एस.टी.ए.टी., मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, 1962, सीमाशुल्क (अपील) नियम, 1982, सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, 1982 का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्ति का 7.5 % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, 1962 की धारा 129 E के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Subject: Adjudication of Show Cause Notice No. 1406/2024-25/COMMR/Gr. VA/CAC/JNCH dtd. 19.11.2024 issued to M/s Mahindra Susten Private Limited (IEC-0310067731) – reg.

1. BRIEF FACTS OF THE CASE

1.1 It is stated in the Show Cause Notice (SCN) No. **1406/2024-25/COMMR/Gr. VA/CAC/JNCH dtd. 19.11.2024** that **M/s Mahindra Susten Private Limited (IEC-0310067731)** having address at ‘Mahindra Towers, Dr. G.M. Bhosale Marg, P. K. Kurne Chowk, Worli Mumbai, Maharashtra, 400 018 (hereinafter referred to as ‘the importer’) had cleared their imported items as per Table-A (hereinafter referred to as ‘the subject goods’) vide bill of various Entry nos, filed by CHAs as mentioned in Annexure -A, by classifying the same under CTH-85044090. The IGST paid on the said item was 5% as per Serial No. 234 of Schedule- I of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017.

‘TABLE-A’

BE Number/ Date	Full Item Description	Assessable Value Amount	BCD Amount	Total Duty Amount	SWS @10%	IGST paid @5%	IGST payable @18%	Differenti al duty
9307564 24/10/2020	SUPPLY OF SOLAR INVERTER	121120312.5	6056016	13050714	605601.6	6389096	23000747.3	16611651
5728534 18/11/2019	SUPPLY OF SOLAR INVERTER	12038400	1203840	1992355	120384	668131.2	2405272.32	1737141
7447699 14/04/2020	SUPPLY OF SOLAR INVERTER (41515312.5	2075766	4473275	207576.6	2189933	7883757.84	5693825
2024289 19/12/2020	SUPPLY OF SOLAR INVERTER	96319687.5	9631969	15940908	963196.9	5345743	19244673.6	13898931
3215078 19/03/2021	SUPPLY OF SOLAR INVERTER	107549437.5	2150988 8	30221392	2150989	6560516	23617856.5	17057341
8747104 08/09/2020	SUPPLY OF SOLAR INVERTER	107445000	5372250	11577199	537225	5667724	20403805.5	14736082

1.2 However, it is noticed that the said Sr. No provides 5% IGST for the goods classifiable under chapter 84, 85 and 90, whereas the benefit of IGST for the goods described at Sr. no. I-234 of Notification no. 01/2017- Integrated Tax (Rate) dated 28.06.2017 is available to the following goods-

Following renewable energy device & parts for their manufacture-

- (a) Bio-gas plant
- (b) Solar power-based devices
- (c) Solar power generating system
- (d) Wind mills, Wind Operated Electricity Generator (WOEG)
- (e) Waste to energy plants / devices
- (f) Solar lantern / solar lamp
- (g) Ocean waves/tidal waves energy devices/plants

1.3 It is further noticed that importer is not involved in manufacturing process and still the importer has claimed IGST Sr. no. I-234 of Notification No. 01/2017 dated 28.06.2024 instead of IGST on the imported goods to be paid @ 18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017. Therefore, the goods imported by the importer attracts levy of IGST @18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 under CTH 85044090. The details of description of goods, Bills of Entry, applicability of correct IGST amount, are as per Table -A above.

1.4 Hence, it appears that the importer had willfully mis-declared the subject goods by way wrong IGST Schedule for the purpose of importing the same, declaring IGST @5% as per Sr. No. 234 of Schedule-I instead of 18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 under CTH 85044090, thereby paying lower duty than applicable and thus the provisions of Section 28 (4) are invokable in this case.

1.5 Accordingly, a Consultative Letter No. 38/24-25 (DIN No. 20240478NY0000910431) issued vide F. No. Audit-Gen-128/2023-24/JNCH/ADMN dated 23.04.2024 was issued to the importer for payment of short levied duty along with applicable interest and penalty. Vide the aforementioned Consultative letter, the importer was advised to pay the Differential IGST along with interest and penalty in terms of Section 28(4) of the Customs Act 1962. The importer was further advised to avail the benefit of lower penalty in terms of Section 28(5) of the Customs Act, 1962, by early payment of short paid IGST duty and interest along with penalty @15%. The Consultative letter was issued considering the Pre-Notice Consultation Regulations, 2018. However no reply of the above mention CL has been received from the importer till date.

1.6 As per the SCN, the relevant legal provisions for recovery of duty that appeared to be evaded are reproduced here:

1.6.1 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.

1.5.2 Further, the extracts of the following relevant provisions of the Customs Act, 1962 for the time being in force relating to import of goods, recovery of duties, liability of the goods to confiscation and the persons concerned to penalty for improper importation, were mentioned in the subject SCN. The same are not reproduced in this Order-in-Original for the sake of brevity:

- Section 17(1) - Assessment of duty.
- Section 28 - Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.
- Section 28(AA)- Interest on delayed payment of duty.
- Section 46 - Entry of goods on importation.
- Section 111(m) & 111(o) - Confiscation of improperly imported goods, etc.
- Section 112 - Penalty for improper importation of goods etc.
- Section 114A - Penalty for short-levy or non-levy of duty in certain cases.

1.7 As per section 17(1) of the Act, “An Importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.” Thus, in this case the importer had self-assessed the Bills of Entry and appears to have Short-levy of IGST due to wrong selection of IGST Schedule. As the importer got monetary benefit due to said act, it is apparent that the same was done deliberately by willful misclassification of the said goods in the Bills of Entry during self-assessment. Therefore, differential duty 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.

1.8 It appears that the importer has given a declaration under section 46(4) of the Act, for the truthfulness of the content submitted at the time of filing Bill of Entry. However, the applicable IGST rate on the subject goods was not paid by the Importer at the time of clearance of goods. It also appears that the Importer has submitted a false declaration under section 46(4) of the Act. By the act of presenting goods in contravention to the provisions of section 111(m), it appears that the importer has rendered the subject goods liable for confiscation under section 111(m) of the Act. For the above act of deliberate omission and commission that rendered the goods liable to confiscation. Accordingly, the Importer also appears liable to penal action under Section 112 (a) and /or 114 A and of the Customs Act, 1962.

1.9 From the foregoing, it appears that the Importer have willfully misclassification the goods; that the Importer have submitted a false declaration under section 46(4) of the said Act. Due to this act of omission of Importer, there has been loss to the government exchequer equal to the differential duty.

1.10 In view of the above, vide Show Cause Notice No. 1406/2024-25/COMMR/Gr. VA/CAC/JNCH dtd. 19.11.2024, M/s Mahindra Susten Private Limited (IEC-0310067731), was

called upon to show cause to the Commissioner of Customs (NS-V), Jawaharlal Nehru Custom House, Nhava Sheva (the Adjudicating Authority), as to why:

- i. The IGST rate claimed under Schedule- I, Sr. No. 234 of IGST levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 for the subject goods should not be rejected.
- ii. The IGST rate @18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 *under CTH 85044090* should not be levied.
- iii. Differential IGST amount of Rs. 6,97,34,971/- (Rupees Six Crore Ninety Sven Lakh Thirty Four Thousand Nine Hundred and Seventy One only) with respect to the items covered under Bill of entry as mentioned in Annexure A to this notice should not be demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.
- iv. The subject goods as detailed in Table-A to this notice having a total assessable value of Rs. 48,59,88,150/-(Rupees Forty Eight Crore Fifty Nine Lakh Eighty Eight Thousand One Hundred Fifty Only) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- v. Penalty should not be imposed under Section 112(A) & 114(A) of the Customs Act, 1962.

2. WRITTEN SUBMISSION OF THE NOTICEE

2.1 The Noticee, M/s Mahindra Susten Private Limited (IEC-0310067731) vide their letter dated 03.12.2024 gave written reply to the subject SCN. Vide the above reply, they denied all the allegations made in the SCN and stated interalia as under:

2.1.1 No response to Consultative Letter: The Company hereby make submission that company replied to the consultative letter no. 38 dated 23.04.2024, vide email dated 08-05-2024. The reply was sent from email id of undersigned viz: gupta.divyakumar@mahindra.com to e-mail id : audit-jnch@gov.in. The email id was mentioned on the issuing authority (Office of the Commissioner of customs) Consultative letter. However, the Asst. Commissioner of Customs, E-2 Circle, Audit Commissionerate, JNCH, Nhava Sheva, Mumbai Zone-II, didn't take into the consideration the reply furnished through email and totally ignored the same. Along with the reply, e-mail contained Bill of Entry, Bill of Lading, Commercial Invoice, Packing List and Certificate of Origin. The Company hereby submits the copy of email body along with documents attached in the said reply as **Annexure I**.

2.1.2 Solar Power Generating System.

(i) GST law or Customs Act, does not define Solar Power Generating System. Solar power generating system generally are the **systems** which absorb sunlight and convert it into electricity. As per the Oxford Dictionary, the definition of the term ‘system’ is “a complex whole, a set of things working together as a mechanism or interconnecting network. Hence, system typically includes various components/parts which are manufactured/assembled together for performing a function. A typical Solar Power Generating System includes following components/inputs: Inverter, Transformer, Solar Modules, Cables, MS/SS Structures

(ii) It is pertinent to note that ITC-HS Classification doesn’t contain specific entry of “Solar Power Generating System”. There is no known on-the shelf product available as “Solar Power Generating System” available in the market. However, for the purpose of GST the company classify “Solar Power Generating System” under Tariff Code 8502 3990 (Electric Generating Sets-Others). A “Solar Power Generating System” comes into existence only when all the components/inputs of it viz Solar Modules, Solar Inverter, Transformer, Cables, HT Panels, MS/SS Structures, etc are put to together by way of Erection, Commissioning and Installation Services. It is only when all these components are interlinked with each other a working “Solar Power Generating System” comes into existence.

2.1.3 Activity of Manufacture.

(i) Serial No. I-234 of Notification No.01/2017- Central Tax (Rate) dated 28.06.2017, read as follows:

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
(1)	(2)	(3)
234.	84 or 85	Following renewable energy devices & parts for their manufacture (a) Bio-gas plant (b) Solar power based devices (c) Solar power generating system (d) Wind mills, Wind Operated Electricity Generator (WOEG) (e) Waste to energy plants/devices (f) Solar lantern/solar lamp (g) Ocean waves/tidal waves energy devices/plants

As per the entry, any parts falling under Chapter 84 or 85 which goes into the **manufacture** of Solar Power Generating System would be eligible for 5% IGST.

(ii) The term “**manufacture**” has been defined under Section 2(72) of the CGST Act, 2017, which is as follows:

*"manufacture" means processing of raw material or **inputs** in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly;*

Section 2(59) of the CGST Act, 2017 defines "**input**" as "*input*" means any goods other than capital goods used or intended to be used by a supplier in the course of furtherance of business.

(iii) As per the **Oxford English dictionary** the word **Process** means "*a series of things that are done in order to achieve a particular result*".

(iv) In the instant case various **Inputs** (like Solar Modules, Solar Inverter, Cables, Transformer, MS/SS Structures) are processed in form of activities of Erection, Installation and Commissioning (*a series of things*) with each other that results in the emergence of "Solar Power Generating System" having new identity, name and use in the trade and industry.

Before all the Inputs are put together, there is no separate identity of "Solar Power Generating System".

(v) These Inputs (specifically Solar Inverter in instant case) are used by the company in the **course of furtherance of business**. The company is into the business of Supplying "Solar Power Generating System" to its customers. Without an Solar Inverter a "Solar Power Generating System" doesn't came into existence as same is an crucial component of entire Solar Power Generating System as it converts DC current to AC current, which makes the power commercially viable.

(vi) Section 2(72) of the CGST Act, 2017 defining the term manufacture specifically says that "*manufacture" means processing of or **inputs** in any manner.....*". Thus definition doesn't specify that raw material or input should be processed in specific manner. Here Inputs are processed in the form of Erection, Installation with each other and in Commissioning form. What is crucial is that there should be "*emergence of new product having distinct character, name and use*", which is also satisfied by the activities undertaken by Company.

(vii) We would here also rely on the judgement of Hon'ble Supreme Court in the matter of Commissioner of Central Excise Vs. Solid and Correct Engg Works & Ors. – 2010 (252) ELT 481 (SC). In the said case the assessee was engaged in the manufacturing of Asphalt Drums/Hot Mix Plants at the sites provided by the purchasers of such plants and also undertook its erection, installation and commissioning at the customer's premises. The assessee was issued show cause notice for demand of duty on the ground that the assembling of parts and components for the Plant resulted in a distinct product thus amounting to 'manufacture' and being eligible to central excise duty.

(viii) Here in instant case, Solar Inverter is an essential Input/component of Solar Power

Generating System. Inverter converts DC current to AC Current, without which a usable Solar Power Generating System doesn't come into existence.

(ix) Accordingly, activity undertaken by us does amount to manufacture of Solar Power Generating System, and hence import of Solar Inverter do fall under the Serial No. I-234 of Notification No.01/2017- Integrated Tax (Rate) dated 28.06.2017.

2.1.4 Documentary Submissions.

(i) They submitted mentioned Bill of Entries, Bill of Ladings, Supplier Invoice and Packing list for your reference in **Annexure_I**.

(ii) They submitted "Concessional Customs Duty Certificate" issued by Ministry of New and Renewable Energy under provisions of Customs Notifications (Tariff) no.01/2011 dated 06th January 2011, mentioning that the Inverter in question was required for the setting up of Solar plant in **Annexure_II**. This certifies that imported Solar Inverter has not been used else where or neither same has been traded.

2.1.5 Prayer.

(i) They prayed that differential IGST amounting to Rs.6,97,34,971/- is not imposed under Section 28(4) of the Customs Act, 1962, considering the above submissions made and also there is no Collusion or any wilful mis-statement or suppression of facts on part of the company.

(ii) No interest is levied u/s.28AA of the Customs Act ,1962, as there is no delay payment of GST liability.

(iii) The charge under Section 111(m) of the Customs Act, 1962 with regard to confiscation be dropped.

(iv) Demand for penalty u.s.112(A) and 114(A) of the Customs Act,1962 be dropped.

3. RECORD OF PERSONAL HEARINGS

3.1 There is single Noticee in the subject SCN viz. M/s Mahindra Susten Private Limited (IEC-0310067731).

3.2 In compliance of provisions of Section 28(8) read with Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, the Noticee was granted opportunity of Personal Hearing (PH) on 23.09.2025, 17.10.2025 and 30.10.2025 and PH intimation letters were issued by speedpost. On 30.10.2025, Mr. Divya Kumar Gupta, AGM, Indirect Tax,

Mahindra Susten Private Limited appeared virtually before the Adjudicating Authority on behalf of the Noticee. During the PH, he reiterated the submissions made vide their letter dated 03.12.2024 and stated that :

3.2.1 The allegations made in the SCN that the noticee is not a manufacturer are false and referred to the definition of 'manufacturer' as per section 2(72) of CGST Act, 2017 and submitted that the imported goods are used in manufacturing of "Solar Power Generating System" by them and hence IGST claimed @5% is correct.

3.2.2. Further, they requested to drop the proceedings against them.

4. DISCUSSION AND FINDINGS

4.1 I have carefully gone through the subject Show Cause Notice (SCN), material on record and facts of the case, as well as written and oral submissions made by the Noticee.

4.2 In compliance to provisions of Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunity for Personal Hearing (PH) was granted to the Noticee on 23.09.2025, 17.10.2025 and 30.10.2025. Availing the said opportunity, the Noticee attended the PH on 30.10.2025. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the submission / contention made by the Noticee.

4.3 It is alleged in the Show Cause Notice that the Noticee, M/s Mahindra Susten Private Limited (IEC-0310067731) had imported goods having description as "SUPPLY OF SOLAR INVERTER" under the CTH 85044090 & paid IGST @ 5% as per Serial No. 234 of Schedule- I of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017. However, the imported goods are more appropriately classifiable under Sr. No. 375 of Schedule-III of IGST Notification No. 01/2017 attracting IGST @18%. Thus, the SCN proposes re-classification of the goods under Sr. No. 375 of Schedule-III of IGST Notification No. 01/2017 and the differential IGST duty amounting to Rs. 6,97,34,971/- (Rupees Six Crore Ninety Sven Lakh Thirty Four Thousand Nine Hundred and Seventy One only) short paid by the importer is proposed to be recovered under Section 28(4) of the Customs, 1962, along with applicable interest. Further, the SCN proposes confiscation of the impugned goods and imposition of penalty on the Noticee under Section 112(a) and / or 114A of the Customs, 1962.

4.4 I now proceed to frame the issues to be decided in the instant SCN before me and decide the substantive issue raised in the SCN by examining each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN; provision of the Customs Act, 1962; nuances of various judicial pronouncements, as well as oral and written submissions and documents/ evidences available on record.

4.5 Whether the IGST rate claimed by the notice under Sr. No. 234 of Schedule- I of IGST levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 should not be rejected and the IGST rate @18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 should be levied on the subject goods.

4.5.1 I note that the Noticee, M/s Mahindra Susten Private Limited (IEC-0310067731) had imported goods having description “Supply of Solar Inverter” as detailed in Annexure-A to the subject SCN. The Noticee had availed the benefit of concessional rate of IGST under Serial No. 234 of Schedule- I of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 and paid IGST @ 5%. As per the SCN, the above items imported by the Noticee are more appropriately classifiable under Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 which attracts IGST @18%.

4.5.2 I find that the Serial No. 234 of Schedule- I of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 provides 5% IGST for the goods classifiable under chapter 84, 85 and 90, whereas the benefit of IGST for the goods described at Sr. no. I-234 of Notification no. 01/2017- Integrated Tax (Rate) dated 28.06.2017 is available to the following goods-

Following renewable energy device & parts for their manufacture-

- (a) Bio-gas plant
- (b) Solar power-based devices
- (c) Solar power generating system
- (d) Wind mills, Wind Operated Electricity Generator (WOEG)
- (e) Waste to energy plants / devices
- (f) Solar lantern / solar lamp
- (g) Ocean waves/tidal waves energy devices/plants

4.5.3 I find that only the above mentioned goods are eligible for the benefit of IGST @5%, all other goods of headings 84,85 and 90 will attract IGST equal to their respective tariff rates. In the instant case, static converters of heading 8504 falls under Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 which attracts IGST @18%, the same is reproduced below:

S. No.	HSN	Description
375	8504	Electrical Transformers, static converters (for example rectifiers) and inductors other than charger or charging station for Electrically Operated vehicles

4.5.4 I find that the noticee in their submission has submitted that GST law or Customs Act, does not define Solar Power Generating System. Solar power generating system generally are the **systems** which absorb sunlight and convert it into electricity. As per the Oxford Dictionary, the definition of the term ‘system’ is “a complex whole, a set of things working together as a

mechanism or interconnecting network. Hence, system typically includes various components/parts which are manufactured/assembled together for performing a function. A typical Solar Power Generating System includes following components/inputs: Inverter, Transformer, Solar Modules, Cables, MS/SS Structures. It is pertinent to note that ITC-HS Classification doesn't contain specific entry of "Solar Power Generating System". There is no known on-the shelf product available as "Solar Power Generating System" available in the market. However, for the purpose of GST the company classify "Solar Power Generating System" under Tariff Code 8502 3990 (Electric Generating Sets-Others). A "Solar Power Generating System" comes into existence only when all the components/inputs of it viz Solar Modules, Solar Inverter, Transformer, Cables, HT Panels, MS/SS Structures, etc are put to together by way of Erection, Commissioning and Installation Services. It is only when all these components are interlinked with each other a working "Solar Power Generating System" comes into existence.

4.5.5 I find that with respect to components of power system, Hon'ble M.P. High Court, in the case of Belectric Photovoltaic India Pvt. Ltd Vs. Commissioner of Commercial Tax [2019 (21) G.S.T.L. 319 (M.P.)] has held that

"14. The moot question before this Court is whether Item No. 10 includes the entire set up, which constitutes solar power generating system or not. According to Oxford Dictionary, system means a set of things work together as parts of a mechanism or a interconnecting work. The power system as per the Advance Law Laxicon by P. Ramanatha Aiyar, General Editor Hon'ble Shri Justice Y.V. Chandrachud reads as under :-

*"**"Power system"** means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following namely :-*

- (a) generating stations;*
- (b) Transmission or main transmission lines;*
- (c) sub-stations;*
- (d) tie-lines*
- (e) load despatch activities;*
- (f) mains or distribution mains;*
- (g) electric supply-lines;*
- (h) overhead lines;*
- (i) service lines;*
- (j) works. [Indian Electricity Act (36 of 2003) S. 2 (50)]"*

In light of the aforesaid, it can safely be gathered that the solar power generating system includes all devices or equipments, which are connected or combined together to complete the solar power generating system. If one ingredient is missing, the solar power generating system will not function.

15. The dictionary meaning of the word 'system' also finds place at page 4589 of *Advance Law Lexicon* by P. Ramanatha Aiyar, General Editor Hon'ble Shri Justice Y.V. Chandrachud reads as under :-

"System. "The word 'system' is defined by the *Encyclopaedic Dictionary* as a plan or scheme according to which things are connected or combined into a whole; an assemblage of facts or of principles and conclusions, scientifically arranged or disposed according to certain relations, so as to form a complete whole, as a system of philosophy, a system of government", etc.

For the purposes of sub-heading 8471 49, the term "SYSTEM" means automatic data processing machines whose units satisfy the conditions laid down in Note 5(B) to Chapter 84 and which comprise at least a central processing unit, one input unit (for example, a keyboard or a scanner), and one output unit (for example, a visual display unit or a printer). [Customs Tariff Act (51 of 1975), I Sch, Import Tariffs S. XVI, Chap. 84, Note 8, Sub-heading]"

Keeping in view the aforesaid, it can safely be concluded that solar power generating system would necessarily include a sub-station for evacuation and upliftment of power generated by solar power plants.

16. The Hon'ble Supreme Court in the case of *CCE v. Hewlett Packard India Sales Pvt. Ltd.* reported in (2007) 11 STJ 625 = 2007 (215) E.L.T. 484 (S.C.) has explained the meaning of word 'System' with reference to operating system of the computer and it has been held that the pre-loaded operating system recorded in the hard drive of the computer is an integral part of the computer, without which, the computer cannot open and work and has been classified as operating system under entry relating to computer itself.

17. The respondents have certainly placed reliance upon a judgment delivered in the case *Commissioner of Sales Tax (supra)* and the *Bombay High* in the aforesaid case has held as under :-

"that in order to determine whether a particular article is a component part of another article, the correct test would be to look both at the article which is said to be the component part and the completed article and then come to the conclusion whether the first article is a component part of the whole or not. If one were to look at a complete and finished product, one might find so many parts which, by being fixed or otherwise made part of the said product, would lead one into a fallacious impression that they are component parts. One must first look at the article itself and consider what its use are and whether its only use or its primary or ordinary use is as the component part of another article."

18. Even by taking into account the aforesaid judgment, **this Court is of the opinion that power generating system includes all components even the grid/goods related to sub-station, without which, the system cannot work.**"

4.5.6 I find that, Hon'ble Tribunal in the case of Commissioner of Customs, Cochin Vs. Solgen Energy Pvt. Ltd. [(2025) 31 Centax 413 (Tri. Bang)] has held that

“.....

6.1The "Solar Power Generating System" primarily consists of (1) Solar Photovoltaic Module (2) Mounting Structure for Solar Photovoltaic Module (fixed tilt or tracking type) and (3) Solar Inverter. Undoubtedly, the item imported item 'Grid Tied Solar Inverter' is used to convert solar DC power to AC power and forms part of a solar system but cannot be construed to be the Solar System itself.....”

4.5.7 Further, in the case of M/s. B.H.E.L. Vs. Commissioner of Central Excise, Hyderabad [2008 (223) E.L.T. 609 (Tri. – Bang.)] Hon'ble Tribunal held that

“In the present case, the appellants have claimed exemption in respect of “inverter charger card” as solar power generating system. The appellants actually manufactured SPV lantern. The above lantern required electricity for its working. It is possible to convert solar energy to electricity with the help of inverter charger manufactured by the appellants. The Dy. General Manager has certified that the inverter merger constitutes solar power generating system as it performs the function of generating the required high frequency AC power from Sun-light with, the help of SPV module and supplying it to the compact fluorescent lamp of a solar lantern. In view of the above, expert opinion, we hold that the impugned item can be considered as solar power generating system and is entitled for the benefit of the exemption Notification.”

4.5.8 In this regard, I also rely on the case of **2018 (17) G.S.T.L. 677 (A.A.R. - GST)** before the Authority for Advance Ruling under GST, Uttarakhand wherein it has observed that a solar inverter is an integral and essential component of a “Solar Power Generating System,” and eligible for concessional GST/IGST rate applicable to such systems. The relevant extract of the decision is reproduced below:

“Para (9) (i) Supply of solar inverter, controller, battery and panels would be covered under “Solar Power Generating System” as a whole in terms of serial No. 234 of Schedule-I of the Notification No. 01/2017-Central Tax (Rate), dated 28-6-2017 when supplied for said purpose and the applicable rate of GST on such supply will be 5% as on today [2.5% CGST + 2.5% SGST] and such supply will be treated as “composite supply”.

(ii) Supply of solar inverter & solar panels together will fall under the: definition of “Solar Power Generating System” (if the same are used for said specified purpose) in terms of serial No. 234 of Schedule-I of the Notification No. 01/2017-Central Tax (Rate), dated 28-6-2017 and the applicable rate of GST on such supply will be 5% as on today [2.5% CGST + 2.5% SGST] and such supply will be treated as “composite supply”.

(iii) *The aforesaid findings are applicable for both manufacturers and traders engaged in said supply.*”

4.5.9 I find that the subject goods are essential part for the manufacture of a solar power generating system. They function by converting the direct current (DC) generated by solar panels into alternating current (AC). This conversion is essential for the efficient utilization of solar energy, as most electrical appliances and grid systems operate on AC power. Solar inverter performs a critical function in the energy generation process. Without the inverter, the solar energy harnessed by PV modules cannot be effectively utilized or fed into the grid. Also, the subject goods monitor the grid voltage and frequency to adjust their output accordingly.

4.5.10 I find that Solar Inverters are different from generic Electric Inverters as Electric inverters are engineered to convert DC power from pre-charged batteries or fixed DC power supplies to AC power. They assume a stable, relatively constant DC input voltage from a battery bank already charged by the utility grid. Solar inverters, conversely, accept highly variable DC input from solar panels, where voltage and current fluctuate continuously based on sunlight intensity, cloud cover, panel temperature, and shading conditions. Directly connecting solar panels to an electric inverter designed for battery-fixed inputs creates a voltage and current mismatch that can severely damage the inverter or cause system malfunction.

4.5.11 Further, the most critical technical deficiency of electric inverters is the complete absence of MPPT (Maximum Power Point Tracking) technology. MPPT is a sophisticated control algorithm that continuously monitors solar panel output voltage and current thousands of times per second, calculates the instantaneous power at each point, and automatically adjusts the inverter's input impedance to maintain operation at the maximum power point where panels generate their highest output. Without MPPT, a standard electric inverter cannot adapt to the non-linear I-V (current-voltage) characteristics of solar panels. An electric inverter lacks these intelligent optimization circuits entirely. I find that the noticee has imported two different models of Solar inverter viz. SG3125 and SG250HX and from the product catalogue of both these devices it is evident that these goods are equipped with MPP technology, accordingly it can be inferred that these inverters are designed to be used specially in Solar Power Generating System.

4.5.12 I find that importer has uploaded certificate no. Other/00035/2019-20(2) dated 16.03.2020 issued by Ministry of New and Renewable Energy in Bill of Entry no. 9307564 dated 24.10.2020 wherein the notice **M/s Mahindra Susten Private Limited (IEC-0310067731)** has been shown as EPC (Engineering Procurement and Construction) contractor for setting up of Solar PV project of 250MW. The subject certificate makes it crystal clear that the noticee is a manufacturer of Solar Power Generating systems contrary to the claim made in the SCN.

4.5.13 From the above mentioned paras and judgments, it is clearly evident that the noticee is a EPC contractor for Solar Power Generating Systems and the subject goods i.e. Solar Inverter are

parts of Solar Power Generating Systems. Hence, it can be concluded that the noticee has clearly fulfilled all the conditions of eligibility for Serial No. 234 of Schedule- I of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 which attracts IGST @5%.

4.5.14 Accordingly, I find that the Noticee had correctly availed the benefit of concessional rate of IGST under Serial No. 234 of Schedule- I of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 which attracts IGST @5%.

4.6 Hence, after taking into consideration the discussions in the foregoing paras, I conclude that, the Noticee has correctly paid the IGST @5% appropriately under Sr. no. I-234 of Notification no. 01/2017- Integrated Tax (Rate) dated 28.06.2017.

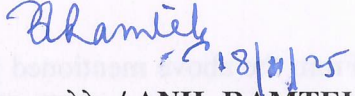
4.7 In view of the above, I do not find any merits in the instant SCN and thus, I am of the opinion that the demand of differential/short paid duty amounting to **Rs. 6,97,34,971/- (Rupees Six Crore Ninety Sven Lakh Thirty Four Thousand Nine Hundred and Seventy One only)** under Section 28(4) of the Customs Act, 1962 raised in the subject SCN does not sustain and thus, the same merits to be dropped. Resultantly, the confiscation proposed under Section 111(m) of the Customs Act, 1962 as well as the penal provisions invoked under Section 112(a) and/or Section 114A of Customs Act, 1962, are not sustainable. Thus, I am compelled that the liabilities so alleged, on account of short-payment of the applicable duty, do not survive and thus, the entire proceedings merits to be dropped.

5. In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

I drop all the proceeding initiated against **M/s Mahindra Susten Private Limited (IEC-0310067731)** by the impugned Show Cause Notice No. 1406/2024-25/Commr/Gr.VA/CAC/JNCH dated 19.11.2024.

6. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.


(अनिल रामटेके / ANIL RAMTEKE)
सीमा शुल्क आयुक्त / Commissioner of Customs
एनएस-V, जेएनसीएच / NS-V, JNCH

To,

1. M/s. Mahindra Susten Private Ltd.,
Mahindra Towesr , Dr. G.M. Bhosale Marg,
P. K. Kurne Chowk, Worli Mumbai,
Maharashtra, 400 018

Copy to:

1. The Addl. Commissioner of Customs, Group VA, JNCH
2. AC/DC, Chief Commissioner's Office, JNCH
3. AC/DC, Centralized Revenue Recovery Cell, JNCH
4. AC/DC, Circle-D3, Audit Commissionerate, JNCH
5. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
6. EDI Section.
7. Office copy.

