

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 – 20251278NX0000940429	Date of Order: 12.12.2025
F. No. S/10-149/2024-25/COMMR./Gr.V/NS-V/CAC/JNCH	Date of Issue: 12.12.2025
SCN No.: 1476/2024-25/COMMR/NS-V/GR-V/JNCH	
SCN Date: 13.12.2024	
Passed by: Sh. Anil Ramteke	
Commissioner of Customs, NS-V, JNCH	
Order No: 294/2025-26/COMMR/NS-V/CAC/JNCH	
Name of Noticee: M/s. Fiat India Automobiles Private Limited (IEC:0398020400)	

**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. 1476/2024-25/ Commissioner/ NS-V/ GR-V/ JNCH dated 13.12.2024 issued to M/s FIAT INDIA AUTOMOBILES PRIVATE LIMITED - reg.

**Brief Fact of the Case**

M/s FIAT INDIA AUTOMOBILES PRIVATE LIMITED (IEC: 0398020400) (hereinafter referred as Importer) having address at B-19, Ranjangaon MIDC Industrial Area, Ranjangaon, Taluka - Shirur, Pune - 412210 had presented Bills of Entry, as mentioned in the annexure-A enclosed, at Air Cargo Complex, Sahar, Andheri(E),Mumbai-400099 and NHAVA SHEVA PORT (INNSA1) for clearance of goods i.e. "Vacuum Pump" (hereinafter referred as impugned goods) through their authorized Custom Broker M/s. Babaji Shivram Clearing & Carriers Pvt. Ltd. The details of the Bills of Entry are enclosed in Annexure-A.

2. During post clearance audit (PCA), conducted in accordance with the provisions of Section 99A of the Customs Act, 1962 read with Section 157(k) of the Customs Act, 1962 and Customs Audit Regulation, 2018; it is found that Importer had imported goods viz "Pump UREA Supply Module" instead of Vacuum Pump" as declared in Bills of Entry. The same is confirmed from the invoice of the relevant Bill of entry. The description of the goods as per Invoice & Bills of Entry along with CTH & duty are placed herein in Table-A.

**Table-A**

As per Bills of Entry				As per invoice		
A	B	C	D	E	F	G
Sr. No.	Goods Description as per BE	CTH CLAIMED	BCD/IGST paid	Description as per Invoice	CTH Applicable	BCD/IGST payable
1	Vacuum Pump	84141000	7.5%, 18%	Pump Urea Supply Module	84133090	7.5%,28%

3. It is observed that the imported goods having part no. (521294300) were described as "Vacuum Pump" in the Bills of Entry presented at NHAVA SHEVA PORT and cleared under CTI 84141000 on payment of BCD @7.5% and IGST @ 18%. Whereas on scrutiny of relevant invoices, it is found that the goods are "Pump Urea Supply Module" and the same were appropriately classifiable under CTI 84133090 where BCD applicable is @ 7.5% and IGST @28%.

4. It was also noticed that in the invoices uploaded by the Importer, the part no. 521294300 has been mentioned as "Pump Urea Supply Module" instead of "Vacuum Pump". Therefore, a query letter dated 27.08.2024 has been issued to



Importer regarding clarification on Import of goods. In response to the query letter, the Importer submitted vide letter dated 30.08.2024 that:

- *The goods imported vide Part No. 521294300 is "Pump Urea Supply Module" as mentioned in the shipper invoices and IS correctly classifiable under HSN 8413 3090.*
- *In the past, they inadvertently presented Bills of Entry for part no. 521294300 as "Vacuum Pump" with HSN 84141000, due to a manual error (copy paste) in excel sheet where this part number was mapped with incorrect part description 'Vacuum Pump' and hence, the HSN 8414 1000, which is correct for Vacuum Pump but incorrect for pump Urea supply module."*
- *It is a revenue neutral situation where the IGST paid could be claimed as Input Tax Credit (ITC).*
- *There was no intent to evade duty nor no mala fide intention backed by the fact the they have used the same part No. 521294300 and each shipper invoice was linked to Bill of Entry in E-Sanchit. Hence, there is no suppression of facts.*
- *Further, they requested, in view of above clarification to close all proceedings as extended period of limitation is not invocable in the present case.*

5. In view of the above, it appears that the Importer, by way of wrongly describing/declaring the goods in Bills of Entries thereby wrongly classified the goods under CTI 84141000 instead of correct classification of 84133090. Thus, they have short paid the duty to the tune of **Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakh Ninety-One Thousand Three Hundred Seven only)** as mentioned in Annexure-A.

6. From the above, it appears that the Importer even after agreeing to the mis-declaration of goods and their subsequent misclassification, did not pay the short-paid duty, by stating that the situation is *revenue neutral* and as the *shipper invoice was linked to Bill of Entry in E-Sanchit*, there is no suppression of facts involved and hence extended period of limitation is not inviolable.

7. Therefore, a Consultative letter No.1218 dated 04.09.2024 for payment of short paid differential duty amounting to Rs. 11,39,07,527/- (Rupees Eleven Crore Thirty-Nine Lakhs Seven Thousand Five Hundred Twenty-Seven only) which was revised to Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakh Ninety-One Thousand Three Hundred Seven only) vide letter dated 20.09.2024,



along with applicable interest in respect of Bills of Entry as mentioned in Annexure-A having total assessable value of Rs. 104,93,42,331/- (One Hundred Four Crores Ninety-Three Lakhs Forty-Two Thousand Three Hundred and Thirty-One Only) for import of goods namely "Pump UREA Supply Module" instead of "Vacuum Pump", has been issued to the Importer.

8. In response to the CL, the Importer vide letter dated 08.10.2024 submitted that:

- *"a clerical error led to the mis- classification of imported goods as "Vacuum Pump" instead of "Pump Urea Supply Module" in Bills of Entry.*
- *It argues that the correct description was provided in invoices and other documents submitted at the time of import, and asserts that the differential IGST demand is barred by the normal limitation period, as no information was suppressed.*
- *It references a CESTAT, New Delhi Bench in Midas Fertchem Impex Vs. Principal CC -2013(1) TMI 998 decisions indicating that mis-classification alone does not constitute suppression, thus invalidating the extended period for duty demands. Additionally, it cites a Bombay High Court Mahindra and Mahindra Vs. UOI-2022 (10) TMI 212, ruling that Interest on delayed payments of customs duties is not applicable for additional duties under the Central Tariff Act.*
- *Finally, it claims the demand is revenue neutral since the company can claim Input Tax Credit on the IGST paid."*

9. The said reply of the Importer appears to be devoid of merits. The judgement cited viz. (1) *Midas Fertchem Impex Vs. Principal CC -2013(1) TMI 998 (CESTAT, New Delhi)* decisions indicating that mis-classification alone does not constitute suppression, thus invalidating the extended period for duty demands (2) *Bombay High Court Mahindra and Mahindra Vs. UOI-2022 (10) TMI 212*, ruling that Interest on delayed payments of customs duties is not applicable for additional duties under the Central Tariff Act by the Importer are not applicable in the present case as the issue involved in the present case is misdeclaration and their subsequent mis-classification of goods and is also not a case of delayed payment but, non-payment of duties. The case does not appear to be of the nature of clerical error as they have presented the Bill of entries by mis-declaring/describing the goods and causing revenue loss to the exchequer. They have presented 95 Bills of entry during the period from 16-12-2019 to 21-05-2022 mis-declaring "Pump Urea Supply Module" as "Vacuum Pump" and short paid the duty to the tune of Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakh Ninety-One Thousand Three Hundred Seven only). The claim of the Importer of clerical error is a lame excuse as a clerical error can occur in one or



two bills of entry but, it can't occur continuously in 95 B/E's spanning over a period of nearly two and half years. This appears to be a case of willful mis-declaration and mis-classification of the goods, causing loss to the Revenue. As per Section 46(4) *The Importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed*]. Hence, it was the prime responsibility of the Importer to provide the correct and accurate details of the goods in bills of entry". Thus, it appears to be a case of willful misstatement of the facts.

## 10. Statutory Provisions

The extracts of the relevant provisions of following laws relating to self-assessment, import of goods in general, the liability of the goods to confiscation and person concerned to penalty for illegal importation under the Customs Act, 1962 and other laws for the time being in force, were mentioned in the subject SCN. The same are not reproduced in this Order-in-Original for the sake of brevity:

- (i) SECTION 17- Assessment of duty leviable on any imported goods.
- (ii) SECTION 28(4) - Recovery of duties not levied or not paid or short-levied or short-paid by reason of collusion, or any wilful misstatement, or suppression of facts,
- (iii) Section 46 (Entry of goods on importation)
- (iv) SECTION 28AA — Interest on delayed payment of duty.
- (v) SECTION 46(4)-Importer while presenting a Bill of entry shall make and subscribe to a declaration as to the truth of the contents of such Bill of entry.
- (vi) SECTION 46(4A)— Importer who presents a Bill of entry shall ensure the accuracy and completeness of the information given in the Bill of entry.
- (vii) SECTION 111(m) & (o)-Confiscation of improperly imported goods, which do not correspond in respect of value or in any other particular with the entry made under this Act.
- (viii) SECTION 112(a) & 112(b) - Penalty for improper importation of goods.
- (ix) SECTION 114A- Penalty for short-levy or non-levy of duty in cases where the duty has not been levied or has been short levied or the interest has not



*been charged or paid or has been part paid by reason of collusion or any wilful misstatement or suppression of facts.*

**11.** M/s FIAT INDIA AUTOMOBILES PRIVATE LIMITED (IEC: 0398020400) had imported goods "Vacuum Pump" having part no. (521294300) at NHAVA SHEVA PORT and Air Cargo and are cleared under CTI 84141000 on payment of BCD @7.5% and IGST @ 18% and upon scrutiny of the invoices, it is found that goods are "Pump Urea Supply Module" instead of 'Vacuum Pump' which are appropriately classifiable under CTI 84133090 where applicable BCD is @ 7.5% and IGST @28%. In view of the above, it is found that the Importer has short paid the duty (IGST), as computed as per annexure-A, amounting to Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakh Ninety-One Thousand Three Hundred Seven only). The amount appears to be payable along with applicable Interest, penalty thereon under Section 28AA & Section 28(4) of the customs Act, 1962.

**11.1** The Short-payment of Customs duty on impugned goods by the Importer in order to evade duty thereon appears to have contravened the provisions of 46(4) and 46(4A) of the Customs Act 1962 and which in turn appears to have rendered the subject goods liable to confiscation in terms of the provisions of section 111(m) of the customs act 1962, because of which it also appears to have made the Importer liable for penal action in terms of the provisions of section 114A of Customs Act.

**11.2** Further, the Importer had short paid IGST amount by mis-declaring the "Pump Urea Supply Module" (CTI 84133090 with 28%) as "Vacuum Pump" (under 84141000 with IGST 18%), to the tune of Rs. 11,35,91,307/-. The aforesaid facts came to light only after close scrutiny of the Import documents viz. invoices, packing lists etc., along with Bills of entry during the Audit. In view of the above, the Importer in-spite of having knowledge that the goods imported are "Pump Urea Supply Module" correctly classifiable under 84133090 had declared as "Vacuum Pump" under 84141000 and claimed 18% IGST instead of 28% IGST with the intention to evade payment of duty/tax. The importer has willfully mis-stated the same in the Bill of Entry to avail lower duty structure. Therefore, such an act of the importer in deliberately mis-stating and/or mis-declaring the goods on import under CTH 84141000 Instead of correct CTH 84133090 attracts the provision of section 28(4)(b), 28(4)(c) of customs Act, 1962 invoking the extended period of limitation of 5 years) the same is liable for recovery of the Customs duty Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakh Ninety-One Thousand Three Hundred Seven only) under section 28 of







Importer under Section 28(4) of Customs Act, 1962 along with applicable Interest under Section 28AA of the Customs Act, 1962;

(ii) The subject goods valued at Rs. 104,93,42,331/- (One Hundred Four Crores Ninety-Three Lakhs Forty-Two Thousand Three Hundred and Thirty-One Only) should not be confiscated under section 111(m) of the Customs Act, 1962.

(iii) The applicable Interest on the amount specified above should not be recovered from them in terms of section 28AA of the Customs Act, 1962.

(iv) Penalty should not be imposed and recovered from the Importer under Section 112(a) and/or 114A and/or Section 117 of the Customs Act, 1962.

### **Written Submission and Personal Hearing**

15. M/s Fiat India Automobiles Private Limited in their submission dated 27.02.2025 contended that all the documents i.e. supplier invoice and bill of entry were available with the Customs at the time of import. Hence, the extended period is not invocable in the present case, since there is no wilful suppression or mis-declaration or collusion by the Noticee; that the Noticee maintains a master excel sheet of all the imported products. Against the part number 521294300, due to a clerical error the description of the goods was mentioned as 'Vacuum Pump' instead of 'Pump supply urea module'. Accordingly, the goods were wrongly classified under Heading 84.14 and the same can at best be a case of wrong description of goods and certainly not a case of wilful mis-declaration; that the extended period cannot be invoked as the Department was always aware of the practice of the Noticee. They relied on the case of Midas Fertchem Impex Vs. Principal CC-2023(1) TMI 998 wherein the Hon'ble CESTAT held that wrong classification or wrong self-assessment of duty will not amount to mis-statement or suppression.

15.1 Further, they contended that the confiscation of the goods is not warranted in the present case. They relied on the case of Bussa Overseas & Properties v. C.L. Mahar, ACC - 2004 (163) ELT 304 (Bom.) wherein the Hon'ble High Court held that once the goods are cleared for home consumption, they cease to be imported goods and hence, not liable for confiscation. Further, the notice contended that no penalty is imposable under section 112(a) and 114A of the Customs Act, 1962, they relied on the case of CC Vs. Videomax Electronics - 2011 (264) ELT 0466 (Tri. -Bom.) wherein it was held that the legal requirements to invoke Section 114A penalty is the same as extended period of limitation under



Section 28 of the Customs Act. In essence, if the extended period of limitation under Section 28 is not invokable, penalty under Section 114A of the Customs Act cannot be imposed; that penalty is not imposable under section 117 of the Customs Act, 1962. They relied on the case of Saisea Logistics Vs. CC - 2009 (246) ELT 543 (Tri. - Mumbai) wherein the Hon'ble Tribunal held that the prerequisites to Section 117 of the Customs Act are that, *firstly*, there must be a finding of contravention of some legal provision and, *secondly*, there must be a finding to the effect that such contravention was not covered by any other penal provisions of the Customs Act.

**15.2** That interest cannot be demanded under section 28AA of the customs act, when duty demand itself is not sustainable and hence interest and penalty cannot be imposed on proposed demand of IGST and goods, they relied on the case of Prathibha Processors Vs. UOI – 1996 (88) ELT 12 (SC) wherein the Hon'ble Supreme Court held that when the principal amount (duty) is not payable due to exemption, there is no occasion or basis to levy any interest, either.

**16.** In order to comply the Principle of Natural Justice, opportunities to appear before the undersigned were granted to noticee's for personal hearing vide dated 23.10.2025 and 13.11.2025.

**16.1** In response to PH notice, abovementioned authorised representative appeared before me on 13.11.2025 on behalf of the Noticee M/s Fiat India Automobiles Private Limited (IEC: 0398020400). Further, the Authorised Representative submitted a compilation of relevant documents, provisions, and case laws vide email dated 13.11.2025. During the hearing it was submitted that:

- (i) The Noticee has imported "Pump Urea Supply Module" bearing (Part No: 521294300) during the period of 2019-22. However, due to an inadvertent error in the internal Master Excel Sheet (used for all imports) the part number of the goods was incorrectly recorded against "Vaccum Pump".
- (ii) The proceedings vide Letter dated 27.08.2024 were initiated solely on the basis of discrepancies in the description of goods mentioned in the invoices and that in the BOEs filed.
- (iii) Entire transaction is revenue neutral as the Noticee is eligible to full ITC of the IGST paid. Therefore, extended period is not invocable.
- (iv) Penalty and interest cannot be imposed under Section 3 of the Customs Tariff Act for the demand of IGST as held in Mahindra and Mahindra [2022-



VIL-690-BOM-CU] and AR Sulphonates Private Limited (2025 (4) TMI 578-Bom HC]. Further, the amendment to Section 3 of Customs Tariff Act is prospective in nature.

(v) The goods are not liable for confiscation as the goods have been cleared for home consumption. Therefore, redemption fine under Section 125 of the Customs Act cannot be imposed. They prayed to drop the proceedings initiated under the SCN no. 1476/2024-25/ Commissioner/ NS-V/ GR-V/ JNCH dated 13.12.2024 in toto.

### **DISCUSSION AND FINDINGS**

**17.** I have carefully gone through the SCN, facts of the case, available records and evidences referred in the investigation. The case was examined in the light of the evidences produced by the department and applicable laws/rules.

**18.** On a careful perusal of the subject show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided:

**18.1 Whether the Differential Duty amounting Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakhs Ninety-One Thousand Three Hundred Seven Only) for Bills of Entry as mentioned in Annexure-A should be recovered from the Importer under Section 28(4) of Customs Act, 1962 along with applicable Interest under Section 28AA of the Customs Act, 1962 or otherwise;**

**18.1.1** It has been observed that M/s FIAT India Automobiles Pvt. Ltd. (IEC 0398020400) (hereinafter "Importer") filed 95 Bills of Entry through their customs broker M/s Babaji Shivram Clearing & Carriers Pvt. Ltd. for clearance of goods declared as "Vacuum Pump", classified under CTI 8414 1000, paying BCD 7.5% and IGST 18%. During Post Clearance Audit (PCA) it was observed that the goods under part number 521294300 were actually "Pump Urea Supply Module", as clearly reflected in the invoices uploaded in e-Sanchit. Based on the product description in invoices, the goods fall under CTI 8413 3090, attracting BCD 7.5% and IGST 28%. This resulted in short-payment of IGST, cumulatively amounting to ₹11,35,91,307/-.

The goods under heading 8414 have been described in Customs Tariff as:-

8414 AIR OR VACUUM PUMPS, AIR OR OTHER GAS COMPRESSORS AND FANS; VENTILATING OR RECYCLING HOODS INCORPORATING A FAN,



WHETHER OR NOT FITTED WITH \*FILTERS; GASTIGHT BIOLOGICAL SAFETY CABINETS, WHETHER OR NOT FITTED WITH FILTERS

**8414 10 00 - Vacuum pumps**

Further, The goods under heading 8413 have been described in Customs Tarff as:-

8413 PUMPS FOR LIQUIDS, WHETHER OR NOT FITTED WITH A MEASURING  
DEVICE; LIQUID ELEVATORS

- Pumps fitted or designed to be fitted with a measuring device:

8413 11 -- Pumps for dispensing fuel or lubricants, of the type used in filling stations or in garages:

8413 11 10 --- Hand pumps

.....

.....

8413 30 - Fuel, lubricating or cooling medium pumps for internal combustion piston engines:

8413 30 10 --- Injection pumps for diesel engines

8413 30 20 --- Oil pump

8413 30 30 --- Water pump

8413 30 90 --- Other

I find that the goods under part number 521294300 were actually “Pump Urea Supply Module”, as clearly reflected in the invoices uploaded in e-Sanchit. Based on the product description in invoices, the goods fall under CTI 8413 3090, attracting BCD 7.5% and IGST 28%. The pump urea supply module is a part of vehicle solely use for in vehicle for a Pump Urea Supply Module (DEF Pump) is crucial for modern diesel engines, using a precise pump to deliver Diesel Exhaust Fluid (DEF/AdBlue) into the exhaust, where it converts harmful Nitrogen Oxides (NOx) into harmless Nitrogen and Water to meet strict emission standards. Hence, it is rightly classifiable under heading 8413 and CTH 84133090. The goods were deliberately mis-declared and misclassified with the intent to evade payment of the correct IGST.

For clarity, the relevant portion of Sr. No. 317B of Schedule III (18%) of IGST Levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 (as



amended by Notification 43/2017-Integrated Tax (Rate) dated 14.11.2017) is reproduced below: -

Schedule III- IGST Rate @ 18%		
Serial No.	CTH	Description
317B	8414	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters [other than bicycle pumps, other hand pumps and parts of air or vacuum pumps and compressors of bicycle pumps]"

For clarity, the relevant portion of Sr. No. 117 of Schedule III (28%) of IGST Levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017) (as amended by Notification 43/2017-Integrated Tax (Rate) dated 14.11.2017) is reproduced below:-

Schedule IV- IGST Rate @ 28%		
Serial No.	CTH	Description
117	8413	Pumps for dispensing fuel or lubricants of the type used in filling stations or garages [841311], Fuel, lubricating or cooling medium pumps for internal combustion piston engines [841330],

From above it is very specific and clear that the Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters[other than bicycle pumps, other hand pumps and parts of air or vacuum pumps and compressors of bicycle pumps]" attract 18% IGST under Schedule III (18%) of IGST Levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended by Notification 43/2017-Integrated Tax (Rate) dated 14.11.2017) whereas Pumps for dispensing fuel or lubricants of the type used in filling stations or garages [8413 11], Fuel, lubricating or cooling medium pumps for internal combustion piston engines [8413 30], concrete pumps [8413 40 00], other rotary positive displacement pumps [8413 60], [other than hand pumps falling under tariff item, attracts 28% Sr. No. 117 of Schedule III (28%) of IGST Levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 ).



Since. The goods are lubricating pump use for Diesel engine and They are covered under CTH 8413 and accordingly attract IGST @ 28%.

**18.1.2** I find the contention of the importer that the mis-description was due to an inadvertent clerical (copy-paste) error in their internal Excel sheet. Since invoices correctly show "Pump Urea Supply Module," there is no suppression. The following inconsistencies and facts contradict the Importer's claims:

- (i) The wrong description ("Vacuum Pump") was repeated 95 times over 2.5 years (Dec 2019 – May 2022), which cannot be a clerical or one-off oversight. The Importer did not self-correct their declarations despite having the correct description on every invoice.
- (ii) They continued filing B/Es with mis-classification even after repeated imports, showing knowledge and continuity of the act. The mis-declaration enabled payment of lower IGST (18% instead of 28%), resulting in intentional revenue loss. Wrong description in the statutory declaration under Section 46(4) amounts to mis-statement of material facts.
- (iii). The argument of revenue neutrality does not hold because revenue neutrality is not a defence to mis-declaration. IGST credit availability is irrelevant for determining correct duty liability at import.
- (iv) In this case filing 95 B/Es with repeated incorrect description is systematic conduct, not clerical error.
- (v) The invoices proving the true description were available to the importer, yet they chose to declare incorrectly.
- (vi). The mis-declaration benefited the importer via lower IGST rate.
- (vii). Even after admitting the error, the importer refused to pay the differential duty.

**18.1.3** During the Personal Hearing conducted on 13.11.2025, the authorised representative of the importer appeared and reiterated the submissions already made in their written replies. The representative also placed reliance on certain judicial decisions, including *Mahindra and Mahindra* [2022-VIL-690-BOM-CU] and *AR Sulphonates Private Limited* [2025 (4) TMI 578 – Bom HC], in support of their contention that the differential IGST demand and interest thereon are not sustainable and that the extended period of limitation is not invokable. These case laws and arguments were carefully considered; however, for the reasons



discussed in the preceding paragraphs, the cited judgments are found to be factually and legally distinguishable and therefore not applicable to the present case.

(i) In *Mahindra & Mahindra*, the Hon'ble Bombay High Court dealt with the levy of interest on delayed payment of CVD and the nature of 'additional duties' under the Central Excise Tariff Act. The judgment did not involve any issue of mis-declaration, mis-classification, suppression of facts, or short-payment of IGST due to incorrect description of goods. The present case is not a case of delayed payment of duty but a case of non-payment of the correct IGST amount due to willful mis-declaration of the goods' description and consequent mis-classification, leading to evasion of IGST. Hence, the ratio of *Mahindra & Mahindra* has no relevance here.

(ii). Similarly, the ruling in *AR Sulphonates Pvt. Ltd.* pertains to the scope of demand in a situation where the underlying dispute related to the interpretation of exemption notifications and valuation, without any element of mis-statement or suppression by the importer. The Hon'ble Court did not consider a scenario involving continuous mis-declaration across multiple Bills of Entry, nor did it examine circumstances where the importer declared a description contrary to documents submitted in e-Sanchit. Therefore, the factual and legal context of *AR Sulphonates* is entirely different and cannot assist the importer.

(iii). In the present case, the importer repeatedly declared "Vacuum Pump" instead of the actual goods "Pump Urea Supply Module" in 95 Bills of Entry over a period of almost 2½ years, despite the correct description appearing in every invoice. This constitutes suppression of material facts and wilful mis-statement, squarely attracting the proviso to Section 28(4) of the Customs Act. Accordingly, the importer cannot rely on the above judgments, and their claim is rejected.

(iv). In view of the above discussion, I conclude that the importer has suppressed material facts by mis-declaring the goods as 'Vacuum Pump' and thereby availed a lower rate of IGST applicable to that heading. The importer's claim that IGST @18% is the correct rate is rejected, since the rate of 18% applies only to goods classifiable under CTH 8414 (Vacuum Pumps). The goods actually imported, as evidenced from the invoices and part number 521294300, are 'Pump Urea Supply Module', correctly classifiable under CTH 84133090, attracting IGST @28%. Accordingly, the IGST is liable to be recomputed at 28% on the impugned goods.

**18.1.4** After having determined the IGST rate on the impugned imported goods, it is imperative to determine whether the demand of differential Customs duty



as per the provisions of Section 28(4) of the Customs Act, 1962, in the subject SCN is sustainable or otherwise.

**18.1.5** I find that, after the introduction of self-assessment vides Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including calculation of duty. 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.

**18.1.6** As discussed in the preceding paragraphs, I find that the importer deliberately mis-declared the description of the imported goods and consequently paid duty at a lower rate, with the clear intention of evading the correct duty liability and obtaining an unwarranted financial benefit. The repeated mis-declaration across multiple Bills of Entry establishes suppression of material facts with intent to evade payment of customs duties. Accordingly, the case squarely falls within the ambit of the proviso to Section 28(4) of the Customs Act, 1962, warranting recovery of the short-paid duty along with applicable interest.

**18.1.7** I find that, the Importer has not paid the correct IGST by engaging in suppression of facts and with an intent to evade customs duty on the subject goods. The Importer have submitted a false declaration under section 46(4) of the Customs Act, 1962, due to this act of omission of Importer, there has been loss to the government exchequer equal to the differential duty as mentioned in Annexure-A to the SCN.

**18.1.8** In view of the foregoing, I find that the duty demand against the importer has been correctly proposed under Section 28(4) of the Customs Act, 1962 by invoking the extended period of limitation. In support of my stand of invoking extended period, I rely upon the decision of the Tribunal: -

2013(294) E.L.T.222 (Tri.-LB): Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi [Misc. Order Nos.M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008] wherein the Hon'ble Tribunal held that:

*In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified*

**18.1.9** Accordingly, the differential duty amounting to Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakhs Ninety-One Thousand Three Hundred



Seven Only) resulting from the correct declaration and applicable IGST levy is recoverable from M/s FIAT India Automobiles Pvt. Ltd. under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

**18.1.10** As per Section 28AA of the Customs Act, 1962, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2) of Section 28AA, whether such payment is made voluntarily or after determination of the duty under that section. From the above provisions, it is evident that regarding demand of interest, Section 28AA of the Customs Act, 1962 is unambiguous and mandates that where there is a short payment of duty, the same along with interest shall be recovered from the person who is liable to pay duty. The interest under the Customs Act, 1962 is payable once demand of duty is upheld and such liability arises automatically by operation of law. In an umpteen number of judicial pronouncements, it has been held that payment of interest is a civil liability and interest liability is automatically attracted under Section 28AA of the Customs Act, 1962. Interest is always accessory to the demand of duty as held in case of Pratibha Processors Vs UOI [1996 (88) ELT 12 (SC)].

**18.1.11** I have already held in the above paras that the differential duty amount of Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakhs Ninety-One Thousand Three Hundred Seven Only), as calculated in Annexure-A to the subject SCN in respect of the Bills of Entry should be demanded and recovered from M/s FIAT India Automobiles Pvt. Ltd. under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period. Therefore, in terms of the provisions of Section 28AA of the Customs Act, 1962, interest on the aforesaid amount of differential duty is liable to be recovered from M/s FIAT India Automobiles Pvt. Ltd.

**18.2 Whether the subject goods valued at Rs. 104,93,42,331/- (One Hundred Four Crores Ninety-Three Lakhs Forty-Two Thousand Three Hundred and Thirty-One Only) should be confiscated under section 111(m) of the Customs Act, 1962 or otherwise;**

**18.2.1** As per Section 46 of the Customs Act, 1962, the importer of any goods, while making entry on the customs automated system to the proper officer, shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed. He shall ensure the accuracy and completeness of the



information given therein and the authenticity and validity of any document supporting it.

**18.2.2** I find that the importer while filing the Bill of Entry for the clearance of the subject goods had subscribed to a declaration as to the truthfulness of the contents of the Bill of Entry in terms of Section 46(4) of the Act and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2011 in all their import declarations. Section 17 of the Act, w.e.f. 08.04.2011, provides for self-assessment of duty on imported goods by the importer themselves by filing a Bill of Entry, in the electronic form. Section 46 of the Act makes it mandatory for the importer to make an entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulation, 2011 (issued under Section 157 read with Section 46 of the Act), the Bill of Entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic integrated declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the scheme of self-assessment, it is the importer who has to diligently ensure that he declares all the particulars of the imported goods correctly e.g., the correct description of the imported goods, its correct classification, the applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods when presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8<sup>th</sup> April, 2011, the complete onus and responsibility is on the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and claim correct exemption notification and pay the applicable duty in respect of the imported goods.

**18.2.3** From the discussions, it is noted that M/s FIAT India Automobiles Pvt. Ltd. (IEC 0398020400) (hereinafter "Importer") filed 95 Bills of Entry through their customs broker M/s Babaji Shivram Clearing & Carriers Pvt. Ltd. for clearance of goods declared as "Vacuum Pump", classified under CTI 8414 1000, paying BCD 7.5% and IGST 18%. During Post Clearance Audit (PCA) it was observed that the goods under part number 521294300 were actually "Pump Urea Supply Module", as clearly reflected in the invoices uploaded in e-Sanchit. Based on the product description in invoices, the goods fall under CTI 8413 3090, attracting BCD 7.5% and IGST 28%. This resulted in short-payment of IGST, cumulatively amounting to ₹11,35,91,307/-. By suppressing these facts,



the importer, contravened the provisions of Section 46 of the Customs Act, 1962. Therefore, I hold that the subject goods are liable for confiscation under Section 111(m) of the Customs Act, 1962.

**18.2.4** However, I find that the goods imported are not available for confiscation, but I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited [reported in 2018 (9) G.S.T.L. 142 (Mad.)] wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

*"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii)."*

**18.2.5** I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.).

**18.2.6** I also find that the decision of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) and the decision of Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.) have not been challenged by any of the parties and are in operation.



**18.2.7** In view of above, I find that any goods improperly imported as provided in any sub-section of the Section 111 of the Customs Act, 1962, the impugned goods become liable for confiscation. I opine that merely because the importer was not caught at the time of clearance of the imported goods, cannot be given different treatment. Accordingly, I observe that the present case also merits imposition of Redemption Fine having held that the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962.

**18.3 Whether Penalty should not be imposed and recovered from the Importer under Section 112(a) and/or 114A and/or Section 117 of the Customs Act, 1962. or otherwise;**

**18.3.1** I find that the subject Bills of Entry were self-assessed by the importer. They were having knowledge of correct description of the goods, correct Notification etc., However, still they willfully availed the IGST notification benefit which was not available for the imported goods and thereby paid lower rate of duty. Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct valuation of the goods to claim the undue duty benefit at the time of clearance of the said imported goods.

**18.3.2** In this regard, I observe that self-assessment has been introduced on 08.04.2011 vide Finance Act, 2011 wherein under Section 17(1) of the Customs Act, 1962 an importer is required to do self-assessment, thus placing more reliance on the importers. Further, as per the provisions of Section 46 (4) of the Customs Act, 1962, the importer of any goods is required to file a Bill of Entry before the proper officer mentioning therein the true and correct quality, quantity and value of the goods imported and subscribe to a declaration as to the truth and accuracy of the contents of such Bill of Entry. It is an admitted fact that the benefit of lower rate of duty on account of claim of inadmissible benefits by mis-declaring the description accrued to the importer.

**18.3.3** Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct description of the goods and deliberately availed the notification benefit to claim the undue duty benefit at the time of clearance of the said imported goods. Taking all the issues, relating to subject imports, into



account and in view of my finding that goods were mis-declared by suppressing correct description of the goods by the importer, I find that the importer M/s FIAT India Automobiles Pvt. Ltd., has by his acts of commission and omission, as discussed above, has rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and thereby made themselves liable for penalty under Section 112 *ibid*.

**18.3.4** Since the improper importation of goods has resulted in short levy of Customs duty, which is recoverable under Section 28(4) of the Customs Act, 1962, the Importer is also liable for penalty under Section 114A *ibid*. However, I note that penalties under Section 112 and Section 114A are mutually exclusive. Therefore, as penalty is imposed under Section 114A of the Customs Act, 1962, no penalty is imposable under Section 112 in terms of the fifth proviso to Section 114A *ibid*.

**18.3.5** I have noticed that Section 117 of the Customs Act, 1962 is a residual penalty clause, applicable only when no specific penalty is provided elsewhere for the alleged contravention. Since, specific penalty under Section 112 and Section 114A of the Customs Act, 1962 have been applied to the fact of the case, the penalty under section 117 of the Customs Act, 1962 is not imposed.

**19. 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) I reject the IGST rate claimed under Schedule III Sr. No. 317B of Schedule III of IGST Levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 (amended by Notification 43/2017 dated 14.11.2017) and order for IGST to be levied under Schedule IV Sr. No. 117 of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 (2017 (amended by Notification 43/2017 dated 14.11.2017) in the said B/Es as mentioned in Annexure "A to the Show Cause Notice.

(ii). I order the confiscation of the goods having a total assessable value of Rs. 104,93,42,331/- (One Hundred Four Crores Ninety-Three Lakhs Forty-Two Thousand Three Hundred and Thirty-One Only) as mentioned in Annexure-A to the subject Show Cause Notice (SCN) under Section 111(m) of the Customs Act, 1962 even though the goods are not available for confiscation. However, I give an option to the importer to redeem these goods on payment of redemption fine of Rs. 10,00,00,000/- (Rupees Ten Crore Only) under Section 125 of the Customs Act, 1962.



(iii). I confirm the demand of differential duty amounting to Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakhs Ninety-One Thousand Three Hundred and Seven Only) in respect of Bills of Entries as mentioned in Annexure-A to the SCN under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.

(iv). I impose a penalty of Rs. 11,35,91,307/- (Rupees Eleven Crore Thirty-Five Lakhs Ninety-One Thousand Three Hundred Seven Only) along with applicable interest on M/s FIAT India Automobiles Pvt. Ltd. under Section 114A of the Customs Act, 1962.

**20.** 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.

  
12/12/25  
(Anil Ramteke)

Commissioner of Customs,  
NS-V, JNCH, Nhava Sheva.

Encl: Annexure -A

To:

**M/s Fiat India Automobiles Private Limited**

B-19, Ranjangaon, MIDC Industrial Area,  
Ranjangaon, Taluka - Shirur, Pune - 412210

Copy to:

1. The Additional Commissioner of Customs, Gr.V, JNCH
2. Deputy/Asstt. Commissioner of Customs, Centralized Revenue Recovery Cell, JNCH.
3. The Additional Commissioner of Customs, NS-IV, Audit, JNCH.
4. Notice Board (CHS Section)
5. Office copy
6. EDI