OFFICE OF THE Pr. COMMISSIONER OF CUSTOMS, NS-I
सीमाशुल्कआयुक्तकाकार्यालय, एनएस-**I**
CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE,
केंद्रीकृतअधिनिर्णयनप्रकोष्ठ, जवाहरलालनेहरूसीमाशुल्कभवन,
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA 400707
न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र **-400 707**

DIN: 20251278NW000000EAC4 **Date of Order: 22.12.2025**
Date of Issue: 22.12.2025

F.No. S/10-133/2025-26/Commr/Gr. I & IA/NS-I/CAC/JNCH
SCN No. 1298/2024-25/Commr./Gr.1&1A/NS-1/CAC/JNCH dt 23.10.2024
आदेशकीतिथि: **22.12.2025**
जारीकिएजानेकीतिथि: **22.12.2025**

Passed by: Shri Yashodhan Wanage
पारितकर्ता: श्री. यशोधन वनगे
Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva
प्रधान आयुक्त, सीमाशुल्क (एनएस-1), जेएनसीएच, न्हावाशेवा
Order N o.:310/2025-26 /Pr. Commr/NS-I /CAC /JNCH

आदेशसं. : **310/2025-26**/प्र. आयुक्त/एनएस-1/ सीएसी/जेएनसीएच
Name of Party/Noticee: M/s Tajir Pvt Ltd (IEC : 0388164689)

पक्षकार (पार्टी)/ नोटिसीकानाम: मेसर्स ताज़िर प्रा. लि. (आईईसी : **0388164689)**

ORDER-IN-ORIGINAL
मूलआदेश

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. इसआदेशकीमूलप्रतिकीप्रतिलिपिजिसव्यक्तिकोजारीकीजातीहै, उसके उपयोग के लिए नि:शुल्क 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.इसआदेशसेव्यथितकोईभीव्यक्तिसीमाशुल्कअधिनियम१९६२कीधारा१२९(ए) केतहतइसआदेशकेविरुद्धसीईएसटीएटी, पश्चिमीप्रादेशिकन्यायपीठ (वेस्टरीज़नलबेंच), ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई– ४००००९कोअपीलकरसकताहै, जोउक्तअधिकरणकेसहायकरजिस्ट्रारकोसंबोधितहोगी।

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 - फार्मन. सीए३, चारप्रतियोंमेंतथाउसआदेशकीचारप्रतियाँ, जिसकेखिलाफअपीलकीगयीहै (इनचारप्रतियोंमेंसेकमसेकमएकप्रतिप्रमाणितहोनीचाहिए(.

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

समयसीमा- इसआदेशकीसूचनाकीतारीखसे३महीनेकेभीतर

Fee- (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.

फीस- (क(एकहजाररुपये–जहाँमाँगेगयेशुल्कएवंब्याजकीतथालगायीगयीशास्तिकीरकम५लाखरुपयेयाउससेकमहै।

(b) Rs. Five Thousand - Where amount of duty &Page 2 of 57

interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh.

(ख(पाँचहजाररुपये– जहाँमाँगेगयेशुल्कएवंब्याजकीतथालगायीगयीशास्तिकीरकम५लाखरुपयेसेअधिकपरंतु५०लाखरुपयेसेकमहै।

(c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.

(ग(दसहजाररुपये–जहाँमाँगेगयेशुल्कएवंब्याजकीतथालगायीगयीशास्तिकीरकम५०लाखरुपयेसेअधिकहै।

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

भुगतानकीरीति– क्रॉसबैंकड्राफ्ट, जोराष्ट्रीयकृतबैंकद्वारासहायकरजिस्ट्रार, सीईएसटीएटी, मुंबईकेपक्षमेंजारीकियागयाहोतथामुंबईमेंदेयहो।

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 - विधिकेउपबंधोंकेलिएतथाऊपरयथासंदर्भितएवंअन्यसंबंधितमामलोंकेलिए, सीमाशुल्कअधिनियम, १९९२, सीमाशुल्क (अपील) नियम, १९८२सीमाशुल्क, उत्पादनशुल्कएवंसेवाकरअपीलअधिकरण (प्रक्रिया) नियम, १९८२कासंदर्भलियाजाए।

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 129 of the Customs Act 1962.

5. इसआदेशकेविरुद्धअपीलकरनेकेलिएइच्छुकव्यक्तिअपीलअनिर्णीतरहनेतकउसमेंमाँगेगयेशुल्कअथवाउद्गृहीतशास्तिका७.५ % जमाकरेगाऔरऐसेभुगतानकाप्रमाणप्रस्तुतकरेगा, ऐसानकियेजानेपरअपीलसीमाशुल्कअधिनियम, १९६२कीधारा१२८केउपबंधोंकीअनुपालननानकियेजानेकेलिएनामंजूरकियेजानेकीदायीहोगी।

1. BRIEF FACTS OF THE CASE

1.1 M/s Tajir Pvt Ltd (IEC No. 0388164689), having office at Adie Mansion, 1st Floor, 334, Maulana Shaukatali Road Mumbai, Maharashtra-400007 has imported consignments of "Sweetened Whole Dried Cranberry" by classifying these goods under CTH 20089300 and claiming the benefit of Notification No. 50/2017 Sr. No. 100, thereby, paying duty under structure of 10% BCD + 1% SWS + 12% IGST. The details of such imports of Sweetened Whole Dried Cranberries in the last 5 years by the importer are mentioned in the table below:

Table - 1

Sr. No.	B/E No.	B/E date	Description of goods	Assessable Value (in Rs.)
1	5323150	16-10-2019	WHOLE SWEETENED DRIED CRANBERRIES CL (25LB/11.34KG * 1800 CTN)	6006487
2	7463408	16-04-2020	SWEETENED DRIED CRANBERRIES CL CLASSIC WHOLE (25 LB/11.34KG* 1800 CTN)	6356137
3	7813937	06-03-2020	SWEETENED DRIED CRANBERRIES CL CLASSIC WHOLE (25LB/11.34 KGSX 1800 CASES)	6376950
4	8158245	13-07-2020	SWEETENED DRIED CRANBERRIES CL CLASSIC WHOLE (25 LB/11.34 KGX 1800 CASE)	3207206
5	8244734	22-07-2020	SWEETENED DRIED CRANBERRIES CL CLASSIC WHOLE (25 LB/11.34 KGX 1800 CASE)	3207206
6	8774569	09-11-2020	SWEETENED DRIED CRANBERRIES CL CLASSIC WHOLE (25 LBS / 11.34 KGS X 1800 CASE)	6168825
7	9009303	30-09-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6210450
8	9063174	10-05-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6202125
9	906323	10-05-2020	SWEETENED PROCESSED DRIED	2504161

	3		WHOLE CRANBERRIES (10LB/4.54 KG X1000 CASES)	
10	9135391	10-12-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1656 CASES)	5705955
11	9154014	13-10-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6202125
12	9182253	15-10-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1656 CASES)	5705955
13	9234954	19-10-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6181312
14	9253265	20-10-2020	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X2450 CASES)	6128025
15	9414416	11-02-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6181312
16	9461284	11-05-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6181312
17	9639584	20-11-2020	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6260400
18	3168802	16-03-2021	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6260400
19	3741559	28-04-2021	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6218775
20	3995765	19-05-2021	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6218775
21	4026842	21-05-2021	CLASSIC WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X1800 CASES)	6218775

22	4610619	07-08-2021	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1315 CASES)	3361111
23	5193520	26-08-2021	CRANBERRIES WHOLE SWEETENED DRIED (25LB/11.34 KGS X 1656 CASES)	5292575
24	5193915	26-08-2021	CRANBERRIES WHOLE SWEETENED DRIED (25LB/11.34 KGS X 1656 CASES)	5759568
25	5242056	30-08-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5759568
26	5302188	09-03-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	5657174
27	5333856	09-06-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5663830
28	5336403	09-06-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5663830
29	5642097	30-09-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5698296
30	5828031	13-10-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	6302025
31	5983854	25-10-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CTN)	5797863
32	6268163	16-11-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CTN)	5797863
33	6395861	25-11-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	6302025
34	6578836	12-08-2021	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	6302025
35	670597	16-12-2021	WHOLE SWEETENED DRIED	5797863

	9		CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	
36	6941521	01-04-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5805522
37	7436712	02-10-2022	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1500 CASES)	3853648
38	7637364	25-02-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	6331162
39	8100007	04-01-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7298613
40	8471275	29-04-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7346223
41	8770957	21-05-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7484292
42	9253493	24-06-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7517619
43	9460667	07-08-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7517619
44	9667566	22-07-2022	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1500 CASES)	4379868
45	9881161	08-05-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7608078
46	9937892	08-09-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7641405
47	2049824	18-08-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7641405

48	2113779	23-08-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	8331750
49	2487099	17-09-2022	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1500 CASES)	4312107
50	2792815	10-08-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	8533575
51	3013159	22-10-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7988958
52	3112550	11-01-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7988958
53	3134417	11-02-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7988958
54	3193795	11-07-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7988958
55	3268642	11-11-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 305 CASES)	1469307
56	3268642	11-11-2022	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1351 CASES)	6510129
57	3475397	25-11-2022	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1800 CASES)	5422349
58	4034759	01-04-2023	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X947 CASES)	2841276
59	4231124	17-01-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	7721324
60	4231124	17-01-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800	7721324

			CASES)	
61	4358311	25-01-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1800 CASES)	7592174
62	4621157	13-02-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 956 CASES)	4055667
63	4621157	13-02-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 844 CASES)	3578020
64	4828440	28-02-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 185 CASES)	795355.9
65	4828440	28-02-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1615 CASES)	6921356
66	5059802	15-03-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7086644
67	5707447	27-04-2023	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1247 CASES)	3820159
68	5771878	05-02-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7103618
69	6099495	24-05-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	7103618
70	6119092	25-05-2023	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X206 CASES)	618044
71	6623179	28-06-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	6326334
72	6986261	21-07-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	6379947
73	724992	08-08-2023	WHOLE SWEETENED DRIED	3301806

	7		CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	
74	7395020	17-08-2023	SWEETENED DRIED CRANBERRIES APPLE INFUSED WHOLE (25LB/11.34KGS X 144 CASES)	597240
75	7395021	17-08-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	6387606
76	7395427	17-08-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	3085800
77	7566933	28-08-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	6360799
78	7896682	18-09-2023	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1400 CASES)	3638028
79	7924138	21-09-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	6376117
80	7977002	23-09-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1224 CASES)	4695799
81	8202358	10-08-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5731209
82	8284628	13-10-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5741455
83	8461518	25-10-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5748286
84	8668366	11-07-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5748286
85	8815228	17-11-2023	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1400 CASES)	3628408

86	9152965	12-09-2023	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10LB/4.54 KG X1400 CASES)	3658072
87	9251747	15-12-2023	SWEETENED DRIED CRANBERRIES BRIGHT RED SOFT AND MOIST WHOLE (25LB/11.34 KGS X 1656 CTN)	6107535
88	9251751	15-12-2023	SWEETENED DRIED CRANBERRIES BRIGHT RED SOFT AND MOIST WHOLE (25LB/11.34 KGS X 1656 CTN)	6107535
89	9434214	27-12-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5724378
90	9434214	27-12-2023	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5724378
91	9626743	01-11-2024	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5755117
92	9626747	01-11-2024	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5755117
93	9857514	27-01-2024	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5744871
TOTAL				531101489.9

1.2 As per HSN Explanatory Notes to Chapter 8, 'Dried Cranberry' is classifiable at CTH 08134090. HSN Explanatory Notes to Chapter 8 are reproduced below for ready reference:

Chapter 8

Edible fruit and nuts; peel of citrus fruit or melons

Notes:

1.- This Chapter does not cover inedible nuts or fruits.

2.- Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.

3.- Dried fruit or dried nuts of this Chapter may be partially rehydrated, or treated for the following purposes:

(a) For additional preservation or stabilisation (for example, by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbate),

(b) To improve or maintain their appearance (for example, by the addition of vegetable oil or small quantities of glucose syrup), provided that they retain the character of dried fruit or dried nuts.

4.- Heading 08.12 applies to fruit and nuts which have been treated solely to ensure their provisional preservation during transport or storage prior to use (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), provided they remain unsuitable for immediate consumption in that state.

GENERAL

This Chapter covers fruit, nuts and peel of citrus fruit or melons (including watermelons), generally intended for human consumption (whether as presented or after processing). They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated, evaporated or freeze-dried); provided they are unsuitable for immediate consumption in that state, they may be provisionally preserved (e.g., by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions).

The term "chilled" means that the temperature of a product has been reduced, generally to around O °C, without the product being frozen. However, some products, such as melons and certain citrus fruit, may be considered to be chilled when their temperature has been reduced to and maintained at+ 10 °C. The expression "frozen" means that the product has been cooled to below the product's freezing point until it is frozen throughout.

Fruit and nuts of this Chapter may be whole, sliced, chopped, shredded, stoned, pulped, grated, peeled or shelled.

It should be noted that homogenisation, by itself, does not qualify a product of this Chapter for classification as a preparation of Chapter 20.

The addition of small quantities of sugar does not affect the classification of fruit in this Chapter. The Chapter also includes dried fruit (e.g., dates and prunes), the exterior of which may be covered with a deposit of dried natural sugar thus giving the fruit an appearance somewhat similar to that of the crystallised fruit of heading 20.06.

However, this Chapter does not cover fruit preserved by osmotic dehydration. The expression '.'osmotic dehydration" refers to a process whereby pieces of fruit are subjected to prolonged

soaking in a concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup. The fruit may subsequently be air-dried to further reduce the moisture content. Such fruit is classified in Chapter 20 (heading 20.08).

1.2.1 For CTH 0813, the relevant excerpts of the Customs Tariff Act, 1975, are reproduced below for ready reference:

Tariff Item	Description of goods	Unit	Rate of duty Standard	Preferential Areas
0813	FRUIT, DRIED, OTHER THAN THAT OF HEADINGS 0801 TO 0806; MIXTURES OF NUTS OR DRIED FRUITS OF THIS CHAPTER			
0813 10 00 - 20%	Apricots	kg.	30%	
0813 20 00 -	Prunes	kg.	25%	15%
0813 30 00 - 20%	Apples	kg.	30%	
0813 40 -	Other fruit:			
0813 40 10 --- 20%	Tamarind, dried	kg.	30%	
0813 40 20 --- 20%	Singoda whole (water nut)	kg.	30%	
0813 40 90 --- 20%	Other	kg.	30%	

1.2.2 As per chapter Note 3 (b) and General Note Para mentioned above, Dried Fruits even if added with small quantity of sugar/glucose remains classifiable under Chapter 08 only. Only the goods which are Osmotically Dehydrated are excluded from Chapter 8 and stands classifiable at CTH 2008. The relevant Explanatory Note of Chapter 08 is reproduced below again:

> *However, this Chapter does not cover fruit preserved by osmotic dehydration. The expression "osmotic dehydration" refers to a process whereby* ***pieces of fruit*** *are subjected to prolonged soaking in a concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup. The fruit may subsequently be air-dried to further reduce the moisture content. Such fruit is classified in Chapter 20 (heading 20.08).*

1.2.3 It can be observed here that for Osmotic Dehydration, **pieces of fruit need prolonged soaking in a concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup before dehydration**. Hence, it is clear that "Pieces of Fruit", when processed Osmotically, can only be classified under CTH 2008 and not the WHOLE FRUIT. The Osmotic Dehydration process applies to Pieces of Fruit and not the Whole Fruit.

1.2.4. The first Note, i.e. Note 1 (a) to Chapter 20 states that "Chapter does not cover Vegetables, fruits or nuts, prepared or preserved by the processes specified in Chapter 7, Chapter 8 or Chapter 11". Same is also specified at Point No. 6 of General Explanatory Notes of Chapter 08. It shall be noted that the processes of Drying of Fruits/Vegetables have been described in Explanatory Notes of Chapter 8, and hence the dried fruits stand classifiable in Chapter 8.

1.3 Further, as per HSN Explanatory Notes to Chapter 20, vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, 8 or 11; are not covered under chapter 20 and thus by virtue of the explanatory notes the subject goods cannot be classified at CTH 2008;2000.

1.3.1 HSN Explanatory Notes to Chapter 20 are reproduced below for ready reference:

CHAPTER 20
Preparations of vegetables, fruit, nuts or other parts of plants
Notes:
1. This Chapter does not cover:

(a) vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, 8 or 11;
**(b) vegetable fats and oils (Chapter 15);*
**(c) food preparations containing more than 20% by weight of sausage, meat, meat offal, blood,*
insects, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (Chapter 16);
(d) bakers' wares and other products of heading 1905; or
(e) homogenised composite food preparations of heading 2104.

For CTH 2008, the relevant excerpts of the Customs Tariff Act, 1975, is reproduced below for ready reference:

Tariff Item	Description of goods	Unit	Rate of duty Standard Preferential Areas

2008	FRUIT, NUTS AND OTHER EDIBLE PARTS OF PLANTS, OTHERWISE PREPARED OR PRESERVED, WHETHER OR NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR SPIRIT, NOT ELSEWHERE SPECIFIED OR INCLUDED			
	- Nuts, ground-nuts and other seeds, Whether or not mixed together:			
2008 60 00 -	Cherries	kg.	30%	-
2008 93 00 --	*Cranberries (Vaccinium macrocarpon, Vaccinium oxycoccos); lingonberries (Vaccinium vitis-idaea)	kg.	30%	-

*w.e.f. 1.1.2022.

1.4. In the instant case, the importer has claimed the benefit of a concessional rate of duty under Sr. No. 100 of Notification No. 50/2017 dated 30.06.2017 (as amended). Serial No. 100 of Customs Notification No. 50/2017 dated 30.06.2017 prescribes 10% BCD. The same is reproduced here under for ready reference:

Sr. No.	*Chapter or heading or sub-heading or tariff item*	*Description of goods*	*Standard Rate*	*Integrated Goods and Services Tax*	*Condition No.*
100.	*2008 93 00, 2009 81 00, 2009 90 00, 2202 90*	*Cranberry products*	*10%*	-	-

1.4.1 It is to be noted that Sr. No. 100 of Customs Notification No. 50/2017 dated 30.06.2017 (as amended) categorically specifies that the concessional rate of duty applies only to 'Cranberry Products'. However, on scrutiny of the above-mentioned Bills of Entry, it is observed that the importer has declared the goods to be 'Sweetened Dried Cranberries Whole' 'Sweetened Processed Dried Cranberries Whole', 'Whole Sweetened Dried Cranberries' etc. Thus, as per the declared description of subject imported goods, it is observed that the same are not Cranberry Products of Chapter 20 but Dried Cranberries of Chapter 08.

1.4.2 Further, it is pertinent to mention here that the subject Notification No. 50/2017 dated 30.06.2017 has been amended vide Notification No. 10/2024 dated 19.02.2024. The relevant excerpts of the above-mentioned Notification No. 10/2024 dated 19.02.2024 are reproduced below for ready reference:

In the said notification, in the Table, -

(2) after S. No. 32A and the entries relating thereto, the following S. Nos. and entries shall be inserted, namely: -

(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
"32AA.	*0810 40 00*	*Cranberries, fresh; Blueberries, fresh*	*10 %*	*-*	*-*
32AB.	*0811 90*	*Cranberries, frozen; Blueberries, frozen*	*10 %*	*-*	*-*
32AC.	*0813 40 90*	*Cranberries, dried; Blueberries, dried*	*10 %*	*-*	*-";*

On perusal of the above amendment, it can be observed that w.e.f. 20.02.2024, the goods 'Cranberries, dried' have been included for a concessional rate of duty @ 10% BCD as per Sr. No. 32AC of Notification No. 10/2024 dated 19.02.2024.

1.4.3 It is worth noting here that, as per the aforesaid amendment to Notification No. 50/2017, the subject goods, i.e. 'Cranberries, dried', are shown to be rightly classifiable under CTH 08134090. Thus, on plain reading, it is amply clear that even prior to 20.02.2024, the subject goods, i.e. 'Dried Cranberries', were rightly classifiable under CTH 08134090 only and not under CTH 20089300.

1.5 By classifying the goods mentioned in Table-1 above under CTH 08134090, the duty structure applicable to these goods is 30% BCD + 3% SWS + 12% IGST. Accordingly, the **differential duty with IGST short paid** by the importer works out to **Rs. 13,08,63,407/- (Rs. Thirteen Crores Eight Lakhs Sixty-Three Thousand Four Hundred and Seven Only)** as shown in the table below:

Table – 2

Sr. No.	B/E No.	B/E Date	Assessable Value (in Rs.)	BCD & SWS Paid (in Rs.)	BCD & SWS Payable (in Rs.)	Differential Duty along with IGST payable (in Rs.)
1	5323150	16-10-2019	6006487	660713.6	1321427	1479998.397
2	7463408	16-04-2020	6356137	699175.1	1398350	1566152.157
3	7813937	06-03-2020	6376950	701464.5	1402929	1571280.48
4	8158245	13-07-2020	3207206	352792.7	705585.3	790255.5584
5	8244734	22-07-2020	3207206	352792.7	705585.3	790255.5584
6	8774569	09-11-2020	6168825	678570.8	1357142	1519998.48
7	9009303	30-09-2020	6210450	683149.5	1366299	1530254.88
8	9063174	10-05-2020	6202125	682233.8	1364468	1528203.6
9	9063233	10-05-2020	2504161	275457.7	550915.4	617025.2704
10	9135391	10-12-2020	5705955	627655.1	1255310	1405947.312

11	9154014	13-10-2020	6202125	682233.8	1364468	1528203.6
12	9182253	15-10-2020	5705955	627655.1	1255310	1405947.312
13	9234954	19-10-2020	6181312	679944.3	1359889	1523075.277
14	9253265	20-10-2020	6128025	674082.8	1348166	1509945.36
15	9414416	11-02-2020	6181312	679944.3	1359889	1523075.277
16	9461284	11-05-2020	6181312	679944.3	1359889	1523075.277
17	9639584	20-11-2020	6260400	688644	1377288	1542562.56
18	3168802	16-03-2021	6260400	688644	1377288	1542562.56
19	3741559	28-04-2021	6218775	684065.3	1368131	1532306.16
20	3995765	19-05-2021	6218775	684065.3	1368131	1532306.16
21	4026842	21-05-2021	6218775	684065.3	1368131	1532306.16
22	4610619	07-08-2021	3361111	369722.2	739444.4	828177.7504
23	5193520	26-08-2021	5292575	582183.3	1164367	1304090.48
24	5193915	26-08-2021	5759568	633552.5	1267105	1419157.555
25	5242056	30-08-2021	5759568	633552.5	1267105	1419157.555
26	5302188	09-03-2021	5657174	622289.1	1244578	1393927.674
27	5333856	09-06-2021	5663830	623021.3	1246043	1395567.712
28	5336403	09-06-2021	5663830	623021.3	1246043	1395567.712
29	5642097	30-09-2021	5698296	626812.6	1253625	1404060.134
30	5828031	13-10-2021	6302025	693222.8	1386446	1552818.96
31	5983854	25-10-2021	5797863	637764.9	1275530	1428593.443
32	6268163	16-11-2021	5797863	637764.9	1275530	1428593.443
33	6395861	25-11-2021	6302025	693222.8	1386446	1552818.96
34	6578836	12-08-2021	6302025	693222.8	1386446	1552818.96
35	6705979	16-12-2021	5797863	637764.9	1275530	1428593.443
36	6941521	01-04-2022	5805522	638607.4	1277215	1430480.621
37	7436712	02-10-2022	3853648	423901.3	847802.6	949538.8672
38	7637364	25-02-2022	6331162	696427.8	1392856	1559998.317
39	8100007	04-01-2022	7298613	802847.4	1605695	1798378.243
40	8471275	29-04-2022	7346223	808084.5	1616169	1810109.347
41	8770957	21-05-2022	7484292	823272.1	1646544	1844129.549
42	9253493	24-06-2022	7517619	826938.1	1653876	1852341.322
43	9460667	07-08-2022	7517619	826938.1	1653876	1852341.322
44	9667566	22-07-2022	4379868	481785.5	963571	1079199.475
45	9881161	08-05-2022	7608078	836888.6	1673777	1874630.419
46	9937892	08-09-2022	7641405	840554.6	1681109	1882842.192
47	2049824	18-08-2022	7641405	840554.6	1681109	1882842.192
48	2113779	23-08-2022	8331750	916492.5	1832985	2052943.2
49	2487099	17-09-2022	4312107	474331.8	948663.5	1062503.165
50	2792815	10-08-2022	8533575	938693.3	1877387	2102672.88
51	3013159	22-10-2022	7988958	878785.4	1757571	1968479.251

52	3112550	11-01-2022	7988958	878785.4	1757571	1968479.251
53	3134417	11-02-2022	7988958	878785.4	1757571	1968479.251
54	3193795	11-07-2022	7988958	878785.4	1757571	1968479.251
55	3268642	11-11-2022	1469307	161623.8	323247.5	362037.2448
56	3268642	11-11-2022	6510129	716114.2	1432228	1604095.786
57	3475397	25-11-2022	5422349	596458.4	1192917	1336066.794
58	4034759	01-04-2023	2841276	312540.4	625080.7	700090.4064
59	4231124	17-01-2023	7721324	849345.6	1698691	1902534.234
60	4231124	17-01-2023	7721324	849345.6	1698691	1902534.234
61	4358311	25-01-2023	7592174	835139.1	1670278	1870711.674
62	4621157	13-02-2023	4055667	446123.4	892246.7	999316.3488
63	4621157	13-02-2023	3578020	393582.2	787164.4	881624.128
64	4828440	28-02-2023	795355.9	87489.15	174978.3	195975.6938
65	4828440	28-02-2023	6921356	761349.2	1522698	1705422.118
66	5059802	15-03-2023	7086644	779530.8	1559062	1746149.082
67	5707447	27-04-2023	3820159	420217.5	840435	941287.1776
68	5771878	05-02-2023	7103618	781398	1562796	1750331.475
69	6099495	24-05-2023	7103618	781398	1562796	1750331.475
70	6119092	25-05-2023	618044	67984.84	135969.7	152286.0416
71	6623179	28-06-2023	6326334	695896.7	1391793	1558808.698
72	6986261	21-07-2023	6379947	701794.2	1403588	1572018.941
73	7249927	08-08-2023	3301806	363198.7	726397.3	813564.9984
74	7395020	17-08-2023	597240	65696.4	131392.8	147159.936
75	7395021	17-08-2023	6387606	702636.7	1405273	1573906.118
76	7395427	17-08-2023	3085800	339438	678876	760341.12
77	7566933	28-08-2023	6360799	699687.9	1399376	1567300.874
78	7896682	18-09-2023	3638028	400183.1	800366.2	896410.0992
79	7924138	21-09-2023	6376117	701372.9	1402746	1571075.229
80	7977002	23-09-2023	4695799	516537.9	1033076	1157044.874
81	8202358	10-08-2023	5731209	630433	1260866	1412169.898
82	8284628	13-10-2023	5741455	631560.1	1263120	1414694.512
83	8461518	25-10-2023	5748286	632311.5	1264623	1416377.67
84	8668366	11-07-2023	5748286	632311.5	1264623	1416377.67
85	8815228	17-11-2023	3628408	399124.9	798249.8	894039.7312
86	9152965	12-09-2023	3658072	402387.9	804775.8	901348.9408
87	9251747	15-12-2023	6107535	671828.9	1343658	1504896.624
88	9251751	15-12-2023	6107535	671828.9	1343658	1504896.624
89	9434214	27-12-2023	5724378	629681.6	1259363	1410486.739
90	9434214	27-12-2023	5724378	629681.6	1259363	1410486.739
91	9626743	01-11-2024	5755117	633062.9	1266126	1418060.829
92	9626747	01-11-2024	5755117	633062.9	1266126	1418060.829

93	9857514	27-01-2024	5744871	631935.8	1263872	1415536.214
TOTAL						**13,08,63,407**

1.6 Secondly, the Importer has imported 12 consignments of Sweetened Whole Dried Cranberries after 19.02.2024, i.e. the date on which Notification No. 50/2017 was amended vide Notification No. 10/2024 and Entry No. 32 AC and 90A were introduced in the subject Notification. In the above said 12 consignments also, the goods have also been classified at CTH 20089300 and duty of 5% BCD + 0.5% SWS + 12% IGST was paid by virtue of Sr. No. 90A of Notification No. 50/2017 (as amended). The details of such imports are as under:

Table – 3

Sr. No.	B/E No.	B/E date	Description of goods	Assessable Value (in Rs.)
1	2576843	14-03-2024	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5734624
2	2882455	04-04-2024	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5731209
3	2901711	04-05-2024	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1380 CASES)	4801624
4	2974622	04-11-2024	SWEETENED DRIED CRANBERRIES BRIGHT RED SOFT AND MOIST WHOLE (25LB/11.34 KGS X 1656 CTN)	6067688
5	3196560	25-04-2024	SWEETENED DRIED CRANBERRIES BRIGHT RED SOFT AND MOIST WHOLE (25LB/11.34 KGS X 1656 CTN)	6067688
6	3527873	17-05-2024	SWEETENED DRIED CRANBERRIES BRIGHT RED SOFT AND MOIST WHOLE (25LB/11.34 KGS X 1656 CTN)	6111158
7	3747757	30-05-2024	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5761948
8	3922224	06-10-2024	SWEETENED DRIED CRANBERRIES BRIGHT RED SOFT AND MOIST WHOLE (25LB/11.34 KGS X 1656 CTN)	6111158
9	3999913	14-06-2024	SWEETENED PROCESSED DRIED WHOLE CRANBERRIES (10 LBS / 4.54KGS X 1400 CTN)	1819749

10	4063388	18-06-2024	SWEETENED DRIED CRANBERRIES BRIGHT RED SOFT AND MOIST WHOLE (25LB/11.34 KGS X 1296 CTN)	4782645
11	4133450	22-06-2024	SWEETENED DRIED CRANBERRIES BRIGHT RED SOFT AND MOIST WHOLE (25LB/11.34 KGS X 1656 CTN)	6111158
12	4193995	26-06-2024	WHOLE SWEETENED DRIED CRANBERRIES (25LB/11.34 KGS X 1656 CASES)	5761948
TOTAL				**64862597**

1.7. For the reasons discussed in the above paragraphs, the above-mentioned goods are also rightly classifiable under CTH 08134090, and by virtue of Sr. No. 32AC of Notification No. 50/2017 (as amended), the duty applicable is 10% BCD + 1% SWS + 12% IGST. Accordingly, the differential duty for these imported goods works out to Rs. 39,95,536/- as mentioned in the table below:

Table – 4

Sr. No.	B/E No.	B/E Date	Assessable Value (in Rs.)	BCD & SWS Paid (in Rs.)	BCD & SWS Payable (in Rs.)	Differential Duty along with IGST (in Rs.)
1	2576843	14-03-2024	5734624	315404.3	315404.3	353252.9
2	2882455	04-04-2024	5731209	315216.5	315216.5	353042.5
3	2901711	04-05-2024	4801624	264089.3	264089.3	295780
4	2974622	04-11-2024	6067688	333722.8	333722.8	373769.6
5	3196560	25-04-2024	6067688	333722.8	333722.8	373769.6
6	3527873	17-05-2024	6111158	336113.7	336113.7	376447.3
7	3747757	30-05-2024	5761948	316907.2	316907.2	354936
8	3922224	06-10-2024	6111158	336113.7	336113.7	376447.3
9	3999913	14-06-2024	1819749	100086.2	100086.2	112096.5
10	4063388	18-06-2024	4782645	263045.5	263045.5	294611
11	4133450	22-06-2024	6111158	336113.7	336113.7	376447.3
12	4193995	26-06-2024	5761948	316907.2	316907.2	354936
Total						**39,95,536**

1.8 In view of the above, a Consultative letter vide C.L. No. 456/2024-25 dated 26.09.2024 was issued vide F. No. CADT/CIR/ADT/TBA/361/2024-TBA-CIR-A3 advising the importer to pay the differential duty of Rs. 13,48,58,943 (Rs. 13,08,63,407/- + Rs. 39,95,536/-) **(Rs. Thirteen Crores Forty-Eight Lakhs Fifty-Eight Thousand Nine**

Hundred Forty-Three only) along with interest and penalty under Section 28 (4) of the Customs Act, 1962.

1.9 The importer vide its letter dated 14.10.2024 (RUD-2) has submitted its reply in respect of the above said CL The importer vide its above said letter has submitted that the classification of subject goods under CTH 20089300 claimed by him is correct as the whole sweetened dried cranberries imported by him are dehydrated by the process of osmotic dehydration which has been certified by his manufacturer-supplier and thus the subject goods are squarely covered under CTH 20089300.

1.9.1 The certificate dated 02.10.2024 produced by the foreign supplier M/s. Ocean Spray has been examined, and it was found that cranberries here have been described as "cut fruit pieces" that are exposed to a water-based extraction process to remove cranberry juices. However, the submission made during the personal hearing discussed only whole cranberries. Further, the product description also describes the imported goods as "Whole Sweetened Dried Cranberries". Accordingly, the above-mentioned certificate of M/s. Ocean Spray does not appear to be related to the instant case. Further, the certificate does not specify the name of M/s Tajir Pvt. Ltd, being the importer of the subject goods, which again shows that the certificate does not apply to the instant case.

1.9.2 In its submission, the importer has submitted that as per General explanatory notes of Chapter 20, point no. 8, specifies that the fruits preserved by osmotic dehydration are covered under Chapter 20. They have further submitted that as per the general explanatory notes, the fruits covered vide point no. 08 may be whole, in pieces or crushed.
However, on plain reading, it was found that the above submission of the importer is not true, as the said note, i.e. "These products may be whole, in pieces or crushed", applies to all the categories of fruits covered from point no. 1 to point no. 8 and not merely to point no. 8 as submitted by the importer.

1.9.3 Further, as per the detailed HSN explanatory notes of Chapter 20, sub-heading 20.08, point no. 10 specifies that:

> "Fruit preserved by osmotic dehydration. *The expression "osmotic dehydration"* ***refers to a process whereby pieces of fruit are subjected to prolonged soaking in a concentrated sugar syrup*** *so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup. The fruit may subsequently be air-dried to further reduce the moisture content."*

Thus, it can be seen that the above description of the term "Osmotic Dehydration" is similar to the definition mentioned in the general notes of Chapter 08. Thus, as per the definition provided in the general notes of Chapter 08 and also the definition provided in the specific sub-heading 20.08, it is amply clear that only 'pieces of fruit' which are osmotically dehydrated can be classified under Chapter 20 and whole fruits, whether osmotically dehydrated or not, are to be classified under Chapter 08 only.

1.9.4 Further, vide the above-mentioned letter, the importer had requested a personal hearing and accordingly, the same was granted to the representative of the importer before the Addl. Commissioner of Customs, Audit (NS-IV), JNCH, Mumbai Zone II on 18.10.2024 at 02:30 PM, in which the representative of the importer reiterated the submissions made in their reply letter dated 14.10.2024.

1.10. From the above discussions and facts, it appears that the submissions made by the importer during the personal hearing and through its letter dated 14.10.2024 are not sustainable. In light of the discussions above, it appears that the importer has deliberately and wilfully mis-classified the subject goods with an intention to wrongfully avail benefit of concessional rate of duty vide Sr. No. 100 of Customs Notification No. 50/2017 dated 30.06.2017 (as amended) and thus, the importer has evaded payment of duty which has resulted in a loss to the government exchequer.

1.10.1 By resorting to the aforesaid mis-classification of the subject goods, the importer has short paid duty amounting to Rs. 13,48,58,943 (Rs. Thirteen Crores Forty-Eight Lakhs Fifty-Eight Thousand Nine Hundred Forty-Three only).

1.10.2 It also appears that, consequently, the duty short paid is recoverable from the importer under Section 28 (4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962, and for the same reason penalty is also required to be imposed on the importer under Section 114 A of the Customs Act, 1962. Further, as the importer has mis-declared the classification of the imported goods and has availed the undue benefit of concessional duty, it also appears that the subject goods are liable for confiscation under Section 111 (m) of the Customs Act, 1962 and the importer is liable for penalty under Section 112 (a) & (b) and/or 114 A ibid.

1.11 Whereas, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in customs clearance. Section 17 of the Customs Act, effective from 08.04.2011 [CBIC's (erstwhile CBEC) Circular No. 17/2011 dated 08.04.2011], provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form. Section 46 of the Customs Act, 1962,

makes it mandatory for the importer to make 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 Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declared the correct classification, declaration, applicable rate of duty, including IGST, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the importer, more specifically the RMS facilitated Bill of Entry, to declare the correct classification, description, value, notification benefit, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In other words, the onus is on the importer in order to prove that they have classified the goods correctly by giving the complete description of the goods.

1.12 As discussed above, it is the responsibility of the importer to classify the goods under import properly. In the instant case, the importer has assessed the impugned goods, namely 'Sweetened Dried Cranberries Whole', Sweetened Processed Dried Cranberries Whole', 'Whole Sweetened Dried Cranberries', etc., under CTH 20089300, which is wrong and paid BCD @10%. On the other hand, the subject goods, which are correctly classifiable under CTH 08134090, attract payment of BCD @30%, and this has resulted in short payment of duty. It appears that the importer has done the self-assessment wrongly with the intention to get financial benefit by paying less duty. The wrong assessment of goods is nothing but the suppression of facts with the intention of getting financial benefit. Hence, it appears that the importer has suppressed the facts by a wrong assessment of the impugned goods, leading to short payment of duty. As there is suppression of facts, an extended period of five years can be invoked for the demand of duty under Section 28 (4) of the Customs Act, 1962.

1.13 Therefore, in view of the above facts, it appears that the importer M/s. Tajir Pvt. Ltd. (IEC No. 0388164689) has deliberately mis-declared the goods and not paid the duty by wilful mis-statement as it was his duty to declare correct CTH with applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby evaded duty amounting to Rs. 13,48,58,943 (Rs. Thirteen Crores Forty-Eight Lakhs Fifty-Eight Thousand Nine Hundred Forty-Three only). Therefore, for their acts of omission/commission, the

differential duty, so not paid, is liable for recovery from the importer under Section 28 (4) of the Customs Act, 1962, by invoking an extended period of limitation, along with applicable interest under Section 28 AA of the Customs Act, 1962.

1.14 It also appears that, as the importer has mis-declared the classification of the imported goods and has availed the undue benefit of concessional duty, the subject goods are liable to confiscation under Section 111 (m) of the Customs Act, 1962, and the importer is liable for penalty under Section 112 (a) & (b) and/or 114A ibid.

1.15 Accordingly, Show Cause Notice bearing No. 1298/2024-25/COMMR/GR. I& IA/NS-I/CAC/JNCH dated 23-10-2024 was issued to M/s. Tajir Pvt. Ltd. (IEC No. 0388164689) is seeking to know why: -

(i) The self-assessments in respect of the classification of "Sweetened Whole Dried Cranberry" under CTH 20089300 declared by the importer M/s. Tajir Pvt. Ltd. (IEC No. 0388164689) at the time of import in respect of the bills of entry as mentioned in Table-1 and Table-3 **with total assessable value of INR 59,59,64,086.90**, should not be rejected and instead be classified under tariff item 08134090 of the Customs Tariff and that Customs duty on the subject goods should not be levied at applicable rates corresponding to the tariff item 08134090;

(ii) The differential Customs duty amounting to **Rs. 13,48,58,943/- (Rs. Thirteen Crores Forty-Eight Lakhs Fifty-Eight Thousand Nine Hundred Forty-Three only)** on impugned goods, should not be demanded and recovered from them under Section 28(4) of the Customs Act,1962;

(iii) The applicable interest should not be recovered from them on the said differential Customs duty, as at (ii) above, under Section 28AA of the Customs Act, 1962;

(iv) The subject goods covered under said Bills of Entry should not be confiscated under section 111(m) of the Customs Act, 1962.

(v) The penalty under Section 112(a) & (b) and/or 114A of the Customs Act, 1962 should not be imposed on the importer.

2. WRITTEN SUBMISSIONS OF NOTICEES

2. The Noticee, **M/s. Tajir Pvt Ltd (IEC No. 0388164689)** vide their letter dated 22.11.2024 gave written submissions and inter alia submitted as below:

2.1 During the period October 2019 to June 2024, they imported various consignments of 'Whole Sweetened Dried Cranberries' at the Port of Nhava Sheva. The said Whole Sweetened Dried Cranberries were imported from the manufacturer-supplier, viz. Ocean Spray International, Inc.

2.2 They submitted that the "Whole Sweetened Dried Cranberries" imported by the noticee are preserved by the process of osmotic dehydration and contain high sugar content, as is evident from the foreign manufacturer-supplier's Certificate, Product Specification Sheet, Process Flow Chart and Ingredient Statement, and that, for this reason, the said goods do not fall under Chapter 8 of the Customs Tariff but are squarely covered under Chapter 20 and are correctly classifiable under CTSH 20089300.

2.3 They submitted that "cranberries" are specifically mentioned under Customs Tariff Sub-heading 20089300 and that, as per the HSN Explanatory Notes under Chapter 20, the said Chapter inter alia covers fruit preserved by osmotic dehydration, which may be whole, in pieces or crushed. They submitted that the HSN Explanatory Notes under Chapter 8 clearly provide that Chapter 8 does not cover fruit preserved by osmotic dehydration involving prolonged soaking in concentrated syrup and further clarify that dried fruits of Chapter 8 may contain only small quantities of added sugar. Accordingly, although dried fruits appear under Heading 0813, the said heading does not cover cranberries preserved by osmotic dehydration and having high sugar content, and such cranberries are correctly classifiable under Sub-heading 20089300.

2.4 They further submitted that, as is evident from the Certificate, Process Flow Chart, Product Specification Sheet and Ingredient Statement issued by the manufacturer-supplier, M/s Ocean Spray International Inc., the Whole Sweetened Dried Cranberries imported by the noticee are preserved by the process of osmotic dehydration through infusion of sugar syrup and contain high sugar content. They submitted that, in view of this factual position, the said goods are correctly classifiable under CTSH 20089300 and not under CTSH 08134090. They further submitted that, although the Show Cause Notice contends that, as per Note 3(b) of Chapter 8, dried fruits of Chapter 8 may contain small quantities of added sugar, the Show Cause Notice does not cite any evidence to establish that the quantity of added sugar in the imported goods is small. On the contrary, the composition of the imported goods provided by the foreign manufacturer shows sugar content ranging from 35% to 45%, which clearly rules out classification of the imported goods under Chapter 8.

2.5 They further submitted that the Show Cause Notice, in para 9.1, contends that the Certificate dated 02-10-2024 issued by the manufacturer-supplier pertains to "cut fruit pieces", whereas the imported goods are whole cranberries, and therefore alleges that the said

Certificate is not in respect of the imported goods. They submitted that this contention is totally unsustainable, as a plain reading of the said Certificate clearly shows that it expressly refers to "Whole Sweetened Dried Cranberries" and unequivocally states that the same are manufactured through a sequential process involving scarification and sugar infusion, also known as osmotic dehydration. They explained that the term "scarification" refers to making longitudinal or latitudinal slits or cuts on the surface of the whole fruit and that the Certificate itself states that after such scarification, the fruit is subjected to sugar infusion. They submitted that the expression "cut fruit piece" used in the context of scarification in the said Certificate clearly refers to the whole fruit on the surface of which a longitudinal or latitudinal cut is made and does not denote cutting the fruit into pieces. Accordingly, they submitted that the contention in the Show Cause Notice that the said Certificate is not in respect of the imported goods is ex facie incorrect.

2.6 They further submitted that the Show Cause Notice proceeds on a misreading of the HSN Explanatory Notes under Chapter 8 to advance an erroneous and unsubstantiated theory that only cut or sliced pieces of fruit, and not whole fruit, can be subjected to osmotic dehydration. They submitted that the reliance placed on the HSN Note explaining that osmotic dehydration refers to a process whereby pieces of fruit are subjected to prolonged soaking in concentrated sugar syrup, after which the fruit may be air-dried and is classifiable under Chapter 20 (Heading 20.08), is misconceived, as the said Note itself clarifies that fruit preserved by osmotic dehydration does not fall under Chapter 8. They further submitted that the Show Cause Notice also relies upon Point (10) of the HSN Explanatory Notes under Heading 20.08, which is similarly worded, and that the interpretation adopted therein to exclude whole fruit from the scope of osmotic dehydration is wholly erroneous.

2.7 They further submitted that, by placing reliance on the expression "pieces of fruit" appearing in the HSN Explanatory Notes, the Show Cause Notice has, without any basis, contended that only cut or sliced pieces of fruit can be subjected to osmotic dehydration and not whole fruit, and on that basis has alleged that since the imported goods are described as "Whole Sweetened Dried Cranberries", they could not have been subjected to osmotic dehydration. They submitted that this theory is founded on a complete misreading of the HSN Notes, is unsupported by any technical material, and is contrary to the technical literature on osmotic dehydration relied upon in reply to the consultative letter.

2.8 They submitted that the said interpretation is erroneous for multiple reasons. Firstly, the HSN Explanatory Notes under Chapter 8 categorically state that Chapter 8 does not cover fruit preserved by osmotic dehydration, and the use of the word "fruit" clearly includes whole fruit, which may be air-dried after soaking in sugar syrup. Secondly, although the HSN Notes describe osmotic dehydration as a process whereby pieces of fruit are subjected to prolonged

soaking, the Notes do not state that only cut or sliced pieces can be subjected to such soaking, as a piece of fruit can also be a whole fruit. Thirdly, the HSN Explanatory Notes under Chapter 20 unequivocally provide that fruit preserved by osmotic dehydration is classifiable under Chapter 20 and that such products may be whole, in pieces or crushed. It was therefore submitted that the Show Cause Notice had completely misread the HSN notes.

2.9 They further submitted that the HSN Explanatory Notes under Chapter 20, under the heading "GENERAL", specify the scope of Chapter 20 under serial numbers 1 to 8, and serial number 8 expressly covers "fruit preserved by osmotic dehydration", followed by the clarification that such products may be whole, in pieces or crushed. They submitted that the contention in para 9.2 of the Show Cause Notice that this phrase applies uniformly to all serial numbers, in fact, reinforces the position that fruit preserved by osmotic dehydration, appearing at serial number 8, may be whole.

2.10 They further submitted that, apart from the tariff and HSN position, the technical literature on osmotic dehydration conclusively establishes that even whole fruit can be subjected to osmotic dehydration. They explained that, for this purpose, longitudinal or latitudinal slits are made on the surface of the fruit, technically referred to as scarification, after which the fruit is soaked in concentrated sugar syrup, enabling sugar infusion through such slits. In support, reliance was placed on published scientific articles and a United States patent, all of which recognise that fruits and vegetables may be osmosed whole or in pieces and that whole fruits can be subjected to osmotic dehydration through scarification. They submitted that although this technical literature was specifically relied upon in reply to the consultative letter, the same has been completely ignored in the Show Cause Notice, which contains no rebuttal whatsoever to the said material.

2.11 In view of the above, they submitted that the theory advanced in the Show Cause Notice that whole fruit cannot be subjected to osmotic dehydration is wholly baseless and ex facie erroneous, and consequently, the contention that the imported Whole Sweetened Dried Cranberries preserved by osmotic dehydration cannot be classified under Chapter 20 and must fall under Chapter 8 is legally unsustainable.

2.12 They further submitted that it is also evident from the foreign manufacturer-supplier's Certificate dated 02-10-2024 that the "Whole Sweetened Dried Cranberries" are manufactured through a sequential process including fruit freezing, scarification, juice extraction, sugar infusion (osmotic dehydration) and air drying, and that the said Certificate clearly explains that scarification and subsequent exposure to sugar syrup are undertaken to enable osmotic dehydration.

2.13 They further submitted that the Show Cause Notice, in para 9.1, erroneously contends that the foreign manufacturer-supplier's Certificate dated 02-10-2024 pertains to cut pieces of fruit and not to whole fruit. They submitted that it is abundantly clear from the said Certificate that it expressly refers to "Whole Sweetened Dried Cranberries", as the very first sentence of the Certificate begins with the description "Whole Sweetened Dried Cranberries" and states that whole sweetened dried cranberries ("SDCs") are manufactured through a sequential process including fruit freezing, scarification, juice extraction, sugar infusion (also known as osmotic dehydration) and air drying. They further submitted that the reference to "cut fruit pieces" appearing in the third sentence of the Certificate pertains only to the slits made on the surface of the whole cranberry, i.e. scarification, to enable osmotic dehydration, as explained in the preceding sentence of the Certificate, and does not denote cutting the fruit into pieces. Accordingly, they submitted that the contention in the Show Cause Notice that the said Certificate does not relate to Whole Sweetened Dried Cranberries is erroneous. They further submitted that the contention in the Show Cause Notice that the Certificate does not apply merely because it does not bear the noticee's name is equally untenable, as the Certificate clearly identifies the product imported, namely "Whole Sweetened Dried Cranberries", and therefore evidently applies to the noticee's imports.

2.14 They further submitted that the Show Cause Notice contends that the "Whole Sweetened Dried Cranberries" are classifiable under CTSH 08134090 merely on the ground that, as per Note 3(b) of Chapter 8 and the HSN Explanatory Notes under Chapter 8, dried fruits of Chapter 8 may contain small quantities of added sugar. They submitted that the Show Cause Notice does not cite any evidence whatsoever to establish that the quantity of added sugar in the imported goods is small or that the sugar content therein is not high. On the contrary, it is evident from the Ingredient Statement and Product Composition issued by the manufacturer-supplier that the imported dried cranberries contain high sugar content ranging from 35% to 45%. They submitted that, in view of this factual position, the said goods are clearly excluded from Chapter 8 and are correctly classifiable under Heading 20089300.

2.15 They submitted that though the Show Cause Notice reproduces the HSN explanatory Notes under Chapter 8, as per which, the said Chapter does not cover fruit preserved by osmotic dehydration and that such fruit falls under Heading 20 08, the Show cause notice without citing any evidence that the imported goods have not been subjected to osmotic dehydration, contends that the goods are classifiable under Chapter 8. It is settled law, as laid down in the following judgments, that the burden of classification is on the revenue, and it is for the revenue to lead evidence to show that the goods are classifiable in the manner claimed by the revenue, and they relied upon judgments in the case of UOI v Garware Nylons Ltd-

1996 (87) ELT 12, Nanya Imports & Exports Enterprises v CC -2006 (197) ELT 154, H.P.L Chemicals Ltd v CCE – 2006 (197) ELT 324 in support of their claim.

2.16 They further submitted that, in the present case, the Show Cause Notice does not cite any evidence whatsoever to establish that the "Whole Sweetened Dried Cranberries" imported by the noticee were not preserved by the process of osmotic dehydration or that the sugar added thereto was in a small quantity. They submitted that, on the contrary, the foreign manufacturer-supplier's certificates, process flow chart, product specification sheets and ingredient statement, placed on record, clearly establish that the imported goods have undergone osmotic dehydration and contain high sugar content. They therefore submitted that, in these circumstances, the imported Whole Sweetened Dried Cranberries are not classifiable under Sub-heading 08134090 as alleged in the Show Cause Notice, but are correctly classifiable under CTSH 20089300 as declared by the noticee.

2.17 They further submitted that, prior to 20-02-2024, cranberry products falling under CTSH 20089300 were partially exempt from customs duty in excess of 10% under Serial No. 100 of Notification No. 50/2017-Cus dated 30-06-2017 and that, since the Whole Sweetened Dried Cranberries imported by the noticee contained high added sugar on account of preservation by osmotic dehydration, the said goods were cranberry products classifiable under CTSH 20089300 and the partial duty exemption under the said Serial No. 100 was correctly claimed in respect of imports made prior to 20-02-2024; they further submitted that, with effect from 20-02-2024, cranberries falling under CTSH 20089300 were partially exempt from customs duty in excess of 5% under Serial No. 90A of the said Notification, and that the said partial exemption was correctly claimed for imports made after the said date, and that the contention in the Show Cause Notice that the partial exemption under Serial No. 100 was applicable only to cranberry products of Chapter 20 and that the imported goods were dried cranberries of Chapter 8, and further that with effect from 20-02-2024 dried cranberries of Chapter 8 were covered under Serial No. 32AC of the said Notification, is erroneous and untenable, in as much as the dried cranberries imported by the noticee, having high added sugar on account of preservation by osmotic dehydration, are clearly products classifiable under CTSH 20089300 and not under Chapter 8, and therefore the benefit of partial exemption under Serial No. 100 prior to 20-02-2024 and under Serial No. 90A thereafter was rightly availed.

2.18 They submitted that the Show Cause Notice dated 23-10-2024 demanding duty in respect of goods cleared during the period October 2019 to June 2024 covers period beyond the limitation period of two years specified in Section 28 (1) of the Customs Act, 1962 and is therefore to that extent barred by time and that the larger period of limitation of five years under Section 28(4) of the Customs Act, 1962 is inapplicable in the present case as there is no

collusion, willful misstatement or suppression of facts in the present case as there is no collusion. They submit that it is settled law that claiming a particular classification or Notification is a matter of belief on the part of the importer, and the claiming of a particular classification or exemption Notification does not amount to mis-declaration or wilful mis-statement or suppression of facts. they have correctly and consistently described the goods as "Whole Sweetened Dried Cranberries" in the Bills of Entry. Therefore, as laid down in the following judgments, the claiming of a particular classification or Notification with which the department subsequently disagrees does not amount to mis-declaration or wilful mis-statement or suppression of facts, and they relied upon judgments in the case of Northern Plastic Ltd v Collector – 1998 (101) ELT 549 (SC), CC v Gaurav Enterprises – 2006 (193) ELT 532 (BOM), C. Natwarlal& Co v CC-2012-TIOL-2171-CESTAT-MUM, S. Rajiv & Co. v CC – 2014 (302) ELT 412, Lewek Altair Shipping Pvt. Ltd. v CC -2019(366) ELT 318 (Tri-Hyd) 2019 (367) ELT A328 (SC) etc. in support of their claim, Hence, The larger period of limitation, therefore cannot apply.

2.19 They also submitted that in terms of the Mandatory Compliance Requirements in respect of imports of the said Whole Sweetened Dried Cranberries, it was only upon verification that the goods are of CTSH 20089300, that the proper officers of customs granted clearance to the said goods under CTSH 20089300 with the benefit of the said duty exemption. It therefore follows that the proper officers of customs also agreed with our claim for classification and notification, and therefore it cannot be a case of wilful misstatement or suppression of facts on our part. In respect of the consignment of dried cranberries imported under Bill of Entry No. 2188590 dated 17-2-2024, the goods were physically examined and granted clearance under CTSH 20089300 with the benefit of exemption under Serial No. 100 of Notification No. 50/2017-Cus dated 30-6-2017, which was duly verified. Therefore, this itself shows that even the proper officer of customs who assessed the said Bill of Entry agreed with our view on classification. It cannot, therefore, be said that there was any wilful mis-statement or suppression of facts on our part.

2.20 They further submitted that the contention that the noticee was required to self-assess the goods under Section 17 of the Customs Act, 1962 does not, in any manner, justify invocation of the extended period of limitation. They submitted that the claiming of a particular classification or notification benefit in self-assessment is a matter of bona fide belief and interpretation on the part of the importer and that such self-assessment is always open to re-assessment by the proper officer of customs in case of any disagreement. They further submitted that, in the present case, the proper officer of customs did not disagree with the self-assessment, and on the contrary, the goods were examined and the claim of classification and exemption was verified at the time of assessment. They submitted that the aforesaid decisions of the Hon'ble Supreme Court in the case of Northern Plastic Ltd. and of

the Hon'ble Bombay High Court in the case of Gaurav Enterprises, though relating to the period prior to the introduction of self-assessment with effect from 08-04-2011, have been applied by the Tribunal in the cases of C. Natwarlal & Co. and S. Rajiv & Co. even in respect of imports made after 08-04-2011.

2.21 They also submit that Section 111(m) of the Customs Act 1962 has no application to the present case. It is submitted that the claiming of a particular classification or Notification cannot and does not render the goods liable to confiscation under Section 111 (m) of the Customs Act 1962. As laid down by the Hon'ble Supreme Court in the case of Northern Plastic Ltd v Collector – 1998 (101) ELT 549 (SC), Section 111 (m) is attracted when the particulars of the goods are mis-declared and a statement in the Bill of entry as to classification or Notification is not a statement about the particulars of the goods. So long as the goods are correctly described, which in the present case they are, claiming a particular classification or Notification does not amount to misdeclaration of any particulars of the goods and therefore does not attract Section 111 (m). Further, the contention that they were required to self-assess the goods under Section 17 of the Customs Act 1962 does not in any way justify the invocation of Section 111 (m) of the Customs Act 1962. Even after the introduction of self-assessment with effect from 8-4-2011, Section 111(m) can be invoked only in a case of misdeclaration of particulars of the goods and claiming a particular classification or Notification is not a declaration of particulars of the goods. in support of their claim, they relied upon the judgment in the case of C. Natwarlal & Co v CC-2012-TIOL-2171-CESTAT-MUM, S. Rajiv & Co. v CC – 2014 (302) ELT 412, Lewek Altair Shipping Pvt. Ltd. 2019(1) TMI 1290 – CESTAT Hyderabad and 2019 (7) TMI 516, all relate to the period after 8-4-2011. Therefore, the contention raised in the Show Cause notice based on the introduction of self-assessment with effect from 8-4-2011 is totally misconceived.

2.22 They submitted that the goods in the present case are not available for confiscation and therefore, no redemption fine can be imposed when the goods are not available for confiscation. In support of their claim, they relied upon judgments in the case of Shiv KripaIspat P. Ltd v CC- 2009 (235) ELT 623-Tri-LB, Chinku Exports v CC 1999 (112) ELT 400 and others.

2.23 They submitted that since the goods are not liable to confiscation under Section 111 (m) of the Customs Act 1962. Therefore, no penalty can be imposed under Section 112 (a) or Section 112(b) of the said Act. Further, the demand for duty is liable to fail both on merits and on limitation. Therefore, the question of imposition of penalty under Section 114A of the Customs Act 1962 does not arise. The submissions made herein above in respect of the inapplicability of Section 28(4) and Section 111(m) equally apply in support of the submission that Section 114A has no application whatever, and the said submissions are reiterated in respect of Section 114A of the Customs Act 1962.

RECORDS OF PERSONAL HEARING

3.1 Opportunity for personal hearing in the matter was granted to the importer on 19.09.2025, and accordingly, Ms. Shamita J. Patel, Advocate, representative of M/s. Tajir Pvt. Ltd. (IEC No. 0388164689) appeared on behalf of the Noticee. She reiterated her written submissions dated 22.11.2024 in the matter. She further stated that all the goods mentioned in the SCN have gone through the process of 'Osmotic Dehydration'. She submitted certificates of the manufacturer of the impugned goods to the effect that the goods have gone through the said process and thus merit classification under Chapter heading 2008.

4. DISCUSSIONS AND FINDINGS

4.1 I have carefully gone through the Show Cause Notice, material on record and facts of the case, as well as written and oral submissions made by the Noticee. Accordingly, I proceed to decide the case on merit.

4.2 I find that in terms of the principle of natural justice, opportunity for PH was granted to the Noticee i.e M/s Tajir Pvt Ltd (IEC No. 0388164689) on 19.09.2025. The said personal hearing was attended by Ms Shamita J. Patel, Advocate on behalf of the Noticee, M/s Tajir Pvt Ltd (IEC No. 0388164689). I note that the adjudicating authority has to take the views/objections of the noticee(s) on board and consider them before passing the order. In the instant case, as per Section 28(9) of the Customs Act, 1962 the last date to adjudicate the matter was 22.10.2025 which was extended three months by the Chief Commissioner of Customs in terms of first proviso to Section 28(9) of the Act *ibid* up to 22.01.2026 vide his order dated 16.10.2025, after the Personal Hearing proceedings having been concluded on 19.09.2025, so that the noticee would get ample time for submission of their defence reply (i.e. their views/objections) against the SCN.

4.3 I find that in compliance with the 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. Thus, the principles of natural justice have been followed during the adjudication proceedings. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on the merits, bearing in mind the allegations made in the SCN.

4.4 It is alleged in the Show Cause Notice that the importer, M/s. Tajir Pvt. Ltd. (IEC No. 0388164689), imported consignments of “Sweetened Whole Dried Cranberries” at Nhava Sheva Sea Port under various Bills of Entry, as detailed in Table-1 and Table-3 of the said Show Cause Notice, by classifying the said goods under CTH 20089300 and claiming the benefit of Notification No. 50/2017-Cus dated 30.06.2017 (as amended), thereby paying concessional duty. It is alleged that, on scrutiny of the Bills of Entry, the goods were found to be ‘Sweetened Whole Dried Cranberries’ and that the importer had mis-classified the said

goods under CTH 20089300 and wrongly availed the benefit of Serial No. 100 of Notification No. 50/2017-Cus (prior to 20.02.2024) and Serial No. 90A of the said Notification (with effect from 20.02.2024), resulting in payment of lower customs duty at the rate of 10% / 5% BCD along with applicable SWS and IGST. It is further alleged that the subject goods are correctly classifiable under CTH 08134090 as 'Dried Cranberries', attracting BCD @30%, SWS @10% and IGST @18% prior to 20.02.2024 and that the benefit of Serial No. 100 of Notification No. 50/2017-Cus was not available to the said goods. It is also alleged that, even for the period after 20.02.2024, although 'Dried Cranberries' were covered under Serial No. 32AC of Notification No. 50/2017-Cus (as amended by Notification No. 10/2024-Cus dated 19.02.2024), the importer had misclassified the goods under CTH 20089300 and short-paid duty. Accordingly, the Show Cause Notice proposes recovery of the differential customs duty amounting to Rs. 13,48,58,943/- along with applicable interest, confiscation of the impugned goods under Section 111(m) of the Customs Act, 1962, and imposition of penalties on the importer under Sections 112 and 114A of the Customs Act, 1962.

4.5 On careful perusal of the Show Cause Notice and case records, I find that the following main issues are involved in this case, which are required to be decided:

(A) Whether or not the goods declared and imported as "Sweetened Whole Dried Cranberries" by M/s Tajir Pvt. Ltd., which were classified by the importer under CTH 20089300, are liable to be reclassified under CTH 08134090 as alleged in the Show Cause Notice, and consequently whether the importer has wrongly availed the benefit of concessional rate of duty by claiming partial duty exemption under Serial No. 100 of Notification No. 50/2017-Cus dated 30.06.2017 (as amended), resulting in payment of lower rates of Basic Customs Duty, Social Welfare Surcharge and Integrated Tax.

(B) Whether or not the differential customs duty amounting to Rs. 13,48,58,943 (Rs. 13,08,63,407/- + Rs. 39,95,536/-) (Rupees Thirteen Crores Forty-Eight Lakhs Fifty-Eight Thousand Nine Hundred Forty-Three only), as quantified and detailed in the Table-2 and Table-4 of the Show Cause Notice, is liable to be demanded and recovered from M/s Tajir Pvt. Ltd. under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962.

(C) Whether or not the imported goods, having the total assessable value of Rs. 59,59,64,087/- [53,11,01,490/- + 6,48,62,597/-] (Rupees Fifty-Nine Crore Fifty-Nine Lakh Sixty-Four Thousand Eighty-seven only.) as detailed in Table-1 and Table-3 of the Show Cause Notice, are liable to confiscation under Section 111(m) of the Customs Act, 1962, even though the goods are no longer available for physical confiscation.

(D) Whether or not penalties are liable to be imposed on M/s Tajir Pvt. Ltd. under Section 112(a) and/or 112(b) and/or Section 114A of the Customs Act, 1962, for the alleged acts of misclassification, mis-declaration and wrongful availment of exemption, as proposed in the Show Cause Notice.

4.6 After having framed the substantive issues raised in the SCN which are required 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, provisions of the Customs Act, 1962, nuances of various judicial pronouncements as well as Noticee's oral and written submissions and documents/evidences available on record.

(A) Whether or not the goods declared and imported as "Sweetened Whole Dried Cranberries" by M/s Tajir Pvt. Ltd., which were classified by the importer under CTH 20089300, are liable to be reclassified under CTH 08134090 as alleged in the Show Cause Notice, and consequently whether the importer has wrongly availed the benefit of concessional rate of duty by claiming partial duty exemption under Serial No. 100 of Notification No. 50/2017-Cus dated 30.06.2017 (as amended), resulting in payment of lower rates of Basic Customs Duty, Social Welfare Surcharge and Integrated Tax.

4.7 I find that the importer, M/s Tajir Pvt Ltd, had classified the goods declared as "Whole Sweetened Dried Cranberries" under CTH 20089300 in the various Bills of Entry as detailed in Table-1 and Table-3 of the subject Show Cause Notice. However, the Show Cause Notice proposes reclassification of the said goods under CTH 08134090. Therefore, the foremost issue before me to be decided in the present case is whether the goods "Whole Sweetened Dried Cranberries" imported by the noticee under the Bills of Entry listed in the Show Cause Notice are correctly classifiable under CTH 20089300, as claimed and declared by the importer, or under CTH 0813 4090, as proposed in the Show Cause Notice.

4.8 I note that the goods should be classified under respective chapter headings, duly following the General Rules of Interpretation, keeping in mind the material condition and basic details of the goods. Relevant extract of General Rules of Interpretation (GRI) provides as follows:

> *"General Rules for the interpretation of this schedule*
> *Classification of goods in this Schedule shall be governed by the following principles:*
> *1. The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:*

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article, incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article, complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. When, by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be affected as follows:
(a) The heading that provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration."

4.8.1 I find that the classification of goods under the Customs Tariff is governed by the principles as set out in the General Rules for the Interpretation of Import Tariff. As per General Rules for the Interpretation of the Harmonised System, classification of the goods in the nomenclature shall be governed by Rule 1 to Rule 6 of General Rules for Interpretation of Harmonised System. **Rule 1** of General Rules for Interpretation is very important Rule of Interpretation for classification of goods under the Customs Tariff, which provides that classification shall be determined according to the terms of headings and any relative Section or Chapter Notes. It stresses that relevant Section/Chapter Notes have to be considered along with the terms of headings while deciding classification. **It is not possible to classify an item**

only in terms of the heading itself without considering relevant Section or Chapter Notes.

4.8.2 In this connection, I rely upon the judgment passed by the Hon'ble Supreme Court in case of OK Play (India) Ltd. Vs. CCE, Delhi-III, Gurgaon [2005 (180) ELT-300 (SC)] wherein it was held that for determination of classification of goods, three main parameters are to be taken into account; first HSN along with Explanatory notes, second equal importance to be given to Rules of Interpretation of the tariff and third Functional utility, design, shape and predominant usage. These aids and assistance are more important than names used in trade or in common parlance.

4.8.3 I also put reliance upon the judgment of the Hon'ble Tribunal in the case of Pandi Devi Oil Industry Vs. Commissioner of Customs, Trichy [2016 (334) ELT-566 (Tri-Chennai)] wherein it was held that it is settled law that for classification of any imported goods, the principles and guidelines laid out in General Interpretative Rules for classification should be followed and the description given in the chapter sub-heading and chapter notes, section notes should be the criteria.

4.8.4 In view of the above, I proceed to decide the classification of the impugned goods by referring to the Customs Tariff and chapter and Heading notes, etc.

4.9 The relevant excerpts of HSN Explanatory Notes to Chapter 8 are reproduced hereunder:

"Chapter 8

Edible fruit and nuts; peel of citrus fruit or melons

Notes:

1.- This Chapter does not cover inedible nuts or fruits.

2.- Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.

3.- Dried fruit or dried nuts of this Chapter may be partially rehydrated, or treated for the following purposes:

(a) For additional preservation or stabilisation (for example, by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbate),

(b) To improve or maintain their appearance (for example, by the addition of vegetable oil or small quantities of glucose syrup), provided that they retain the character of dried fruit or dried nuts.

4.- Heading 08.12 applies to fruit and nuts which have been treated solely to ensure their provisional preservation during transport or storage prior to use (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), provided they remain unsuitable for immediate consumption in that state.

GENERAL

This Chapter covers fruit, nuts and peel of citrus fruit or melons (including watermelons), generally intended for human consumption (whether as presented or after processing). They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated, evaporated or freeze-dried); provided they are unsuitable for immediate consumption in that state, they may be provisionally preserved (e.g., by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions).

The term "chilled" means that the temperature of a product has been reduced, generally to around O °C, without the product being frozen. However, some products, such as melons and certain citrus fruit, may be considered to be chilled when their temperature has been reduced to and maintained at+ 10 °C. The expression "frozen" means that the product has been cooled to below the product's freezing point until it is frozen throughout.

Fruit and nuts of this Chapter may be whole, sliced, chopped, shredded, stoned, pulped, grated, peeled or shelled.

It should be noted that homogenisation, by itself, does not qualify a product of this Chapter for classification as a preparation of Chapter 20.

The addition of small quantities of sugar does not affect the classification of fruit in this Chapter. The Chapter also includes dried fruit (e.g., dates and prunes), the exterior of which may be covered with a deposit of dried natural sugar thus giving the fruit an appearance somewhat similar to that of the crystallised fruit of heading 20.06.

*However, this Chapter does not cover fruit preserved by osmotic dehydration. The expression "**osmotic dehydration" refers to a process whereby pieces of fruit are subjected to prolonged soaking in a concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup. The fruit may subsequently be air-dried to further reduce the moisture content. Such fruit is classified in Chapter 20 (heading 20.08).**"*

4.9.1 For CTH 0813, the relevant excerpts of the Customs Tariff Act, 1975, are reproduced below for ready reference: -

Tariff Item	Description of goods	Unit	Rate of duty

				Standard	Preferential Areas
0813	FRUIT, DRIED, OTHER THAN THAT OF HEADINGS 0801 TO 0806; MIXTURES OF NUTS OR DRIED FRUITS OF THIS CHAPTER				
0813 10 00 - 20%	Apricots	kg.		30%	
0813 20 00 -	Prunes	kg.	25%		15%
0813 30 00 - 20%	Apples	kg.		30%	
0813 40 -	Other fruit:				
0813 40 10 --- 20%	Tamarind, dried	kg.		30%	
0813 40 20 --- 20%	Singoda whole (water nut)	kg.		30%	
0813 40 90 --- 20%	Other	kg.		30%	

4.9.2 As per Chapter Note 3(b) and General Note Para mentioned above, Dried Fruits, even if added with a small quantity of sugar/glucose, remain classifiable under Chapter 08 only. Only the goods that are Osmotically Dehydrated are excluded from Chapter 8 and are classifiable at CTH 2008. The relevant Explanatory Note of Chapter 08 is reproduced below again:

> *However, this Chapter does not cover fruit preserved by osmotic dehydration. The expression "osmotic dehydration" refers to a process whereby **pieces of fruit** are subjected to prolonged soaking in a concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup. The fruit may subsequently be air-dried to further reduce the moisture content. Such fruit is classified in Chapter 20 (heading 20.08).*

4.9.3 It can be observed here that for Osmotic Dehydration, **pieces of fruit need prolonged soaking in a concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup before dehydration**. Hence, it is clear that "Pieces of Fruit, when processed Osmotically, can only be classified under CTH 2008 and not the WHOLE FRUIT. The Osmotic Dehydration process applies to Pieces of Fruit and not the Whole Fruit.

4.9.4 The first Note, i.e. Note 1 (a) to Chapter 20 states that "Chapter does not cover Vegetables, fruits or nuts, prepared or preserved by the processes specified in Chapter 7, Chapter 8 or Chapter 11". The same is also specified at Point No. 6 of the General Explanatory Notes of Chapter 08. It shall be noted that the processes of Drying of Fruits/Vegetables have been described in the explanatory notes of Chapter 8, and hence the dried fruits stand classifiable in Chapter 8.

4.9.5 HSN Explanatory Notes to Chapter 20 are reproduced below for ready reference:

"CHAPTER 20
Preparations of vegetables, fruit, nuts or other parts of plants

Notes:

1. This Chapter does not cover:

(a) vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, 8 or 11;
**(b) vegetable fats and oils (Chapter 15);*
**(c) food preparations containing more than 20% by weight of sausage, meat, meat offal, blood,*
insects, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (Chapter 16);
(d) bakers' wares and other products of heading 1905; or
(e) homogenised composite food preparations of heading 2104."

4.9.6 For CTH 2008, the relevant excerpts of the Customs Tariff Act, 1975 is reproduced below for ready reference:

Tariff Item	Description of goods	Unit	Rate of duty Standard	Preferential Areas
2008	FRUIT, NUTS AND OTHER EDIBLE PARTS OF PLANTS, OTHERWISE PREPARED OR PRESERVED, WHETHER OR NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR SPIRIT, NOT ELSEWHERE SPECIFIED OR INCLUDED			
	- Nuts, ground-nuts and other seeds, Whether or not mixed together:			
2008 60 00 -	Cherries	kg.	30%	-
2008 93 00 --	*Cranberries (Vaccinium macrocarpon,	kg.	30%	-

Vaccinium oxycoccos; lingonberries
(Vaccinium vitis-idaea)

*w.e.f. 1.1.2022.

4.10 It is a well-established principle of tariff classification that the Section Notes, Chapter Notes and the HSN Explanatory Notes constitute the statutory framework within which classification must be determined. These Notes are not mere interpretative aids but have binding relevance, and any competing claim of classification must be examined strictly in light of these statutory provisions. In the present case, the Notes under Chapter 8 assume particular significance. **Chapter 8 specifically provides that dried fruits of this Chapter may be partially rehydrated or treated with small quantities of sugar, glucose syrup, vegetable oil, sculpturing agents, sorbic acid or similar preservatives, without any change in their classification**. Therefore, so long as the fruit retains its identifiable structure and essential characteristics of dried fruit—whether whole, sliced, chopped, infused or lightly sweetened—it remains classifiable under Chapter 8.

4.11 I find that Chapter 20, which covers "preparations of fruits," contains an explicit exclusion under Note 1(a). This Note categorically states that the **Chapter does not cover fruits "prepared or preserved by the processes specified in Chapters 7, 8 or 11.**" This exclusion is critical because it demonstrates the legislative intent that any fruit that has undergone a process inherently contemplated by Chapter 8 cannot simultaneously be elevated to the status of a preparation under Chapter 20. Thus, when the manufacturing process consists essentially of drying, **infusion, limited addition of sugar**, coating with oil, or other stabilizing preservatives—processes which the HSN explicitly recognizes as typical for dried fruits—the resultant product squarely falls within Chapter 8 and is barred from entering Chapter 20. Only when the fruit is subjected to a process not covered under Chapter 7, 8 or 11, such as a composite preparation, concentrated preparation, or the highly specific and technically stringent process of osmotic dehydration, can the product be considered under Chapter 20. In the absence of such qualifying processes, and where the goods retain the essential character and physical identity of dried fruit, the statutory scheme leaves no room to classify them under Chapter 20.

4.12 The importer has argued that the impugned goods fall under Chapter 20 on the ground that they have purportedly undergone "osmotic dehydration." I find this claim **entirely unsubstantiated**. The HSN Explanatory Notes make it abundantly clear that osmotic dehydration is not a generic expression for any fruit that has been exposed to sugar syrup, but refers to a highly specific, technically intensive, and scientifically defined process. As per the HSN, osmotic dehydration requires the fruit pieces to be subjected to **prolonged soaking in a high-concentration (hypertonic) sugar solution**, such that an actual osmotic gradient is

created between the intracellular fluid of the fruit and the external solution. This gradient triggers a simultaneous bidirectional mass transfer:

(i) Water migrates out of the fruit tissues into the concentrated syrup, and
(ii) Sugar molecules diffuse inward, replacing a portion of the fruit's natural water and soluble solids.

4.12.1 This is not a simple culinary infusion, but a controlled physicochemical process requiring specific processing parameters—such as documented soaking time (typically several hours), precise syrup concentration (Brix levels), temperature control, pre- and post-process moisture analysis, and evidence of actual mass transfer. The HSN contemplates osmotic dehydration as an industrially measurable and verifiable preservation technique that results in a substantive alteration of the internal composition of the fruit, not merely in added sweetness on the surface.

4.13 In the present case, no such technical or scientific evidence has been submitted by the importer. The **manufacturer's documents repeatedly use the term "infusion" and refer only to the fruit being mixed with infusion syrup before entering a mechanical dryer**. There is no mention of the duration of contact, the concentration of the syrup, the establishment of osmotic pressure, or any laboratory validation of water–sugar replacement inside the fruit tissues. The process flow charts show a continuous process, where fruit passes through "infusion pans" and is then dried, which is fundamentally inconsistent with the long-duration soaking that osmotic dehydration requires. The importer has not provided any Brix data, soak-time logs, moisture-differential charts, or any independent third-party technical report to establish that osmotic dehydration ever occurred. In the absence of such evidence, the importer's mere assertion—unsupported by measurable process parameters or scientific documentation—cannot be accepted. The process described in the manufacturer's documents corresponds to ordinary infusion, a treatment specifically envisaged and permitted under Chapter 8, and certainly does not meet the stringent standard of osmotic dehydration required for exclusion from Chapter 8 and reclassification under Chapter 20.

4.14 It is essential to distinguish between the processes of infusion and osmotic dehydration, as they are fundamentally different both in scientific principle and in their treatment under the HSN. Infusion is a relatively simple process in which fruit pieces are mixed with or briefly exposed to sugar syrup to improve sweetness, flavour, colour, or palatability. The movement of sugar into the fruit during infusion is superficial and limited, and there is no requirement of water being drawn out of the fruit tissues. Infusion does not involve establishing a controlled osmotic gradient, nor does it require specific Brix levels, soak duration, or documentation of internal compositional changes. It is a common and

accepted treatment for dried fruits, and the HSN expressly permits such treatment under Chapter 8, provided the product retains the essential character of dried fruit. In stark contrast, osmotic dehydration—as contemplated in the HSN exclusion clause for Chapter 8—is a rigorous physicochemical process involving prolonged soaking of the fruit in a high-concentration (hypertonic) sugar solution whereby a true osmotic effect is created. This process causes a bidirectional mass transfer: water diffuses out of the fruit and sugar diffuses into the fruit, resulting in the replacement of natural water and soluble solids with external sugar. Osmotic dehydration, therefore, leads to deep compositional changes within the internal cellular structure of the fruit. This process requires demonstrable technical parameters such as precise syrup concentration, controlled soaking time, pre- and post-process moisture analysis, and scientific evidence of mass transfer. Such stringent criteria are absent in simple infusion, and unless these requirements are met and documented, a product cannot be regarded as osmotically dehydrated for the purpose of classification under Chapter 20. Accordingly, the use of the term "infusion" by the manufacturer, without accompanying process parameters or scientific validation, cannot be equated with osmotic dehydration and does not justify shifting the classification from Chapter 8 to Chapter 20.

4.15 It is further pertinent to note that the HSN Explanatory Notes to Chapter 8, while defining the process of osmotic dehydration, specifically state that the process involves "pieces of fruit" being subjected to prolonged soaking in a concentrated sugar syrup so that much of the water and natural sugar of the fruit is replaced by sugar from the syrup, prior to any subsequent air-drying. The deliberate use of the expression "pieces of fruit" in the HSN definition is significant and cannot be ignored. Osmotic dehydration, by its very nature, is a mass-transfer driven process which requires extensive surface area and internal exposure of fruit tissues to the hypertonic solution to facilitate the outward diffusion of water and inward diffusion of sugar. Such a process is technically feasible and practically applied to cut, sliced, or segmented fruit pieces, and not to whole fruits, where the intact skin and internal structure act as a natural barrier to effective osmotic exchange. Therefore, where the imported goods include whole fruits, such as whole cranberries, the application of osmotic dehydration, as defined under the HSN, becomes inherently implausible. In absence of cutting, slicing, or segmentation prior to soaking, the essential prerequisite of osmotic dehydration remains unfulfilled. Accordingly, whole fruits cannot be brought within the ambit of Chapter 20 merely on the basis of sugar presence or infusion, and such goods continue to merit classification under Chapter 8, unless clear and convincing evidence is produced to demonstrate that the specific process prescribed under the HSN for osmotic dehydration of fruit pieces has in fact been carried out.

4.16 I have carefully considered the letter furnished by the overseas supplier, which the noticee has relied upon to support its contention that the impugned goods have undergone

osmotic dehydration. I find that this letter is vague, incomplete, and lacking in the essential technical particulars necessary to substantiate such a claim. The supplier has not provided any measurable process parameters such as soaking duration, syrup concentration, moisture differentials, or any laboratory evidence indicative of osmotic mass transfer. The absence of these crucial details renders the letter inadequate and unreliable for classification purposes. It is also relevant to note that the supplier is clearly an interested party in the dispute, as they stand to benefit commercially if their goods attract a lower rate of duty upon import into India. A classification under Chapter 20, if accepted, would enable easier market access and enhanced competitiveness of their products, thereby conferring a direct economic advantage upon them. This vested interest substantially diminishes the evidentiary weight of the supplier's assertions. In classification matters, reliance cannot be placed on self-serving and unsupported statements from parties who may benefit from a favourable outcome, particularly when such statements lack the technical and documentary rigor mandated by the HSN. Accordingly, I find that the supplier's letter cannot be given probative value and does not assist the noticee in establishing that the goods have undergone osmotic dehydration or in rebutting the classification proposed in the Show Cause Notice.

4.17 I find that Chapter 8 of the Customs Tariff expressly permits the classification of dried fruits even when they have undergone certain treatments—including infusion—so long as the fruit retains the essential character of dried fruit. The statutory basis for this is found in HSN Chapter 8, Note 3, which states that dried fruits may be partially rehydrated or treated for additional preservation or to improve appearance, and explicitly cites examples such as "the addition of vegetable oil" and "small quantities of glucose syrup." Infusion is nothing more than the introduction of sugar solution or glucose syrup into the fruit for palatability or appearance, and therefore squarely falls within the scope of treatments contemplated in Note 3. The Note further clarifies that these treatments do not alter the classification, provided the product "retains the character of dried fruit." Thus, even after passing through an infusion step, where limited quantities of syrup are absorbed or coated on the fruit, the product continues to satisfy the statutory definition of dried fruit under Chapter 8. The HSN deliberately allows such treatments because they are commercially common and do not result in any substantial transformation of the fruit. Only when the fruit undergoes osmotic dehydration—a process involving prolonged soaking leading to actual replacement of internal water with sugar—does Chapter 8 exclude the product from its scope. Since infusion does not meet this stringent threshold, fruits that undergo infusion remain correctly classifiable under Chapter 8.

4.18 The importer has relied heavily on the high sugar content of the impugned goods, ranging from 35 to 45 %. —to contend that the fruits must have undergone osmotic dehydration and should therefore fall under Chapter 20. I find this argument misconceived

and lacking any support either in the Tariff or in the HSN Explanatory Notes. The Customs Tariff nowhere prescribes sugar percentage as a criterion for the classification of dried fruit. On the contrary, HSN Chapter 8, Note 3 expressly recognises that dried fruits may be partially rehydrated or treated with vegetable oil, glucose syrup, sorbic acid or other preservatives, provided they retain the character of dried fruit. When fruits are subjected to infusion, mild sweetening, or drying after being mixed with syrup—as is the case with most commercially sold dried cranberries and dried pineapple—the sugar present in the syrup naturally becomes more concentrated due to evaporation of moisture in the dryer, leading to a higher final sugar percentage.

4.18.1 Moreover, high sugar content can result from multiple processes that are well within the scope of Chapter 8 treatments, such as surface infusion, sugar coating, syrup polishing, or the concentration effect produced during mechanical drying. None of these processes amounts to the highly specific and technically controlled process of osmotic dehydration envisaged in the HSN exclusion clause. The essential test under the Tariff is not the numerical sugar percentage but whether the fruit has retained its identity and structure as dried fruit, and whether the process applied is one recognised within Chapter 8. Since dried fruits may legitimately contain added sugar or glucose syrup without shifting their classification, the importer's reliance on sugar content is misplaced. In the absence of any statutory basis, scientific evidence, or HSN support, the mere presence of elevated sugar levels cannot justify classification under Chapter 20, and therefore, the importer's argument holds no relevance for determining the correct tariff heading.

4.19 In view of the detailed discussion above, and after examining the statutory Chapter Notes, the HSN Explanatory Notes, the manufacturing documents submitted by the importer, and the nature and characteristics of the impugned goods, I conclude that the importer has failed to establish that the fruits have undergone osmotic dehydration, which is the only circumstance under which dried fruits are excluded from Chapter 8. The processes described —namely **infusion, limited sugar treatment and mechanical drying**—are treatments expressly envisaged within the scope of **HSN Chapter 8, Note 3**, and do not alter the essential character of the products as dried fruits. The goods remain recognisable as Whole Sweetened Dried Cranberries, and the high sugar content cited by the importer does not constitute a criterion for reclassification under Chapter 20. Consequently, the importer's declared classification under **CTH 20089300** cannot be sustained. The goods are correctly classifiable under CTH **08134090** (Dried Cranberry), as proposed in the Show Cause Notice.

(B) Whether or not the differential customs duty amounting to Rs. 13,48,58,943 (Rs. 13,08,63,407/- + Rs. 39,95,536/-) (Rupees Thirteen Crores Forty-Eight Lakhs Fifty-Eight

Thousand Nine Hundred Forty-Three only), as quantified and detailed in the Table-2 and Table-4 of the Show Cause Notice, is liable to be demanded and recovered from M/s Tajir Pvt Ltd under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962.

4.20 After having determined the correct classification of the subject goods, it is imperative to determine whether the demand for differential Customs duty as per the provisions of Section 28(4) of the Customs Act, 1962, in the subject SCN is sustainable or otherwise. The relevant legal provision is as follows:

> ***SECTION 28(4) of the Customs Act, 1962.***
> ***Recovery of duties not levied or not paid, or short-levied or short- paid or erroneously refunded.*** –
> *(4) Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -*
> *(a) collusion; or*
> *(b)* ***any wilful mis-statement****; or*
> *(c)* ***suppression of facts****,*
> *by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.*

4.21 I find that the importer had evaded correct Customs duty by intentionally suppressing the correct classification of the imported product by not declaring the same at the time of filing the Bills of Entry. Further, despite knowing that the imported goods were rightly classifiable under **CTH 08134090** they wilfully misclassified the goods under the wrong **CTH 20089300** respectively and claimed ineligible benefits under **Sr. No. 100 of Notification No. 50/2017 dated 30.06.2017(as amended)**. By resorting to this deliberate suppression of facts and wilful misclassification, the importer has not paid the correctly leviable duty on the imported goods, resulting in a loss to the government exchequer. ***Thus, this wilful and deliberate act was done with the fraudulent intention to claim an ineligible lower rate of duty and notification benefit.***

4.22 Consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in Customs clearance. ***Under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry.*** Thus, with the introduction of self-assessment by amendments to Section 17, it is the added and enhanced responsibility of the

importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In the instant case, as explained in paras supra, the importer has wilfully mis-classified the impugned goods and claimed an ineligible notification benefit, thereby evading payment of applicable duty, resulting in a loss of Government revenue and, in turn, accruing monetary benefit to the importer. Since the importer has wilfully mis-classified and suppressed the facts with an intention to evade applicable duty, provisions of Section 28(4) are invokable in this case, and the duty, so evaded, is recoverable under Section 28(4) of the Customs Act, 1962.

4.23 In view of the foregoing, I find that, due to deliberate/wilful misclassification of goods, duty demand against the Noticee 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 on invoking an extended period, I rely upon the following court decisions:

(a) 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]

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.

(b) 2013(290) E.L.T.322 (Guj.): Salasar Dyeing & Printing Mills (P) Ltd. Versus C.C.E. & C., Surat-I; Tax Appeal No. 132 of 2011, decided on 27.01.2012.

Demand - Limitation - Fraud, collusion, wilful misstatement, etc. - Extended period can be invoked up to five years anterior to date of service of notice - Assessee's plea that in such case, only one year was available for service of notice, which should be reckoned from date of knowledge of department about fraud, collusion, wilful misstatement, etc., rejected as it would lead to strange and anomalous results;

(c) 2005 (191) E.L.T. 1051 (Tri. - Mumbai): Winner Systems Versus Commissioner of Central Excise & Customs, Pune: Final Order Nos. A/1022-1023/2005-WZB/C-I, dated 19-7-2005 in Appeal Nos. E/3653/98 & E/1966/2005-Mum.

Demand - Limitation - Blind belief cannot be a substitute for bona fide belief - Section 11A of Central Excise Act, 1944. [para 5]

(d) 2006 (198) E.L.T. 275 - Interscape v. CCE, Mumbai-I.

It has been held by the Tribunal that a bona fide belief is not blind belief. A belief can be said to be bona fide only when it is formed after all the reasonable considerations are taken into account;

4.24 Accordingly, the differential duty resulting from re-classification of the imported goods under **CTH 08134090 (Dried Cranberries)**, imposing a higher rate of duty as per the Customs Tariff and denial of Notification benefit, as proposed in the subject Show Cause Notice, is recoverable from M/s. Tajir Pvt. Ltd. is under an extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

4.25 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 the 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 the 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 the case of Pratibha Processors Vs UOI [1996 (88) ELT 12 (SC)].

4.26 I have already held in the above paras that the differential duty of **Rs. 13,48,58,943 (Rs. 13,08,63,407/- + Rs. 39,95,536/-) (Rupees Thirteen Crores Forty-Eight Lakhs Fifty Eight Thousand Nine Hundred Forty-Three only)** should be demanded and recovered from M/s. Tajir Pvt. Ltd., under the provisions of Section 28(4) of the Customs Act, 1962, by invoking the 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 also liable to be recovered from M/s. Tajir Pvt. Ltd.

4.27 In view of the above, I find that the importer had imported the impugned goods vide Bills of Entry, as listed in Table-1 and Table-3 of SCN as mentioned above, by misclassification under CTH 20089300, while these goods were appropriately classifiable CTH 08134090 and the importer has availed duty exemption by claiming ineligible benefit under Sr. No. 100 of Notification No. 50/2017 dated 30.06.2017(as amended) respectively. Therefore, the importer, M/s Tajir Pvt Ltd is liable to pay the differential duty amount of Rs. 13,48,58,943 (Rs. 13,08,63,407/- + Rs. 39,95,536/-) **(Rupees Thirteen Crores Forty Eight Lakhs Fifty Eight Thousand Nine Hundred Forty Three only)**, under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period along with the applicable interest under Section 28AA of the Customs Act, 1962.

(C) Whether or not the imported goods, having the total assessable value of Rs. 59,59,64,087/- [53,11,01,490/- + 6,48,62,597/-] (Rupees Fifty-Nine Crores Fifty-Nine Lakhs Sixty-Four Thousand and Eighty-Seven only) as detailed in Table-1 and Table-3

of the Show Cause Notice, are liable to confiscation under Section 111(m) of the Customs Act, 1962, notwithstanding the fact that the goods are no longer available for physical confiscation.

4.28 I find that the importer, M/s Tajir Pvt Ltd had subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018, in all their import declarations. Thus, under the scheme of self-assessment, it is the importer who has to doubly ensure that he declares the correct description of the imported goods, their 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. 8th April, 2011, there is an added and enhanced responsibility of the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

4.29 I also find that it is very clear that w.e.f. 08.04.2011, the importer must self-assess the duty under Section 17 read with Section 2(2) of the Act, and since 2018, the scope of assessment has been widened. Under the self-assessment regime, it was statutorily incumbent upon the Noticee to correctly self-assess the goods in respect of classification, valuation, claimed exemption notification and other particulars. With effect from 29.03.2018, the term 'assessment', which includes provisional assessment, also, the importer is obligated to not only establish the correct classification but also to ascertain the eligibility of the imported goods for any duty exemptions. From the facts of the case as detailed above, it is evident that the importer, M/s. Tajir Pvt. Ltd. has deliberately failed to discharge this statutory responsibility cast upon them.

4.30 Besides, as indicated above, in terms of the provisions of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018, the importer while presenting a Bill of Entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry. In terms of the provisions of Section 47 of the Customs Act, 1962, the importer shall pay the appropriate duty payable on imported goods and then clear the same for home consumption. ***However, in the subject case, the importer, while filing the bills of entry, has resorted to deliberate suppression of facts and wilful misclassification of goods under CTH 20089300, whereas the imported goods were correctly classifiable under CTH 08134090.*** Further, the above said misclassification was done with the sole intention to fraudulently avail/claim the Country-of-Origin benefit through ineligible duty exemption notifications. Thus, the importer has failed to correctly classify, assess and pay the appropriate duty payable on the imported goods before clearing the same for home consumption.

4.31 I find that the importer had misclassified the imported goods under CTH 20089300 and claimed an ineligible exemption notification. As already elucidated in the foregoing paragraphs, the impugned imported goods were not correctly classifiable under the CTH 08134090. Therefore, it is apparent that the importer has not made the true and correct disclosure with regard to the actual classification of goods in the respective Bills of Entry, leading to suppression of facts. From the above discussions and findings, I find that the importer has done deliberate suppression of facts and wilfully misclassified the goods and has submitted a misleading declaration under Section 46(4) of the Customs Act, 1962, with the intent to misclassify them, knowing fairly well that the goods imported by them were classifiable under CTH 08134090 respectively. Due to this deliberate suppression of facts and wilful misclassification, the importer has not paid the correctly leviable duty on the imported goods, resulting in a loss to the government exchequer.

4.32 I find that the SCN proposes confiscation of goods under the provisions of Section 111(m) of the Customs Act, 1962. Provisions of these Sections of the Act are reproduced herein below:

"SECTION 111. ***Confiscation of improperly imported goods,*** *etc. — The following goods brought from a place outside India shall be liable to confiscation:*

> *(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3 [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54];*
> *[(q) any goods imported on a claim of preferential rate of duty which contravenes any provision of Chapter VAA or any rule made thereunder.]*

4.32.1 I find that Section 111(m) provides for confiscation of goods in cases where any goods do not correspond in respect of value or any other particular with the entry made under the Customs Act, 1962. I have already held in the foregoing paras that the impugned goods imported by M/s. Tajir Pvt. Ltd. were correctly classifiable under the CTH 08134090 (dried cranberries). The importer was very well aware of the correct CTH of the imported goods. However, they deliberately suppressed this correct CTH and instead misclassified the impugned goods under CTH 20089300 in the Bills of Entry. Further, the importer wrongly benefited under Sr. No. 100 of Notification No. 50/2017 dated 30.06.2017 (as amended) respectively. As discussed in the foregoing paragraphs, it is evident that the importer deliberately suppressed the correct CTH and wilfully misclassified the imported goods and claimed an ineligible notification benefit, resulting in a short levy of duty. ***This wilful misclassification and claim of ineligible notification benefit resorted to by the importer, therefore, renders the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962.***

4.33 As the importer, through wilful misclassification and suppression of facts, had wrongly classified the goods under CTH 20089300 (dried cranberries) and claimed ineligible notification benefit while filing Bill of Entry with an intent to evade the applicable Customs duty, resulting in short levy and short payment of duty, I find that the confiscation of the imported goods under Section 111(m) is justified & sustainable in law. ***However, I find that the goods imported vide Bills of Entry as detailed in the Table-1 and Table-3 to the impugned SCN are not available for confiscation.*** In this regard, I find that the confusability of goods and imposition of redemption fine are governed by the provisions of law, i.e. Section 111 and 125 of the Customs Act, 1962, respectively, regardless of the availability of goods at the time of the detection of the offence. I rely upon the order of Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited [reported in 2018 (9) G.S.T.L. 142 (Mad.)] 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 a 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 the 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 the redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of a redemption fine under Section 125 of the Act. We accordingly answer question No. (iii)."*

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

4.33.2 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.

4.33.3 I 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.

4.33.4 I find that the declaration under Section 46(4) of the Customs Act, 1962, made by the importer at the time of filing Bills of Entry is to be considered as an undertaking which appears as good as conditional release. I further find that there are various orders passed by the Hon'ble CESTAT, High Court and Supreme Court, wherein it is held that the goods cleared on execution of Undertaking/ Bond are liable for confiscation under Section 111 of the Customs Act, 1962, and Redemption Fine is imposable on them under provisions of Section 125 of the Customs Act, 1962. A few such cases are detailed below:

a. M/s Dadha Pharma h/t. Ltd. Vs. Secretary to the Govt. of India, as in 2000 (126) ELT 535 (Chennai High Court);

b. M/s Sangeeta Metals (India) Vs. Commissioner of Customs (Import) Sheva, as reported in 2015 (315) ELT 74 (Tri-Mumbai);

c. M/s SacchaSaudhaPedhi Vs. Commissioner of Customs (Import), Mumbai, reported in 2015 (328) ELT 609 (Tri-Mumbai);

d. M/s Unimark Remedies Ltd. Versus. Commissioner of Customs (Export Promotion), Mumbai, reported in 2017(335) ELT (193) (Bom)

e. M/s Weston Components Ltd. Vs. Commissioner of Customs, New Delhi reported in 2000 (115) ELT 278 (S.C.) wherein it has been held that:

"If, after the release of goods, import was found not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods - Section 125 of the Customs Act, 1962, then the mere fact that the goods were released on the bond would not take away the power of the Customs Authorities to levy redemption fine."

f. Commissioner of Customs, Chennai Vs. M/s Madras Petrochem Ltd. as reported in 2020 (372) E.L.T. 652 (Mad.), wherein it has been held as under:

"We find from the aforesaid observation of the Learned Tribunal as quoted above that the Learned Tribunal has erred in holding that the cited case of the Hon'ble Supreme Court in the case of Weston Components, referred to above, is distinguishable. This observation, written by hand by the Learned Members of the Tribunal, bearing their initials, appears to be made without giving any reasons and details. The said observation of the Learned Tribunal, with great respect, is in conflict with the observation of the Hon'ble Supreme Court in the case of Weston Components."

4.33.5 In view of the above, I find that any goods improperly imported as provided in any sub-section of Section 111 of the Customs Act, 1962, become liable for confiscation.

4.34 Once the imported goods are held liable for confiscation under Section 111(m) of the Customs Act, 1962, they cannot have differential treatment in regard to the imposition of redemption fine, merely because they are not available, as the fraud could not be detected at the time of clearance. ***In view of the above, I hold that the present case also merits the imposition of a Redemption Fine, having held that the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962.***

(D) Whether or not penalties are liable to be imposed on M/s Tajir Pvt Ltd under Section 112(a) and/or 112(b) and/or Section 114A of the Customs Act, 1962, for the alleged acts of misclassification, mis-declaration and wrongful availment of exemption, as proposed in the Show Cause Notice.

4.35 The Show Cause Notice has proposed imposition of penalties on the importer, M/s Tajir Pvt. Ltd., under the provisions of Section 112(a) & (b) and/or Section 114A of the Customs Act, 1962.

The said sections are reproduced as under: -

SECTION 112. Penalty for improper importation of goods, etc. *— Any person, -*

(a) *who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*

(b) *who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher.'

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

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (2) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

***Provided** that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the orders of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be **twenty-five per cent** of the duty or interest, as the case may be, so determined:*

***Provided** further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:*

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

4.36 In the instant case, I find that the importer had misclassified the imported goods with malicious intent, despite being fully aware of their correct classification. I have already elaborated in the foregoing paragraphs that the importer has wilfully suppressed the facts with regard to the correct classification of the goods and deliberately misclassified the goods and claimed ineligible notification benefit, with an intent to evade the applicable BCD. I find that in the self-assessment regime; it is the bounden duty of the importer to correctly assess the duty on the imported goods. In the instant case, the wilful misclassification and suppression of correct CTH of the imported goods by the importer tantamount to suppression of material facts and wilful mis-statement. Thus, wilfully misclassifying the goods amply points towards the "mens rea" of the Noticee to evade the payment of legitimate duty. The wilful and deliberate acts of the Noticee to evade payment of legitimate duty clearly bring out their 'mens rea' in this case. Once the 'mens rea' is established, the extended period of limitation, as well as confiscation and penal provision, will automatically get attracted.

4.37 It is a settled law that fraud and justice never dwell together (*Frauset Jus nunquam cohabitant*). Lord Denning had observed that "*no judgment of a court, no order of a minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything*". There are numerous judicial pronouncements wherein it has been held that no court would allow getting any advantage that was obtained by fraud. The Hon'ble Supreme Court in the case of CC, Kandla vs. Essar Oils Ltd., reported as 2004 (172) ELT 433 SC at paras 31 and 32 held as follows:

"31. "Fraud" as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct, either by letter or words, which includes the other person or authority to take a definite determinative stand as a response to the conduct of the former, either by words or letter. ***It is also well settled that misrepresentation itself amounts to fraud.*** *Indeed, innocent misrepresentation may also give reason to claim relief against fraud.* ***A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on a falsehood.*** *It is a fraud in law if a party makes representations, which he knows to be false, although the motive from which the representations proceeded may not have been bad. An act of fraud on the court is always viewed seriously. A collusion or conspiracy with a view to depriving the rights of others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine, including res judicata. (Ram Chandra Singh v. Savitri Devi and Ors.[2003 (8) SCC 319].*

32. "Fraud" and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. The Principal Bench of Tribunal at New Delhi extensively dealt with the issue of Fraud while delivering judgment in Samsung Electronics India Ltd. Vs Commissioner of Customs, New Delhi, reported in 2014(307) ELT 160(Tri. Del). In Samsung case, the Hon'ble Tribunal held as under.

"If a party makes representations which he knows to be false and injury ensues there from although the motive from which the representations proceeded may not have been bad is considered to be fraud in the eyes of law. It is also well settled that misrepresentation itself amounts to fraud when that results in deceiving and leading a man into damage by wilfully or recklessly causing him to believe on falsehood. Of course, innocent misrepresentation may give reason to claim relief against fraud. In the case of Commissioner of Customs, Kandla vs. Essar Oil Ltd. - 2004 (172) E.L.T. 433 (S.C.) it has been held that by "fraud" is meant an intention to deceive; whether it is from any expectation of advantage to the party himself or from the ill-will towards the other is immaterial. "Fraud" involves two elements, deceit and injury to the deceived.

Undue advantage obtained by the deceiver will almost always cause loss or detriment to the deceived. Similarly, a "fraud" is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. (Ref: S.P. Changalvaraya Naidu v. Jagannath [1994 (1) SCC 1: AIR 1994 S.C. 853]. It is said to be made when it appears that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly and carelessly whether it be true or false [Ref :RoshanDeenv. PreetiLal [(2002) 1 SCC 100], Ram Preeti Yadav v. U.P. Board of

High School and Intermediate Education [(2003) 8 SCC 311], Ram Chandra Singh's case (supra) and Ashok Leyland Ltd. v. State of T.N. and Another [(2004) 3 SCC 1].

Suppression of a material fact would also amount to a fraud on the court [(Ref: Gowrishankarv. Joshi Amha Shankar Family Trust, (1996) 3 SCC 310 and S.P. Chengalvaraya Naidu's case (AIR 1994 S.C. 853)]. No judgment of a Court can be allowed to stand if it has been obtained by fraud. Fraud unravels everything and fraud vitiates all transactions known to the law of however high a degree of solemnity. When fraud is established that unravels all. [Ref: UOI v. Jain Shudh Vanaspati Ltd. - 1996 (86) E.L.T. 460 (S.C.) and in Delhi Development Authority v. Skipper Construction Company (P) Ltd. - AIR 1996 SC 2005]. Any undue gain made at the cost of Revenue is to be restored back to the treasury since fraud committed against Revenue voids all judicial acts, ecclesiastical or temporal and DEPB scrip obtained playing fraud against the public authorities are non est. So also, no Court in this country can allow any benefit of fraud to be enjoyed by anybody as is held by Apex Court in the case of Chengalvaraya Naidu reported in (1994) 1 SCC I : AIR 1994 SC 853. Ram Preeti Yadav v. U.P. Board High School and Inter Mediate Education (2003) 8 SCC 311.

A person whose case is based on falsehood has no right to seek relief in equity [Ref: S.P. Chengalvaraya Naidu v. Jagannath, AIR 1994 S.C. 853]. It is a fraud in law if a party makes representations, which he knows to be false, and injury ensues there from although the motive from which the representations proceeded may not have been bad. [Ref: Commissioner of Customs v. Essar Oil Ltd., (2004) 11 SCC 364 = 2004 (172) E.L.T. 433 (S.C.)].

When material evidence establishes fraud against Revenue, white collar crimes committed under absolute secrecy shall not be exonerated as has been held by Apex Court judgment in the case of K.I. Pavunnyv.AC, Cochin - 1997 (90) E.L.T. 241 (S.C.). No adjudication is barred under Section 28 of the Customs Act, 1962 if Revenue is defrauded for the reason that enactments like the Customs Act, 1962, and the Customs Tariff Act, 1975 are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives.

It is a cardinal principle of law enshrined in Section 17 of the Limitation Act that fraud nullifies everything for which plea of time bar is untenable, following the ratio laid down by Apex Court in the case of CC. v. Candid Enterprises - 2001 (130) E.L.T. 404 (S.C.). Non est instruments at all times are void and void instrument in the eyes of law are no instruments. Unlawful gain is thus debarred."

4.38 I find that the instant case is not a simple case of wrong classification on bonafide belief, as claimed by the importer. From the facts of the case, it is very much evident that the importer was well aware of the correct CTH of the goods. Despite the above factual position,

they deliberately suppressed the correct classification and wilfully chose to misclassify the impugned imported goods to claim an ineligible notification benefit and pay a lower rate of duty. This wilful and deliberate suppression of facts and misclassification clearly establishes their 'mens rea' in this case. Due to the establishment of 'mens rea' on the part of the importer, the case merits a demand of short levied duty, invoking an extended period of limitation as well as confiscation of offending goods.

4.39 Thus, I find that the extended period of limitation under Section 28(4) of the Customs Act, 1962, for the demand of duty is rightly invoked in the present case. Therefore, a penalty under Section 114A is rightly proposed on the importer, M/s. Tajir Pvt. Ltd., in the impugned SCN. Accordingly, the importer is liable for a penalty under Section 114A of the Customs Act, 1962, for wilful mis-statement and suppression of facts, with an intent to evade duty.

4.40 In view of the above stated misdeclaration/misclassification, the importer, M/s Tajir Pvt Ltd has evaded payment of Customs duty aggregating to **Rs. 13,48,58,943/- (Rs. 13,08,63,407/- + Rs. 39,95,536/-) (Rupees Thirteen Crores Forty-Eight Lakhs Fifty-Eight Thousand Nine Hundred Forty-Three only) (as detailed in Table-2 and Table-4 of the SCN),** and the same is to be recovered under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA ibid.

4.41 As I have already held above that by their acts of omission and commission, the importer has rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962, making them liable for a penalty under Section 112(a) & (b) and/or Section 114A of the Customs Act, 1962. However, in view of the fifth proviso to Section 114A, penalty cannot be imposed simultaneously on the importer under Section 112(a) & (b) & 114A of Customs Act, 1962.

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

ORDER

5.1 I reject the classification of the goods **"Sweetened Whole Dried Cranberry"** imported vide Bills of Entry mentioned at Table-1 and Table-3 of the Show Cause Notice under CTH 20089300. I order to reclassify and reassess the imported goods under CTH 08134090, denying the benefits of duty exemption claimed under Sr. No. 100 of Notification No. 50/2017 dated 30.06.2017 (as amended) respectively.

5.2 I confirm the demand of differential Customs duty aggregating to **Rs. 13,48,58,943/- (Rs. 13,08,63,407/- + Rs. 39,95,536/-) (Rupees Thirteen Crores Forty Eight Lakhs Fifty Eight Thousand Nine Hundred and Forty Three only) (as detailed in Table-2 and Table-4 of the SCN),** under Section 28(4) of the Customs Act, 1962 and order that the same shall be

recovered from the importer, M/s. Tajir Pvt. Ltd., along with applicable interest thereon under Section 28AA of the Customs Act, 1962.

5.3 Even though the goods are not available, I hold the impugned goods imported vide Bills of Entry as mentioned at Table-1 & Table-3 of SCN having total declared assessable value of **Rs. 59,59,64,087/- [53,11,01,490/- + 6,48,62,597/-] (Rupees Fifty Nine Crores Fifty Nine Lakhs Sixty Four Thousand Eighty Seven only)** liable for confiscation under Section 111(m) of the Customs Act, 1962. However, I impose a redemption fine of **Rs. 3,00,00,000/- (Rupees Three Crores only)** on M/s. Tajir Pvt. Ltd. in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

5.4 I impose a penalty equal to the differential duty of **Rs. 13,48,58,943/- (Rupees Thirteen Crores Forty Eight Lakhs Fifty Eight Thousand Nine Hundred and Forty Three only)** along with the applicable interest thereon, on the importer, M/s. Tajir Pvt. Ltd. under Section 114A of the Customs Act, 1962.

If duty and interest are paid within thirty days from the date of the communication of this order, the amount of penalty liable to be paid shall be twenty-five per cent of the duty and interest, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order. As a penalty is imposed under Section 114A of the Customs Act, 1962, in respect of past imports, no penalty is imposed under Section 112(a)& (b) in terms of the fifth proviso to Section 114A ibid.

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 the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

Digitally signed by
Yashodhan Arvind Wanage
Date: 22-12-2025
16:29:54

(यशोधन वनगे **/Yashodhan Wanage)**
प्रधान आयुक्त**,** सीमा शुल्क**/ Pr. Commissioner of Customs**
एनएस**-I,** जेएनसीएच **/ NS-I, JNCH**

To,
M/s. Tajir Pvt. Ltd. (IEC No. 0388164689),
Adie Mansion, 1st Floor, 334,
Maulana Shaukatali Road, Mumbai,

Maharashtra-400007.

Copy to:

1. The AC/DC, Appraising Group I/IA, JNCH
2. The AC/DC, Chief Commissioner's Office, JNCH
3. The AC/DC, Centralized Revenue Recovery Cell, JNCH
4. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
5. EDI, JNCH through email for uploading the same in JNCH website
6. Office Copy