

	सीमाशुल्क आयुक्त का कार्यालय, एनएस-II OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II केंद्रीकृत निर्यात आकलन कक्ष, जवाहरलाल नेहरू सीमाशुल्क भवन CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, न्हावा शेवा, तालुका -उरण, जिला- रायगढ़, महाराष्ट्र -400 707 NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707
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F. No.- CUS/ASS/AMND/1868/2025-CEAC

DIN: 20251178NT 00002732AC	
आदेश की तिथि Date of Order	: 27.11.2025
जारी किए जाने की तिथि Date of Issue	: 27.11.2025
आदेश सं. Order No.	276/2025-26/आयुक्त/सीईएसी/एनएस-II/सीईसी/जेएनसीएच 276/2025-26/Commissioner/CEAC/NS-II/CAC/JNCH
पारितकर्ता Passed by	श्री गिरिधर जी. पई Sh. Giridhar G. Pai आयुक्त, सीमाशुल्क (एनएस-II), जेएनसीएच, न्हावाशेवा Commissioner of Customs (NS-II), JNCH, Nhava Sheva
पक्षकार (पार्टी)/नोटिसी का नाम Name of Party/Noticee	मै. वीए टेक वाबैग लिमिटेड (आईईसी नंबर 0496016784) : M/s. Va Tech Wabag Limited (IEC NO. 0496016784)

मूल आदेश

ORDER-IN-ORIGINAL

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
The copy of this order in original is granted free of charge for the use of the person to whom it is issued.
2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम, १९६२ की धारा १२९ए के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच, ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।
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.
3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-



सीमाशुल्क आयुक्त का कार्यालय, एनएस-II
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
केंद्रीकृत निर्यात आकलन कक्ष, जवाहरलाल नेहरू सीमाशुल्क भवन
CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL NEHRU
CUSTOM HOUSE,
न्हावा शेवा, तालुका -उरण, जिला- रायगढ़, महाराष्ट्र -400 707
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707

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Date of Issue

आदेश सं.
Order No.

/2025-26/ आयुक्त/सीईसी/एनएस-II/सीईसी/जेएनसीएच
:
/2025-26/ Commissioner/CEAC/NS-II/CAC/JNCH

पारितकर्ता
Passed by

श्री गिरिधर जी. पई
Sh. Giridhar G. Pai
:
आयुक्त, सीमाशुल्क (एनएस-II), जेएनसीएच, न्हावाशेवा
Commissioner of Customs (NS-II), JNCH, Nhava Sheva

पक्षकार (पार्टी)/नोटिसी का नाम
Name of Party/Noticee

मै. वीए टेक वाबैग लिमिटेड (आईईसी नंबर 0496016784)
:
M/s. Va Tech Wabag Limited (IEC NO. 0496016784)

मूल आदेश

ORDER-IN-ORIGINAL

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

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

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम, १९६२ की धारा १२९ए के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच, ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

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.

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Main points in relation to filing an appeal: -

फार्म Form	:	फार्म नं. सीए-३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए) Form No. CA-3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy)
समय सीमा Time Limit	:	इस आदेश की सूचना की तारीख से तीन महीने के भीतर Within 3 months from the date of communication of this order.
फीस Fee	:	(क) एक हजार रुपये-जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पाँच लाख रुपये या उस से कम है। (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less. (ख) पाँच हजार रुपये- जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पाँच लाख रुपये से अधिक परंतु पचास लाख रुपये से कम है। (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh (ग) दस हजार रुपये-जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पचास लाख रुपये से अधिक है। (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
भुगतान की रीति Mode of Payment	:	क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सी ई एस टी ए टी, मुंबई के पक्षमें जारी किया गया हो तथा मुंबई में देय हो। A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.
सामान्य General	:	विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९६२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए। 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.

इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उस में माँगे गये शुल्क अथवा उद्गृहीत शास्ति का ७.५ % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, १९६२ की धारा १२९ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

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.

Sub: - Request for Conversion of Shipping Bills from Scheme-Drawback (Scheme Code-19) to Scheme- Drawback & Advance Authorization (Scheme code-03) by M/s. Va Tech Wabag Limited - Reg.

M/s. Va Tech Wabag Limited, IEC No., 0496016784 located at Wabag House No. 17, 200 Feet Radial, S Kolathur, Near Kamakshi Hospital, Chennai - 600 117 (hereinafter referred to as "the exporter") has requested for conversion of Eight (08) Shipping Bills from Scheme-Drawback/Drawback & RODTEP (Scheme Code - 19) to Scheme - Advance Authorization (Scheme code-03), vide their letter dated 24.04.2025 (received in this office on 21.07.2025), however on scrutiny of the shipping bills it is observed that the Shipping bills are filed in Scheme Code: (19) Drawback Scheme/Drawback along with claim of RoDTEP in one case i.e. SB No. 9518680 dated 20-03-2021, details of which are tabulated below:

TABLE I

Sl. No.	Shipping Bill No./Dated	LEO Date	Scheme in which SB filed	Scheme Code to which conversion sought
(1)	(2)	(3)	(4)	(5)
1.	6039448 dated 22-10-2020	23.10.2020	Drawback/ Drawback & RODTEP (Scheme Code-19)	Advance Authorization No: 0410166885 dated 13.07.2020 (Scheme Code-03)
2.	5852106 dated 14-10-2020	17.10.2020		
3.	6024487 dated 21-10-2020	22.10.2020		
4.	9518680 dated 20-03-2021	22.03.2021		
5.	1495941 dated 18-02-2020	26.02.2020		Advance Authorization No: 0410165697 dated 10.06.2019 (Scheme Code-03)
6.	3484333 dated 29-06-2020	02.07.2020		
7.	3408098 dated 27-07-2021	04.08.2021		
8.	3423507 dated 27-07-2021	04.08.2021		

2. The exporter vide their application dated 24.04.2025 (received in this office on 21.07.2025), requested for conversion of above-mentioned 08 Shipping Bills from Scheme-Drawback/ Drawback & RODTEP (Scheme Code-19) to Scheme- Advance Authorization (Scheme code-03), but the said Shipping bills were filed under Drawback Scheme/Drawback along with claim of RoDTEP. In the said letter they have inter-alia stated that: owing to the urgency of the shipments and to fulfill the contractual obligation, containers and shipping logistics were arranged by the end customer, the finished export goods were shipped out under Duty Drawback Shipping Bills without mentioning the Advance Authorization number on the said shipping documents. That such inadvertent omission has resulted in the exporter being unable to complete the stipulated export obligation under the said Advance Licenses, which in turn has led to initiation of action for recovery of customs duty along with applicable interest by the DGFT as export obligation is not met.

3. In their submission dated 24.04.2025, they have inter-alia mentioned that;
- They wish to inform that their Company WABAG Group is an industry leader in the field of total water management. WABAG Group, with global headquarters in Chennai, India and present in over 25 countries, is a pure-play water technology Indian multinational offering a wide range of solutions focused on conservation, optimization, recycling and reuse of resources, directed at addressing water challenges across the world.
 - The Group's key competences, developed over 99 years of plant building experience, lie in the turnkey execution and operation of water and wastewater treatment plants for both the municipal and industrial sectors. WABAG has a successful record of accomplishment of executing over 1,400 municipal and industrial projects in the last 25 years globally, with quality and commitment to timely delivery.
 - Wabag an THREE STAR EXPORTER (here in after "Exporter") have been executing export projects in relation to Water and Waste Water treatment plants all over the world. That the exporter was awarded a contract for the design, supply, and commissioning of a wastewater treatment plant in Nigeria. In connection with the said contract, the exporter had obtained an Advance Authorization Licenses (1) License No. 0410165697 dated 10.06.2019 and (2) License No. 0410166885 dated 13.07.2020) issued under the provisions of FTP 2015-20 for duty-free import of goods required for the execution of the said export order. That under the said license (0410165697), essential inputs DSS Flanges, Fittings, Pipes: (RO headers, Duplex MOC, DSS piping, Spools and RO Skids-Export Items) and License No. 0410166884 were imported duty-free and issued to approved job workers for fabrication and integration into the final export product.
 - Exporter submits that owing to the urgency of the shipments and to fulfill the contractual obligation, containers and shipping logistics were arranged by the end customer, the finished export goods were shipped out under Duty Drawback Shipping Bills without the mention of the Advance Authorization number on the said shipping documents. That such inadvertent omission has resulted in the exporter being unable to complete the stipulated export obligation under the said Advance Licenses, which in turn has led to initiation of action for recovery of customs duty along with applicable interest by the DGFT as export obligation is not met.
 - Exporter submits in this context, your kind attention to Notification No. 21/2025-Customs (NT) and Circular No. 11/2025-Customs, both dated 03.04.2025, issued by CBIC. These allow for conversion of Duty Drawback Shipping Bills into Advance Authorization Shipping Bills, subject to fulfilment of prescribed conditions and post-verification by the jurisdictional Customs

Authority. They respectfully submit that the conditions laid down in the above-said Circular are duly met in the present case. There has been no availing of double benefits, and the goods exported are entirely covered under the scope of the Advance License in question. The exports were made genuinely against the foreign buyer's order, and the only procedural lapse was the non-mentioning of the license number on the shipping bills, which was unintentional and due to urgent shipping constraints.

- Exporter now seek conversion of the following shipping bills (as detailed in the enclosed annexure) from Duty Drawback category to Advance Authorization category, so that the exports may be counted toward full-filament of the export obligation under the said licenses. We undertake that, upon approval of conversion, the Duty Drawback and RODTEP amounts claimed against the respective shipping bills will be repaid along with applicable interest, wherever necessary.
- In view of the above facts and circumstances, and in accordance with the enabling powers conferred under Section 149 of the Customs Act, 1962, which permits amendment of documents, including shipping bills, even after export, on the basis of documentary evidence that existed at the time of export, and further supported by the facilitative framework laid down in Notification No. 21/ 2025-Customs (NT) and Circular No. 11/2025-Customs, both dated 03.04.2025, they have requested that:-
 - (i) This office may be pleased to permit the conversion of the shipping bills originally filed under the Duty Drawback scheme to shipping bills under the Advance Authorization scheme, in respect of the export consignments listed in the enclosed annexure, which were bona fide shipments made against a valid export contract and under a duly issued Advance License.
 - (ii) The said may be allowed in order to enable the exporter to fulfil its export obligations under the Advance Authorization License, thereby regularizing the procedural lapse arising solely on account of the non-mentioning of the license number in the shipping bills due to exigencies of shipment beyond the exporter's control.
 - (iii) That such conversion be considered as falling well within the ambit of trade facilitation as envisaged by the CBIC in the above-cited circular and that the bona fides of the exporter may be appreciated in light of the consistent compliance with all substantive conditions of the Advance Authorization scheme.
 - (iv) That upon approval of such conversion, the exporter shall undertake to reverse any drawback amount, if disbursed, along with applicable

interest, and comply with any further requirements that may be imposed by this office.

4. Following the principles of natural justice, personal hearing was granted on 06.11.2025. Shri K. Suresh Kumar, Advocate, authorized representative of M/s. Va Tech Wabag Limited, appeared before me and sought to rely on the earlier submissions made by the exporter vide letter dated 24.04.2025 received in this office on 21.07.2025.

DISCUSSIONS AND FINDINGS

5. I have carefully gone through the requests made by the exporter vide their letter dated 24.04.2025 (received in this office on 21.07.2025) for amendment in above mentioned 08 Shipping Bills (Table-I), by way of conversion of Shipping Bills from Scheme-Drawback/Drawback & RODTEP (Scheme Code - 19) to Scheme - Advance Authorization (Scheme code-03), all the submissions made by the exporter and the relevant provisions of the Customs Act, 1962, which govern the conversion of Shipping Bills.

6. The exporter in their submission dated 24.04.2025, inter alia, stated that owing to the urgency of the shipments and to fulfill the contractual obligation, containers and shipping logistics were arranged by the end customer, the finished export goods were shipped out under Duty Drawback Shipping Bills without the mention of the Advance Authorization number on the said shipping documents.

7. Before deciding the case, it is necessary to discuss every aspect of law governing conversion including Sections, regulations made thereunder, the procedure for filing Shipping Bills, etc. In this regard, attention is drawn to Section 17 of the Customs Act, 1962, as amended by the Finance Act, 2011, which introduced the concept of 'Self-Assessment' in Customs. In the self-assessment era, the exporter has to ensure that he declares the correct classification, the applicable rate of duty (if any), value, export incentive scheme etc. with respect to the exported goods while presenting the Shipping Bills. Thus, the onus of declaring the correct scheme under which export is being made is on the exporter. Self-assessment empowers exporters to assess the value of their goods, determine the applicable export promotion scheme that they want to avail of, and submit required documentation accordingly to customs authorities. Self-assessment in customs places a significant responsibility on exporters to ensure the accuracy and compliance of their customs declarations. Exporters must be vigilant while filing the shipping bill and must fill in the correct scheme code. Such self-assessment scheme necessarily casts the responsibility on the exporter to make up his mind at the time of filing Shipping Bill as to which export

promotion incentive he would like to avail. With the introduction of the system of online assessment, such request for conversion at a later date creates difficulties.

7.1. Further, attention is invited to the Shipping Bill and Bill of Exports (Forms) Regulations, 2017(as amended) which prescribe the format and specifications of the shipping bill and bill of export forms. The relevance of these regulations is that they ensure the uniformity and standardization of the shipping bill and bill of export forms, help in improving the data quality and accuracy of the export statistics, and enhance the ease of doing business for exporters. The regulation cited supra also facilitates the electronic filing and processing of these forms through the Indian Customs Electronic Commerce/ Electronic Data Interchange (EC/EDI) Gateway (ICEGATE). As the process of filing a shipping bill has become easier, the responsibility of the exporter to provide correct data while filing the shipping bill has increased rapidly. A summary of the steps involved in the process of filing a shipping bill is given below whose main objective is to ensure that correct data is fed in the shipping bill.

- a) The Exporter or the Customs Broker (CB) can file a shipping bill after registering with the ICEGATE system using the IEC Code, AD Code, and/or CB License Number.
- b) After login the ICEGATE System, the exporter or the Customs Broker (CB) can sign in to ICEGATE and fill required details in the prescribed format, along with copies of the invoice, packing list, and other required documents, and submit it.
- c) Thereafter, a checklist is generated for verification of credentials by the exporter or the Customs Broker (CB).
- d) The exporter or the Customs Broker (CB) has to check the accuracy of the data and confirm it. Thereafter, they will submit the shipping bill into the EDI system for processing and thereafter shipping bill no. generated. If discrepancies are noticed in the Checklist, the exporter or the Customs Broker (CB) can create another Check List.
- e) If any discrepancies are noticed after the generation of the shipping bill, the exporter has the option to get it amended from respective Export Docks.

7.2. In essence, there are a plethora of opportunities before filing the shipping bill when the documents need to be examined and verified before submission. Not declaring the correct scheme code therefore cannot be said to be a typographical error or an error on the part of the Customs Broker. It shows the selection of a particular scheme code in a shipping bill is done after proper application of mind and after detailed verification. In the instant case, is evident that the exporter did not exercise due diligence in this regard.

8. In the instant case, I find that the exporter filed the impugned Shipping Bills under Scheme-Drawback/Drawback & RODTEP (Scheme Code - 19). However, the exporter has requested for conversion from Scheme-Drawback/Drawback & RODTEP (Scheme Code - 19) to Scheme- Advance Authorization (Scheme code-03). Had they declared their intention to Scheme- Advance Authorization (Scheme code-03), the treatment of the shipping bill in RMS and examination of the documents as well as the goods would have been different. Now, the issue to be decided is whether the exporter is eligible for amendment sought by them for conversion of said Shipping Bills for which Let Export Orders were granted between Feb-2020 and August-2021 from Scheme-Drawback/Drawback & RODTEP (Scheme Code - 19) to Scheme-Advance Authorization (Scheme code-03).

9. Conversion of shipping bill is governed by Section 149 of the Customs Act, 1962. In the instant case, the Shipping Bills, mentioned in Table-I above, were filed Feb-2020 and July-2021. Section 149 of the Customs Act, 1962 with effect from 01.08.2019 is reproduced as under:

Section 149. Amendment of documents- Save as otherwise provided in section 30 and 41, the proper officer may, in his discretion, authorize any document, after it has been presented in the custom house to be amended in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorized to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be"

10. Further, I find that Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025, have been notified vide Notification No. 21/2025-Customs (N.T.) dated 03.04.2025. The relevant provisions of the said regulations are as under:

Regulation 2 (1)(b):

"(b) "conversion" means amendment of the declaration made in the export entry to any one or more instrument based scheme, after the export goods have been exported

Regulation 2 (1)(c):

"(c) export entry" means entry relating to export as defined in clause (16) of section 2 of the Act and includes an entry made in the Shipping Bills or Bills of Exports under Section 50 or entries made for goods to be exported by post or courier under Section 84 of the Act;

Regulation 2 (1)(d):

(d) "instrument based scheme" means a scheme involving utilisation of instrument referred to in explanation 1 to sub-section (1) of section 28AAA of the Act;

Regulation 3(2):

(2) Where an export entry is filed before the 22nd February, 2022, the period of one year specified under sub-regulation (1) shall be reckoned from the date on which these regulations have come into force.

Regulation 4(e):

"(e) The export entry of which the conversion is sought is one that has been filed in relation to instrument based scheme, or under drawback or for fulfilment of any export obligation or combination thereof."

Explanation 1 to Section 28AAA of the Customs Act, 1962:

Explanation 1 : *For the purpose of this sub-section, "instrument" means any scrip or authorization or license or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal benefits, which may be utilized under the provisions of this act or the rules made on notifications issued thereunder".*

10.1 From the above provisions it emerges that for export entries filed prior to 22.02.2022, the request for conversion shall be determined under the Export Entry (Post Export Conversion in relation to Instrument Based Scheme) Regulations, 2025 and the time limit of one year shall be from the date on which these Regulations have come into force i.e., 03.04.2025. A conjoint reading of these provisions indicates that the regulations apply only to such shipping bills which were filed in relation to instrument based scheme, or under drawback or for fulfilment of any export obligation or combination thereof and the request for amendment in the shipping bill is for conversion to any other or one or more instrument-based scheme. Further, as per Explanation 1 of section 28AAA of the Customs Act, 1962, instrument-based scheme includes Advance License, EPCG, RoDTEP, RoSCTL etc.

10.2 In the instant case, the Shipping Bill, as detailed in Table-I, was filed on 13.09.2019 and Conversion is sought from Drawback (Scheme code: 19) to Advance Authorisation (Scheme code: 03). Thus, I find that the Export Entry Regulations 2025 are applicable to the instant case. Accordingly, I proceed to decide the application for conversion under these Regulations.

11. Regulations 3 and 4 of the Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025 prescribe the manner and time for applying for conversion and the conditions and restrictions for conversion respectively. These are reproduced below.

Regulation 3. Manner and time limit for applying for post export conversion of export entry. –

(1) The application for conversion shall be filled by an exporter in writing within one year from the date of clearance of goods under sub-section (1) of section 51 or section 69 of the Act or from the date of entry made under section 84 of the Act, as the case may be:

Provided that the jurisdictional Commissioner of Customs may, for the reasons to be recorded in writing, extend the time limit not exceeding six months, if it is satisfied that the circumstances were such which prevented the exporter from filing an application within the period specified under sub-regulation (1):

Provided further that the jurisdictional Chief Commissioner of Customs may, for the reasons to be recorded in writing, extend the time limit not exceeding six months, if it is satisfied that the circumstances were such which prevented the exporter from filing an application for a period exceeding one year and six months.

(2) Where an export entry is filed before the 22nd February, 2022, the period of one year specified under sub-regulation (1) shall be reckoned from the date on which these regulations have come into force.

(3) Where filing of an application under sub-regulation (1) was prevented due to stay or an injunction passed by any court or tribunal, then, in computing the period specified therein, the period of continuance of the stay or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(4) The jurisdictional Commissioner of Customs, may, in his discretion, authorize the conversion of export entry, subject to the following, namely: –

- (a) on the basis of documentary evidence, which was in existence at the time the goods were exported;*
- (b) subject to conditions and restrictions for conversion provided in regulation 4;*
- (c) on payment of a fee in accordance with Levy of fees (Customs Documents) Regulations, 1970.*

(5) Subject to the provision of sub-regulation (1), the jurisdictional Commissioner of Customs shall, where it is possible so to do, decide every application for conversion within a period of thirty days from the date on which it is filed.

Regulation 4. Conditions and restrictions for conversion of Shipping Bill. —

(1) The conversion of shipping bill and bill of export shall be subject to the following conditions and restrictions, namely: -

- (a) fulfilment of all conditions of the instrument-based scheme to which conversion is being sought;*
- (b) the exporter has not availed or has reversed the availed benefit of the instrument-based scheme from which conversion is being sought or reversed the amount of drawback or any other benefit, in case drawback or such scheme is not admissible in the scheme to which conversion is being sought, as the case may be;*
- (c) no condition, specified in any regulation or notification, relating to presentation of shipping bill or bill of export in the Customs Automated System, has not been complied with;*
- (d) no contravention has been noticed or investigation initiated against the exporter under the Act or any other law, for the time being in force, in respect of such exports;*
- (e) the export entry of which the conversion is sought is one that had been filed in relation to instrument based scheme, or under drawback or for fulfilment of any export obligation or combination thereof.*

12. Considering the fact that the said Shipping Bill was granted LEO prior to 22.02.2022, a conjoint reading of Section 149 of the Customs Act, 1962 and the Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025, provides for the following criteria for conversion of shipping bills-

- A. The application for conversion shall be filed in writing within a period of one year from the date of order for clearance of goods. Further, in the case where export entry is filed before the 22nd February, 2022, the period of one year shall be reckoned from the date on which these regulations have come into force.
- B. Conversion of the shipping bill may be authorized on the basis of documentary evidence, which was in existence at the time the goods were exported,
- C. On payment of a fee in accordance with Levy of fees (Customs Documents) Regulations, 1970, as amended,
- D. All conditions of the instrument-based scheme to which conversion is being sought should be fulfilled,

- E. Exporter has not availed or has reversed the availed benefit of the instrument-based scheme from which conversion is being sought,
- F. All conditions relating to shipping bill have been complied with,
- G. No contravention noticed against the shipping bill,
- H. Shipping bill Conversion shall be allowed from one instrument-based scheme, or drawback to another instrument-based scheme.

13. Now, I proceed to examine the shipping bills (as detailed in Table-I) in terms of each of the criteria as given above.

A. The application for conversion shall be filed in writing within a period of one year from the date of order for clearance of goods and where an export entry is filed prior to 22nd February, 2022, the period of one year specified under sub-regulation (1) shall be reckoned from the date on which these regulations have come into force:

As discussed above, I find that the issue related to the time limit for making conversion application has already been regularised in the Export Entry Regulations 2025. In the instant case, since the export entry in respect of the Shipping bills mentioned in Table-I above is prior to 22.02.2022 and the application is being considered within the period of one year from the date on which the Export Entry Regulations, 2025 have come into force, i.e., 03.04.2025, the application is well within the prescribed time limit in terms of Regulation 3(2) of the said Regulations.

B. Conversion of the shipping bill may be authorised on the basis of documentary evidence, which was in existence at the time the goods were exporter:

(a) From the plain reading of Section 149 of the Customs Act, 1962, it may be seen that the exporter cannot be allowed to claim amendment by way of conversion in a routine manner and as a matter of right. Depending on the conversion sought, the physical verification and examination of goods in addition to verification of documents is required to be done as the conversion can change the entire nature and character of the shipping bill. Needless to mention that it is now well-settled that conversion from one scheme to another is not an amendment simpliciter. It is therefore necessary that the request for conversion needs to be examined carefully on case-to-case basis solely on merit.

(b) The exporter has requested for conversion of the impugned Shipping Bill from Scheme- Drawback (Scheme code- 19) to Scheme- Advance Authorization (Scheme code-03). The Customs' Risk Management System('RMS') provides Assessment/Examination instructions based on the risk profile of the consignment such as Port or Country of discharge/ Nature of goods/ Export incentives/Scheme

Chosen/Profiles of the Exporters/ Alerts inserted against IEC etc. declared in the Shipping Bills. As the exporter had not declared the correct scheme code – Advance Authorization (Scheme Code: 03) in the shipping bills, it is likely that the assessment and examination order might have differed. This is because the nature and extent of the export promotion scheme declared can influence the level of assessment and examination, including the necessity for physical verification of the goods.

(c) On perusal of the details of export benefits claimed from the ICES 1.5 system, it is evident that the exporter had filed the impugned Shipping Bill under Scheme- Drawback (Scheme Code-19), as applicable at the item level. Now, the exporter has requested for conversion of the impugned Shipping Bill (item no. 2) from Scheme- Drawback (Scheme Code-19) to Scheme- Advance Authorization (Scheme Code-03).

(d) In this regard, I observe that the Shipping Bill and Bill of Exports (Forms) Regulations, 2017 requires the exporter to declare the correct scheme code under which export is being made while filing the Shipping Bills. Filing the correct scheme code is important because it helps the government to monitor the export promotion schemes and to ensure that the benefits are being availed by the eligible exporters only. Additionally, it is the exporter's responsibility to declare the correct scheme code during the filing of shipping bill. However, the exporter failed to furnish the following requisite information in the impugned Shipping Bills as required as per the regulation cited supra;

A. Advance Authorisation/DFIA [Scheme Code] [details of inputs used for the manufacture of export goods]:							
Item Sl. No. in the Shipping Bill	Authorization No. and Date	Description of the Export Goods and the Sl. No. in the Authorization	Export Quantity	Name and Description of the inputs consumed in the manufacturing of Export goods and the Sl. No. in the Authorization	Quantity of the inputs consumed	Whether imported or indigenous	SIO N

(e) Further, on detailed scrutiny of documents uploaded against the above-mentioned Shipping Bills on e-Sanchit, it is evident that the exporter has nowhere mentioned or shown their intention that the consignment was covered under Advance Authorisation. Snapshot of the Invoices uploaded on e-Sanchit at Sr. no. 15 (380000) IRN no. 2020101300026218 & Sr. no. 13 (935000) IRN no. 2020101300026997 are being reproduced for ready reference-

Page 14 of 20



Tax Invoice

(Under Rule 7 of Invoice Rules, Sec 31 of CGST ACT)

Page 1 of 1

Original For RECIPIENT

Customer PO : EPC-PO-33545 / 10P125 Work Order : PU3600001 Vehicle No :		Invoice No : 660S2117000650 Date of Issue : 06/10/2020 Reference No : S21/17000650 Mode of Shipment : ☐ Air ☐ Sea ☐ Road				
Name & Address of Supplier: Emerson Process Management (India) Pvt. Ltd. Survey No- 275/1,276/1,277 & 278, Hinjewadi Phase II, Maan (Mulshi) Dist. Pune - 411 057, MH, India GST NO: 27AAACF1667M2ZC PAN NO: AAACF1667M		Supplier Location: Emerson Process Management (India) Pvt. Ltd. Survey No- 275/1,276/1,277 & 278, Hinjewadi Phase II, Maan(Mulshi) Dist. Pune - 411 057, MH, India GST NO: 27AAACF1667M2ZC PAN NO: AAACF1667M				
Name & Address of Recipient: Name : VA TECH WABAG LIMITED Address : WABAG HOUSE, NO. 17; 200 FEET THORAIPAKKAM, PALLAVARAM MAIN ROAD SUNNAMBUR KOLATHUR, CHENNAI - 600117 State : TAMIL NADU(STATE CODE: 33) GSTIN No. : 33AABCV0225G1ZW PAN No. :		Address of Delivery: Name : VA TECH WABAG LIMITED Address : C/O SPEEDY MULTI MODES, CONTAINER FREIGHT STATION - JNPT SONARI VILLAGE, JNPT, URAN, NAVI MUMBAI - 400707 State : MAHARASHTRA(STATE CODE: 27) GSTIN No. : NOT APPLICABLE Dest. Country : INDIA				
Sr.No.	Goods / Service Description	HSN/SAC	Qty	Unit	Rate (INR)	Total (INR)
1	24" F37 WCB+GC2114-SR2-CH+SLA Cust PO/Pos: EPC-PO-33545 / 10P125/7/1 43473, 24" F37 WCB+GC2114-SR2-CH+SLA	8481	6	nos	356,807.00	2,140,842.00
Total					6.00	2,140,842.00
In Words (INR)					Taxable Value of Supply	2,140,842.00
CGST:					CGST(0%)	0.00
SGST:					SGST(0%)	0.00
IGST: Rupees Two Thousand One Hundred Forty and Eighty Four Paise Only					IGST(0.10%)	2,140.84
UGST:					UGST(0%)	0.00
CESS:					CESS(0%)	0.00
Total: Rupees Two Thousand One Hundred Forty and Eighty Four Paise Only					Total Tax Amount	2,140.84
TCS: Rupees One Thousand Six Hundred Seven and Twenty Four Paise Only					TCS(0.0750%)	1,607.24
Gross: Rupees Twenty One Lakh Forty Four Thousand Five Hundred Ninety and Eight Paise Only					Gross Total	2,144,590.08
Remark: BUTTERFLY VALVE, PACKED IN 6 PLYWOOD BOX. PS.NO.20-21/660/00026 LC NO: 0993020LC0000367 DATED 29.08.2020 (LC VALUE: 3,51,20,893/- LC ISSUING BANK: STATE BANK OF INDIA. INDUSTRIAL FINNANCE BARNCH NO.2, HARRINGTON ROAD,GROUND FLOOR, KRM PL AZ A CHETPET CHENNAI-600 031 DISC OF GOODS: SUPPLY OF AUTO BUTTERFLY VALVES AS PER POEPC-PO-33545/10P125 DATED 25.04.2020 INCOTERMS EXW FROM : PUNE & TO MAHARASHTRA OR GUJART MERCHANT EXPORT UNDER GST NOTIFICATION NO.41/2017 INTEGRATD TAX(RA TE) DT. 23/10/2017 AND NOTIFICATION NO. 40/2017 CENTRAL TAX (RATE) DT.23/10/2017						
Bank Details : CITIBANK N.A., ONYX TOWERS, NORTH MAIN ROAD, KOREGAON PARK, PUNE 411 001 A/C No : 0342024009 IFSC Code : CITI0000005 MICR Code : 411037001 Branch Code : 6200019						
Whether tax is payable under reverse charge - NO Place of supply - TAMIL NADU(STATE CODE: 33) Terms and Conditions: 1. Overdue bills will be charged at 18% p.a. interest. 2. Subject to Pune Jurisdiction.				Emerson Process Management (India) Pvt. Ltd. THITE Digitally signed by THITE YOGESH R YOGESH R AUTHORISED SIGNATORY		

Emerson DOES NOT change bank accounts on short notice and all changes will be communicated in advance by written communication on Emerson company letterhead through mail courier and not email/phone

REGD. OFFICE : DELPHI, B-VING, 6th FLOOR, ORCHARD AVENUE HIRANANDANI BUSINESS PARK, POWAI MUMBAI - 400076.

□ T: 91 22 6660566 □ Website: www.emersonprocess.co.in □ CIN: U29196MH1981PTC024115

(f) Further, on perusal of documents such as Licence, Invoices submitted by the exporter, it is evident that they were in possession of the Advance Authorization No.- 0410165697 dated 10.06.2019 and 0410166885 dated 13.07.2020 prior to the export of goods covered under their respective impugned Shipping Bills. I also find that at this stage, due to non-declaration of relevant details in the export documents, it cannot be ensured that the raw material which was imported under the above said Advance Authorisation has been used only in the manufacturing of the final product

and that final product has actually been exported under the above-mentioned shipping bill. Hence, the request of the exporter for conversion of shipping bill cannot be allowed as the physical verification and examination of goods in addition to verification of documents is required to be done, based on the RMS instructions.

(g) Further, I find that by opting for Scheme-Drawback (Scheme Code-19), the exporter has clearly shown their intention that they did not want to avail the benefit of Advance Authorisation, although they were in possession of Advance Authorisations. It is pertinent to mention that afterwards they cannot take the plea that it was because of an oversight error or inadvertent mistake that the Shipping Bills were filed under a wrong scheme. Therefore, such omission cannot be regarded as mere oversight or clerical error. I further rely on the case law of M/s. J.K. TYRE AND INDUSTRIES LTD. Vs COMMISSIONER OF CUSTOMS, CHENNAI where the exporter's appeal was rejected by the Hon'ble CESTAT, Chennai Vide Final Order No. 41097/2024 in Appeal No. C/40304/2023, decided on 21-8-2024. The relevant para is as under:

10.1 Proviso to Rule 4(a) of the Drawback Rules allows the Commissioner of Customs to exempt an exporter or his authorized agent who has failed to comply with the provisions of this clause from its provisions, for reasons beyond the exporters control. Firstly the present case is not one where the reasons were beyond the exporters control as examined and recorded by the Commissioner in the impugned order. In fact no such reason has even been placed before us. Secondly, a single act of omission or error of judgment can be stated to have happened inadvertently. A case of the three impugned SB's being filed over the period of a month, repeatedly without following the procedure set out in the Rules can't be held to be a case of mistaken filing or inadvertence. There has been a 'want of diligence' by the appellant. It is thus a case of negligence, if there was no fraudulent intention. Boards Circular was available as a guide but was not heeded to. Negligence in common parlance means and implies a failure to exercise due care, expected of a reasonable and prudent person. Injury caused to oneself due to such negligence, may at times have to be endured and cannot be a reason to substitute the decision of the Proper Officer. Thirdly the issue is within the discretionary domain of the Commissioner and he has given valid reasons for not allowing the conversion of the 'free' SB to a 'drawback' SB. The judgment in the Carl Zeiss case does not lay down any law doing away with the declaration and the matter has to be examined on a case-to-case basis.

(h) Further, by filing the shipping bill under Scheme- Drawback (Scheme Code-19), the exporter has failed to comply with the provisions of Section 149 of the Customs Act, 1962. The proviso to Section 149 reads as follows-

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorized to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be"

[Emphasis supplied]

(i) In this case, it is evident that, at the time of export, not only was there a complete absence of any supporting documentary evidence indicating that the exports were intended to be made under an Advance Authorization scheme, but there was also a lack of intention on the part of the exporter to claim such benefit. This lack of inaction undermines the exporter's claim that the omission was merely due to an oversight. In view of the above facts and the documentary evidence available on record, the exporter has failed to establish a credible or convincing case that the exports were inadvertently made without claiming the benefits of Advance Authorization.

(j) Further, I rely upon the judgment of the Hon'ble High Court of Madras in the matter of Comm. of Cus. (Seaport-Export), Chennai Versus Suzlon Energy Ltd. (Civil Miscellaneous Appeal No. 2566 of 2012, decided on 14-3-2013) where the exporter requested for conversion of the Shipping Bills from Drawback and EPCG Scheme to EPCG, Drawback and DEEC Scheme, but the Commissioner of Customs, Seaport-Export, Chennai rejected their request for the same. Aggrieved by the said order, the exporter preferred to appeal before the Honb'ble CESTAT. By the order dated 30-5-2011, the CESTAT allowed the request for conversion claimed by the exporter. Further, the department filed an appeal against the CESTAT Order in the Hon'ble High Court of Madras and the Hon'ble Court passed the following order: -

"18. A similar issue was considered by the Division Bench of Delhi High Court in the matter of M/s. Terra Films Pvt. Ltd. v. Commissioner of Customs [2011 (268) E.L.T. 443 (Del.)]. In the above decision, the Delhi High Court has considered the scope of Section 149 of Customs Act and found that the discretion vested in the Proper Officer to permit amendment in any document after the same has been presented in the Customs house has to be though exercised judicially, it was qualified with the proviso that the amendment could be allowed only if it was based on the documentary evidence in existence at the time the goods were exported. It is further observed therein that the request was made for conversion from one Scheme to another is a case of request for conversion and not of an amendment inasmuch as by converting from one Scheme to another, it was not only addition of certain word, but change of entire status and character of the documents. Thus, the Delhi High Court observed that the Proper Officer may not

be in a possession of the documents sought to be amended particularly, when the goods already stood exported. For enabling an exporter to draw the benefits of any scheme, not only physical verification of documents would be required, but also verification of the goods of export and their examination by the Customs was necessarily required to be done. By observing so, the Delhi High Court upheld the rejection of the request of the exporter seeking for conversion of the Shipping Bill from one Scheme to another.

19. We are in full agreement with the reasoning's given by the Delhi High Court in the above said case and by following the said decision [2011 (268) E.L.T. 443 (Del.)], we find that the 1st Respondent's claim seeking conversion is not maintainable and the same has been rightly rejected by the Commissioner of Customs. The Tribunal has not gone into any of these aspect in detail, even though it happens to be a final fact finding authority. It has simply allowed the conversion by resorting to the provision under Section 149 of Customs Act as if, it is a simple request for amendment. Therefore, we find that the order passed by the Tribunal cannot be sustained and accordingly, the same is set aside and the appeal filed by the Department is allowed. The questions of law raised in the appeal are answered in favour of the Department. No costs".

C. On payment of a fee in accordance with Levy of fees (Customs Documents) Regulations, 1970, as amended:

The amendment, if approved, in this regard shall be carried out in ICES system as per the procedure laid down in Advisory No: 16/2025 dt. 25.03.2025 regarding Post EGM Amendment Module and the same to be allowed only after payment of applicable amendment fees as prescribed under Levy of Fees (Customs Documents) Amendment Regulation, 2017.

D. All conditions of the instrument-based scheme to which conversion is being sought should be fulfilled:

As discussed in previous paras, the exporter requested for conversion of the said shipping bill into Scheme- Advance Authorization (Scheme Code- 03). I find that the DEEC Scheme (Duty Exemption Entitlement Certificate Scheme) is an export promotion initiative aimed at boosting Indian exports by allowing duty-free import of inputs required for manufacturing export products. The DGFT (Directorate General of Foreign Trade) issues Advance Licenses to manufacturers and merchant exporters under the DEEC Scheme, enabling them to import inputs at zero customs duty. The License holders are required to fulfill a specific export obligation within a stipulated time frame, ensuring that the duty-free inputs are used solely for manufacturing export products. In this regard, the Exporter has to file a DEEC declaration to the effect that what are the raw materials used in the manufacture of

the final product during filing of Shipping Bill. At the time of examination of goods, materials given in the declaration has to be verified. However, in the present case, on perusal of export documents i.e., Invoice & Packing List, etc. as uploaded on e-Sanchit, I find that the exporter has not filed any DEEC declaration to the effect that the raw materials which have been imported under the Advance License concerned, were used in the manufacture of the final product. Therefore, it was not verified since the Shipping Bills were not filed under the DEEC scheme and now the verification is not possible as the materials are not available. The exporter has not fulfilled all the conditions of the scheme to which he is seeking conversion. Hence, the exporter has failed to fulfill this condition.

E. Exporter has not availed or has reversed the availed benefit of the instrument-based scheme from which conversion is being sought:

(a) The exporter has filed Shipping Bills, detailed in Table-I above under Scheme-Drawback (Scheme Code-19).

(b) It is evident from the Shipping Bills that the exporter has availed the benefit of drawback under which the goods were exported and have undertaken that, upon approval of conversion, the Duty Drawback and RODTEP amounts claimed against the respective shipping bills will be repaid along with applicable interest, wherever necessary. I am of view that, since other conditions stipulated above have not been complied by the exporter, therefore this condition is not relevant here.

F. All conditions relating to shipping bill have been complied with:

As discussed in the preceding paras, the exporter has to file a DEEC declaration to the effect that what are the raw materials used in the manufacture of the final product during filing a shipping bill. In the present case, on perusal of export documents i.e. Invoice, packing list & Shipping bills etc. submitted by the exporter as well as uploaded on e-Sanchit. I find that the exporter has not filed any DEEC declaration to the effect that the raw materials which have been imported under the concerned Advance Authorisations, were used in the manufacture of the final product. Therefore, it was not verified since the shipping bill was not filed under the DEEC scheme and now the verification is not possible as the materials are not available. Therefore, the exporter did not fulfill this condition.

G. No contravention noticed against the shipping bill:

On perusal of the ICES 1.5 system (under the comment tab), I find that nothing adverse has been mentioned against the said shipping bills.

H. Conversion shall be allowed from one instrument-based scheme, or drawback to another instrument-based scheme:

The exporter has requested for conversion of the said shipping bill from Scheme-Drawback (Scheme Code-19) to Scheme-Advance Authorisation (Scheme Code-03) and as discussed in para 10.2 above, the said conversion falls under the ambit of the Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025. Thus, I find that this condition is fulfilled in the present case.

14. In view of the above discussions, I hold that the application of conversion from Scheme-Drawback/ Drawback & RODTEP (Scheme Code-19) to Scheme-Advance Authorization (Scheme code-03) may be rejected. Accordingly, I pass the following order:-

ORDER

I reject the conversion of Shipping Bills as detailed in Table-I above, from Scheme-Drawback (Scheme Code-19) to Scheme-Advance Authorization (Scheme code - 03).

Digitally signed by
GIRIDHAR GOPALKRISHNA PAI
Date: 27-11-2025 10:11:57

(Giridhar G. Pai)
Commissioner of Customs, NS-II
JNCH, Nhava Sheva

To,

M/s. Va Tech Wabag Limited, IEC No., 0496016784,
Wabag House No. 17,
200 Feet Radial, S Kolathur,
Near Kamakshi Hospital,
Chennai - 600 117

Copy to:

- (i) The Deputy Commissioner of Customs, CCO, JNCH, Nhava Sheva,
- (ii) The Assistant Commissioner, CEAC, JNCH,
- (iii) EDI Section, for uploading on website.
- (iv) Office copy.