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सत्यमेव जयते

आयुक्त, सीमाशुल्क (एनएस- V) कार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS- V),
जवाहरलालनेहरूसीमाशुल्कभवन, न्हावशेवा,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
तालुका- उरण, जिला- रायगढ़, महाराष्ट्र- ४००७०७.
TALUKA- URAN, DISTRICT- RAIGAD, MAHARASHTRA
- 400 707.



F.No.: S/26-Misc- 889/2024-25/Gr. VA JNCH
S/10-Adj-355/2025-26 Gr. VA/ JNCH

Date of Order: 08/12/2025
Date of issue: /12/2025

DIN No. : 20251278NX000000C497

Passed by: G V S S Sharma

Assistant Commissioner of Customs,
Gr. VA, (NS-V), JNCH, NhavaSheva.

Scal. No - 1466/2024-25/Gr. VA/ JNCH.
Order No. 1491/2025-26/AC/Gr. VA/NS-V/CAC/JNCH

Name of Party/Noticee: M/s TRINITY TRADERS (IEC-BEHPT9278M)

मूल आदेश

- यह प्रतिज्ञा व्यक्तिको जारी की जाती है, और उसके उपयोग के लिए निःशुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम, 1962 की धारा 128(1) के तहत इस आदेश की सूचना की तिथि से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र - 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय शुल्क के रूप में 1.50 रुपये मात्र का स्टॉप लगाया जाएगा और साथ में यह आदेश या इसकी एक प्रति भी लगाई जाएगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय शुल्क के रूप में 1.50 रुपये का स्टॉप भी लगाया जाएगा, जैसा कि न्यायालय शुल्क अधिनियम, 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति, अपील निर्णयित होने तक, शुल्क या शास्त्रिके संबंध में विवाद होने पर मांगे गए शुल्क का 7.5% का भुगतान करेगा, अथवा केवल शास्त्रिके संबंध में विवाद होने पर शास्त्रिका भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Sheva, Tal : Uran, Dist : Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
- Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

A Show Cause Notice No. 1466/2024-25/AC/Gr. VA/CAC/JNCH dated 09.12.2024 (in short 'SCN') under Section 28(4) read with Section 124 of the Customs Act, 1962 has been issued to M/s. TRINITY TRADERS by the Assistant Commissioner of Customs, Gr. VA, JNCH. The SCN has been placed before me for adjudication. Brief facts of the case are as enumerated below.

Whereas, M/s TRINITY TRADERS having address as A-202, Ss-2, Sector-1 Contact No: 919706103376, Kopar Khairne, Thane, Maharashtra, 400709 had imported goods having description as "Battery" under the aforestated CTH as detailed in Annexure- 'A'. The imported goods attract IGST @ 28% under Sl. No. 139 of Schedule IV.

2. The Bills of Entry (as per Annexure-A) wherein goods have been classified under CTH 8507 attract levy of IGST as per Table-A. However, they have been cleared under lower rate of IGST.

Table-A

Notification No.	Schedule / S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods	IGST Rate
01/2017-Integrated Tax (Rate) dated 28.06.2017 w.e.f. 01.07.2017	IV / 139	8507	Electric accumulators, including separators therefor, whether or not rectangular (including square) other than [Lithium-ion batteries] ¹ and [Lithium-ion accumulators (other than battery) including Lithium-ion power bank] ² . 1. Inserted by Ntn. 19/2018-IT (Rate) dated 26.07.2018 w.e.f. 27.07.2018. 2. Inserted by Ntn. 25/2018-IT (Rate) dated 31.12.2018 w.e.f. 01.01.2019.	28%
19/2018-IT (Rate) dt. 26.07.18 w.e.f. 27.07.18	III / 376AA	8507 60 00	Lithium-ion Batteries	18%
25/2018-IT (Rate) dt. 30.12.18 w.e.f. 01.01.19	III / 376AAA	8507	Lithium-ion accumulators (other than battery) including lithium-ion power bank	18%
01/2017-Integrated Tax (Rate) dated 28.06.2017 w.e.f. 01.07.2017	II / 203	85	Part for manufacture of telephones for cellular networks or for other wireless networks	12%

3. Consequent upon the above notifications, it appeared that imported goods attract Sl. No. 139 of Schedule IV (IV-139) levying IGST rate of 28% for the CTH 8507 i.e. Electric accumulators, including separators therefor, whether or not rectangular (including square). Further, Sl. No. 203 of Schedule II (II-203) of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 levying IGST rate of 12% for the CTH 85 i.e. Parts for manufacture of telephones for cellular networks or for other wireless networks, Sl. No. 376AA of Schedule III of IGST Notification No. 19/2018-Integrated Tax (Rate) dated 27.07.2018 levying IGST rate of 18% for the CTH 85076000 i.e. Lithium-ion Batteries & Sl. No. 376AAA of Schedule III of IGST Notification No. 19/2018-Integrated Tax (Rate) dated 27.07.2018 levying IGST rate of 18% for

the CTH 8507 i.e. Lithium-ion accumulators (other than battery) including lithium-ion power bank Lithium-ion accumulators (other than battery) including lithium-ion power bank are not applicable to the imported goods. The importer has imported goods having description as Battery. After going through the description of the BE items under deliberation, it has been observed that the imported goods appeared to attract IGST @28% against sr. no. 139 of Schedule IV of notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017 and does not seem to justify clearance claiming a lower IGST rate @12% under sr. nos. 203 of Schedule II of IGST notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017 and/or @18% under sr. nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018- Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in other Schedule.

3.1. On scrutiny of the import data, it appeared that goods covered under CTH 8507 were cleared by declaring lower rate of IGST under Sl. No. 203 of Schedule II of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 @ 12% and/or @18% under sr. nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018- Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in other Schedule, however, the imported goods falling under CTH 8507 are to be correctly covered under Sl. No. 139 of Schedule IV of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and attract higher rate of IGST @28%.

3.2. The total assessable value of the BE items so imported was ₹ 5,74,517/- and it appeared that a short levy of IGST amounting to ₹ 67,055/- (as detailed in Annexure-‘A’) is recoverable from the Importer along with applicable interest and penalty.

4. In view of the above, Consultative letter was issued to the importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty along with applicable interest and penalty. However, no reply or submission is given by importer in this regard.

5. Relevant Legal Provisions:

After the introduction of self-assessment vide Finance Act, 2011, the onus is on the Importer to make true and correct declaration in all aspects including Classification and calculation of duty, but in this case the subject goods have been mis-classified and IGST amount has not been paid correctly.

5.1 Section 17(1) Assessment of duty, reads as:

An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

5.2 Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded) reads as:

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any 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.

5.3 SECTION 28AA- Interest on delayed payment of duty

- (1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, 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), whether such payment is made voluntarily or after determination of the duty under that section.*

5.4 SECTION 46. Entry of goods on importation, subsection 46(4) reads as:

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

5.5 Section 111 (Confiscation of improperly imported goods etc.) reads as: 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.....;

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

"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 shall be liable,-

(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 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 percent of the duty sought to be evaded or five thousand rupees, whichever is higher....."

5.7 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 (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

5.8 SECTION 114AA. Penalty for use of false and incorrect material. –

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

5.9 SECTION 117. Penalties for contravention, etc., not expressly mentioned. - Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one lakh rupees.

Acts of omission and commission by the Importer

6. Whereas, consequent upon amendment to the 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 [CBEC's (now CBIC) 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 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 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, since 08.04.2011, 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.

7. Therefore, in view of the above, it appeared that the importer deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to ₹ 67,055/- (as detailed in Annexure-'A'). Therefore, the differential duty, so not paid, appeared liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

8. In view of the above, the importer, **M/s. TRINITY TRADERS** were called to show cause to the Assistant Commissioner of Customs, Gr. VA, JNCH, Nhava-Sheva, Distt. Raigad, Maharashtra- 400707 within 30 days of the receipt of this notice as to why:

- (i) Differential/short paid Duty amounting to ₹ 67,055/- for the subject goods imported vide Bills of Entry as detailed in Annexure-'A' should not be demanded under Section 28(4) of the Customs Act, 1962.
- (ii) In addition to the duty short paid, interest on delayed payment of Customs Duty should not be recovered from the Importer under Section 28AA of the Customs Act, 1962.
- (iii) The said subject goods imported vide Bills of Entry as detailed in Annexure-'A' having assessable value of ₹ 5,74,517/- should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- (iv) Penalty should not be imposed on them under Section 112(a) of the Customs Act, 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.
- (v) Penalty should not be imposed under Section 114A of Customs Act, 1962 for short levy of duty.

Personal Hearing and Written Submissions

9. In order to comply with the principle of natural justice, personal hearing in the matter was offered to the importer vide letter F. No. S/26-Misc-889/2024-25/Gr. VA JNCH to appear before the adjudicating authority on 12.11.2025/14.11.2025/17.11.2025 to present their case in respect of the subject show cause notice. However, no one appeared on behalf of **M/s. TRINITY TRADERS** for the personal hearing, nor sought for any extension of time and accordingly, I proceed to adjudicate the case *ex-parte* based on the records available in the file.

Discussion and Finding

10. I have carefully gone through the facts of the case, available records and evidences referred to above.

11. On perusal of facts of the case, I find that the following issues are involved, which are required to be decided in the present proceedings i.e. whether

- (i) The subject goods are liable for confiscation under Section 111(m) of the Customs Act, 1962.
- (ii) The differential duty amounting to **Rs. 67,055/-** should be demanded and confirmed in terms of Section 28(4) of the Customs Act, 1962.
- (iii) The applicable interest on the amount specified above should be recovered from them in terms of Section 28AA of the Customs Act, 1962.
- (iv) Penalty should be imposed on them under Section 112(a) and /or 114A of the Customs Act, 1962.

12. I find that the importer had imported goods having description as "Battery" under the afore stated CTH as detailed in Annexure- 'A' to the SCN. The imported goods attract IGST @ 28% under Sl. No. 139 of Schedule IV. However, they have been cleared at a lower rate of IGST @18%.

13. On careful perusal of the above notifications (**mentioned in Table-A**), I find that imported goods attract Sl. No. 139 of Schedule IV (IV-139) levying IGST rate of 28% for the CTH 8507 i.e. Electric accumulators,

including separators therefor, whether or not rectangular (including square). Further, Sl. No. 203 of Schedule II (II-203 of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 levying IGST rate of 12% for the CTH 85 i.e. Parts for manufacture of telephones for cellular networks or for other wireless networks, Sl. No. 376AA of Schedule III of IGST Notification No. 19/2018-Integrated Tax (Rate) dated 27.07.2018 levying IGST rate of 18% for the CTH 85076000 i.e. Lithium-ion Batteries & Sl. No. 376AAA of Schedule III of IGST Notification No. 19/2018-Integrated Tax (Rate) dated 27.07.2018 levying IGST rate of 18% for the CTH 8507 i.e. Lithium-ion accumulators (other than battery) including lithium-ion power bank Lithium-ion accumulators (other than battery) including lithium-ion power bank are not applicable to the subject imported goods.

14. I find that the goods covered under CTH 8507 were cleared by declaring lower rate of IGST under Sl. No. 203 of Schedule II of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 @ 12% and/or @18% under sr. nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018- Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in other Schedule, however, the imported goods falling under CTH 8507 are to be correctly covered under Sl. No. 139 of Schedule IV of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and attract higher rate of IGST @28%.

15. I find that the total assessable value of the items so imported is ₹ 5,74,517/- and there is a short payment of duty amounting to ₹ 67,055/-, which is recoverable from the Importer along with applicable interest and penalty.

16. I also find that, the importer has deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to ₹ 67,055/- and the same is recoverable from the importer under Section 28 (4) along with applicable interest under Section 28AA of the Customs Act, 1962.

17. With regard to the proposal of imposition of penalty under section 114A/112(a), I find that the Importer has submitted a wrong declaration under Section 46(4) of the Act and accordingly I find that, the importer is liable for a penalty under Section 114A, further for the same reason, I find that, the subject goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. In this regard, the 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 held as under: -

"22. We must also bear in mind that for improper importation of the dutiable goods or the prohibited goods, the importer is liable to be proceeded against under Section 112 of the Act by subjecting him to a penalty. Therefore, the fine proposed to be imposed under Section 125 of the Act is directed against the goods, in addition to the one that was already provided for under Section 112 of the Act. The fine contemplated is for redeeming the goods, whereas, the importer is sought to be penalised under Section 112 for doing or omitting to do any act which rendered such goods imported by him, liable to be confiscated under Section 111 of the Act and for that act or omission, the appellant is liable to be penalised."

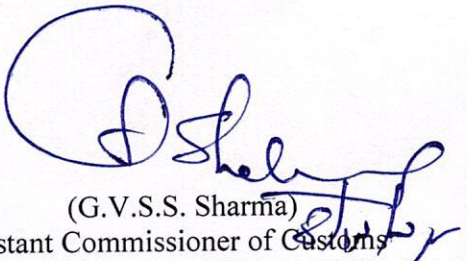
Following the above case law, I hold that the subject goods are liable for confiscation under Section 111(m) despite the fact that the goods are not physically available now.

18. In view of the above, I pass the following order.

Order

- (i) I hold that the subject goods having assessable value of Rs. 5,74,517/- (**Rupees Five Lakh Seventy Four Thousand Five Hundred Seventeen Only**) are liable for confiscation under the provisions of Section 111(m) of the Customs Act 1962. I impose a redemption fine of Rs. 60,000/- (**Rupees Sixty Thousand Only**) under Section 125 of the Customs Act, 1962.
- (ii) I confirm the demand of differential duty amounting to Rs. 67,055/- (**Rupees Sixty Seven Thousand and Fifty Five Only**) under Section 28(4) of the Customs Act, 1962 on the impugned goods.
- (iii) I confirm the demand of interest under Section 28AA of the Customs Act, 1962 on differential duty mentioned in (ii) above at the applicable rates.

- (iv) I impose a penalty of Rs. **67,055/- (Rupees Rupees Sixty Seven Thousand and Fifty Five Only)** and applicable interest thereon, on M/s TRINITY TRADERS under Section 114A of the Customs Act,1962. If such duty is paid from thirty days from the date of the communication of this order, the amount of penalty liable to be paid shall be 25% of the duty, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of the order.
- (v) As penalty has already been imposed under Section 114A of the Customs Act,1962, I refrain from imposing penalty under Section 112(a) of the said act.


(G.V.S.S. Sharma)
Assistant Commissioner of Customs
Gr-VA, NS-V, Nhava Sheva, JNCH

To,
M/s. TRINITY TRADERS (IEC- BEHPT9278M)
Address: A-202, Ss-2, , Sector-1 Contact No: 919706103376,
Kopar Khairne , Thane , Maharashtra, 400709

Copy to:-

1. The Asstt./Dy. Commissioner of Customs, C3 Circle/Audit JNCH.
2. The Asstt./Dy. Commissioner of Customs, CAC, JNCH.
3. The Asstt./Dy. Commissioner of Customs, CRAC, JNCH.
4. Office copy
5. Notice Board (for display).

Handwritten signature and initials, possibly "J. L. L." and "J. L. L.", enclosed in a faint circular stamp.

Annexure-A

Sr. No.	IEC Name	BE Number	BE Date	CTH	Item Description	Total Assessable Value - Assessed	Total Duty - Assessed	IGST Amount - Assessed	IGST Amount - Foregone Assessed	IGST Assessable Value - Assessed	IGST PAID RATE	IGST APPLICA BLE RATE	IGST SHORT PAID
1	TRINITY TRADERS	5662901	13/11/2019	8507	BATTERY CELL (CW-484655AR / R-41080799)	22464	9875.2	4933.1	0	27406.08	18	28	2740.60
2	TRINITY TRADERS	5662901	13/11/2019	8507	MINI BATTERY FOR HEADPHONE (IN-700B / R-41099139)	39600	14838.1	8304.1	0	46134	18	28	4613.42
3	TRINITY TRADERS	5662901	13/11/2019	8507	MOBILE BATTERY (R-41134287 / YB-10)	512452.8	192016.1	107461.4	0	597007.51	18	28	59700.70
	TRINITY TRADERS Total					574516.8		120698.6	0	670547.59			67054.72

PRATIK P. HINDOYAN
SUPERINTENDENT OF CUSTOMS

