



ऑफिस ऑफ द कमिश्नर ऑफ कस्टम्स
ICE OF THE COMMISSIONER OF CUSTOMS, NS-V
जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा,
AWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,
ताल-ऊरण, डिस्ट-राइगड, महाराष्ट्र-४००७०७.
URAN, DIST. RAIGAD, MAHARASHTRA - 400 707.

F. No.: S/10-304/2025-26/ADC/GrVB/NS-V/CAC/JNCH

Date of Order: 14.01.2026

Date of issue: 14.01.2026

Passed By: **Shri Satish Kumar**

Commissioner of Customs (In-Situ), NS-V

DIN- 20260178NX000000D657

Order-In-Original No. 1465/2025-26/ADC/GR.VB/NS-V/CAC/JNCH

(Arising out of SCN No. 918/2025-26/JC/Gr.VB/NS-V/CAC/JNCH dated 15.09.2025)

Noticee: M/s Lifelong Online Retail Private Limited (IEC: 515064572)

मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख 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 फीस के रूप में 1.50 रुपये मात्र कास्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava 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.
3. 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 Case

Whereas, M/s Lifelong Online Retail Private Limited (IEC: 515064572) having address at 508, 5th Floor, DLF South Court, Saket District Centre, Saket, New Delhi-110017 (hereinafter referred to as 'Importer') had cleared various kind of massagers declared, as mentioned in Annexure-A, under CTI 90191090 (Hereinafter referred to as "subject goods") and paid BCD @7.5 % & IGST @18% and Health Cess @0% for the said consignment through their Custom Broker, M/s. Chintamani Cargo Logistics Solutions Pvt. Ltd. (hereinafter referred to as "the Customs Broker).

2.1. After going through Bills of Entry & corresponding Invoice, it was observed that the imported goods are described as mentioned in Annexure-A and the importer has availed the duty benefit by paying 0% Health Cess on the said import. On further observation, it is found that the imported items were rightly classified under CTI 90191090. As the heading 9019 describes as-

9019 MECHANO-THERAPY APPLIANCES; MASSAGE APPARATUS; PSYCHOLOGICAL APTITUDE-TESTING APPARATUS; OZONE THERAPY, OXYGEN THERAPY, AEROSOL THERAPY, ARTIFICIAL RESPIRATION OR OTHER THERAPEUTIC RESPIRATION APPARATUS

9019 10 - Mechano-therapy appliances; massage apparatus; psychological aptitude- testing apparatus

90191090 --- Other

2.2. Duty structure applicable for the above mentioned CTH is BCD @7.5 %, Health cess @5% and IGST @12% (Effective rate of duty = 26.84%) and it appears that the applicable Health Cess has not been paid by the importer.

3. Since, the importer had evaded the duty on the imported goods, a consultative letter no. 367/2025 dated 25.06.2025 was issued to the importer to pay the short-paid duty along with applicable interest and penalty. Vide the aforementioned Consultative letter, the importer was advised to pay the differential duty of Rs. 1,00,81,123/- (Rupees One Crore Eighty-One Thousand One Hundred Twenty-Three only) along with interest and penalty within 15 days of the receipt of the consultative letter in terms of Section 28(4) of the Customs Act 1962. The importer was further advised to avail the benefit of lower penalty in terms of Section 28(5) of the Customs Act, 1962, by early payment of short paid duty along with applicable interest and penalty. The Consultative Letter was issued in terms of the Pre-Notice Consultation Regulations, 2018.

4. The importer has not paid the duty difference, however, they have responded to the Consultative Letter and submitted that: -

a. *The statutory provision which mandates conducting pre-notice consultation proceedings is Section 28(1) of the Customs Act, and hence no consultation proceedings could have been initiated in the present case directing payment of duty beyond the two-year limitation period from the relevant date (i.e., the date of bill of entry). Since the entire period of demand in the present case falls beyond the normal period of limitation, the CL itself is unsustainable. Without prejudice, even if the duty demand is calculated from the date of issuance of the Consultative letter, any amount pertaining to a period prior to 26.06.2023 would be time-barred. Since the demand pertains to the period 2020-2021, it is entirely time-barred.*

b. *The CL merely alleges suppression and mis-declaration on the part of the Company; however, no reasoning has been provided to buttress such an allegation. There is absolutely no allegation that the Company has mis-declared or suppressed any information in the bills of entry. It is submitted that all the relevant information with respect to the subject goods was provided to the customs department and hence, no mis-declaration or suppression can be attributed to it. Without prejudice, the Department has been fully aware of the issue in dispute, and has in fact raised demand of Health Cess in previous proceedings initiated against the Company- details pertaining to this case are outlined below:*

i. *A Show Cause Notice issued vide F. No. S/26-Misc-668/2022-23/Gr. VB/JNCH dated 19.04.2023 ('SCN dated 19.04.2023') was issued to the Company by the Ld. Commissioner of Customs (NS-V), JNCH, Nhava Sheva, Mumbai. The aforesaid SCN was issued to the Company inter alia demanding Health Cess on the subject goods imported during the period of 08.02.2019 to 15.09.2021.*

ii. *The SCN dated 19.04.2023 was adjudicated vide the Order-in-Original No. 43/2025- 26/Commr/NS-V/CAC/JNCH dated 16.04.2025 ('OIO') whereby the entire duty demand was confirmed.*

c. *While the Company decided to challenge the OIO on demand(s) raised on other counts, the Company took a commercial call to pay the amount attributable*

towards Health Cess along with applicable interest, as per the calculation sheet provided by the department. The said SCN dated 19.04.2023 had two annexures in the duty calculation sheet, viz., 'Annexure-A' and 'Annexure-B'.

d. Further, they have submitted that most of the bills of entry covered in 'Annexure-A' to the present CL were already covered in the 'Annexure-A' to the SCN dated 19.04.2023. Since these bills of entry were subject matter of the previous litigation as well, no Health Cess qua such bills of entry can be raised now vide the CL. Therefore, out of the total demand of Rs. 1,00,81,123/-, the amount of Rs. 81,18,622/- as is attributable to the bills of entry covered in the previous litigation is liable to dropped, at the very outset. Copy of the SCN dated 19.04.2023 along with 'Annexure- A' is enclosed as Annexure-2. The list of such bills of entry on which demand has been raised vide the CL and which were also covered in the SCN dated 19.04.2023 is enclosed

4.1 In the reply letter submitted by M/s Lifelong Online Retail Private Limited (IEC: 515064572), they have annexed Show Cause Notice issued vide F. No. S/26-Misc- 668/2022-23/Gr. VB/JNCH dated 19.04.2023 ('SCN dated 19.04.2023') and mentioned about the Order-in-Original. Further, they have mentioned that, they have paid the partial amount of the Health-Cess. However, they have not furnished any document regarding the payment of the Health-Cess.

4.2 On further scrutiny of importer's submissions, OIO No. 43/2025-26/Commr./NS- V/CAC/JNCH dated 16.04.2025 and Bills of Entry filed by the importer at JNCH, it was found that total Health Cess amounts to Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only) as detailed in Annexure- "A" is liable to be paid by the importer.

5. The non-payment of Health Cess in terms of Notf. No. 08/2020 dated 02.02.2020 (as amended) by the importer has led to loss to the Government exchequer amounting to Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only) along with applicable interest and penalty as detailed in Annexure-A to this notice and accrued monetary benefits to the importer. Therefore, it appears that importer has intentionally not paid the Health Cess as mentioned in Annexure-A with sole purpose to evade legitimate Customs duty whereas it should have been rightly classifiable under Tariff Head 90191090 and thus the provisions of Section 28 (4) are invocable in this case.

6. Hence, importer is liable to pay Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only) along with applicable interest and penalty under Section 28(4) of Customs Act, 1962 as detailed in Annexure-"A" to this notice.

7. Relevant Legal Provisions: After the introduction of self-assessment vides Finance Act, 2011, the onus is on the Importer to make true and correct declaration in all aspects including Classification and calculation of duty, but

in the instant case the Health-Cess (along with IGST) amount has not been paid.

8. Relevant legal provisions for recovery of duty that appears to be evaded are reproduced here for the sake of brevity which are applicable in this instant case:

8.1 Section 17(1) Assessment of duty

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.

8.2 Section 28 (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 willful 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) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section

(1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5).

8.3 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.

(2) Interest, at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

8.4 SECTION 46. Entry of goods on importation, subsection 46(4)

(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.

8.5 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;

8.6 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 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**”

8.7 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:

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 order 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 the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA, and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

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

Explanation. - For the removal of doubts, it is hereby declared that -

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.

8.8 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.**

9.1 As per section 17(1) of the Act, "An Importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods." Thus, in this case the importer had self-assessed the Bills of Entry and appears to have Short paid duty due to wrong classification of the imported goods. Importer has given a declaration under section 46(4) of the Act, for the truthfulness of the content submitted at the time of filing Bill of Entry. As the importer got monetary benefit due to said act, it is apparent that the same was done deliberately by with an intention to avail undue benefit of Notification on the said goods in the Bills of Entry during self-assessment. Therefore, differential duty amount is recoverable from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the said Act.

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

RECORDS OF THE PERSONAL HEARINGS AND WRITTEN SUBMISSION

10. In order to comply the principal of natural justice, opportunity of personal hearing in the matter were provided to the noticee vide letters F. No. S/10-304/2025-26/ADC/GR. VB/NS-V/CAC/JNCH dated 28.11.2025 & 15.12.2025 to appear before the adjudicating authority on 10.12.2025 & 22.12.2025. However, the noticee did not attend nor submit any reply though, vide their letter dated 26.12.2026, they submitted that,

- 10.1 Lifelong Online Retail Pvt. Ltd. ('Company/ we/ us,) received the above-captioned Show Cause Notice dated 15.09.2025 ('SCN') which proposes to recover differential duty (Health Cess) amounting to Rs. 18,06,178/- along with applicable interest under Section 28(4) read with Section 28AA of the Customs Act, 1962 (Customs Act), respectively. SCN has also proposed confiscation of imported goods under Section 11 l(m) of the Customs Act along with proposal for imposition of penalty under Section I 12(a) and/ or Section I 14A of the Customs Act.
- 10.2 The Company is inter alia engaged in the business of importing and selling various types of massagers. The present SCN has been issued to the Company concerning imports of various models of electric massagers ('subject goods') vide the Bills of Entry listed in 'Annexure-A' to the SCN ('subject BOEs'), filed during the period of September 2020 to March 2021 ('relevant period').
- 10.3 During the relevant period, the Company classified the subject goods under Customs Tariff Item ("CTI") 9019 I 090 and paid Basic Customs Duty ('BCD') @ 7.5%, Integrated Goods & Services Tax ('IGST') @ 12% and Health Cess at NIL rate by availing full exemption under SL No. 3 of Notification No. 08/2020-Cus. dated 02.02.2020 ('Notification 08/2020').
- 10.4 Vide the SCN, it has been alleged that the goods of CTI 9019 1090 attract Health Cess @ 5% and hence, the Company has short-paid the Health Cess amounting to Rs. 18,06, 178/- on the subject goods. SCN also alleges that the Company has willfully avoided the payment of the applicable Health Cess on subject goods and hence, the demand has been raised by invoking the extended period of limitation under Section 28(4) of the Customs Act.
- 10.5 At the outset, they submitted that the demand raised vide the present SCN is entirely time barred in as much as the subject BOEs are beyond the normal limitation period of 2 years. The demand in the present case has been raised by invoking the extended period of limitation under Section 28(4) of the Customs Act. In this regard, they submit that the Company is a law abiding respectable corporate citizen and has never held any malafide intentions to avoid payment of applicable duties.
- 10.6 They stated that there has been no 'mis-declaration' or 'suppression' or 'collusion' either in respect of value, description or in any other particular with the entry made in the bills of entry and therefore, Section 28(4) has been incorrectly invoked resulting in the demand being time-barred. In any case, a consultative notice had been

issued to us prior to issuance of the SCN in response to which they had submitted that a similar litigation was already ongoing on the issue and hence, since everything was in the knowledge of the department, demand could not have been raised by invoking the extended period of limitation under Section 28(4) of the Customs Act.

10.7 Without prejudice to the above, they stated that this is to bring to your kind attention that on internally reviewing the matter - the Company has taken a commercial call not to litigate the matter further and decided to pay the differential duty along with applicable interest and penalty in terms of Section 28(5) of the Customs Act.

10.8 Section 28(5) of the Customs Act provides that a person who has been served a show cause notice under Section 28(4) of the Customs Act, may pay the duty along with applicable interest under Section 28AA and penalty equal to fifteen percent of the differential duty, within thirty (30) days from the receipt of the show cause notice. Section 28(5) is reproduced below:

" (5) Where any duty has not been levied or not paid or has been short-levied or short-paid or the interest has not been charged 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 by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

10.9 As per sub-section (6) of Section 28. when the importer makes the payment in the manner stipulated under sub-section (5) [reproduced above], the proceedings are deemed to be concluded.

10.10 As already stated above, they have taken a commercial call to pay the differential duty along with applicable interest - to avoid further litigation. The SCN was received by the Company on 15.09.2025 and the differential duty along with interest was deposited on 15.10.2025 on the ICEGATE E-Payment Platform. Since the Company deposited the differential duty and interest within 30 days from the date of receipt of the SCN- along with penalty equal to 15% of the differential duty (i.e., Rs. 2,70,927/-) has also been deposited, the proceedings initiated vide the SCN be closed in terms of Section 28(6) of the Customs Act.

10.11 The above-mentioned payments have been made by the Company on the ICEGATE E-Payment Platform via the below Challans:

- (i) E Differential duty- Challan No. 1281513255 dated 15.10.2025 [ICEGATE Reference JD; OO8O0OD IINNSA 1035515723 I 684305];
- (ii) Interest - Challan No. 1393155120 dated 15.10.2025 [ICEGATE Reference ID: 008000DJINNSA1O417496OO6426381]; and
- (iii) Penalty - Challan No. 1 109280094 dated 15.10.2025 [ICEGATE Reference ID: OO8O0OD IINNSA I 04222099938755 1 2].

Copy of the above-mentioned Challans are collectively enclosed as Annexure-2.

10.12 In view of the above, they humbly prayed that this letter be treated as an intimation under Section 28(5) read with Section 28(6) of the Customs Act and the proceedings initiated vide the SCN be concluded. The payment of duty, interest and penalty are based on commercial prudence alone and the said decision must not be treated as acceptance of any wrongdoings on the part of the Company. The Company specifically disclaims any adverse use of its decision to pay the duty, interest and penalty towards fastening any liability in its pending or future litigations.

10.13 They requested to take this letter on record and an acknowledgment be provided. They also requested that an opportunity of hearing may kindly be provided in case the afore-said explanation is not found acceptable.

DISCUSSION AND FINDINGS

11 I have gone through the facts of the case, material on case records, including the import documents and the submissions made by the Importer, I find that the following facts emerge:

12 The importer, M/s Lifelong Online Retail Private Limited (IEC: 515064572), have paid the differential duty with interest along with 15% penalty as detailed above. Audit scrutiny revealed applicable Health Cess has not been paid by the importer resulting in short payment of customs duty aggregating as detailed above. The SCN proposed recovery of differential duty of **Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only)** under Section 28(4) of the Customs Act, 1962, interest under Section 28AA and imposition of penalties under Sections 112(a) and/or 114A.

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

(i) Whether the imported goods having assessable value of Rs. 2,83,13,680/- (Rupees Two Crore Eighty Three Lakh Thirteen Thousand Six Hundred and Eighty only) covered under Bills of Entry as detailed in Annexure-"A" should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.

(ii) Whether the differential duty amounting to Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only) is recoverable under Section 28(4) and the above amount which is already deposited by the Importer as duty is to be appropriated against the above said demand of duty.

(iii) Whether interest is payable under Section 28AA the above amount which is already deposited by the Importer as duty is to be appropriated against the above said demand of duty.

(iv) Whether penalty imposed on them under Section 112(a) and/or 144A of the Customs Act, 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.

13 After having identified and framed the main issues 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; provision of the Customs Act, 1962, as well as Noticee' written and verbal submissions and documents / evidences available on record.

14 Liability for Confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962:

a. Section 111 of the Customs Act, 1962 prescribes confiscation of improperly imported goods. Clause (m) thereof provides that "any goods which do not correspond in respect of value or in any other particular with the entry made under this Act" shall be liable to confiscation. The legislative intent behind Section 111(m) is to ensure veracity and accuracy of the particulars declared in the Bill of Entry, including value, quantity, description, classification and rate of duty.

b. In the instant case, I find that M/s Lifelong Online Retail Private Limited (IEC: 515064572) imported goods under the self-assessment procedure but willfully evaded the Health Cess on the goods. Due to this act of omission of Importer, there has been loss to the government exchequer equal to the differential duty.

c. This conscious and deliberate misdeclaration of classification and duty rate constitutes a material misstatement attracting the provisions of Section 111(m) of the Act. Hence, the goods imported under the Bills of Entry enumerated in Annexure A are held liable to confiscation under Section 111(m).

d. However, it is noted that the subject goods have already been cleared and are not physically available for seizure. On the issue whether redemption fine can still be imposed in such circumstances, I rely upon the ratio of the Hon'ble

Madras High Court in the case of M/s Visteon Automotive Systems India Ltd. [2018 (9) G.S.T.L. 142 (Mad.)], wherein it was held as under:

“The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields... The availability of the goods is not necessary for imposing the redemption fine. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act... Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.”

e. The above legal view was subsequently followed by the Hon’ble Gujarat High Court in M/s Synergy Fertichem Pvt. Ltd. [2020 (33) G.S.T.L. 513 (Guj.)], reaffirming that redemption fine may be imposed even where the goods are no longer physically available, provided that confiscation is otherwise authorized under the Act. These decisions remain unchallenged and are therefore good law.

f. I further note that the judgment of the Hon’ble Madras High Court in Visteon Automotive Systems India Ltd. (supra) relied upon the earlier decision of the Hon’ble Bombay High Court in Finesse Creations Inc. [2009 (248) E.L.T. 122 (Bom.)], affirmed by the Hon’ble Supreme Court [2010 (255) E.L.T. A120 (S.C.)], which held that the power to impose redemption fine flows from the authority to confiscate under Section 111 and does not depend on physical custody of the goods.

g. In view of the above judicial pronouncements, I hold that though the goods imported by M/s Lifelong Online Retail Private Limited (IEC: 515064572) are not available for confiscation, the act of misdeclaration has rendered them liable for confiscation under Section 111(m). Therefore, a redemption fine is imposable under Section 125 of the Customs Act, 1962, as the importer’s misdeclaration of classification and IGST applicability constitutes a material variance “in any other particular” within the meaning of Section 111(m).

15 Differential duty totally amounting to Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only), as illustrated in Annexure A.

a. I find that the importer, in the instant case, has self-assessed the Bills of Entry. However, they appear to have Short paid the duty due to non-payment of Health Cess on the goods. As the Importer got monetary benefit due to the above said act, it is apparent that the same was done deliberately with an intention to evade duty on the said goods in the Bills of Entry during self-assessment. Therefore, differential duty amount **Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only)** is recoverable from the Importer under Section 28(4) of the Customs Act, 1962.

16 Interest under Section 28AA of the Customs Act, 1962.

a. As per the provisions of Section 28AA of the Customs Act, 1962, any person who is liable to pay duty in accordance with Section 28 shall, in addition to such duty, be liable to pay interest at the rate specified under sub-section (2) of Section 28AA, irrespective of whether such payment is made voluntarily or after determination of the duty.

b. The statutory intent of Section 28AA is clear and mandatory — whenever there is a short-levy or short-payment of duty, the interest liability arises automatically as a consequence of such non-payment or delayed payment. The provision does not require any independent mens rea or separate adjudication.

c. In the present case, I have already held in the preceding paragraphs that the differential customs duty amounting to **Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only)** is recoverable from M/s Lifelong Online Retail Private Limited (IEC: 515064572) under Section 28(4) of the Customs Act, 1962. Accordingly, in terms of Section 28AA, interest on the aforesaid amount of differential duty is also recoverable from the importer, calculated from the date of short-payment till the date of actual payment.

17 Penalty under Sections 112(a) and/or 114A of the Customs Act, 1962:

a. I find that the importer, in the instant case, has wilfully misdeclared the classification of imported goods under incorrect Customs Tariff Headings (CTHs) with the intention to Short pay the duty due to Mis-Classification thereby availing wrong BCD and IGST benefit, thereby claiming lower rates of duty than those actually applicable.

b. It is pertinent to note that the scheme of self-assessment, introduced vide the Finance Act, 2011 and codified under Section 17(1) of the Customs Act, 1962, casts an obligation on every importer to correctly assess the duty leviable on imported goods. Further, under Section 46(4) of the Act, the importer must declare truthfully the description, classification, value, and other particulars of the imported goods in the Bill of Entry, and subscribe to a declaration as to the accuracy and completeness of such particulars.

c. In the present case, the importer has failed to fulfil these obligations. They have not paid the Health Cess as detailed above and thereby availing undue benefit. This clearly demonstrates a deliberate and conscious misstatement with an intent to pay lesser duty. By such acts of omission and commission, M/s Lifelong Online Retail Private Limited (IEC: 515064572) **has rendered the impugned goods liable for confiscation under Section 111(m)** of the Customs Act, 1962, and thereby made themselves liable to penalty under Section 112(a) for improper importation of dutiable goods.

d. Since the improper importation of goods has also resulted in short levy of customs duty, which has been demanded under Section 28(4) of the Customs Act, 1962, the importer is further liable to penalty under Section 114A of the Act. However, it is observed that penalties under Sections 112(a)/112(b) and 114A

are mutually exclusive. The fifth proviso to Section 114A specifically provides that where a penalty is imposed under Section 114A, no penalty shall be imposed under Section 112 or Section 114 in respect of the same act or omission.

18 I also accept the submission of the Importer that they have paid all the applicable duty along with interest once the issue was pointed by the Department and has also accepted that this was a bonafied mistake on their part. Section 28(5) of the Customs Act provides that a person who has been served a show cause notice under Section 28(4) of the Customs Act, may pay the duty along with applicable interest under Section 28AA and penalty equal to fifteen percent of the differential duty, within thirty (30) days from the receipt of the show cause notice. Section 28(5) is reproduced below:

" (5) Where any duty has not been levied or not paid or has been short-levied or short-paid or the interest has not been charged 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 by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing." As per sub-section (6) of Section 28, when the importer makes the payment in the manner stipulated under sub-section (5) [reproduced above], the proceedings are deemed to be concluded.

19 I find that the Importer have paid the differential duty along with applicable interest. The SCN was received by the Importer on 15.09.2025 and the differential duty along with interest was deposited on 15.10.2025 on the ICEGATE E-Payment Platform. I also find that the Importer deposited the differential duty and interest within 30 days from the date of receipt of the SCN- along with penalty equal to 15% of the differential duty.

20 The above-mentioned payments have been made by the Importer on the ICEGATE E-Payment Platform via the below Challans:

- I E Differential duty- Challan No. 1281513255 dated 15.10.2025 [ICEGATE Reference ID; OO8O0OD IINNSA 1035515723 I 684305];
- II Interest - Challan No. 1393155120 dated 15.10.2025 [ICEGATE Reference ID: 008000DJINNSA10417496006426381]; and
- II Penalty - Challan No. 1 109280094 dated 15.10.2025 [ICEGATE Reference ID: OO8O0OD IINNSA I 04222099938755 1 2].

21 In view of the above, I find that under Section 28(5) read with Section 28(6) of the Customs Act, the proceedings initiated in the instant case can be concluded. The payment of duty, interest and penalty are considered by me as

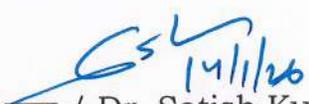
compliance to the provisions of Section 28(5) of the Customs Act, 1962. In the case of M/s Karnawat International Pvt Ltd vs Mundra Customs, Hon'ble CESTAT, West Zonal Bench at Ahmedabad on 25 October, 2024 has held that, "in case demand under Section 28 (4) was applicable and duty was demandable then the party is very much entitled to claim the amnesty under Section 28 (5) and the same on following of the requisite conditions. In which case confiscation of goods and interest thereof does not get triggered to the prejudice of the party". Therefore, confiscation of goods and the redemption fine in lieu of the confiscation is also not imposable when the proceedings are concluded under Section 28(6) of the Customs Act, 1962.

22 In view of the above discussions, I pass the following order:

ORDER

i. I appropriate the differential duty of Rs. 18,06,178/- (Rupees Eighteen Lakh Six Thousand and One Hundred Seventy Eight only) paid by the Importer along with interest and penalty as mentioned above against the demand made in the instant case and order for conclusion of all proceedings in the instant case against the Importer under Section 28(6) of the Customs Act, 1962 as initiated vide SCN No. 918/2025-26/JC/Gr.VB/NS-V/CAC/JNCH dated 15.09.2025.

23 This order is issued without prejudice to any other action that may be taken against the said company or persons or any other companies or persons concerned with the said goods, under the Customs Act, 1962, and /or any other law for the time being in force in the republic of India.


(डॉ. सतीश कुमार / Dr. Satish Kumar)

आयुक्त, सीमा शुल्क / Commissioner of Customs (In-situ)

ग्रुप-VB, एनएस-V, जेएनसीएच / Gr.VB, NS-V, JNCH

Encl: - Annexure-A.

To,

M/s LIFELONG ONLINE RETAIL PRIVATE LIMITED (IEC: 515064572) 508, 5TH FLOOR,
DLF SOUTH COURT SAKET DISTRICT CENTRE, SAKET NEW DELHI-110017.

Copy to:

1. The Deputy/Assistant Commissioner of Customs, CAC, JNCH (for adjudication)
2. The Deputy/Assistant Commissioner of Customs, Circle-E, Audit, JNCH
3. Notice Board (CHS Section for display).
4. Office Copy.

