

	<p>सीमा शुल्क आयुक्त का कार्यालय <b>OFFICE OF THE COMMISSIONER OF CUSTOMS</b> केंद्रीय अधिनिर्णय प्रकोष्ठ, एन एस-V <b>CENTRAL ADJUDICATION CELL, NS-V</b> जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा, <b>JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,</b> ताल-ऊरण, डिस्ट-राइगड, महाराष्ट्र-४०० ७०७. <b>TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400 707.</b></p>
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DIN : 20260178NX0000111F5F

Date of Order: 13/01/2026

F.No. S/10-165/2025-26/JC/Gr.V/NS-V/CAC/JNCH

Date of issue: 13/01/2026

SCN No.: 1607/2024-25/DC/Gr. V/CAC/JNCH

SCN Date: 14.01.2025

Passed By: Shri Mazid Khan

Joint Commissioner of Customs, CAC, NS-V, JNCH

Order-In-Original No. : 1444/2025-26/JC/GR.V/NS-V/CAC/JNCH

Name of Party/Noticee :- **SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED**  
**(IEC:502068485)**

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मूल आदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क 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 2.00 रुपये मात्र का स्टॉप 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 2.00 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.2.00 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. 2.00 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 THE CASE**

1. On the basis of the Analytics Report-66/2021-22 regarding Wrong claims of lower IGST rate @ 18% on the import of goods covered under CTH 85284200 vide Sr. No. III138, III139, III308B, III383C, III384, III452P, III453 of Schedule-III of IGST Levy Notification No.01/2017-Integrated Tax(Rate) dated 28.06.2017 (as amended), data pertaining to imports made by various importers through JNCH (INNSA1) was analyzed in detail.

While analyzing the data, it is observed that M/s **SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED (IEC:502068485)** (now hereinafter referred to as 'the Importer') having official address at Plot No. E-4, Chakan Industrial Area Phase-III, Taluka Khed, Pune-410501 have imported goods having description such as MONITOR under CTH 8528 as detailed mentioned in Annexure-A.

**Annexure-A**

Annexure-A

BE NO.	BE Date	Importer Name	Description1	Assessed Value	Total Duty Assessed	Duty applicable @ 42.08%	Differential duty
6842227	11-02-2020	SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED	COMPONENT OF SANY TRUCK CRANE STC800 SKD - MONITOR(FOR CAPTI	52416	16239	22056.6528	5817.6528
6514884	17-01-2020	SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED	SPARE PARTS FOR CONCRETE PUMP - COMPUTER MONITOR(FOR CAPTIV	48445	15008	20385.656	5377.656
6514884	17-01-2020	SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED	SPARE PARTS FOR CONCRETE PUMP - COMPUTER MONITOR(FOR CAPTIV	12111	3752	5096.3088	1344.3088
		SANY HEAVY INDUSTRY		112972	34999	47538.6176	12539.6176

2. During the course of audit, prima facia, it was noticed that the importer had imported goods as mentioned in Annexure-A claiming notification benefit and paid 18% IGST under Sr. No. 383C and 384 of Schedule-III of IGST Notification No.01/2017. However, the imported goods are classifiable under CTH 8528, which attracts IGST @ 28% under Sr. No.154 of Schedule-IV of IGST Notification No.01/2017. For better appreciation, the relevant part of Notification 01/2017 is as below :

SR. NO	SCHEDULE	DESCRIPTION	RATE OF IGST %
383C	III	Television set (including LCD or LED television) of scree size note exceeding 32"	18%
384	III	Computer monitors of screen size not exceeding 32 inches, Setup boxes for television	18%
154	IV	Monitors and projectors not incorporating television reception apparatus: reception apparatus for television, whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing apparatus (other than computer monitors not exceeding 32 inches)	28%

The amendments to IGST Levy Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 for CTH 8528 are as:

- i. Notification No.19/2018 Integrated Tax (Rate) Dated 26.07.2018.
- ii. Notification No.25/2018 Integrated Tax (Rate) Dated 31.12.2018.
- iii. Notification No.27/2017 Integrated Tax (Rate) Dated 22.09.2017.

3. Since, the applicability of IGST @ 28% as per Sr.No.154 of Schedule-IV of IGST Notification No. 01/2017-Integrated Tax(Rate) dated 28.06.2017 on "Monitors and projectors not incorporating television reception apparatus: reception apparatus for television whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing apparatus (other than computer monitors not exceeding 32 inches)" is very clear and specific, it appears that the Importer had wilfully made short payment of IGST by wrong availment of IGST Schedule against imported goods, thereby paying lower duty than applicable and thus the provisions of Section 28 (4) are invokable in this case.
4. Accordingly, a **Consultative Letter No. 1158/2021-2022 dated 09.12.2022** vide F. No. S/2- Audit-Gen-713/2021-22/JNCH/C3 dated 09.12.2022 was issued to the Importer for payment of short levied duty along with applicable interest and penalty. Vide the aforementioned Consultative letter, the Importer was advised to pay the Differential IGST details mentioned in Annexure-A along with interest and penalty 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 IGST duty and interest along with penalty @ 15%. The Consultative letter was issued taking into account the Pre-Notice Consultation Regulations, 2018. However, no written submission/ clarification / letter has been received in this office from the importer. Further, it is found that more Bills of entry has been cleared after the period which is covered in the CL sent on the basis of Annexure-A to the importer, which are mentioned in Annexure – B.

Annexure-B

ANNEXURE - B

BE Number	BE Date	Full Item Description	Assessable Value Amount	IGST Duty Amount 18% PAID	IGST Duty Amount 28%	DIFF IGST AMT
8236597	10/10/2023	60341082,VIDEO MONITOR (PARTS OF SANY STH TELEHANDLER) 60341082,VIDEO MONITOR (PARTS OF SANY STH TELEHANDLER)	670824	134031	208492	74461
8403566	10/20/2023	60341082-VIDEO MONITOR-((PARTS OF SANY STH TELEHANDLER)) 60341082-VIDEO MONITOR-((PARTS OF SANY STH TELEHANDLER))	670824	134031	208492	74461
8447224	10/24/2023	60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDER ) 60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDER )	670824	134031	208492	74461
8542577	10/30/2023	60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER) 60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER)	670824	134031	208492	74461
8733645	11/11/2023	60341082,VIDEO MONITOR (PARTS OF SANY STH TELEHANDLER) 60341082,VIDEO MONITOR (PARTS OF SANY STH TELEHANDLER)	670824	134031	208492	74461
8742816	11/12/2023	141999000024B003,LCD MONITOR (SPARE PARTS FOR REACH STACKER) 141999000024B003,LCD MONITOR (SPARE PARTS FOR REACH STACKER)	17134	3424	5325	1902
9431550	12/27/2023	60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER) 60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER)	685344	136932	213005	76073
9448421	12/28/2023	60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER) 60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER)	685344	136932	213005	76073
9480497	12/30/2023	60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER) 60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER)	685344	136932	213005	76073
9720940	1/18/2024	60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER) 60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER)	688248	137512	213908	76396
9763948	1/21/2024	60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER) 60341082-VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER)	691152	138092	214810	76718
9883939	1/29/2024	60341082 VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER) 60341082 VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER)	691152	138092	214810	76718
9976536	2/4/2024	60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER) 60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER)	688248	137512	213908	76396
2036958	2/7/2024	60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER) 60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER)	688248	137512	213908	76396
2096501	2/11/2024	TELEHANDLER) 60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER)	688248	137512	213908	76396
2190949	2/17/2024	60341082-VIDEO MONITOR-(PARTS OF SANY TELEHANDLER) 60341082-VIDEO MONITOR-(PARTS OF SANY TELEHANDLER)	708189	141496	220105	78609
2231151	2/21/2024	60018252-DISPLAY SCREEN(SPARE PARTS FOR REACH STACKER) 60018252-DISPLAY SCREEN(SPARE PARTS FOR REACH STACKER)	32229	6439	10017	3577

3000844	4/12/2024	60341082,VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER) 60341082,VIDEO MONITOR-(PARTS OF SANY STH TELEHANDLER)	45496	9090	14140	5050
3130534	4/21/2024	60341082,VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER) 60341082,VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER)	22748	4545	7070	2525
4025496	6/15/2024	60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER ) 60341082-VIDEO MONITOR(PARTS OF SANY STH TELEHANDLER )	169884	33943	52800	18857
4479528	7/12/2024	60341082 VIDEO MONITOR(SPARES PART OF TELEHANDLER) 60341082 VIDEO MONITOR(SPARES PART OF TELEHANDLER)	351094	70149	109120	38971
			<b>10892222</b>			<b>1209037</b>

5. The total Assessable value of the BE items so imported is ₹ 1,10,05,194/- and it appears that a short levy of IGST amounting to ₹ 12,21,577/- (as detailed in ANNEXURE- A and ANNEXURE- B together) is recoverable from the Importer along with applicable interest and penalty.
6. In view of above, it appears that the impugned goods are correctly covered under Sr. No. 154 of the Schedule -IV of the IGST Notification No. 01/2017 dated 28.06.2017 and attract IGST @ 28%. However, the importer has assessed the impugned goods as mentioned in Annexure-A under CTH 8528 and paid the IGST @18% mentioned at Sr. No. 383C and 384 of the Schedule-III IGST Notification no. 01/2017 dated 28.06.2017. Thus, the importer has short paid the duty amounting to ₹ 12,21,577/- (**Rs. Twelve Lakh Twenty-One Thousand Five Hundred Seventy-Seven Only**) and same is recoverable from the importer under Section 28 of the Customs Act, 1962 read with Section 5 of the IGST Act, 2017 along with interest at applicable rate under Section 28AA of the Customs Act, 1962 read with Section 50 of the Central Goods and Service Tax Act, 2017 and penalty is required to be imposed on them under Section 112(a) and/or 114A of the Customs Act, 1962.
7. 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, payment of duty and calculation of duty, but in the instant case IGST amount on the subject goods has not been paid correctly.
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, 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.
  - 8.2 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 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).

**8.4** Section 46- [Entry of goods on importation, subsection 46(4)].

**8.5** Section 111- (Confiscation of improperly imported goods etc.)

**8.6** Section 112- (Penalty for improper importation of goods etc.).

**8.7** Section 114A- (Penalty for short-levy or non-levy of duty in certain cases)

**8.8** Section 117- (Penalties for contravention, etc., not expressly mentioned).

**9.** 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 [CBIC's (erstwhile CBEC) Circular No. 17/2011 dated 08.04.2011], provides for self-assessment of duty on imported goods by the importer himself by filing a bill of

entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make 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 center, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declared the correct classification, declaration, applicable rate of duty including IGST, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the importer more specifically the RMS facilitated Bill of Entry, to declare the correct classification, description, value, notification benefit, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In other words, the onus on the importer in order to prove that they have classified the goods correctly by giving the complete description of the goods. In the instant case, the importer has wrongly assessed the impugned goods viz., MONITOR of various sizes under Sr. No.383C of the Schedule-III IGST Notification no. 01/2017 dated 28.06.2017 and availed benefit of lower rate of IGST which resulted in short payment of IGST. Wrong assessment is nothing but suppression of information with intent to get financial benefit to claim the benefit of the Notification. In view of the above, it appears that the onus on the importer to make correct classification of the goods being imported is on the importer only.

10. As discussed above, it is the responsibility of the importer to give correct and complete description of the goods being imported in the Bills of Entry. In the instant case, the importer has wrongly assessed the impugned goods viz Monitor under Sr. No.383C and 384 of the Schedule-III IGST Notification no. 01/2017 dated 28.06.2017 and availed benefit of lower rate of IGST which resulted in short payment of IGST. It appears that the importer has done the assessment wrongly with an intention to get financial benefit by paying lesser IGST under ineligible Sr. No.383C and 384 of the Notification No.1/2017-IGST(Rate) dated 28.06.2017. Thus, the wrong assessment of goods under ineligible Sr. No.383C of the Notification has led to short payment of duty by the importer as detailed in the above. The wrong assessment of goods is nothing but suppression of facts with an intention to get financial benefit. Hence, it appears that the importer has suppressed the facts, by wrong assessment of the impugned goods leading to short payment of IGST. As there is suppression of facts, extended period of five years can be invoked for demand of duty under Section 28 of the Customs Act, 1962.

11. In view of the above, the importer, **M/s SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED** was called to show cause as to why:

- (a) The subject goods imported vide Bills of Entry as detailed in Annexure-A and Annexure-B together having assessable value of ₹ 1,10,05,194/- (Rs

**One Crore Ten Lakh Five Thousand One Hundred Ninety-Four only)**

should not be confiscated under Section 111(m) and 111(o) of the Customs Act, 1962;

- (b) The IGST rate @ 18% under Schedule-III of IGST Notification in respect of the goods as discussed above should be denied for the reasons stated therein and the merit IGST rate @ 28% under Schedule-IV of IGST Notification should be applied.
- (c) The differential duty amounting to ₹ 12,21,577/- (**Rs Twelve Lakh Twenty-One Thousand Five Hundred Seventy-Seven Only**) as detailed in the Annexure-A and Annexure-B together should not be demanded and recovered from them in terms of section 28(4) of the Customs Act, 1962.
- (d) The applicable interest on the amount specified above should not be recovered from them in terms of section 28AA of the Customs Act, 1962.
- (e) Penalty should not be imposed on them under section 112(a) and/or 114A of the Customs Act, 1962.

#### **RECORDS OF PERSONAL HEARING**

12. In order to comply the principle of natural justice, opportunity of personal hearing in the matter was provided to the noticee vide letter F. No. S/10-165/2025-26/JC/Gr.V/NS-V/CAC/JNCH dated 07.11.2025, 20.11.2025 and 28.11.2025 to appear before the adjudicating authority on 20.11.2025, 27.11.2025 and 18.12.2025 on virtual mode, for their oral/written submission against the subject show cause notice. The said personal hearing on 18.12.2025 was attended by Shri Amit Asole, Sr. Manager and Swapnil Pande, Manager authorized representatives of the importer, who stated that the Company has already paid the differential duty demand along with interest. He has reiterated the fact submitted vide written submission dated 04.12.2025.

#### **WRITTEN SUBMISSIONS OF THE IMPORTER**

13. In response to the said SCN, the importer submitted the reply of Show Cause Notice via mail on dated 04.12.2025, in which they inter-alia stated that: -

13.1 We have paid the differential amount of IGST along with interest and fine/penalty. The payment details against the above SCN are attached as "Annexure-A".

**Annexure A: Payment Details**

Sr. No	BE NO	DATE	DIFF IGST AMT	Challan No
1	8236597	10-10-23	₹74,461	2081223706
2	8403566	20-10-23	₹74,461	7034300648
3	8447224	24-10-23	₹74,461	1469660576
4	8542577	30-10-23	₹74,461	1968816948
5	8733645	11-11-23	₹74,461	7771979283
6	8742816	12-11-23	₹1,902	7012148222
7	9431550	27-12-23	₹76,073	2733308203
8	9448421	28-12-23	₹76,073	1025471670
9	9480497	30-12-23	₹76,073	2716701205
10	9720940	18-01-24	₹76,396	1049902103
11	9763948	21-01-24	₹76,718	7885048298
12	9883939	29-01-24	₹76,718	1576229883
13	9976536	04-02-24	₹76,396	1666391771
14	2036958	07-02-24	₹76,396	1762541133
15	2096501	11-02-24	₹76,396	1256671657
16	2190949	17-02-24	₹78,609	7540798118
17	2231151	21-02-24	₹3,577	1849965836
18	6842227	11-02-20	₹5,818	1113101134
19	6514884	17-01-20	₹5,378	1901247690
20	6514884	17-01-20	₹1,344	7368387857

**13.2** We have also submitted a letter dated 29.07.2025 addressed to the respected Joint Commissioner of Customs for closure of the subject SCN.

**13.3** Upon reviewing the SCN, we observed that the department had issued a Consultative Letter No. 1158/2021-2022 dated 09.12.2022, regarding the same matter. The team responsible for handling logistics at that time is no longer with our organization, making it difficult to ascertain the actions taken previously. However, based on the receipt of your SCN, we understand that no prior action was taken, and the applicable amount remains unpaid.

**13.4** We have carefully examined the department's contentions. The goods imported by us are display unit /monitors intended to be fitted on various types of construction

equipment manufactured by us in India. Initially, as the description indicated "Monitors," we claimed IGST at 18%.

**13.5** However, upon review of the SCN and the department's observations, we agree that the goods are not standard computer monitors but are instead designed for integration with construction equipment, which warrants classification under the higher GST rate of 28%. As a large manufacturer of construction equipment, we regularly import a significant volume of components and parts, and while we strive to ensure correct duty classification, occasional errors may occur.

**13.6** Multiple ICEGATE e-payment receipts for the listed challans, confirming payments via ICICI Bank.

### DISCUSSION AND FINDINGS

- 14.** I have carefully gone through the facts of the case, material on record, submissions of the importer and relevant Notifications. I find that the Show Cause Notice has proposed for the recovery of differential duty amounting ₹ **12,21,577/- (Rs Twelve Lakh Twenty-One Thousand Five Hundred Seventy-Seven Only)** under Section 28(4) of Customs Act, 1962, on account of short payment of BCD and/or IGST along with applicable interest under Section 28AA of the Customs Act, 1962. I find that the SCN has also proposed for confiscation of subject goods valued at ₹ **1,10,05,194/- (Rs One Crore Ten Lakh Five Thousand One Hundred Ninety-Four only)** under section 111(m) and 111(o) and penal action under Section 112(a) and 114A of the Customs Act, 1962.
- 15.** I find that the description of the impugned goods mentioned in the in Annexure- 'A' of said Show Cause Notice is "**Component of Sany truck crane STC800 SKD-Monitor and Spare parts for concrete pump-Computer Monitor**" and in Annexure- 'B' is "**Video Monitor (Parts of Sany STH Telehandler)**"
- 16.** I find that the SCN has not contested the classification of the subject imported goods i.e. "**Component of Sany truck crane STC800 SKD-Monitor, Spare parts for concrete pump-Computer Monitor and Video Monitor (Parts of Sany STH Telehandler)**" under CTH 85284200, hence there is no classification dispute of the impugned goods. However, I observe that the SCN contended that the impugned goods will attract IGST @ 28%.
- 17.** I find that the core issue of the SCN is that the importer has claimed notification benefit and paid 18% IGST under Sr. No. 383C and 384 of Schedule-III of IGST

Notification No.01/2017. However, the imported goods are classifiable under CTH 8528, which attracts IGST @ 28% under Sr. No.154 of Schedule-IV of IGST Notification No.01/2017.

SR. NO	SCHEDULE	DESCRIPTION	RATE OF IGST %
383C	III	Television set (including LCD or LED television) of scree size note exceeding 32"	18%
384	III	Computer monitors of screen size not exceeding 32 inches, Setup boxes for television	18%
154	IV	Monitors and projectors not incorporating television reception apparatus: reception apparatus for television, whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing apparatus (other than computer monitors not exceeding 32 inches)	28%

18. I have also gone through the submission made by the representative of **M/s SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED** during the personal hearing and their reply to the SCN dated 04.12.2025 wherein they submitted that they had already paid the differential amount of IGST along with interest and fine/penalty.

19. I find wilful mis-statement on the part of the importer in the Bill of Entry filed and knowingly availing the benefit of Customs Notification on importation of the subject goods to evade the payment of appropriate duty. It appears that the importer has mis-stated the particulars in Bill of Entry filed by them despite clear cut entry at 8528 for '**Computer Monitor**' which attracts IGST @ 28% under Sr. No.154 of Schedule-IV of IGST Notification No.01/2017. Thus, the importer has not complied with the provision of Section 17(1) and 46(4) of the Customs Act, 1962 and claimed notification benefit and paid 18% IGST under Sr. No. 383C and 384 of Schedule-III of IGST Notification No.01/2017. Therefore, the differential duty amounting to **₹ 12,21,577/- (Rs Twelve Lakh Twenty-One Thousand Five Hundred Seventy-Seven Only)** is recoverable from the Importer under Section 28 (4) of the Customs Act, 1962. In addition to duty, interest on delayed payment of duty, also appears recoverable from the importer as per Section 28AA of the Customs Act, 1962.

20. Section 28(5) is re-iterated as below:-

*"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.”

Section 28(6) is re-iterated as below:-

(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 subsection (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 14 [two years] shall be computed from the date of receipt of information under sub-section (5).

21. I find that, the importer, vide his submissions dated has provided Multiple ICEGATE e-payment receipts as details below:

Sl. No	Bill Entry	Date	Diff IGST AMT	Amount as per challan (BCD+IGST+Interest) (in INR)	Challan No	ICEGATE Ref. ID
1	8236597	10-10-23	₹74,461	105367	2081223706	008000BEINNSA 11208168801443005
2	8403566	20-10-23	₹74,461	105061	7034300648	008000BEINNSA 10206026348051878
3	8447224	24-10-23	₹74,461	104939	1469660576	008000BEINNSA 10211588686975214
4	8542577	30-10-23	₹74,461	104755	1968816948	008000BEINNSA 10214384942361374
5	8733645	11-11-23	₹74,461	104388	7771979283	008000BEINNSA 10217268062885802
6	8742816	12-11-23	₹1,902	2666	7012148222	008000BEINNSA 10220055270048680
7	9431550	27-12-23	₹76,073	105210	2733308203	008000BEINNSA 10222571089436797
8	9448421	28-12-23	₹76,073	105179	1025471670	008000BEINNSA 10226297797476783

9	9480497	30-12-23	₹76,073	105116	2716701205	008000BEINNSA 10230076347480907
10	9720940	18-01-24	₹76,396	116425	1049902103	008000BEINNSA 10232515525349517
11	9763948	21-01-24	₹76,718	105314	7885048298	008000BEINNSA 10235407088095833
12	9883939	29-01-24	₹76,718	105062	1576229883	008000BEINNSA 10238263177796641
13	9976536	04-02-24	₹76,396	104432	1666391771	008000BEINNSA 10240567043249575
14	2036958	07-02-24	₹76,396	104338	1762541133	008000BEINNSA 10243136807327909
15	2096501	11-02-24	₹76,396	104213	1256671657	008000BEINNSA 10245237410398359
16	2190949	17-02-24	₹78,609	107037	7540798118	008000BEINNSA 10247352524026761
17	2231151	21-02-24	₹3,577	4865	1849965836	008000BEINNSA 10250134502105108
18	6842227	11-02-20	₹5,818	11429	1113101134	008000BEINNSA 10252502335566750
19	6514884	17-01-20	₹5,378	10620	1901247690	008000BEINNSA 10254553465160107
20	6514884	17-01-20	₹1,344	2655	7368387857	008000BEINNSA 10257309929780938
	<b>Total</b>		<b>1156172</b>	<b>1619071</b>		

A total Payment of Rs. 1619071/- (Rupees Sixteen Lakh Nineteen Thousand and Seventy-one Only) has been paid, while total duty demand as per SCN was: - Rs. 12,21,577/-. I find that the same has been paid vide above mentioned challans.

22. I also find that, for the following Bill of Entry no payment details has been submitted

Sl. No	Bill of Entry	Date	Diff IGST AMT
1	3000844	12-04-2024	₹5050
2	3130534	21-04-2024	₹2525
3	4025496	15-06-2024	₹18857
4	4479528	12-07-2024	₹38971
	<b>Total</b>		<b>₹54003</b>

23. On-going through the SCN, I find that the SCN was signed by the issuing authority, on 14.01.2025, therefore, I assume that the SCN was issued on 14.01.2025. The importer paid the duty and Interest demanded in SCN, after 6 months of SCN issued i.e. on 22.07.2025. The Importer did not avail the benefit of reduced penalty @ 15% of the duty and interest as specified in the SCN in terms of Section 28(5)

of the Customs Act, 1962 by payment of duty and interest within 30 days of receipt of this notice.

24. I find that, on the basis of the facts and circumstances mentioned herein above, it appears that the importer has knowingly and deliberately indulged themselves in wilful mis-statement with regard to claiming the benefit of Customs Notification, with an intent to evade the applicable Duty and the by their aforesaid acts of omission and commission appears to have rendered the impugned goods liable for confiscation under Section 111(m) and 111 (o) of the Customs Act, 1962. However, I find the goods imported vide bills of entry as detailed above are not available for confiscation, but I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

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

25. I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same have not been challenged by any of the parties in operation. Hence, I find that any goods improperly imported as provided in any sub-section of Section 111 of the Customs

Act, 1962 are liable to confiscation and merely because the importer was not caught at the time of clearance of the imported goods, can't be given differential treatment. In view of the above, I find that the decision of 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.), which has been passed after observing the decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), is squarely applicable in the present case. Accordingly, I observe that the present case also merits the imposition of a Redemption Fine.

26. Now coming to the issue of penalties, I find that the impugned notice proposes a penalty under Section 112(a) and / or 114A of the Customs Act, 1962 on the notice firm. In this regard, I find that the importer has availed the benefit of Customs Notification to evade legitimate customs duty. I find that, in the self-assessment regime, it is the bounden duty of the Importer to correctly assess the duty on the imported goods. In the instant case, the wrong availing of the benefit of Customs Notification by the importer of such repute having access to all legal aid, tantamount to suppression of material facts and willful mis-declaration. The "mens rea" can be deciphered only from "actus-reus". Thus, providing the suppression of fact and claiming undue benefit by the said Importer taking a chance to clear the goods by wrongly availing Customs Notification, amply points towards their "mens rea" to evade the payment of duty. Thus, I find the Importer is liable for a penalty under Section 114A of the Customs Act, 1962.

27. In view of the above facts, I pass the following order.

#### ORDER

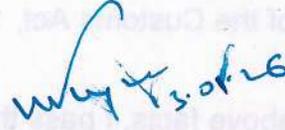
- (i) I order to confirm the demand of differential Customs duty of ₹ 12,21,577/- (**Rs Twelve Lakh Twenty-One Thousand Five Hundred Seventy-Seven Only**) on the goods imported vide Bills of Entry mentioned in Annexure-A and Annexure B above, under Section 28(4) of Customs Act, 1962.
- (ii) I order to recover applicable interest on the differential/ short-paid duty as confirmed in para above from the importer **M/s SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED** under Section 28AA of the Customs Act, 1962.
- (iii) I order to appropriate the differential duty amounting to ₹ 12,21,577/- and interest from the amount (INR. 1619071/- = Duty ₹ 12,21,577/- + Interest paid by the importer on 22.07.2025.

(iv) I order to confiscate the impugned goods having assessable value of ₹ **1,10,05,194/- (Rs One Crore Ten Lakh Five Thousand One Hundred Ninety-Four only)** under Section 111(m) and 111(o) of the Customs Act, 1962, but since the same are not available as they have already been cleared hence I impose a redemption fine of **Rs.11,00,000/- (Rupees Eleven Lakh Only)** under Section 125 of the Customs Act, 1962 upon **M/s SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED**

(v) I order to impose penalty of ₹ **12,21,577/- (Rs Twelve Lakh Twenty-One Thousand Five Hundred Seventy-Seven Only)** (equivalent to differential Customs Duty) plus interest leviable thereon, on **M/s SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED**, under Section 114A of Customs Act, 1962. If such penalty paid within thirty days from the date of the communication of this order, the amount of penalty liable would be reduced to 25% of total penalty imposed under Section 114A of the Customs Act, 1962.

(vi) I do not impose any penalty under Section 112 (a) of Customs Act, 1962 for reasons deliberated above.

**28.** This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved under the provisions of the Customs Act, 1962, and/or other law for the time being in force in the Republic of India.



(माजिद खान / MAZID KHAN)

संयुक्त आयुक्त सीमा शुल्क/ JT. COMMISSIONER OF CUSTOMS  
सीएसी, एनएस-5, जेएनसीएच/ CAC, NS-V, JNCH

To:

**M/s SANY HEAVY INDUSTRY INDIA PRIVATE LIMITED**  
Plot No. E-4, Chakan Industrial Area Phase-III,  
Taluka Khed, Pune-410501

Copy to:-

1. The Dy./Asstt Commissioner of Customs, Review Cell, JNCH.
2. The Dy./Asstt Commissioner of Customs, Recovery Cell, JNCH.
3. The Dy./Asstt. Commissioner of Customs, Group V, JNCH.
4. The Dy. /Asstt. Commissioner of Customs, AUDIT, JNCH.
5. The Dy./Asth. Commissioner of Customs, EDI, JNCH..for uploading on website.
6. Notice Board ..... through Superintendent (CHS Section), JNCH.
7. Office Copy.