

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V)
सीमाशुल्कआयुक्त (एनएस - V) काकार्यालय
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
TALUKA – URAN, DISTRICT - RAIGAD, MAHARASHTRA -400707
तालुका - उरण, जिला - रायगढ़, महाराष्ट्र 400707

DIN – 20260178NX000062146E	Date of Order: 28.01.2026
F. No. S/10-183/2024-25/CC/Gr.VB/NS-V/CAC/JNCH	Date of Issue: 28.01.2026
SCN No.: 1702/2024-25/COMMR./Gr.VB/NS-V/CAC/JNCH	
SCN Date: 05.02.2025	
Passed by: Sh. Anil Ramteke	
Commissioner of Customs, NS-V, JNCH	
Order No: 367/2025-26/COMMR /Gr.VB /NS-V/CAC/JNCH	
Name of Noticee: M/s. Doc Brown Industries LLP (IEC: AAPFD1171L)	

ORDER-IN-ORIGINAL
मूल - आदेश

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

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

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D'Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम 1962 की धारा 129 (ए) के तहत इस आदेश के विरुद्ध सी.ई.एस.टी.ए.टी., पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीजनल बेंच), 34, पी. डी.मेलो रोड, मस्जिद (पूर्व), मुंबई - 400009 को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal: -

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - सीए3, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

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

समय सीमा - इस आदेश की सूचना की तारीख से 3 महीने के भीतर

Fee -फीस-

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

(क) एक हजार रुपये जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये

या उस से कम है।

- (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 Lakh.
- (ख) पाँच हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये से अधिक परंतु 50 लाख रुपये से कम है।
- (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
- (ग) दस हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 50 लाख रुपये से अधिक है।

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

भुगतान की रीति – क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीय कृत बैंक द्वारा सहायक रजिस्ट्रार, सी.ई.एस.टी.ए.टी., मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, 1962, सीमाशुल्क (अपील) नियम, 1982, सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, 1982 का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्ति का 7.5 % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, 1962 की धारा 129 E के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Subject: Adjudication of Show Cause Notice No. 1702/2024-25/COMMR/GR-VB/NS-V/CAC/JNCH dtd. 05.02.2025 issued to M/s Doc Brown Industries LLP bearing (IEC AAPFD1171L) and others – reg.

1. BRIEF FACTS OF THE CASE

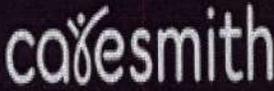
1.1. It is stated in the 1702/2024-25/COMMR/GR-VB/CAC/JNCH dtd. 09.10.2024 that M/s Doc Brown Industries LLP bearing IEC AAPFD1171L (*here-in-after referred to as "Importer"*) having registered address at "602-F, Neelkanth, 6th Floor, 98, Marine Drive, Mumbai, Maharashtra-400002" is engaged in import of goods - Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser, from China under Customs Tariff Item (CTI) 90184900 and thereby paying BCD, Health Cess, SWS & IGST at the rate of 7.5%, 5%, 10% & 12% (paid IGST@12% as per Notification No. 01/2017- Integrated tax (Rate) dated 28.06.2017), respectively, by mis-classifying them under CTI 90184900. However, it appears that the said imported goods i.e., Oral Irrigator/Flosser/Water Flosser are Electro-Mechanical Domestic Appliances with self-contained Electric Motor and thus appear to be correctly classifiable under CTI 85098000 attracting BCD, SWS & IGST at the rate of 20%, 10% & 18%, respectively. Further, Parts/Accessories of Oral Irrigator/Flosser/Water Flosser appear to be correctly classifiable under respective Customs Tariff Head under CTI 85099000 attracting BCD, SWS & IGST at the rate of 10%, 10% & 18% respectively.

1.2. In this connection, Intelligence was developed by Directorate of Revenue Intelligence, Bhopal Regional Unit of Indore Zonal Unit (*here-in-after referred to as DRI*) and acting on the said intelligence, an enquiry was initiated by DRI, Bhopal Regional Unit, Bhopal and Summons dated 11.05.2024 bearing CBIC-DIN-202405DDJ30000836578 under Section 108 of the Customs Act, 1962 was issued to Bhatia Shipping Private Limited (CHA Code: AAACB2985LCH001), CHA of Doc Brown Industries to tender statement on 21.05.2024.

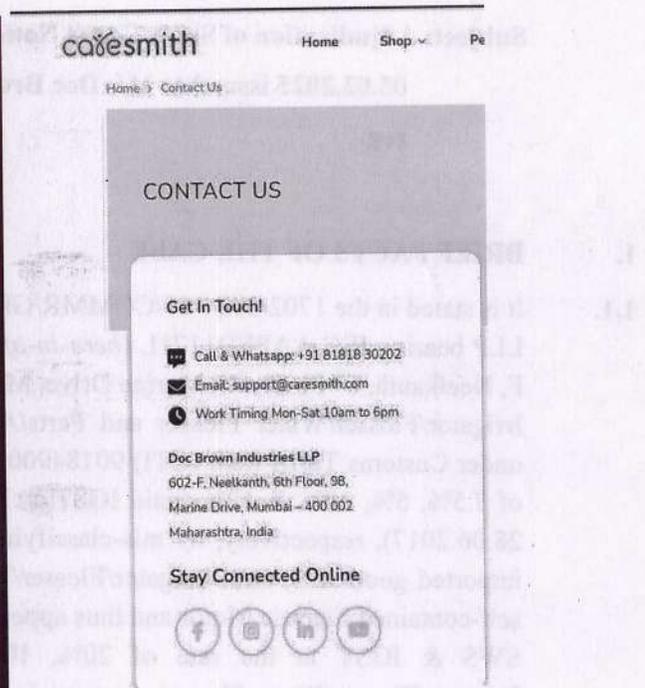
1.2.1. **Statement of Shri Arvind Mishra:**

In response to the Summons dated 11.05.2024, Shri Arvind Mishra, Authorized Representative of Bhatia Shipping Private Limited (CHA Code: AAACB2985LCH001) appeared before the Summons issuing authority on 21.05.2024 and recorded his Statement under section 108 of the Customs Act, 1962, wherein he inter-alia stated that:

- i. He is working as Customs Clearance Head of Bhatia Shipping Pvt. Ltd. since April 2021. All the Customs Clearance of import related activities of Bhatia Shipping Private Limited are looked after by him along with other officials i.e. Shri Surya Prakash Pandey, Manager (Import).
- ii. Bhatia Shipping Private Limited provides various services i.e., international freight forwarding, multimodal transportation, warehousing and customs brokerage.
- iii. He looks after the Customs Clearance of import related work of Doc Brown Industries LLP and Bhatia Shipping Private Limited has been looking after the Customs related work of Doc Brown Industries LLP since 2019.
- iv. He stated that Doc Brown Industries LLP majorly import Water Flosser/Oral Irrigator, Hair Brushes, other Consumable items etc. from China and Hongkong.
- v. Upon being shown printouts of website of Doc Brown Industries LLP i.e. Caresmith.com and Oral Care products i.e. Water Flosser available on the said website (reproduced below), he acknowledged that Water Flosser/ Oral Irrigator is a device used for deep cleaning between teeth & ideal for dental cleaning using a unique combination of water pressure and pulsation. Further, he also stated that Caresmith is the brand of Doc Brown Industries LLP and is a personal care brand on a mission to improve and upgrade everyday health routine in oral care, relaxation, recovery and personal grooming. Caresmith design innovative products that make daily rituals more fun, convenient and effective.



Caresmith is a personal care brand on a mission to improve and upgrade everyday health routines in oral care, relaxation, recovery and personal grooming. We design innovative products that make daily rituals more fun, convenient and effective.



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CONTACT US

Get In Touch!

- Call & Whatsapp: +91 81818 30202
- Email: support@caresmith.com
- Work Timing Mon-Sat 10am to 6pm.

Doc Brown Industries LLP
602-F, Neelkanth, 6th Floor, 9B,
Marine Drive, Mumbai - 400 002
Maharashtra, India

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Neo

Cordless Water Flosser

★★★★★ 523

The easy and more effective way to floss, the Caresmith Neo Flosser is the most advanced flosser ever. It cleans deep between teeth and ideal for dental cleaning using a unique combination of water pressure and pulsations. Featuring the latest contemporary design, the Caresmith Neo cordless Power flosser comes with 6 Dynamic Modes each having 6 intensities, so that you can floss the way you want! This oral irrigator also includes a 300 ML X-Large detachable water tank for continuous flossing and easy cleaning.

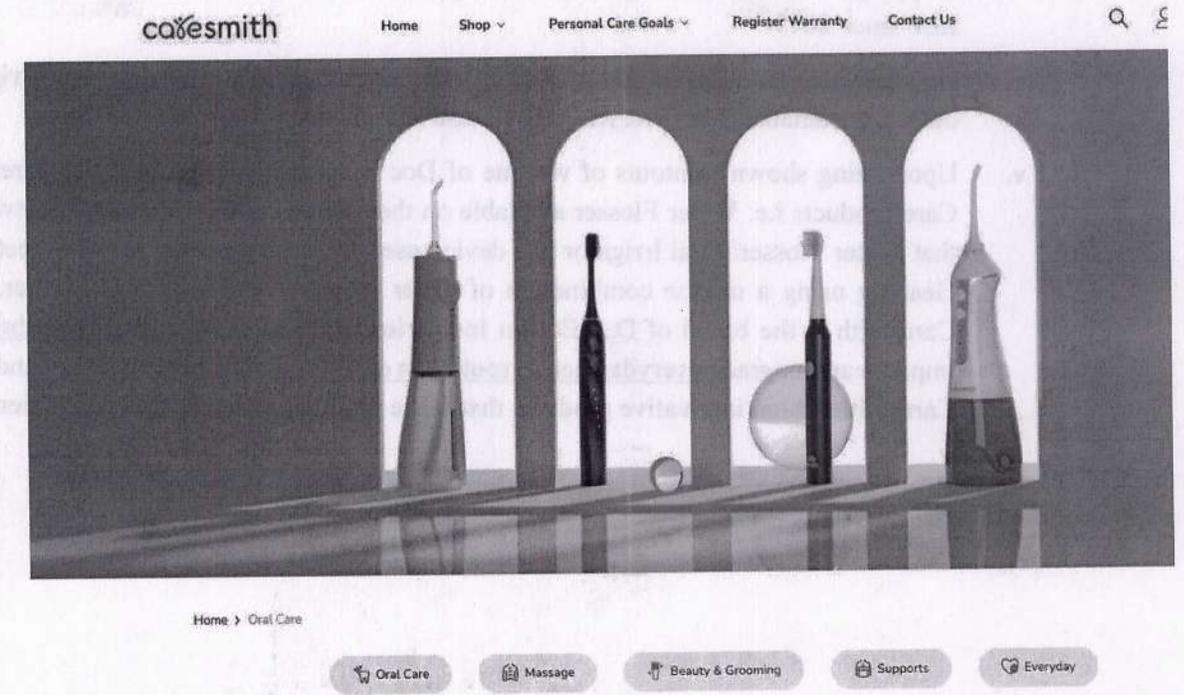
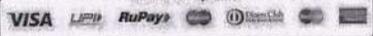
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Rs. 1,999.00 | Rs. 6,000.00

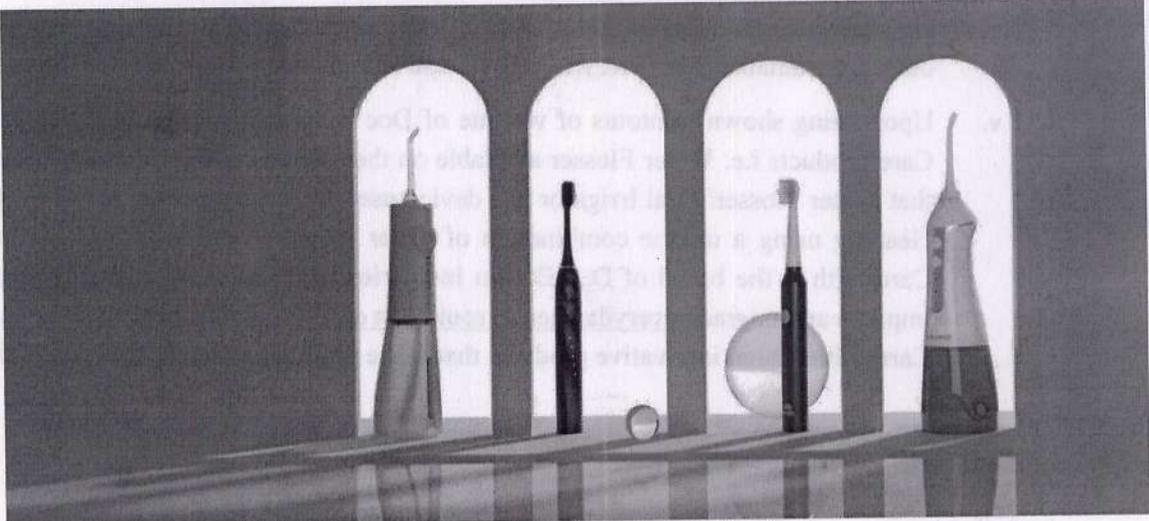
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- vi. He stated that the products Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator had been imported under CTH 9018 and CTI 90184900 by the importer. The importer i.e. Doc Brown Industries LLP decides the final classification of the said imported products. Bhatia Shipping Private Limited prepares draft checklist of the said imported products after receiving the import Documents such as Commercial Invoice, Packing List, Bill of Lading etc. from the said importer and send the prepared draft checklist to the said importer for final approval. Once the draft checklist is approved, their firm files the Bill of Entry on behalf of the said importer and the duty payment is done by the said importer. He has provided duly signed copies of email conversations between their firm and the importer as well as duly signed copies of Checklist prepared by their firm along with import Documents received by their firm from the said importer. In the said checklist, their firm suggested CTI 90184900 for the said imported goods Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator.
- vii. Upon being shown the list of other importers who were importing Water Flosser/ Oral Irrigator & its Parts/ Accessories under correct CTI 85098000 & 85099000, respectively, he acknowledged that the other importers in the said list are importing Water Flosser/ Oral Irrigator & its Parts/ Accessories under correct CTI 85098000 & 85099000, respectively.
- viii. Upon being shown the printout of Chapter Heading of 8509 and asked whether the imported goods Water Flosser/Oral Irrigator is an Electro-mechanical domestic appliance, with self-contained electric motor, merits being classified under CTI 85098000 and Parts/ Accessories of Water Flosser/ Oral Irrigator under CTI 85099000, he acknowledged that the said imported goods i.e. Water Flosser/ Oral Irrigator is an Electro-mechanical domestic appliance, with self-contained electric motor that falls under CTI 85098000 (Other appliances) and Parts/ Accessories of Water Flosser/ Oral Irrigator under CTI 85099000.

1.3. Further, Summons dated 11.05.2024 bearing CBIC-DIN-202405DDJ300002732EB under Section 108 of the Customs Act, 1962 was issued to Shri Rahul Rajkumar Bajaj, Director of Doc Brown Industries LLP to tender statement on 24.05.2024. However, Shri Rahul Rajkumar Bajaj vide Email dated 18.05.2024 informed DRI that he is unavailable on 24.05.2024 and requested another date for his Statement. Accordingly, another Summons dated 20.05.2024 bearing CBIC-DIN-202405DDJ3000050775A under Section 108 of the Customs Act, 1962 was issued to him to tender statement on 06.06.2024.

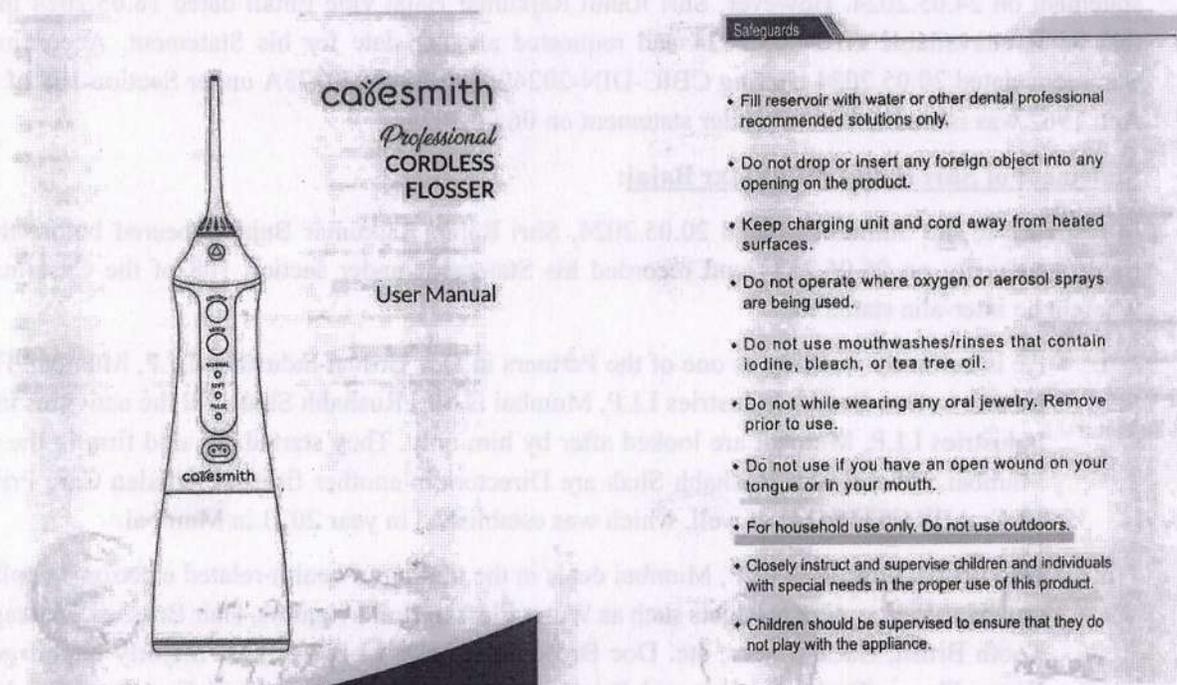
1.3.1. **Statement of Shri Rahul Rajkumar Bajaj:**

In response to the Summons dated 20.05.2024, Shri Rahul Rajkumar Bajaj appeared before the Summons issuing authority on 06.06.2024 and recorded his Statement under section 108 of the Customs Act, 1962, wherein he inter-alia stated that:

- i. He is currently working as one of the Partners in Doc Brown Industries LLP, Mumbai. Further, other partner in Doc Brown Industries LLP, Mumbai is Shri Rushabh Shah. All the activities in Doc Brown Industries LLP, Mumbai are looked after by him only. They started the said firm in the year 2018 in Mumbai. He and Shri Rushabh Shah are Directors in another firm i.e. Shodan Care Private Limited (IEC: ABKCS3586M) as well, which was established in year 2023 in Mumbai.
- ii. Doc Brown Industries LLP, Mumbai deals in the trading of health-related electronic appliance as well as personal grooming products such as Water Flosser/Oral Irrigators, Hair Brushes, Massagers, Electric Tooth Brush, Back Braces, etc. Doc Brown Industries LLP, Mumbai majorly import goods namely Water Flosser/Oral Irrigators and Parts/accessories of Water Flosser/ Oral Irrigator, Hair Brushes, Massagers, Electric tooth Brush, Back Braces etc. from China and supply the same to their clients in domestic market under Brand Name 'Caresmith'.
- iii. The website of their firm i.e. Doc Brown Industries LLP, Mumbai is www.caresmith.com. He further stated that their products such as Water Flosser/Oral Irrigators, Hair Brushes, Massagers, Electric tooth Brush, Back Braces etc. are easily available on their website i.e. www.caresmith.com as well as other e-market platforms such as Amazon, Flipkart, Nykaa etc.
- iv. Shodan Care Private Limited also import goods such as Water Flosser/Oral Irrigators, Hair Brushes, Massagers, Electric tooth Brush, Back Braces etc. from China and supply the same to their clients in domestic market under Brand Name 'Caresmith'. The Caresmith website i.e. www.caresmith.com was run by firm i.e. Doc Brown Industries LLP, Mumbai and is now run by Shodan Care Private Limited, Mumbai.
- v. He explained that the product Water Flosser/Oral Irrigator is a device which is usually used for gum cleaning and gum massaging. It is used for irrigation of gums and to treat dental problems. It is a

portable and travel friendly appliance. It contains a water tank which is attached to the main unit. Internally the main unit contains Pump, an electric motor and rechargeable battery. Water Flosser produces water jet spray from attached Nozzle/Tip with the help of internal Pump which is used to do suction of the water/liquid medicine from attached water tank powered by motor with battery supply. Rechargeable Water Flosser are charged with USB cable which comes along with product.

- vi. He also explained that the product Water Flosser/Oral Irrigator contains Pump with self-contained electric motor, rechargeable battery, Water Tank, Tips.
- vii. Upon being asked about whether the goods Water Flosser/Oral Irrigator is commonly used for domestic use/purpose or intended solely for industrial use, he stated that the product Water Flosser/Oral Irrigator is neither for domestic use/purpose nor industrial use.
- viii. After perusing the printout of definition of “Domestic use” sourced from Google, he acknowledged that “Domestic use” means use of the Product for personal, domestic or household purposes.
- ix. Upon being asked about whether the goods Water Flosser/Oral Irrigator used by an individual for self-oral care and normally used in household then he stated that “Water Flosser/ Oral Irrigator” is an appliance used by an individual for oral care and used at anywhere such as office, home etc.
- x. Upon being asked about whether the goods Water Flosser/Oral Irrigator as appliance is identifiable according to type, by one or more characteristics features such as overall dimensions, design, capacity, volume and its utility is not in excess of household requirement, he stated that Water Flosser/ Oral Irrigator is not household requirement.
- xi. After perusing the printouts of User Manual of Caresmith (his brand Caresmith) Professional Cordless Flosser wherein it is mentioned that the said imported product is “For Household use only. Do not use outdoors”, he agreed that it is written in the User Manual of Caresmith (his brand Caresmith) Professional Cordless Flosser the Water Flosser/Oral Irrigator is “For Household use only. Do not use outdoors” (reproduced below)



- xii. He stated that Water Flosser/ Oral Irrigator imported by their firm is an electro-mechanical appliance and not used for domestic purpose.
- xiii. He stated that Water Flosser/Oral Irrigators are easily available on their website i.e., www.caresmith.com as well as other e-market platforms such as Amazon, Flipkart, Nykaa etc. from where an individual can purchase the said products.
- xiv. He admitted that Dentist’s recommendation/prescription is not mandatorily/legally required to purchase the product Water Flosser/ Oral Irrigator and mostly dentists recommend the said product to use. Also, he is not aware about it whether the “Water Flosser/ Oral Irrigator” is used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease.
- xv. He admitted that the import, manufacture, sale etc. of the product i.e. Water Flosser/Oral Irrigator do not require license or permit from any health authorities like CDSCO (Central Drugs Standard Control Organisation) or any other agency.

- xvi. Upon being asked whether Water Flosser/ Oral Irrigator is used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease then he stated that he is not aware about the same whether Water Flosser/ Oral Irrigator is used by any Professionals such as Doctors or Dentists while performing their professional functions or for specific treatment of any disease or not.
- xvii. Upon being shown the print out of website i.e. Caresmith.com of his brand Caresmith and the oral care products i.e. Water Flosser/ Oral Irrigator available on the said website he acknowledged that Water Flosser/ Oral Irrigator is a device used for deep cleaning between teeth & ideal for dental cleaning using a unique combination of water pressure and pulsation. This product is used for continuous flossing and easy cleaning. Further, he stated that Caresmith is the brand of Doc Brown Industries LLP and Shodan Care Private Limited and is a personal care brand on a mission to improve and upgrade everyday health routine in oral care, relaxation, recovery and personal grooming. Caresmith design innovative products that make daily rituals more fun, convenient and effective.
- xviii. He stated that Doc Brown Industries LLP has been importing the said products i.e. Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator under CTI 90184900 only. The said products were last imported by their firm on 17.02.2024. He decides the classification of the said products during filing its Bill of Entry.
- xix. Upon being shown the list of other importers who were importing Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator under correct CTI 85098000 & 85099000 respectively, he acknowledged that the other importers in the said list are importing Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator under correct CTI 85098000 & 85099000, respectively.
- xx. He has acknowledged that Water Flosser/ Oral Irrigator and Parts/Accessories of Water Flosser/ Oral Irrigator are imported by Shodan Care Private Limited under correct CTH 8509. Further, he has admitted that Water Flosser/ Oral Irrigator & its Parts/ Accessories imported by Shodan Care Private Limited, Mumbai (IEC: ABKCS3586M) are the similar products that were imported on the IEC of Doc Brown Industries LLP, Mumbai.
- xxi. Upon being asked the reason for importing the similar products i.e. Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator under different CTH for different IEC (CTH 9018 on the IEC of Doc Brown Industries LLP, Mumbai and CTH 8509 on the IEC of Shodan Care Private Limited), he stated that he got information in the month of March 2024 that shipments of some people in the industry were not cleared and the said products i.e. Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator were cleared only under CTH 8509 thus, he adopted the CTH 8509 in the import of the said product for Shodan Care Private Limited to prevent disruption of his business and cleared the consignment of the said products on 16.04.2024, which is first consignment of the said products imported by their firm. The last import consignment of the said products imported by Doc Brown Industries LLP, Mumbai under CTH 9018 on 17.02.2024.
- xxii. Upon being asked that being an importer, it is his responsibility to ensure the accuracy and completeness of the information during filing of Bill of entry and asked about whether the information of CTH 8509 furnished by him is correct or not in respect of imported goods i.e. Oral Irrigator/ Water Flosser & Parts/ Accessories of Oral Irrigator/ Water Flosser imported by Shodan Care Private Limited, Mumbai (ABKCS3586M), that were cleared on 16.04.2024 to which he agreed that being an importer, it is his responsibility to ensure the accuracy and completeness of the information during filing of Bill of Entry. Further, he stated that the CTH 8509 furnished in the Bill of Entry cleared on 16.04.2024, is incorrect.
- xxiii. He stated that he has never requested for provisional assessment of the consignments of said imported goods i.e. Water Flosser/ Oral Irrigator & Parts/ Accessories of Oral Irrigator/ Water Flosser from the Customs Authorities imported on the IEC of Shodan Care Private Limited, Mumbai (ABKCS3586M), that were cleared on 16.04.2024.
- xxiv. After perusal of printout of Chapter Heading 8509- Electromechanical domestic appliances, with self-contained electric motor, he stated that Water Flosser/ Oral Irrigator is an electro-mechanical appliance and not used for domestic purpose.
- xxv. Upon being asked that being an importer, it is his responsibility to ensure the accuracy and completeness of the information during filing of Bill of entry and the reason to classify the goods Oral Irrigator/Water Flosser and Parts/Accessories of Oral Irrigator/ Water Flosser under CTI 90184900, he

agreed that it is his responsibility to ensure the accuracy and completeness of the information furnished in the Bills of entry. Further, he stated as the said products are used for gum cleaning and gum massaging and used for irrigation of gums and to treat dental problems.

1.4. **Email dated 26.06.2024 of Shri Rahul Rajkumar Bajaj:**

In reference to query raised by DRI during his Statement dated 06.06.2024 i.e. whether "Water Flosser/ Oral Irrigator" is used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease, Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP vide email dated 26.06.2024 submitted that:

- The Water Flossers are used as preventive solutions to prevent gingival bleeding, dental plaque, dental calculus, and dental hypersensitivity.
- Since the Water Flosser has the above specific function(s), it is meant for professional use. The Company sells the water flosser with the intended professional use.
- In their case, the Water Flosser is sold by them exclusively on e-commerce websites without knowing the identity of the purchaser as a Doctor or not.

1.5. DRI had sought clarification vide letter dated 05.07.2024 from Dental Council of India (DCI), New Delhi (a statutory body established under the Dentists Act, 1948 to regulate dental education and profession in India) as well as from Madhya Pradesh Dental Council of India (MPDCI), Indore (a statutory body formed as per Chapter III of the Dentists Act, 1948 by the Govt. of M.P.) in respect of Water Flosser/ Oral Irrigator on following points as mentioned below:

a) **Whether Water Flosser/ Oral Irrigator is an instrument/ appliance used only in the professional practice by the professionals i.e., Dentists, either to make a diagnosis, to prevent or treat an illness or to operate, etc?**

In response, Madhya Pradesh State Dental Council, Indore vide letter dated 05.08.2024 (received vide emails dated 05.08.2024) (reproduced below) submitted that

- Water Flosser is Oral Hygiene maintenance device used by patients.

Further, Dental Council of India, New Delhi vide letter dated 06.09.2024 (received vide email dated 09.09.2024) (reproduced below) submitted that

- Dentist often recommended Water Flosser as a complementary tool to traditional flossing, so as to enhance oral hygiene by addressing different aspects of plaque, debris removal, sensitive/ inflamed/ bleeding gums and for effective cleaning around braces, implant, gums and bridges.

b) **Whether Water Flosser/ Oral Irrigator is an instrument/ appliance that is mentioned or covered in the list of instruments/ appliances issued by the Dental Council of India as on date?**

In response, Madhya Pradesh State Dental Council, Indore vide letter dated 05.08.2024 (received vide emails dated 05.08.2024) submitted that

- List of the instruments required for dental institutions is published and updated by DCI on their website and also provided the BDS Course Regulation, 2007 published by Dental Council of India, New Delhi wherein list of equipment requirements are incorporated.

Further, Dental Council of India, New Delhi vide letter dated 06.09.2024 (received vide email dated 09.09.2024) submitted that Water Flosser/ Oral Irrigator is **not** an instrument/ appliance that is mentioned or covered in the list of instruments/ appliances issued by the Dental Council of India.

<p style="text-align: center;">मध्यप्रदेश राज्य दंत परिषद् MADHYA PRADESH STATE DENTAL COUNCIL (STATUTORY BODY, GOVT. OF MADHYA PRADESH) Office at: 101, Royal House, 11/3, Ushaganj Main Road, Indore 452001 Ph: 0731-2701944, website: www.mpsdentalcouncil.com, E-mail: registrarmpsdc@gmail.com</p> <p>No. 13(3)MPSDC/24/ 1142 Indore dated 05/08/2024</p> <p>To, ✓ Deputy Director Directorate of Revenue Intelligence Bhopal Regional Unit 5, Jyoti Nagar, Bawadia, Ward No. 52, Zone II Bhopal (M.P.) 462026</p> <p>Subject: Seeking clarification in respect of instruments/appliance i.e. Water Flosser/Oral Irrigator – reg.</p> <p>Reference: Your C.C. Copy letter No. DRI/ZU/BoRU/47-2024/CI/INT-30/1636 dated 05/07/2023.</p> <p>Under the above subject and referred letter, you have sought clarification regarding water flosser/oral irrigator. The clarification sought in this regard is as follows:-</p> <p>(a) Whether Water Flosser/Oral Irrigator is an instrument/appliance used only in the professional practice by the professionals i.e. Dentists, either to make a diagnosis, to prevent or treat an illness or to operate etc.</p> <p>Water Flosser is Oral Hygiene maintenance device used by patients.</p> <p>(b) Whether Water Flosser/Oral Irrigator is an instrument/appliance that is mentioned or covered in the list of instruments/appliances issued by the Dental Council of India as on date.</p> <p>List of the instruments required for dental institutions is published and updated by DCI on their website.</p> <p style="text-align: right;">(Dr. Harsh Chansoria) Registrar M.P. State Dental Council Indore Indore dated 05/08/2024</p> <p>No. 13(3)MPSDC/24/ Copy to: 1) The President, Dental Council of India, New Delhi.</p> <p style="text-align: right;">Registrar M.P. State Dental Council Indore</p>	<p style="text-align: center;">भारतीय दंत परिषद् (दंत चिकित्सक अधिनियम, 1948 के तहत स्थापित एक संवैधानिक निकाय) एरावर और परिवार कल्याण विभाग, भारत सरकार के अधीन DENTAL COUNCIL OF INDIA (A STATUTORY BODY CONSTITUTED UNDER THE DENTISTS ACT, 1948) UNDER MINISTRY OF HEALTH & FAMILY WELFARE, GOVERNMENT OF INDIA</p> <p>No.DCI/ARPM/Regulation/Gen/130/2024-25/2024/4336 Dated: 06-09-2024</p> <p>To, Dr. Krunal Rathod, U.R.S. (via Email) Deputy Director, Directorate of Revenue Intelligence (DRI), Bhopal Regional Unit, Ministry of Finance, Govt. of India, Bhopal, Madhya Pradesh - dri-brunit@gov.in</p> <p>Sub: DCI reply regarding clarification in respect of Instrument/appliance i.e. Water Flosser/Oral Irrigator</p> <p>Sir,</p> <p>I am directed to inform you that the Executive Committee of DCI in its meeting held on 29.08.2024 considered your letter No. DR/ZU/BoRU/47-2024/CI/INT-30/1635 dated 05.07.2024 therein seeking clarification in respect of instrument/appliance i.e. Water Flosser/Oral Irrigator.</p> <p>Accordingly, in view of the decision of the Executive Committee, the reply is communicated as hereunder:-</p> <p>Query 1:- Whether Water Flosser/Oral Irrigator is an instrument/appliance used only in the professional practice by the professionals i.e. Dentists, either to make a diagnosis, to prevent or treat an illness or to operate, etc.</p> <p>Reply:- Dentists often recommended water flosser as a complementary tool to traditional flossing, so as to enhance oral hygiene by addressing different aspects of plaque, debris removal, sensitive/inflamed/bleeding gums and for effective cleaning around braces, implant, gums and bridges.</p> <p>Query 2:- Whether Water Flosser/Oral Irrigator is an instrument/appliance that is mentioned or covered in the list of instruments/appliances issued by the Dental Council of India as on date.</p> <p>Reply:- No.</p> <p style="text-align: right;">Yours faithfully, Secretary (Gen) Dr. Vinay Gupta Deputy Secretary Dental Council of India (Vinay Gupta) Deputy Secretary Dental Council of India</p> <p>CC:- The President, Dental Council of India, New Delhi</p> <p style="text-align: center;">राष्ट्रीय दंत चिकित्सक आयोग भवन, प्लॉट नं. 14, सेक्टर-9, अंद. के. पूरम, नई दिल्ली-110022 National Dental Commission Building, Plot No.14, Sector-9, R.K. Puram, New Delhi-110022 E-mail : secy-dci@nic.in, registrardci@nic.in, Website : www.dciindia.gov.in</p>
<p style="text-align: center;">Reply dated 05.08.2024 of MP State Dental Council, Indore</p>	<p style="text-align: center;">Reply dated 06.09.2024 of Dental Council of India, New Delhi</p>

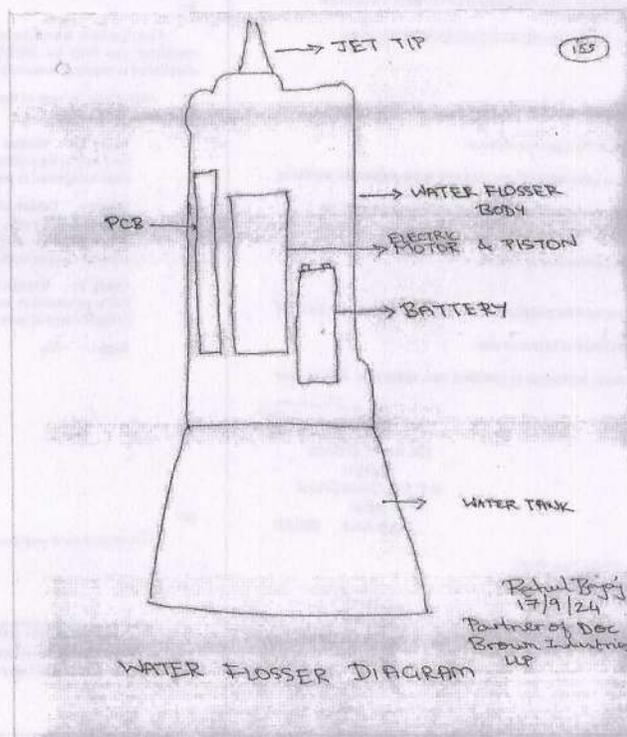
1.6. On the basis of new evidence that emerged out during the investigation, Summons dated 30.08.2024 bearing CBIC-DIN-202408DDJ3000031893F under Section 108 of the Customs Act, 1962 was issued to Shri Rahul Rajkumar Bajaj, Director/ Partner of Doc Brown Industries LLP to tender statement on 11.09.2024. However, Shri Rahul Rajkumar Bajaj vide Email dated 09.09.2024 informed DRI that he is unavailable on 11.09.2024 and requested another date for his Statement. Accordingly, another Summons dated 10.09.2024 bearing CBIC-DIN-202409DDJ3000000FFB1 under Section 108 of the Customs Act, 1962 were issued to him to tender statement on 17.09.2024.

1.6.1. **Statement dated 17.09.2024 of Shri Rahul Rajkumar Bajaj:**

In response to the Summons dated 10.09.2024, Shri Rahul Rajkumar Bajaj appeared before the Summons issuing authority on 17.09.2024 and recorded his Statement under section 108 of the Customs Act, 1962, wherein he inter-alia stated that:

- i. There are two partners/directors in the firms Doc Brown Industries LLP and Shodan Care Private Limited namely Shri Rushabh Rubesh Shah & him. Both firms are situated at the same address i.e., 602-F, Neelkanth, 6th Floor, 98, Marine Drive, Mumbai, Maharashtra-400002. They keep their imported goods at their warehouse situated at BoxieJungle, 3PL MS, Building No 18, Gala No 1,2,3,4, Indian Corporation, Dapode, Opposite Gajanan Petrol Pump, Mankoli, Bhiwandi, Maharashtra-421302.
- ii. He looks after almost all the activities in both the firms (Doc Brown Industries LLP and Shodan Care Private Limited) i.e., Operations, Finances, HR, import of goods, Major part of domestic sales, etc. and, Shri Rushabh Rubesh Shah looks after Admin related work and some part of domestic sales in both the firms. Earlier, Smt. Seema Rubesh Shah was one of the partners in Doc Brown Industries LLP but on 01.01.2022 she has been replaced by Shri Rushabh Rubesh Shah.
- iii. Doc Brown Industries LLP imports various types of Water Flossers/ Oral Irrigators (both hand-held and table-top) from China under brand name CareSmith. Out of the said imports, 95% import is Hand-held and remaining 5% is Table-Top. Hand Held Water Flosser weighs around 200 grams to 300 grams approximately and it delivers up to 80-100 minutes of flossing on one-time full charging. It has water

tank capacity of 300 ml (approx.). Table-Top Water Flosser weighs around 600 grams to 800 grams approximately and having water tank capacity of 600 ml (approx.). Further, Table-Top Flosser does not contain rechargeable battery, it works on electricity. Both types of the Flossers are portable, user friendly and easy to use by any individual. In addition to this, 90% of sale of both the types of Flossers in domestic market from both the firms is through E-Commerce Websites i.e. Caresmith, Amazon, Flipkart, Nykaa, etc. He has voluntarily provided duly signed self-drawn product diagram (reproduced below) of one of the hand-held Water Flossers (Professional Plus Cordless Dental Flosser) imported by their firm wherein the main components/ parts of the same are clearly labelled and mentioned.



- iv. they place order to their suppliers in China over phone or webchat for which they have to pay 100% amount in advance i.e. before the time of dispatch of goods from their supplier's end. When the goods are loaded and are ready to be exported from China, their supplier send them Bill of Lading, Packing List and Commercial Invoice. He stated that he doesn't have webchat/ phone conversations held with their suppliers.
- v. on his direction, their CHA i.e., Bhatia Shipping Private Limited (CHA Code: AAACB2985LCH001) files the Bill of Entry of the goods imported by both Doc Brown Industries LLP & Shodan Care Private Limited. The documents that are received from their supplier in China i.e. Bill of Lading, Packing List and Commercial Invoice are forwarded by them to their CHA i.e. Bhatia Shipping Private Limited (CHA Code: AAACB2985LCH001) from their office email id. The CHA prepares the draft checklist and send it back on their office email id for approval. Once, they approve the draft checklist, their CHA files the Bill of Entry. And the duty payment is sometimes done by them and sometimes by their CHA for which their CHA raises invoices to them regarding duty payment. He has provided duly signed email conversations in between their firms (Doc Brown Industries LLP and Shodan Care Private Limited) and their CHA in respect of imported goods i.e. Water Flosser/ Oral Irrigator imported by the said firms as well some sample invoices raised by their CHA regarding duty payment. As per the email conversations submitted by him, it appears that one of his firms Shodan Care Private Limited has directed their CHA Bhatia Shipping Private Limited that *HSN Code should be as per mentioned in Invoice. Change it to 85098090*. The same is being reproduced below, for reference.

Imports @ Caresmith <imports@caresmith.co.in> 17 April 2024 at 14:28
To: Rupesh Patankar <impocs@bhatiashipping.com>, Impdocs Import <impdocs@bhatiashipping.com>
Cc: SP Pandey <srpimp@bhatiashipping.com>, "Imports @ Caresmith" <imports@caresmith.co.in>

Jyostna,

HSN Code should be as per mentioned in Invoice.

Change it to **85098090**.

Rest all is good to move ahead.

RIITESH

(Imports & Procurement Specialist)

E-mail: imports@caresmith.co.in

Shodan Care Private Limited

[Quoted text hidden]

Rahul Bajaj
17/9/24

Director of Shodan Care Pvt Ltd
& Partner of Doc Brown Industries LLP

- i.
- vi. He admitted that they prepare the User Manual of Water Flosser/ Oral Irrigator sold by both their firms Doc Brown Industries LLP & Shodan Care Private Limited under the Brand Name of Caresmith.
- vii. Doc Brown Industries LLP has stopped importing Water Flosser/ Oral Irrigator & its Parts/ Accessories and the last import of the said goods by the importer was 17.02.2024 under CTH 9018.
- viii. Upon being asked the reason for stopping the import of Water Flosser/ Oral Irrigator & its Parts/ Accessories under CTH 9018 on the IEC of Doc Brown Industries LLP from 17.02.2024 onwards then he stated that they stopped the import of Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator under CTH 9018 on the IEC of Doc Brown Industries LLP from 17.02.2024 onwards because they started importing Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator on the IEC of Shodan Care Private Limited. Further, he stated that Shodan Care Private Limited initially imported Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator on 17.02.2024 under CTH 9018 and from 16.04.2024 onwards under CTI 85098000. He stated that the said goods were last imported on 02.09.2024 on the IEC of Shodan Care Private Limited under CTI 85098000.
- ix. He has never requested for provisional assessment of the goods Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator from the Customs Authorities imported on the IEC of Doc Brown Industries LLP (IEC: AAPFD1171L).
- x. Upon perusal of the print out of import data of Shodan Care Private Limited in respect of goods i.e. Oral Irrigator/ Flosser & Parts/Accessories of Oral Irrigator/Flosser wherein the CTH of the said goods was changed from 9018 to 8509 from 16.04.2024 onwards by the importer Shodan Care Private Limited and still importing the said goods under CTH 8509 on the said IEC, but he stated in his statement dated 06.06.2024 that the said CTH 8509 is incorrect for the said goods i.e. Oral Irrigator/ Flosser & Parts/Accessories of Oral Irrigator/Flosser and asked about the said contradictory statements then he admitted that he changed the CTH of the goods i.e. Oral Irrigator/ Flosser & Parts/Accessories of Oral Irrigator/Flosser from 9018 to 8509 on the IEC of Shodan Care Private Limited from 16.04.2024 and have been importing the said goods under CTH 8509 only. The reason for change the CTH from 9018 to 8509 stated by him is that he came to know, the shipment of said imported goods were not getting cleared under CTH 9018 based on market survey, so to avoid disruption of his business he started importing the said goods under CTH 8509.
- xi. he has never contested or filed any appeal before the Customs Authorities or any other authorities on the issue of the said goods imported by Shodan Care Private Limited are not classifiable under CTH 8509 as well as no documents were provided to DRI regarding the same.
- xii. Upon perusal of the Commercial Invoice dated 22.11.2023 (available on E-sanchit portal) pertaining to BE No. 2187094 dated 17.02.2024 & Commercial Invoices dated 22.11.2023 & 25.01.2024 (available on E-sanchit portal) pertaining to BE No. 3053531 dated 16.04.2024 issued by their supplier Fly Cat Electrical Co Ltd to Shodan Care Private Limited wherein the said supplier mentioned different CTH i.e. 9018 (in Commercial Invoice dated 22.11.2023) and 8509 (in Commercial Invoices dated 22.11.2023 & 25.01.2024) (reproduced below) for the same goods i.e. Flosser. In this regard, he admitted that he only informed their supplier Fly Cat Electrical Co Ltd over phone to change the CTH of the same imported goods i.e., Flosser from 9018 to 8509.

COMMERCIAL INVOICE						
Shipper Name: Fly Cat Electrical Co., Ltd.						
Shipper Address: No. 28 Bldg., Longwangmiao Industrial Park, Baishixia Community, Fuyong Street, Bao'an District, Shenzhen, China 518104						
Shipper Phone No.: 86-755-2729 8495 Fax: 86-755-2727 3346				17.02.2024 16:18		
Contact Person: Jeff Chan, Tel No. 86 18620327046				Email Id: jeff@fly-cat.com.cn		
Ref No.: 13347629001034073-1		Date: 22-11-2023				
Consignee Name: Shodan Care Private Limited						
Consignee Address: 602F Neelkanth, 98 Marine Drive, Mumbai - 400 002, Maharashtra, India						
Contact Person: Mr. Ritesh				Contact Number: +91 98208 49963		
Email ID: imports@caresmith.co.in						
Ship Date		Terms		Currency		
Ship 15 day(s) after full payment is received		FOB		USD		
SKU	Description	HS Code	Qty	Unit Price	Total Price	
CS520	FLOSSER	90184900	3000	\$ 9.2000	\$ 27,600.00	
Remark: Brand Name: Caresmith						
The Defective quantity will be replaced with the same quantity free of charge in the new order.						
				Total	\$ 27,600.00	
10				Advance	\$	
90				Before Shipping	\$ 27,600.00	
Declaration: Our Factory is in China and Finance Office in Hong Kong. Thus, we have provided a Hong Kong address for our Bank Account.				Stamp & Sign:		
Bank Details:						
Payment currency:		USD				
Beneficiary account number:		101844 01006697				
SWIFT code:		CHASHKHH				
Beneficiary country/region:		Hong Kong, China				
Beneficiary name:		Fly Cat Electrical Co., Ltd.				
Beneficiary address:		26/F TOWER ONE TIME SQUARE 1 MATHESON STREET CAUSEWAY BAY HK				
Beneficiary bank:		JPMorgan Chase Bank N.A., Hong Kong Branch J.P.Morgan				
Beneficiary bank address:		Chater House, 8 Connaught Road Central, Hong Kong				
Bank code:		007				
Branch code:		863				
Remark:		13347629001034073 Please attach this order number.				

**Commercial Invoice dated 22.11.2023 containing
 HS Code 90184900
 (pertaining to BE No. 2187094 dated 17.02.2024)**

COMMERCIAL INVOICE						
Shipper Name: Fly Cat Electrical Co., Ltd.						
Shipper Address: No. 28 Bldg., Longwangmiao Industrial Park, Baishixia Community, Fuyong Street, Bao'an District, Shenzhen, China 518104						
Shipper Phone No.: 86-755-2729 8495 Fax: 86-755-2727 3346				18.04.2024 16:47		
Contact Person: Jeff Chan, Tel No. 86 18620327046				Email Id: jeff@fly-cat.com.cn		
Ref No.: 13347629001034073-2		Date: 22-11-2023				
Consignee Name: Shodan Care Private Limited						
Consignee Address: 602F Neelkanth, 98 Marine Drive, Mumbai - 400 002, Maharashtra, India						
Contact Person: Mr. Ritesh				Contact Number: +91 98208 49963		
Email ID: imports@caresmith.co.in						
Ship Date		Terms		Currency		
Ship 15 day(s) after full payment is received		FOB		USD		
SKU	Description	HS Code	Qty	Unit Price	Total Price	
CS520	Flosser	85098090	3081	\$ 8.87	\$ 27,320.00	
CS520	Accessories	85098090	500	\$ 0.56	\$ 280.00	
Remark: Brand Name: Caresmith=Accessories-Jet Tips-500 PC						
The Defective quantity will be replaced with the same quantity free of charge in the new order.						
				Total	\$ 27,600.00	
10				Advance	\$	
90				Before Shipping	\$ 27,600.00	
Declaration: Our Factory is in China and Finance Office in Hong Kong. Thus, we have provided a Hong Kong address for our Bank Account.				Stamp & Sign:		
Bank Details:						
Payment currency:		USD				
Beneficiary account number:		101844 01006697				
SWIFT code:		CHASHKHH				
Beneficiary country/region:		Hong Kong, China				
Beneficiary name:		Fly Cat Electrical Co., Ltd.				
Beneficiary address:		26/F TOWER ONE TIME SQUARE 1 MATHESON STREET CAUSEWAY BAY HK				
Beneficiary bank:		JPMorgan Chase Bank N.A., Hong Kong Branch J.P.Morgan				
Beneficiary bank address:		Chater House, 8 Connaught Road Central, Hong Kong				
Bank code:		007				
Branch code:		863				
Remark:		13347629001034073 Please attach this order number.				

**Commercial Invoice dated 22.11.2023 containing
 HS Code 85098090
 (pertaining to BE No. 3053531 dated 16.04.2024)**

COMMERCIAL INVOICE						
Shipper Name: Fly Cat Electrical Co., Ltd.						
Shipper Address: No. 28 Bldg., Longwangmiao Industrial Park, Baishixia Community, Fuyong Street, Bao'an District, Shenzhen, China 518104						
Shipper Phone No.: 86-755-2729 8495 Fax: 86-755-2727 3346				14.17.2024 16:18		
Contact Person: Jeff Chan, Tel No. 86 18620327046				Email Id: jeff@fly-cat.com.cn		
Ref No.: 14172017001034073		Date: 25-01-2024				
Consignee Name: Shodan Care Private Limited						
Consignee Address: 602F Neelkanth, 98 Marine Drive, Mumbai - 400 002, Maharashtra, India						
Contact Person: Mr. Ritesh				Contact Number: +91 98208 49963		
Email ID: imports@caresmith.co.in						
Ship Date		Terms		Currency		
Ship 15 day(s) after full payment is received		FOB		USD		
SKU	Description	HS Code	Qty	Unit Price	Total Price	
FC165	Flosser	85098090	1008	\$ 13.10	\$ 13,200.00	
FC165	Accessories	85098090	750	\$ 0.6167	\$ 462.50	
Remark: Accessories - Handle - 150 Pcs, Manual-200 Pcs, Colour Box-200Pcs, Tips Jet-200 Brand Name: Caresmith						
The Defective quantity will be replaced with the same quantity free of charge in the new order.						
				Total	\$ 13,662.50	
10				Advance	\$ 1,320.00	
90				Before Shipping	\$ 12,342.50	
Declaration: Our Factory is in China and Finance Office in Hong Kong. Thus, we have provided a Hong Kong address for our Bank Account.				Stamp & Sign:		
Bank Details:						
Payment currency:		USD				
Beneficiary account number:		101844 01006697				
SWIFT code:		CHASHKHH				
Beneficiary country/region:		Hong Kong, China				
Beneficiary name:		Fly Cat Electrical Co., Ltd.				
Beneficiary address:		26/F TOWER ONE TIME SQUARE 1 MATHESON STREET CAUSEWAY BAY HK				
Beneficiary bank:		JPMorgan Chase Bank N.A., Hong Kong Branch J.P.Morgan				
Beneficiary bank address:		Chater House, 8 Connaught Road Central, Hong Kong				
Bank code:		007				
Branch code:		863				
Remark:		14172017001034073 Please attach this order number.				

**Commercial Invoice dated 25.01.2024 containing
 HS Code 85098090
 (pertaining to BE No. 3053531 dated 16.04.2024)**

- xiii. both statements (as stated in his statement dated 06.06.2024 recorded under Section 108 of the Customs Act, 1962) i.e. **“Water flosser is not used for domestic use”** and **“Water Flosser/ Oral Irrigator is an appliance used anywhere such as home, office, etc.”** are not contradictory.
- xiv. both statements (as stated in his statement dated 06.06.2024 recorded under Section 108 of the Customs Act, 1962) i.e. **“Water flosser is not Household requirement”** and **“Water Flosser/ Oral Irrigator is for Household use only. Do not use outdoors as per user manual”** are not contradictory.
- xv. Upon perusal of his reply dated 26.06.2024 wherein he had stated that **Water Flosser is meant for professional use and company sells the water flosser with the intended professional use**, and asked about the justification/evidence to prove the same then he stated that **he has no evidence to prove that “Water Flosser is meant for professional use and company sells the water flosser with the intended professional use”**.
- xvi. Upon perusal of Explanatory Notes of CTH 9018 wherein it is clearly mentioned that this Chapter Heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice by Doctors, surgeons, dentist, veterinary surgeons, midwives and asked about justification/evidence to prove that their imported product i.e. Water Flosser/ Oral Irrigator is used by any above mentioned Professional then he stated that he doesn't have any evidence to prove that their imported product i.e. Water Flosser/ Oral Irrigator is used by any Professional.
- xvii. After perusal of the letter 05.08.2024 of Madhya Pradesh State Dental Council of India, Indore, he acknowledged that **“Water Flosser is oral hygiene maintenance device used by patients”**.
- xviii. After the perusal of the document of Dental Council of India provided by Madhya Pradesh State Dental Council, Indore which contains list of equipment requirements by Dentists, he agreed that Water Flosser/ Oral Irrigator is not mentioned in the list as per the said document. Further, he stated that he has no evidence to prove that Water Flosser/ Oral Irrigator falls under the list of Dental Instrument, however, he believes that it is a Dental Instrument.
- xix. After perusal of the letter 06.09.2024 of Dental Council of India (DCI), New Delhi, he acknowledged that **Water Flosser is being recommended by the professionals i.e. Dentists as a complementary tool to traditional flossing and it is not covered in the list of instruments/appliances issued by DCI.**

1.7. INVESTIGATION BY DRI:

1.7.1 Intelligence was developed that **Doc Brown Industries LLP** bearing IEC AAPFD1171L was engaged in import of goods - **Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser**, from China under Customs Tariff Item (CTI) 90184900 and thereby paying BCD, Health Cess, SWS & IGST at the rate of 7.5%, 5%, 10% & 12% (paid IGST@12% as per Notification No. 01/2017- Integrated tax (Rate) dated 28.06.2017), respectively. From analysis of the 55 and 31 Bills of Entry related to the said imported goods i.e. **Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser**, respectively during the period from 07.02.2020 to 17.02.2024 at ports bearing code INNSA1 & INBOM4, it appears that the said imported goods i.e. **Oral Irrigator/Flosser/Water Flosser are Electro-Mechanical Domestic Appliances with self-contained Electric Motor** and thus appear to be correctly classifiable under CTI 85098000 attracting BCD, SWS & IGST at the rate of 20%, 10% & 18%, respectively. Further, **Parts/Accessories of Oral Irrigator/Flosser/Water Flosser** appear to be correctly classifiable under respective Customs Tariff Head under CTI 85099000 attracting BCD, SWS & IGST at the rate of 10%, 10% & 18%, respectively.

1.7.2. The details of said imported goods under various bills of entry for the aforesaid period along with duty paid by the said importer are tabulated below: -

TABLE-A

(Bills of Entry wise details of Imported Goods i.e. Oral Irrigator/Flosser/Water Flosser along with Duty Paid details under CTI 90184900)

(Amount in Rs.)

S.No.	Customs House Code	BE No.	BE Date	Assessable Value	Total Duty Paid (BCD+ SWS+Health Cess+ IGST)
1	INNSA1	6800348	7-Feb-20	3525855	966084
2	INNSA1	7918779	16-Jun-20	6468382	1772337

3	INNSA1	8447351	12-Aug-20	2156231	590807
4	INNSA1	8507739	18-Aug-20	1417	388
5	INNSA1	9079864	6-Oct-20	4636469	1270392
6	INNSA1	9526153	10-Nov-20	1079498	295782
7	INNSA1	9886374	9-Dec-20	1499588	410887
8	INNSA1	2257745	6-Jan-21	5194692	1423346
9	INNSA1	2757330	13-Feb-21	7170525	1964724
10	INNSA1	3449141	5-Apr-21	1642157	449951
11	INNSA1	3828296	5-May-21	4270011	1169983
12	INNSA1	4356498	17-Jun-21	5454530	1494541
13	INNSA1	5029216	12-Aug-21	4425262	1212522
14	INNSA1	5128873	20-Aug-21	5922724	1622826
15	INNSA1	5361856	8-Sep-21	2252	617
16	INNSA1	5855512	15-Oct-21	3679503	1008184
17	INNSA1	6389669	24-Nov-21	1535501	420727
18	INNSA1	6656495	13-Dec-21	1358953	372353
19	INNSA1	7100592	16-Jan-22	4286452	1174488
20	INNSA1	7251291	27-Jan-22	1537993	421410
21	INNSA1	8287000	15-Apr-22	4343823	1190208
22	INNSA1	8287019	15-Apr-22	1855947	508529
23	INNSA1	8287021	15-Apr-22	1147444	314400
24	INNSA1	9179480	18-Jun-22	5968537	1635379
25	INNSA1	9179667	18-Jun-22	1730088	474044
26	INNSA1	9700634	24-Jul-22	1933413	529755
27	INNSA1	9700721	24-Jul-22	1168271	320106
28	INNSA1	2442055	14-Sep-22	2644760	724664
29	INNSA1	2442076	14-Sep-22	2132190	584220
30	INNSA1	2923018	17-Oct-22	1957246	536285
31	INNSA1	3137827	2-Nov-22	1647289	451357
32	INNSA1	3406061	21-Nov-22	2041082	559257
33	INNSA1	3777965	16-Dec-22	3876909	1062273
34	INNSA1	3994002	31-Dec-22	4104871	1124735
35	INNSA1	5138924	20-Mar-23	1712938	469345
36	INNSA1	5244180	27-Mar-23	2768534	758578
37	INNSA1	5416087	7-Apr-23	7359677	2016552
38	INNSA1	5780592	3-May-23	1880795	515338
39	INNSA1	6393730	13-Jun-23	1817076	497879
40	INNSA1	6589490	26-Jun-23	4728913	1295722
41	INNSA1	6699509	3-Jul-23	914616	250605
42	INNSA1	6699589	3-Jul-23	2817213	771917
43	INNSA1	7777767	11-Sep-23	1362127	373223
44	INNSA1	8005056	25-Sep-23	2251065	616792
45	INBOM4	8137729	4-Oct-23	445788	122146
46	INNSA1	8341474	17-Oct-23	784441	214937

47	INNSA1	8664424	7-Nov-23	1769182	484756
48	INNSA1	8665627	7-Nov-23	2081633	570367
49	INNSA1	8733769	11-Nov-23	1794697	491747
50	INNSA1	8734661	11-Nov-23	917200	251313
51	INNSA1	9067378	4-Dec-23	2982712	817263
52	INNSA1	9122825	8-Dec-23	1359966	372631
53	INNSA1	9578171	8-Jan-24	918137	251569
54	INNSA1	9826524	25-Jan-24	1798288	492731
55	INNSA1	2186188	17-Feb-24	915349	250806
Total				14,57,80,212/-	3,99,43,778/-

TABLE-B

(Bills of Entry wise details of Imported Goods i. e. Parts/Accessories of Oral Irrigator/Flosser/Water Flosser along with Duty Paid details under CTI 90184900)

(Amount in Rs.)

S.No.	Customs House Code	BE No.	BE Date	Assessable Value	Total Duty Paid (BCD+SWS+Health Cess+IGST)
1	INNSA1	6800348	7-Feb-20	44940	12314
2	INNSA1	7918779	16-Jun-20	36308	9948
3	INNSA1	3828296	5-May-21	26880	7365
4	INNSA1	5128873	20-Aug-21	48953	13413
5	INNSA1	6389669	24-Nov-21	38388	10518
6	INNSA1	6656495	13-Dec-21	13512	3702
7	INNSA1	7100592	16-Jan-22	694	190
8	INNSA1	7251291	27-Jan-22	9805	2687
9	INNSA1	8287019	15-Apr-22	1950	534
10	INNSA1	8287021	15-Apr-22	4672	1280
11	INNSA1	9179480	18-Jun-22	794	217
12	INNSA1	9179667	18-Jun-22	3035	832
13	INNSA1	9700634	24-Jul-22	9382	2571
14	INNSA1	9700721	24-Jul-22	412	113
15	INNSA1	2442055	14-Sep-22	5118	1402
16	INNSA1	2442076	14-Sep-22	608	167
17	INNSA1	3777965	16-Dec-22	37815	10361
18	INNSA1	3994002	31-Dec-22	16340	4477
19	INNSA1	5244180	27-Mar-23	13906	3810
20	INNSA1	5416087	7-Apr-23	31247	8562
21	INNSA1	5780592	3-May-23	6408	1756
22	INNSA1	6393730	13-Jun-23	7678	2104
23	INNSA1	6589490	26-Jun-23	6646	1821
24	INNSA1	6699589	3-Jul-23	11136	3051
25	INNSA1	8664424	7-Nov-23	49562	13580

26	INNSA1	8733769	11-Nov-23	8426	2309
27	INNSA1	8734661	11-Nov-23	7751	2124
28	INNSA1	9067378	4-Dec-23	29490	8080
29	INNSA1	9122825	8-Dec-23	2110	578
30	INNSA1	9578171	8-Jan-24	17036	4668
31	INNSA1	9826524	25-Jan-24	3368	923
Total				4,94,370/-	1,35,457/-

1.7.3 Acting on the said intelligence, an enquiry was initiated against the said importer by way of issuance of summons under Section 108 of the Customs Act, 1962 to importer as well as their CHAs. During the investigation, following facts have emerged out, stated as below:

1.7.3(a) The Classification of any product under Customs Tariff is governed by the principles contained in Rule 1 to Rule 6 of General Rules for Interpretation (GIR). Rule 1, inter alia, provides that “for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes”. As per the Customs Tariff Act (CTA), 1975, the imported goods i.e., **Oral Irrigator/Flosser/Water Flosser**, appears to be correctly classifiable under CTI 85098000 as the said imported goods fall under the category of Electro-Mechanical Domestic Appliances with self-contained Electric Motor whose weight does not exceed 20 kg. Also, **Parts/Accessories of Oral Irrigator/Flosser/Water Flosser** appear to be correctly classifiable under CTI 85099000.

1.7.3(b) The Customs Tariff Heading (CTH) 9018 under which the importer is importing the goods **Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser** merits some deliberation. The CTH 9018 is reproduced as under

The description of CTH 9018 along with WCO Explanatory Notes is as under: -

9018: Instruments And Appliances Used In Medical, Surgical, Dental Or Veterinary Sciences, Including Scientigraphic Apparatus, Other Electromedical Apparatus And Sight-Testing Instruments

.....

Other Instruments And Appliances, Used In Dental Sciences:

9018 41 00 -- Dental Drill Engines, Whether or Not Combined On A Single Base With Other Dental Equipment

9018 49 00 – Other

“This heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice (e.g., by Doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc. Instruments and appliances for anatomical or autoptic work, dissection, etc., are also included, as are, under certain conditions, instruments and appliances for dental laboratories (see Part (II) below). The instruments of the heading may be made of any material (including precious metals).”

1.7.3(c) A bare perusal of CTH 9018 reveals that this heading covers a very wide range of instruments and appliances which, in the vast majority of cases, **are used only in professional practice (e.g., by doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc.**

1.7.3(d) Upon being asked by the importer Doc Brown Industries LLP during the investigation whether the imported goods “Water Flosser/ Oral Irrigator” is used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease, to which he stated in his statement dated 06.06.2024 recorded under Section 108 of the Customs Act, 1962 that he is not aware about the same whether Water Flosser/ Oral Irrigator is used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease or not and requested to seek time for filing the reply on the said matter.

Thereafter, in reference to said query, Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP vide email dated 26.06.2024 submitted that:

- *The Water Flossers are used as preventive solutions to prevent gingival bleeding, dental plaque, dental calculus, and dental hypersensitivity.*

- Since the Water Flosser has the above specific function(s), it is meant for professional use. The Company sells the Water Flosser with the intended professional use.
- In their case, the Water Flosser is sold by them exclusively on e-commerce websites without knowing the identity of the purchaser as a doctor or not.

On-going through the above submission made by Shri Rahul Rajkumar Bajaj, it appears that he did not fully address the query raised by DRI and failed to provide any satisfactory justification/ documentary evidences which is conclusive to ascertain that whether the imported goods Water Flosser/ Oral Irrigator is used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease.

Thereafter, upon being asked by Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP in his statement dated 17.09.2024 recorded under Section 108 of the Customs Act, 1962 about the justification/evidence how the imported goods Water Flosser is meant for professional use and how the company sells the water flosser with the intended professional use, to which he stated that he had no evidence to prove that Water Flosser is meant for professional use and that company sells the water flosser with the intended professional use.

1.7.3(e) Further, DRI had sought clarification vide letter dated 05.07.2024 from Dental Council of India (DCI), New Delhi (a statutory body established under the Dentists Act, 1948 to regulate dental education and profession in India) as well as Madhya Pradesh Dental Council of India (MPDCI), Indore (a statutory body formed as per Chapter III of the Dentists Act, 1948 by the Govt. of M.P.) in order to ascertain that whether the imported goods **Oral Irrigator/Flosser/Water Flosser** are used by any Professionals such as doctors or dentists while performing their professional functions either to make a diagnosis, to prevent or treat an illness or to operate, etc. or for specific treatment of any disease. Also, whether the said imported goods are covered in the list of dental instruments issued by the Dental Council of India (DCI).

1.7.3(f). In response to DRI letters, the Dental Council of India replied that Oral Irrigator/ Water Flosser is **not** an instrument/ appliance that is mentioned or covered in the list of instruments/ appliances issued by the Dental Council of India. However, Dentists often recommended Water Flosser as a complementary tool to traditional flossing. Further, MPDCI, Indore provided the BDS Course Regulation, 2007 published by Dental Council of India, New Delhi wherein list of equipment requirements are incorporated. In the said list, it appears the imported goods Oral Irrigator/Flosser/Water Flosser do not feature anywhere.

1.7.3(g) **Conclusion of replies received from MPDCI, Indore & DCI, New Delhi**

On-going through the above submissions, it appears that the imported goods Oral Irrigator/Flosser/Water Flosser are not instruments/appliances used in the professional practice by the professionals i.e. Dentists, either to make a diagnosis, to prevent or treat an illness or to operate, etc. as well as the said imported goods are not instrument/ appliance covered in the list of equipment requirements issued by the Dental Council of India for Dental Education Courses. Further, it appears that Dentists only recommend the imported goods Oral Irrigator/Flosser/Water Flosser as a complementary tool to traditional flossing.

Thus, the imported goods Oral Irrigator/Flosser/Water Flosser appear to be not correctly classifiable under CTH 9018. Consequently, the parts/accessories of Oral Irrigator/Flosser/Water Flosser do not appear to be correctly classifiable under CTH 9018.

1.7.3(h) Further, Shri Rahul Rajkumar Bajaj, Partners of Doc Brown Industries LLP acknowledged and agreed in his statement dated 17.09.2024 recorded under Section 108 of the Customs Act, 1962, that

- “Water Flosser is oral hygiene maintenance device used by patients” (as per letter dated 05.08.2024 issued by MPDCI, Indore).
- “Water Flosser is being recommended by the professionals i.e. Dentists as a complementary tool to traditional flossing and it is not covered in the list of instruments/appliances issued by DCI” (as per letter dated 09.09.2024 issued by DCI, New Delhi).
- Oral Irrigator/Flosser is not mentioned in the list of Dental Instrument of equipment requirements published by Dental Council of India, New Delhi for Dental Education Courses and stated that he has no evidence to prove that Water Flosser/ Oral Irrigator falls under the category of Dental Instrument.

1.7.3(i) From the foregoing paras, it appears that the imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser imported by the importer do not fall under CTH 9018,

as the said goods Oral Irrigator/Flosser/Water Flosser are not used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease.

1.7.4(a) Once it is clear that the Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser imported by the importer does not satisfy the requirements of CTH 9018, it is imperative to locate the correct CTH under which the imported goods must be classified. At this juncture, the CTH 8509 appears relevant considering the content and description of the Electro-Mechanical Domestic Appliances, With Self Contained Electric Motor it alludes to. The CTH 8509 is reproduced as below:

8509: Electro-Mechanical Domestic Appliances, With Self Contained Electric Motor, Other Than Vacuum Cleaners of Heading 8508.

.....
 8509 80 00 - Other appliances

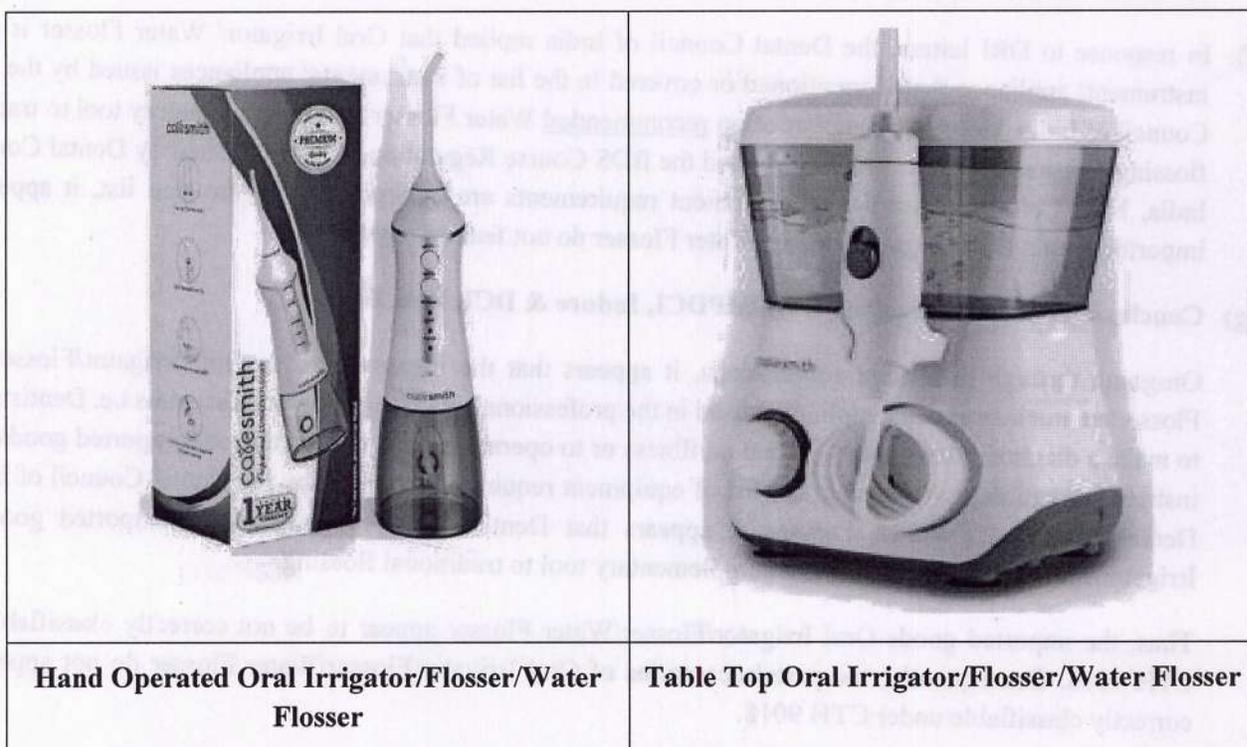
8509 90 00 - Parts

“Heading 8509 covers only the following **electro-mechanical machines** of the kind commonly used for domestic purposes:

(a) floor polishers, food grinders and mixers, and fruit or vegetable juice extractors, of any weight;

(b) other machines provided the weight of such machines does not exceed 20 kg.”

1.7.4(b) On-going through the details of the said imported goods Oral Irrigator/Flosser/Water Flosser available on the importer’s website i.e. Caresmith as well as E-Sanchit Portal, it appears that the said imported goods are hand-operated and table top appliances, portable and weigh less than 20 kg and they are fitted with electric motor. Further, the hand operated Oral Irrigator/Flosser/Water Flosser contains rechargeable battery but the table top one doesn’t contain rechargeable battery and it operates on electricity. The photographs of imported goods Oral Irrigator/Flosser/Water Flosser under the category of Hand-Operated and Table Top are as incorporated below:



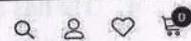
1.7.4(c) Further, on-going through various E-Commerce websites such as Amazon, Flipkart, Nykaa and importer’s website i.e. Caresmith, it appears that the said imported goods Oral Irrigator/Flosser/Water Flosser are readily available on the afore-mentioned websites from which any individual can easily purchase them for oral healthcare for personal use without a Doctor’s prescription. In addition to this, it also appears from the importer’s website (reproduced below) that the said imported goods Oral Irrigator/ Flosser are meant for everyday oral healthcare routine. Further, it can be seen on the website of Brand Caresmith that all the products available there are personal care items and not items that are used in professional practices. Also, as per User Manual of Caresmith (Caresmith is a brand of Doc Brown Industries LLP and subsequently Shodan Care Pvt. Ltd.) Professional Cordless Flosser the Water Flosser/Oral Irrigator is “For Household use only. Do not use outdoors” (reproduced below). From the collective facts stated above, it appears that the said imported goods i.e., “Oral Irrigator/Flosser/Water Flosser” is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor.

caresmith

Caresmith is a personal care brand on a mission to improve and upgrade everyday health routines in oral care, relaxation, recovery and personal grooming. We design innovative products that make daily rituals more fun, convenient and effective.

caresmith

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Home > Cordless Water Flosser



Neo

Cordless Water Flosser

★★★★★ 523

The easy and more effective way to floss, the Caresmith Neo Flosser is the most advanced flosser ever. It cleans deep between teeth and ideal for dental cleaning using a unique combination of water pressure and pulsations. Featuring the latest contemporary design, the Caresmith Neo cordless Power flosser comes with 6 Dynamic Modes each having 6 intensities so that you can floss the way you want! This oral irrigator also includes a 300 ML X-Large detachable water tank for continuous flossing and easy cleaning.

Color: White



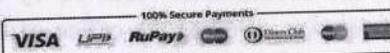
Rs. 1,999.00 | Rs. 6,000.00

ADD TO CART

BUY NOW

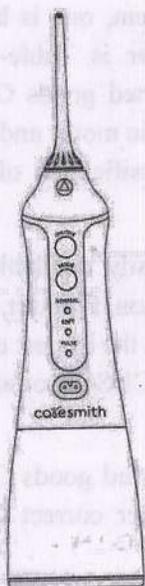


Cash on Delivery available at Checkout



caresmith
 Professional
 CORDLESS
 FLOSSER

User Manual



Safeguards

- Fill reservoir with water or other dental professional recommended solutions only.
- Do not drop or insert any foreign object into any opening on the product.
- Keep charging unit and cord away from heated surfaces.
- Do not operate where oxygen or aerosol sprays are being used.
- Do not use mouthwashes/rinses that contain iodine, bleach, or tea tree oil.
- Do not while wearing any oral jewelry. Remove prior to use.
- Do not use if you have an open wound on your tongue or in your mouth.
- For household use only. Do not use outdoors.
- Closely instruct and supervise children and individuals with special needs in the proper use of this product.
- Children should be supervised to ensure that they do not play with the appliance.

- 1.7.4(d) Furthermore, it also appears that as per Customs database, various importers are importing the Oral Irrigator/Flosser/Water Flosser & Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under correct Customs Tariff Item (CTI) 85098000 & CTI 85099000, respectively.
- 1.7.4(e) From the foregoing paras, it appears that the said imported goods Oral Irrigator/Flosser/Water Flosser are Electro-Mechanical Domestic Appliances with self-contained Electric Motor and thus appear to be correctly classifiable under **CTI 85098000** attracting **BCD, SWS & IGST** at the rate of **20%, 10% & 18%**, respectively.

Further, Parts/Accessories of Oral Irrigator/Flosser/Water Flosser appear to be correctly classifiable its respective Customs Tariff Head under **CTI 85099000** attracting **BCD, SWS & IGST** at the rate of **10%, 10% & 18%**, respectively.

1.7.5 Shri Arvind Mishra, Authorized Representative of Bhatia Shipping Private Limited, CHA of the importer stated in his statement dated 21.05.2024 recorded under section 108 of the Customs Act, 1962, that:

- The imported goods Oral Irrigator/Water Flosser is an everyday use oral care device of a personal care brand Caresmith.
- He acknowledged that the imported goods Oral Irrigator/Water Flosser is an electro-mechanical domestic appliance with a self-contained motor and fall under CTI 85098000 and its Parts/ Accessories fall under CTI 85099000.
- He has acknowledged that other importers are importing the said imported goods Oral Irrigator/Water Flosser and Parts/ Accessories of Oral Irrigator/Water Flosser under correct CTI 8509.
- He stated that the imported goods Water Flosser/ Oral Irrigator & Parts/ Accessories of Water Flosser/ Oral Irrigator had been imported under CTI 90184900 by the importer Doc Brown Industries LLP. The importer decides the final classification of the said imported products. Their CHA firm prepares draft checklist of the said imported products after receiving the import documents such as Commercial Invoice, Packing List, Bill of Lading etc. from the said importer and send the prepared draft checklist to the said importer for final approval. The CTI suggested in the draft checklist for the said imported goods is 90184900. Once the draft checklist is approved, their firm files the Bill of Entry on behalf of the said importer and the duty payment is done by the said importer.

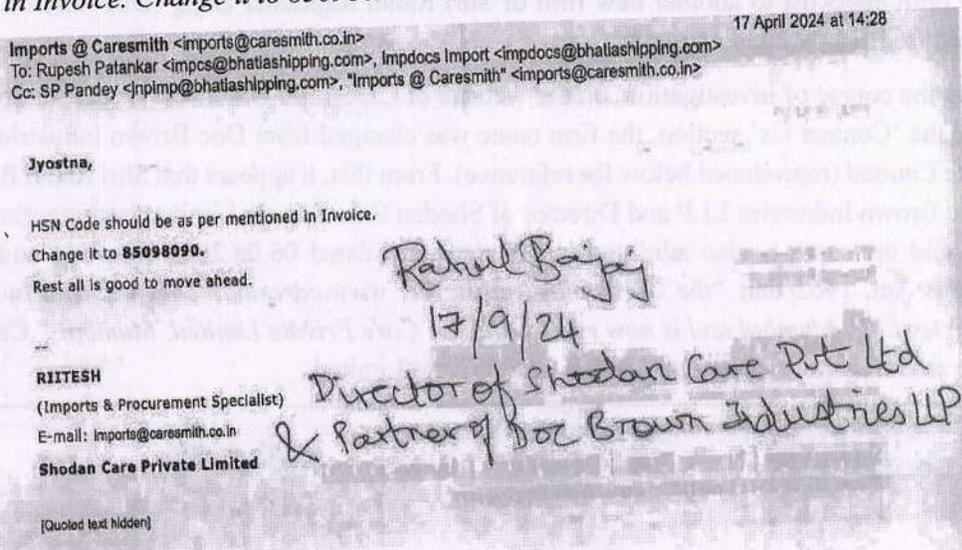
1.7.5(a) From this, it appears that imported goods Oral Irrigator/Flosser/ Water Flosser is an electro-mechanical domestic appliance with a self-contained motor and therefore appears to be correctly classifiable under CTI 85098000 and consequently, parts/accessories of Oral Irrigator/Flosser/ Water Flosser appear to be correctly classifiable under CTI 85099000.

1.7.6 From the submissions received by DRI through email and statements recorded under Section 108 of the Customs Act, 1962 at the office of DRI, Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP (Importer) has admitted that-

- i. He is one of the Partners in Doc Brown Industries LLP and one of the Directors in Shodan Care Private Limited and he oversees all the activities including import related work in both his firms and the imported goods Oral Irrigator/Water Flosser and Parts/ Accessories of Oral Irrigator/Water Flosser are the same goods imported by both his firms and are sold under the same brand name *Caresmith*.
- ii. There are two types of Oral Irrigator/Water Flosser imported by them, one is hand-held (contains rechargeable battery) that weigh around 200-300 grams and other is Table-Top (not contains rechargeable battery) that weigh around 600-800 grams. The imported goods Oral Irrigator/Water Flosser are portable and travel friendly appliances that contains electric motor and water tank and the said imported goods are Electro-mechanical appliances and the classification of the said imported goods is decided by him.
- iii. The said imported goods under the brand name Caresmith are easily available on their website www.caresmith.com as well as other e-market platforms such as Amazon, Flipkart, Nykaa etc. without requiring a doctor's/ dentist's prescription to purchase the same. Also, the import of the said imported goods does not require licence or permit from Health authorities like CDSCO or any other authorized or regulatory agency.
- iv. He acknowledged that other importers are importing the same imported goods Oral Irrigator/Water Flosser and Parts/ Accessories of Oral Irrigator/Water Flosser under correct CTI 85098000 and 85099000, respectively.
- v. The said imported goods Oral Irrigator/ Water Flosser/Flosser that are sold under the Brand name Caresmith are used by an individual for self-oral care. Further, it is mentioned in the User Manual (document prepared by their firm which is admitted in his statement recorded under Section 108 of Customs Act, 1962) of the said imported goods that they are *For Household Use only*.
- vi. All the consignments of the said imported goods Oral Irrigator/ Water Flosser/Flosser and Parts/ Accessories of Oral Irrigator/ Water Flosser/Flosser on the IEC of Doc Brown Industries LLP have been cleared under CTI 90184900 and the last import was 17.02.2024 of the said imported goods. Further, import of the said goods Oral Irrigator/ Water Flosser/Flosser and Parts/ Accessories of Oral Irrigator/ Water Flosser/Flosser on the IEC of Shodan Care Private Limited started from 17.02.2024

and were cleared under CTI 90184900. But, 16.04.2024 onwards the import consignments of the said goods Oral Irrigator/ Water Flosser/Flosser and Parts/Accessories of Oral Irrigator/ Water Flosser/Flosser on the IEC of Shodan Care Private Limited have been cleared under CTI 85098000.

- vii. He has agreed that that being an importer, it is his responsibility to ensure the accuracy and completeness of the information during filing of Bill of Entry.
- viii. As per the email conversations submitted by him, it appears that one of his firms Shodan Care Private Limited has directed their CHA Bhatia Shipping Private Limited that *HSN Code should be as per mentioned in Invoice. Change it to 85098090*. The same is being reproduced below, for reference.



Thus from above, it appears that the importer has admitted that the imported goods Oral Irrigator/Flosser/Water Flosser is an Electro-mechanical domestic appliance with a self-contained motor weighing less than 20 kgs and therefore appears to be correctly classifiable under CTI 85098000 and consequently, parts/accessories of Oral Irrigator/Flosser/Water Flosser appear to be correctly classifiable under CTI 85099000, and continuously misclassified the said imported goods with an intention to evade Customs Duty.

- 1.7.7 Throughout the opportunities provided to the importer to submit reply/clarifications and record his statements before DRI under Section 108 of the Customs Act, 1962, the importer has failed to provide corroborative evidences in support of their claim that the imported goods Oral Irrigator/Flosser are instruments/appliances used in professional practice (e.g., by doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc. During his statements recorded under Section 108 of the Customs Act, 1962, the importer Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP has given misleading statements such as

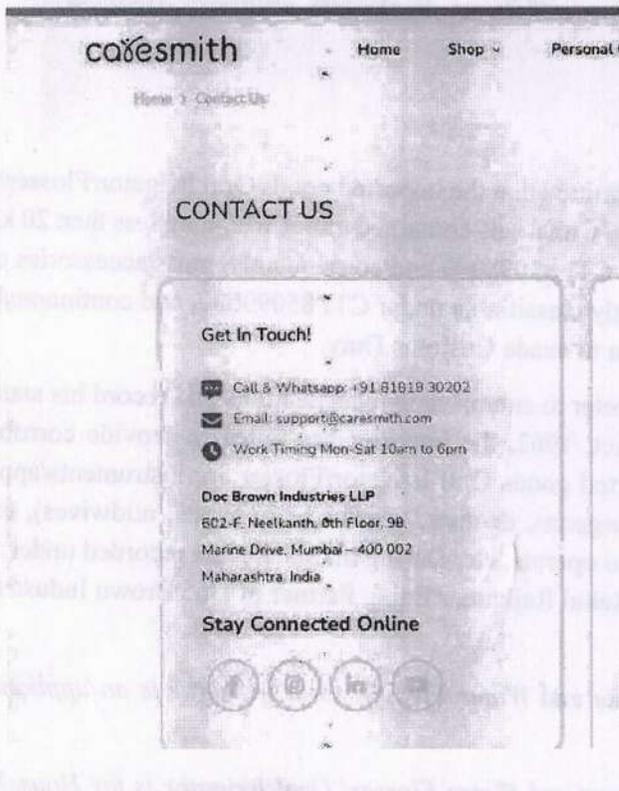
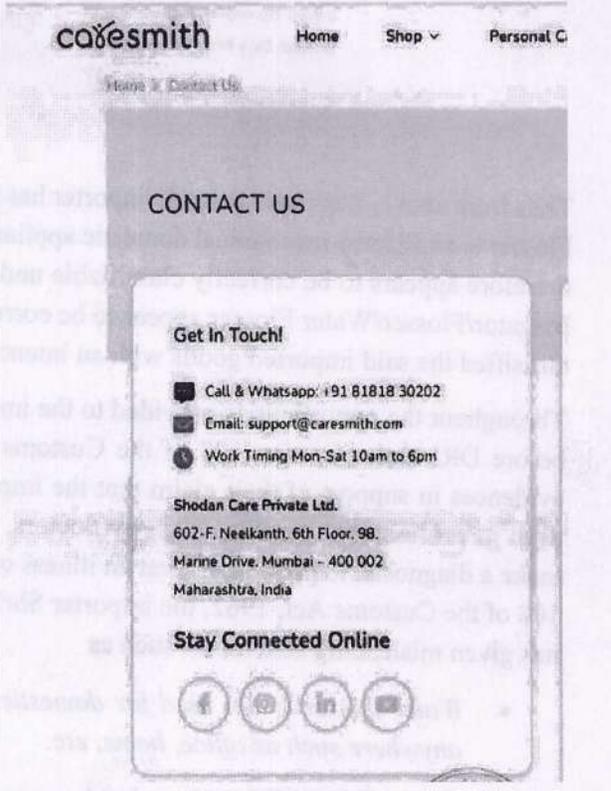
- *Water flosser is not used for domestic use and Water Flosser/ Oral Irrigator is an appliance used anywhere such as office, home, etc.*
- *Water flosser is not Household requirement and Water Flosser/ Oral Irrigator is for Household use only. Do not use outdoors as per user manual.*

Further, he had stated in his statement recorded under Section 108 of the Customs Act, 1962 that the CTH 8509 mentioned in the Bill of Entry 3053531 dated 16.04.2024 for the goods Oral Irrigator/Flosser imported on the IEC of his other firm Shodan Care Private Limited is incorrect. Further, he went on to state that he asked their supplier Fly Cat Electrical Co. Ltd over phone to change the CTH of the said imported goods from 9018 to 8509. Thus, it appears that the importer has resorted to the practice of circumlocutory reasoning in order to evade blame of intentional mis-classification of the said imported goods Oral Irrigator/Flosser and has further resorted to the practice of mis-statement by mentioning "Dental Equipment" in the 'Item Description' section in the declaration filed before the Customs in the Bills of Entry for the said imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser in order to justify classifying the said imported goods under CTH 9018 without any documentary proof and continuously misclassified the said imported goods with an intention to evade Customs Duty by way of wilful mis-statement of facts. It is noteworthy to mention here that in the 'Item Description' section in the declaration filed before the Customs in the Bills of Entry on the IEC of Shodan Care Private Limited for the same said imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser, the phrase "Dental Equipment" is not mentioned. The same can be seen in the import data of Shodan Care Private Limited.

- 1.7.8 During the investigation, it appears from the statement of Shri Rahul Rajkumar Bajaj recorded under Section 108 of the Customs Act, 1962 that Bhatia Shipping Private Limited files the Bill of Entry of the goods i.e. Oral

Irrigator/Flosser/Water Flosser & Parts/ Accessories of Oral Irrigator/Flosser/Water Flosser imported by both Doc Brown Industries LLP & Shodan Care Private Limited, prepare draft checklist and suggests CTH of Oral Irrigator/Flosser/Water Flosser & Parts/ Accessories of Oral Irrigator/Flosser/Water Flosser in the said draft checklist and send the draft checklist to the concerned importer for approval. Once the draft checklist is approved by importer, their firm files Bill of Entry on behalf of the concerned importer. Thus, it appears that Bhatia Shipping Private Limited has admitted their mistake i.e., mis-classification of Oral Irrigator/Flosser/Water Flosser and Parts/accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 for Doc Brown Industries LLP, by suggesting correct CTH 8509 for the said same imported goods in the draft checklist to another new firm of Shri Rahul Rajkumar Bajaj (Director) i.e. Shodan Care Private Limited from 16.04.2024 onwards.

1.7.9. During the course of investigation, on the website of Caresmith Brand (www.caresmith.com) it was observed that in the 'Contact Us' section, the firm name was changed from Doc Brown Industries LLP to Shodan Care Private Limited (reproduced below for reference). From this, it appears that Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP and Director of Shodan Care Private Limited has intentionally changed the firm name and the same is also admitted in his statement dated 06.06.2024 recorded under Section 108 of the Customs Act, 1962 that *"the Caresmith website i.e. www.caresmith.com was run by firm i.e. Doc Brown Industries LLP, Mumbai and is now run by Shodan Care Private Limited, Mumbai."* Currently, the firm name on the said website is shown as Shodan Care Private Limited.

 <p>The screenshot shows the 'CONTACT US' section of the Caresmith website. Under 'Get In Touch!', it lists: Call & Whatsapp: +91 81818 30202, Email: support@caresmith.com, and Work Timing Mon-Sat 10am to 6pm. The company name is Doc Brown Industries LLP, located at 602-F, Neelkanth, 6th Floor, 9B, Marine Drive, Mumbai - 400 002, Maharashtra, India. Social media icons for Facebook, Instagram, LinkedIn, and YouTube are shown at the bottom.</p>	 <p>The screenshot shows the 'CONTACT US' section of the Caresmith website. Under 'Get In Touch!', it lists: Call & Whatsapp: +91 81818 30202, Email: support@caresmith.com, and Work Timing Mon-Sat 10am to 6pm. The company name is Shodan Care Private Ltd., located at 602-F, Neelkanth, 6th Floor, 9B, Marine Drive, Mumbai - 400 002, Maharashtra, India. Social media icons for Facebook, Instagram, LinkedIn, and YouTube are shown at the bottom.</p>
<p align="center">Caresmith Brand website wherein Doc Brown Industries LLP shown in 'Contact Us' section</p>	<p align="center">Caresmith Brand website wherein Shodan Care Private Limited shown in 'Contact Us' section</p>

1.7.10 **Analysis of the outward supplies of Doc Brown Industries LLP, Mumbai (GSTIN – 27AAPFD1171L1Z5)**

From the information available on the GST E-way Bill portal, it appears that the outward supplies for Oral Irrigator/Flosser, under the brand name of 'Caresmith' by the importer Doc Brown Industries LLP, Mumbai (GSTIN – 27AAPFD1171L1Z5) is being done under the HSN Code 85098000, from May, 2024 onwards, i.e., after the issuance of the first DRI summons dated 11.05.2024. Thus, it appears that the importer admits the correct classification of Oral Irrigator/Flosser/Water Flosser to be under HS 8509.

1.8. **Calculation of Customs Duty evaded by Doc Brown Industries LLP:**

1.8.1 The Bill of Entry wise duty payable and duty paid by the importer in respect of the imported goods i.e. **Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser** made by Doc Brown Industries LLP and the short/ differential duty payable is as under: -

Calculation of duty payable under correct CTI 85098000 and short/differential duty payable of the imported goods i.e. **"Oral Irrigator/Flosser/Water Flosser"** is as tabulated below: -

TABLE C

Amount in Rs.

SN	Customs House Code	BE No.	BE Date	Assessable Value	Duty Payable (BCD+SWS +IGST) under correct CTI 85098000	Total Duty Paid (BCD+SWS+ Health Cess +IGST) (as mentioned in Table-A)	Total Short/Differential duty payable (BCD+SWS +IGST)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)=(f)-(g)
1	INNSA1	6800348	7-Feb-20	3525855	1549966	966084	583882
2	INNSA1	7918779	16-Jun-20	6468382	2843501	1772337	1071164
3	INNSA1	8447351	12-Aug-20	2156231	947879	590807	357072
4	INNSA1	8507739	18-Aug-20	1417	623	388	235
5	INNSA1	9079864	6-Oct-20	4636469	2038192	1270392	767800
6	INNSA1	9526153	10-Nov-20	1079498	474547	295782	178765
7	INNSA1	9886374	9-Dec-20	1499588	659219	410887	248332
8	INNSA1	2257745	6-Jan-21	5194692	2283587	1423346	860241
9	INNSA1	2757330	13-Feb-21	7170525	3152163	1964724	1187439
10	INNSA1	3449141	5-Apr-21	1642157	721892	449951	271941
11	INNSA1	3828296	5-May-21	4270011	1877097	1169983	707114
12	INNSA1	4356498	17-Jun-21	5454530	2397811	1494541	903270
13	INNSA1	5029216	12-Aug-21	4425262	1945345	1212522	732823
14	INNSA1	5128873	20-Aug-21	5922724	2603629	1622826	980803
15	INNSA1	5361856	8-Sep-21	2252	990	617	373
16	INNSA1	5855512	15-Oct-21	3679503	1617510	1008184	609326
17	INNSA1	6389669	24-Nov-21	1535501	675006	420727	254279
18	INNSA1	6656495	13-Dec-21	1358953	597396	372353	225043
19	INNSA1	7100592	16-Jan-22	4286452	1884324	1174488	709836
20	INNSA1	7251291	27-Jan-22	1537993	676102	421410	254692
21	INNSA1	8287000	15-Apr-22	4343823	1909545	1190208	719337
22	INNSA1	8287019	15-Apr-22	1855947	815874	508529	307345
23	INNSA1	8287021	15-Apr-22	1147444	504416	314400	190016
24	INNSA1	9179480	18-Jun-22	5968537	2623769	1635379	988390
25	INNSA1	9179667	18-Jun-22	1730088	760547	474044	286503
26	INNSA1	9700634	24-Jul-22	1933413	849928	529755	320173
27	INNSA1	9700721	24-Jul-22	1168271	513572	320106	193466
28	INNSA1	2442055	14-Sep-22	2644760	1162636	724664	437972
29	INNSA1	2442076	14-Sep-22	2132190	937311	584220	353091
30	INNSA1	2923018	17-Oct-22	1957246	860405	536285	324120
31	INNSA1	3137827	2-Nov-22	1647289	724148	451357	272791
32	INNSA1	3406061	21-Nov-22	2041082	897260	559257	338003
33	INNSA1	3777965	16-Dec-22	3876909	1704289	1062273	642016
34	INNSA1	3994002	31-Dec-22	4104871	1804503	1124735	679768

35	INNSA1	5138924	20-Mar-23	1712938	753008	469345	283663
36	INNSA1	5244180	27-Mar-23	2768534	1217048	758578	458470
37	INNSA1	5416087	7-Apr-23	7359677	3235314	2016552	1218762
38	INNSA1	5780592	3-May-23	1880795	826797	515338	311459
39	INNSA1	6393730	13-Jun-23	1817076	798787	497879	300908
40	INNSA1	6589490	26-Jun-23	4728913	2078830	1295722	783108
41	INNSA1	6699509	3-Jul-23	914616	402065	250605	151460
42	INNSA1	6699589	3-Jul-23	2817213	1238447	771917	466530
43	INNSA1	7777767	9-Nov-23	1362127	598791	373223	225568
44	INNSA1	8005056	25-Sep-23	2251065	989568	616792	372776
45	INBOM4	8137729	4-Oct-23	445788	195968	122146	73822
46	INNSA1	8341474	17-Oct-23	784441	344840	214937	129903
47	INNSA1	8664424	7-Nov-23	1769182	777732	484756	292976
48	INNSA1	8665627	7-Nov-23	2081633	915086	570367	344719
49	INNSA1	8733769	11-Nov-23	1794697	788949	491747	297202
50	INNSA1	8734661	11-Nov-23	917200	403201	251313	151888
51	INNSA1	9067378	4-Dec-23	2982712	1311200	817263	493937
52	INNSA1	9122825	8-Dec-23	1359966	597841	372631	225210
53	INNSA1	9578171	8-Jan-24	918137	403613	251569	152044
54	INNSA1	9826524	25-Jan-24	1798288	790527	492731	297796
55	INNSA1	2186188	17-Feb-24	915349	402387	250806	151581
	Total			14,57,80,212/-	6,40,84,981/-	3,99,43,778/-	2,41,41,203/-

Calculation of duty payable under correct CTI 85099000 and short/differential duty payable of the imported goods i.e. "Parts/Accessories of Oral Irrigator/Flosser/Water Flosser" is as tabulated below: -

TABLE D

Amount in Rs.

SN	Customs House Code	BE No.	BE Date	Assessable Value	Duty Payable (BCD+SWS +IGST) under correct CTI 85099000	Total Duty Paid (BCD+SWS+ Health Cess +IGST)(as mentioned in Table-B)	Total Short/Differential duty payable (BCD+SWS +IGST)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)=(f)-(g)
1	INNSA1	6800348	7-Feb-2020	44940	13922	12314	1608
2	INNSA1	7918779	16-Jun-2020	36308	11248	9948	1300
3	INNSA1	3828296	5-May-2021	26880	8327	7365	962
4	INNSA1	5128873	20-Aug-2021	48953	15166	13413	1753
5	INNSA1	6389669	24-Nov-2021	38388	11893	10518	1375
6	INNSA1	6656495	13-Dec-2021	13512	4186	3702	484
7	INNSA1	7100592	16-Jan-2022	694	215	190	25
8	INNSA1	7251291	27-Jan-2022	9805	3038	2687	351
9	INNSA1	8287019	15-Apr-2022	1950	604	534	70

10	INNSA1	8287021	15-Apr-2022	4672	1447	1280	167
11	INNSA1	9179480	18-Jun-2022	794	246	217	29
12	INNSA1	9179667	18-Jun-2022	3035	940	832	108
13	INNSA1	9700634	24-Jul-2022	9382	2907	2571	336
14	INNSA1	9700721	24-Jul-2022	412	128	113	15
15	INNSA1	2442055	14-Sep-2022	5118	1586	1402	184
16	INNSA1	2442076	14-Sep-2022	608	188	167	21
17	INNSA1	3777965	16-Dec-2022	37815	11715	10361	1354
18	INNSA1	3994002	31-Dec-2022	16340	5062	4477	585
19	INNSA1	5244180	27-Mar-2023	13906	4308	3810	498
20	INNSA1	5416087	7-Apr-2023	31247	9680	8562	1118
21	INNSA1	5780592	3-May-2023	6408	1985	1756	229
22	INNSA1	6393730	13-Jun-2023	7678	2379	2104	275
23	INNSA1	6589490	26-Jun-2023	6646	2059	1821	238
24	INNSA1	6699589	3-Jul-2023	11136	3450	3051	399
25	INNSA1	8664424	7-Nov-2023	49562	15354	13580	1774
26	INNSA1	8733769	11-Nov-2023	8426	2610	2309	301
27	INNSA1	8734661	11-Nov-2023	7751	2401	2124	277
28	INNSA1	9067378	4-Dec-2023	29490	9136	8080	1056
29	INNSA1	9122825	8-Dec-2023	2110	654	578	76
30	INNSA1	9578171	8-Jan-2024	17036	5278	4668	610
31	INNSA1	9826524	25-Jan-2024	3368	1043	923	120
	Total			4,94,370/-	1,53,155/-	1,35,457/-	17,698/-

1.8.2 From the above tables Table C and Table D, the total differential duty payable in respect of the imported goods i.e. Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser is as tabulated below: -

TABLE E

Amount in Rs.

S. No.	Imported Goods	Total Assessable Value	Total Duty Payable (BCD+SWS+IGST)	Total Duty Paid (BCD+SWS+ Health Cess +IGST)	Total Short/ Differential duty payable (BCD+SWS+IGST)
(a)	(b)	(c)	(d)	(e)	(f)=(d)-(e)
1	Oral Irrigator/Flosser/Water Flosser	145780212	64084981	39943778	24141203
2	Parts/Accessories of Oral Irrigator/Flosser/Water Flosser	494370	153155	135457	17698
	Total	14,62,74,582/-	6,42,38,136/-	4,00,79,235/-	2,41,58,901/-

Thus, it appears that the importer Doc Brown Industries LLP has made short/ differential payment of duty amounting to **Rs.2,41,58,901/- (Rupees Two Crores Forty-One Lacs Fifty-Eight Thousand and Nine Hundred and One Only)**.

- 1.8.3 From the above Tables, it can be seen the short/differential duty is highest in respect of Nhava Sheva (INNSA1) which falls under the jurisdiction of The Pr. Commissioner/Commissioner of Customs, Customs Commissionerate, Nhava Sheva-V, JNCH Nhava Sheva, Taluka Uran, Distt: Raigad, Maharashtra-400702 which is tabulated below: -

TABLE F

S.No.	Port of Import	Imported Goods	Total Assessable Value (in Rs.)	Total Short/ Differential Duty Payable (Rs.)
01.	Air Cargo Complex, Mumbai (INBOM4)	Oral Irrigator/Flosser/Water Flosser	445788	73822
02.	Nhava Sheva (INNSA1)	Oral Irrigator/Flosser/Water Flosser	145334424	24067381
		Parts/Accessories of Oral Irrigator/Flosser/Water Flosser	494370	17698
		Total	14,58,28,794/-	2,40,85,079/-
Grand Total (INBOM4+INNSA1)			14,62,74,582/-	2,41,58,901/-

1.9. **Relevant Legal Provisions to the instant case are as under:**

- 1.9.1 Doc Brown Industries LLP had resorted to mis-classification with the intent to evade payment of Customs duties. The various provisions of laws/ rules relevant to the import of goods in general, liability of goods to confiscation and liability of the concerned persons to penalty for improper importation of goods, are referred in the instant SCN and the same are not reproduced here for the sake of brevity.

1.10. **SUMMARY OF INVESTIGATION:**

- 1.10.1 Intelligence was developed that Doc Brown Industries LLP bearing IEC AAPFD1171L was engaged in import of goods - Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser, from China under Customs Tariff Item (CTI) 90184900 and thereby paying BCD, Health Cess, SWS & IGST at the rate of 7.5%, 5%, 10% & 12% (paid IGST@12% as per Notification No. 01/2017- Integrated tax (Rate) dated 28.06.2017), respectively. From analysis of the 55 and 31 Bills of Entry related to the said imported goods i.e. Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser, respectively during the period from 07.02.2020 to 17.02.2024 at ports bearing code INNSA1 & INBOM4, it appears that the said imported goods i.e. Oral Irrigator/Flosser/Water Flosser are Electro-Mechanical Domestic Appliances with self-contained Electric Motor and thus appear to be correctly classifiable under CTI 85098000 attracting BCD, SWS & IGST at the rate of 20%, 10% & 18%, respectively. Further, Parts/Accessories of Oral Irrigator/Flosser/Water Flosser appear to be correctly classifiable under respective Customs Tariff Head under CTI 85099000 attracting BCD, SWS & IGST at the rate of 10%, 10% & 18%, respectively.

- 1.10.2 It can be seen on the website of Brand CareSmith, it appears that the said imported goods **Oral Irrigator/Flosser/Water Flosser** are meant for everyday oral healthcare routine. Further, all the products available there are personal care items and not items that are used in professional practices. Also, the said imported goods **Oral Irrigator/Flosser/Water Flosser** available on the website are hand-operated and table top appliances, portable and weigh less than 20 kg and they are fitted with electric motor. Further, on-going through various E-Commerce websites such as Amazon, Flipkart, Nykaa and importer's website i.e. CareSmith, it appears that the said imported goods **Oral Irrigator/Flosser/Water Flosser** are readily available on the aforementioned websites from which any individual can easily purchase them for oral healthcare for personal use

without a Doctor's prescription. Also, as per User Manual of Caresmith (Caresmith is a brand of Doc Brown Industries LLP and subsequently Shodan Care Pvt. Ltd.) Professional Cordless Flosser, the Water Flosser/Oral Irrigator is "For Household use only. Do not use outdoors". From the collective facts stated above, it appears that the said imported goods i.e., "Oral Irrigator/Flosser/Water Flosser" is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor whose weight is less than 20 kg.

1.10.3 From the submissions received by DRI through email and statements recorded under Section 108 of the Customs Act, 1962, it appears that the importer, Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP had admitted to mis-classification of Oral Irrigator/Flosser/Water Flosser under CTI 90184900, by stopping the import of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 on the IEC of Doc Brown Industries LLP from 17.02.2024 onwards and he started importing same goods, Oral Irrigator/Flosser/Water Flosser and parts/accessories of Oral Irrigator/Flosser/Water Flosser on his another new firm i.e. Shodan Care Private Limited under correct CTI 85098000. He also admitted that he changed the CTH of the goods i.e. Oral Irrigator/Flosser/Water Flosser & Parts/Accessories of Oral Irrigator/Flosser/Water Flosser from CTH 9018 to CTH 8509 on the IEC of Shodan Care Private Limited from 16.04.2024. Further, he stated that he has never requested for provisional assessment nor contested or filed any appeal before the Customs Authorities or any other authorities that whether the said goods are classifiable under CTH 8509 or CTH 9018 and no documentary evidence has been provided by him to DRI in this regard. Additionally, GST E-way Bill portal analysis reveals that the importer, Doc Brown Industries LLP, Mumbai (GSTIN – 27AAPFD1171LZ5) has been clearing Flosser under the HSN Code – 85098000 since May, 2024 onwards, thereby admitting the correct classification. Thus, in view of above, on the basis of facts and evidence available on record, it appears that he admitted that the imported goods i.e. Oral Irrigator/Flosser/Water Flosser are correctly classifiable under Customs Tariff Item 85098000 and parts/accessories of Oral Irrigator/Flosser/Water Flosser in its respective Customs Tariff Head under CTI 85099000 of Customs Tariff Act, 1975 but had intentionally mis-classified the same under CTI 90184900 to evade Customs Duty by way of willful misstatement and suppression of facts.

1.10.4 From the statements of Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP recorded under Section 108 of the Customs Act, 1962 and letters of Dental Council of India (DCI), New Delhi and Madhya Pradesh State Dental Council of India, Indore, following facts has been emerged out which is as below:

- i. Dental Council of India replied that Oral Irrigator/ Water Flosser is **not** an instrument/ appliance that is mentioned or covered in the list of instruments/ appliances issued by the Dental Council of India. However, Dentists often recommended Water Flosser as a complementary tool to traditional flossing.
- ii. MPDCI, Indore provided the BDS Course Regulation, 2007 published by Dental Council of India, New Delhi wherein list of equipment requirements are incorporated. In the said list, it appears the imported goods Oral Irrigator/Flosser do not feature anywhere.

When confronted with the replies received from DCI and MPDCI the importer failed to produce any documentary evidence in respect of **whether imported goods "Oral Irrigator/Flosser/Water Flosser" is used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease** which is required condition for falling the items/goods under Chapter Heading 9018.

1.10.5 During statements of the importer Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP recorded under Section 108 of the Customs Act, 1962, he has given misleading statements such as:

- *Water Flosser/ Oral Irrigator is not used for domestic use and Water Flosser/ Oral Irrigator is an appliance used anywhere such as office, home, etc.*
- *Water Flosser/ Oral Irrigator is not Household requirement and Water Flosser/ Oral Irrigator is for Household use only. Do not use outdoors as per user manual.*

1.10.6 During the course of investigation, on the website of Caresmith Brand (www.caresmith.com), it was observed that in the 'Contact Us' section, the firm name was changed from Doc Brown Industries LLP to Shodan Care Private Limited. From this, it appears that Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP and Director of Shodan Care Private Limited has intentionally changed the firm name. He is also admitted in his statement dated 06.06.2024 recorded under Section 108 of the Customs Act, 1962 that *"the Caresmith website i.e. www.caresmith.com was run by firm i.e. Doc Brown Industries LLP, Mumbai and is now run by Shodan Care Private Limited, Mumbai."* Currently, the firm name on the said website is shown as Shodan Care Private Limited.

1.10.7 With the introduction of self-assessment and consequent upon amendments to Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was obligatory on the part of the importer to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods. Therefore, by not disclosing the true and correct facts to the proper officer, at the time of clearance of imported goods, the

importer appears to have indulged in mis-classification by way of suppression of facts and wilfully mis-classified the imported goods with intent to evade the payment of applicable Custom duties. Thus, the importer has contravened the provisions of Section 46(4) & 46(4A) of the Customs Act, 1962, in as much as they have mis-classified the goods imported by them, by suppressing the true and actual description of the goods, while filing the declaration seeking clearance at the time of importation of impugned goods and have rendered the said goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

- 1.10.8 Section 17(1) & Section 2(2) of the Customs Act, 1962 read with CBIC Circular No. 17/2011-Customs dated 08.04.2011 cast a heightened responsibility and onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment is required 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.
- 1.10.9 The importer Doc Brown Industries LLP has self-assessed the Oral Irrigator/Flosser/Water Flosser & Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 of the CTA. It appears the importer Doc Brown Industries LLP were completely aware of the facts as they have mentioned on their website of Brand Caresmith that the said imported goods Oral Irrigator/Flosser/Water Flosser is an everyday use self-oral care device. Further, all the products available there are personal care items and not items that are used in professional practices. The importer has also admitted during his statements recorded under Section 108 of the Customs Act, 1962 that the said imported goods are portable, travel friendly appliances that contains electric motor, rechargeable battery (for hand-held) and water tank and the said imported goods are Electro-mechanical appliances and are used by an individual for self-oral care. Further, the importer has acknowledged that it is mentioned in the User Manual (document prepared by their firm which is admitted in his statement recorded under Section 108 of Customs Act, 1962) of the said imported goods that they are *For Household Use only*. From, this it appears that the classification adopted by the importer Doc Brown Industries LLP for the imported goods i.e. Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under tariff item 90184900 of the CTA, appears to be incorrect and deliberately resorted to by them to evade Customs Duty by means of wilful misstatement and suppression of facts.
- 1.10.10 Thus, in view of above paras, it appears that Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP has failed to prove his contention for falling the goods i.e., Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 imported by him on his firm Doc Brown Industries LLP and continuously misclassified the said goods under CTI 90184900 with an intention to evade Customs Duty. Further, as per Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was obligatory on the part of the importer to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods but it appears that the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, since they have mis-classified the goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser imported by them by way of wilful mis-statement and suppression of facts, while filing the declaration seeking clearance at the time of importation of said imported goods. The same was done with the sole intention to evade the payment of applicable duty leviable thereon. This has resulted in **evasion of duty (BCD+SWS+IGST) amounting to Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only)** as worked out in Tables- C, D & E above, and liable to be recovered from Doc Brown Industries LLP under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA *ibid*. By the act of mis-classification of the said imported goods, Doc Brown Industries LLP has rendered the said **goods totally valued at Rs. 14,62,74,582/- (Rupees Fourteen Crore, Sixty-Two Lacs, Seventy-Four Thousand and Five Hundred Eighty-Two only)** (as worked out in Tables- C, D & E above), to be liable to confiscation under Section 111(m) of the Customs Act, 1962.
- 1.10.11 Further, it also appears that Doc Brown Industries LLP through its partner Shri Rahul Rajkumar Bajaj is trying to mislead the investigation by giving statements that are contradictory in nature and deliberately mis-stating/mis-quoting the facts. Furthermore, the duty was short paid by way of wilful mis-statement and suppression of facts by Doc Brown Industries LLP.
- 1.10.12 CHA of Doc Brown Industries LLP through Shri Arvind Mishra, Authorised Representative of Bhatia Shipping Private Limited, admitted in his statement recorded under Section 108 of the Customs Act, 1962 that Bhatia Shipping Private Limited has been looking after the Customs related Work of Doc Brown Industries LLP since 2019. Their firm suggested CTI 90184900 in the draft checklist for the said imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser to the importer Doc Brown Industries LLP. Also, he acknowledged that the imported goods Oral Irrigator/Flosser/Water Flosser is an electro-mechanical domestic appliance with a self-contained motor and falls under CTI 85098000 and Parts/ Accessories of Oral Irrigator/Flosser/Water Flosser fall under CTI 85099000.

- 1.10.13 During the investigation, the fact is also emerged out from the statement dated 17.09.2024 of Shri Rahul Rajkumar Bajaj that Bhatia Shipping Private Limited (CHA Code: AAACB2985LCH001) files the Bill of Entry of the goods i.e. Oral Irrigator/Flosser/Water Flosser & Parts/ Accessories of Oral Irrigator/Flosser/Water Flosser imported by both Doc Brown Industries LLP & Shodan Care Private Limited, prepare draft checklist and suggests CTH of Oral Irrigator/Flosser/Water Flosser & Parts/Accessories of Oral Irrigator/Flosser/Water Flosser in the said draft checklist and send the draft checklist to the importer Doc Brown Industries LLP for approval. Once the draft checklist is approved by importer, their firm files Bill of Entry on behalf of the said importers. Thus, it appears that Bhatia Shipping Private Limited has admitted their mistake i.e. mis-classification of Oral Irrigator/Flosser and Parts and accessories of Oral Irrigator/Flosser under CTI 90184900 by way of suggesting correct CTH 8509 for the said same imported goods in the draft checklist to another new firm of Shri Rahul Rajkumar Bajaj (Director) i.e. Shodan Care Private Limited from 16.04.2024.
- 1.10.14 Thus, in view of above, it appears that Bhatia Shipping Private Limited, CHA of Doc Brown Industries LLP has admitted to mis-classification of Oral Irrigator/Flosser/Water Flosser and Parts/ accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 and did not suggest the correct classification of imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser to the importer Doc Brown Industries LLP, that has been mandated under regulation 10 of the Customs Brokers Licensing Regulations (CBLR), 2018 read with Section 146 of the Customs Act, 1962.
- 1.11. **Suppression of facts, wilful mis-statement on part of Doc Brown Industries LLP and invocation of extended period in the import of Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser.**
- 1.11.1 Doc Brown Industries LLP self-assessed the Oral Irrigator/Flosser/Water Flosser & Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 of the CTA. Further, it appears that the importer Doc Brown Industries LLP was completely aware on the basis that the Oral Irrigator/Flosser/Water Flosser imported by them is a personal care item used for self-oral care (as mentioned on their Brand website Caresmith) and is an Electro-Mechanical Domestic Appliance whose weight is less than 20 Kgs, with self-contained Electric Motor. Also, the importer has admitted that: -
- i. Two types of goods Oral Irrigator/Flosser/Water Flosser imported by them. 95% imported flossers are hand-operated whose weight is around 200 grams to 300 grams approx. and 5% imported flossers are Table Top whose weight around 600 grams to 800 grams approx.
 - ii. Both types of Oral Irrigator/Flosser/Water Flosser are portable and travel friendly which contains pump with self-contained electric motor, Water Tank, Tips. Hand operated Oral Irrigator/ Flosser contains rechargeable battery but the Table top one doesn't contain rechargeable battery and it operates on electricity.
 - iii. The said goods are easily available on their website i.e. www.caresmith.com as well as other e-market platforms such as Amazon, Flipkart, Nykaa etc. from where any individuals can purchase it without the need for Doctor's/Dentist's prescription.
 - iv. The said goods are used by an individual for self-oral care.
 - v. As per User Manual of their brand "Caresmith", the said goods are for *Household Use only*.
 - vi. As per the contents available on their brand website i.e. "Caresmith" it appears that said imported goods are used in everyday oral healthcare routines details of which is as below:-
Oral Irrigator / Flosser is a device used for deep cleaning between teeth & ideal for dental cleaning using a unique combination of water pressure and pulsation. This product is used for continuous flossing and easy cleaning. Caresmith is a personal care brand on a mission to improve and upgrade everyday health routine in oral care, relaxation, recovery and personal grooming. Caresmith design innovative products that make daily rituals more fun, convenient and effective.
- 1.11.2 Thus, in view of above facts, the said imported goods Oral Irrigator/Flosser/Water Flosser appear to be correctly classifiable under CTI 85098000 and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser appear to be correctly classifiable under their respective Customs Tariff Heads under CTI 85099000. Even after having prior knowledge of the facts of the said imported goods i.e. Oral Irrigator/Flosser/Water Flosser, the importer Doc Brown Industries LLP has continuously mis-classified Oral Irrigator/Flosser/Water Flosser and parts & accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 by mentioning that it is a Dental Equipment and Accessories of Dental Equipment in the 'Item Description' section in the declaration filed before the Customs in Bills of Entry, without any Documentary proof, with an intention to evade Customs Duty by way of wilful misstatement and suppression of facts. The importer Doc Brown Industries LLP has been dealing with these goods since a long time, and therefore, it appears that they cannot be considered as an inexperienced importer who did not know the correct classification of the goods. Thus, it appears that the

importer Doc Brown Industries LLP was having full knowledge that the goods Oral Irrigator/Flosser imported by them is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor and omission on their part to correctly classify them under relevant CTI only proves the malafide intention of Doc Brown Industries LLP. Therefore, the classification adopted by Doc Brown Industries LLP for the goods i.e. Oral Irrigator/Flosser/ Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under tariff item 90184900 of the CTA, appears to be incorrect and deliberately resorted to by them to evade Customs Duty.

1.12. Role Played by importer Doc Brown Industries LLP, its Partners Shri Rahul Rajkumar Bajaj and their Customs Broker Bhatia Shipping Private Limited: -

1.12.1. Role Played by the importer, Doc Brown Industries LLP:

- It appears that Doc Brown Industries LLP. has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, since they had not disclosed the correct classification of the imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser before the Customs while filing the Bills of Entry for the clearance of the said imported goods and have knowingly mis-classified the said imported goods under Customs Tariff Item (CTI) 90184900 instead of the correct Customs Tariff Items (CTI) 85098000 for Oral Irrigator/Flosser/Water Flosser and 85099000 for Parts/Accessories of Oral Irrigator/Flosser/Water Flosser. The same was done with the sole intention to evade the payment of applicable duty leviable thereon. This has resulted in short payment of Customs duty for the said imported goods aggregating to Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only) as worked out in Tables- C, D & E above, and it appears the same should be demanded and recovered under Section 28(4) of the Customs Act, 1962 by evoking the extended period along with interest under Section 28AA ibid. By the act of mis-classification of the said imported goods, it appears that Doc Brown Industries LLP has rendered the said goods totally valued at Rs. 14,62,74,582/- (Rupees Fourteen Crore, Sixty-Two Lacs, Seventy-Four Thousand and Five Hundred Eighty-Two only) (as worked out in Tables- C, D & E above), to be liable to confiscation under Section 111(m) of the Customs Act, 1962.
- It also appears on that Doc Brown Industries LLP possessed full knowledge that the goods Oral Irrigator/Flosser/Water Flosser imported by them is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor and their omission to correctly classify them under suitable CTI only proves the malafide intention of Doc Brown Industries LLP. The importer has continuously mis-classified Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts for the said imported goods. Further, it also appears that Doc Brown Industries LLP through its partner Shri Rahul Rajkumar Bajaj is trying to mislead the investigation by giving statements that are contradictory in nature and deliberately mis-stating/mis-quoting the facts. Thus, the importer Doc Brown Industries LLP appears liable for penalty under Section 114A of the Customs Act, 1962. Furthermore, it also appears that by mentioning that it is a Dental Equipment and Accessories of Dental Equipment in the 'Items Description' section in Bills of Entry, without any proof, with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts, it appears that the importer Doc Brown Industries LLP have rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.

1.12.2. Role Played by Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP and Director of Shodan Care Private Limited:

- There are two partners in Doc Brown Industries LLP namely Shri Rahul Rajkumar Bajaj and Shri Rushabh Rubesh Shah. Out of the two partners, only Shri Rahul Rajkumar Bajaj looks after import related activity in Doc Brown Industries LLP and he decides the classification of the imported goods i.e. **Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser**. He gave evasive answers during the investigation and tried to mislead the investigation by giving statements that are contradictory in nature and deliberately mis-stating/mis-quoting the facts. Further, it also appears that as per his statements, he had full knowledge that the goods Oral Irrigator/Flosser/Water Flosser imported by him on their firm Doc Brown Industries LLP is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor. His omission to correctly classify them under relevant CTI proves his malafide intention. His act was not one-off omission but he was continuously engaged in mis-classification of Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts while filing the

declaration before Customs in their Bills of Entry. It appears that he has intentionally changed the firm name in CareSmith Brand website i.e. www.caresmith.com from Doc Brown Industries LLP to Shodan Care Private Limited, the same is also admitted in his statement recorded under Section 108 of Customs Act, 1962 that *the CareSmith website i.e. www.caresmith.com was run by firm i.e. Doc Brown Industries LLP, Mumbai and is now run by Shodan Care Private Limited, Mumbai.* Furthermore, he failed to prove his contention for classifying the goods i.e., Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 imported by him. Thus, in view of above, it appears that Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP are liable for penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962 for his act and omission.

1.12.3. **Role Played by Customs Broker, Bhatia Shipping Private Limited (CHA Code AAACB2985LCH001):**

- i. It appears that the Customs Broker Bhatia Shipping Private Limited didn't suggest the correct classification i.e. CTI 85098000 and 85099000 of the imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser respectively to the importer Doc Brown Industries LLP that has been mandated under Regulation 10 of the Customs Brokers Licensing Regulations (CBLR), 2018 read with Section 117 and 146 of the Customs Act, 1962.
- ii. Further, due to this act done by the said CHA which have made imported goods appear to be liable to confiscation as discussed above, it appears they have rendered themselves liable for penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962 for their act.

1.13. Now, therefore, in exercise of the powers conferred by Section 124 read with Section 28(4) of the Customs Act, 1962, the Importer, **M/s Doc Brown Industries LLP bearing IEC AAPFD1171L** having registered address "602-F, Neelkanth, 6th Floor, 98, Marine Drive, Mumbai, Maharashtra-400002 has imported goods **Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser** under various Bills of Entry (as worked out in Tables- A & B above) during the period from 07.02.2020 to 17.02.2024 at Jawaharlal Nehru Port, Nhava Sheva (INNSA1) and Air Cargo Complex, Mumbai (INBOM4) is hereby called upon to show cause to the Commissioner of Customs, NS-V, JNCH, Nhava Sheva within thirty days from the receipt of this notice as to why:

- A. The said goods imported under the 55 Bills of Entry as mentioned in Table-A and 31 Bills of Entry as mentioned in Table-B, by way of mis-classifying the said goods instead of the correct Customs Tariff Items imported in violation of Section 46 of Customs Act, 1962 having total assessable value of Rs. 14,62,74,582/- (Rupees Fourteen Crore, Sixty-Two Lacs, Seventy-Four Thousand and Five Hundred Eighty-Two only) (as worked out in Tables- C, D & E above) should not be confiscated under Section 111(m) of the Customs Act, 1962.
- B. Total Short paid Customs Duty (BCD+SWS+IGST) amounting to Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only) (as worked out in Tables- C, D & E above) by the act of mis-classification of the subject goods by wilful mis-statement and suppression of facts, should not be demanded and recovered under section 28(4) of the Customs Act, 1962 along with interest under Section 28AA *ibid*.
- C. Penalty under Section 114A of the Customs Act, 1962, as discussed herein above should not be imposed upon the importer for their act of duty Short paid and wilful mis-statement and suppression of facts.
- D. Penalty under Section 114AA of the Customs Act, 1962, as discussed herein above, should not be imposed upon the importer for their act of duty short paid by way of knowingly and intentionally mentioning that it is a Dental Equipment and Accessories of Dental Equipment in the 'Items Description' section in Bills of Entry for the said imported goods, without any proof, with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts.

1.14. Now, therefore, in exercise of the powers conferred by Section 124 read with Section 28(4) of the Customs Act, 1962, Shri Rahul Rajkumar Bajaj, Partner of M/s Doc Brown Industries LLP bearing IEC AAPFD1171L and Director of Shodan Care Private Limited, Mumbai (IEC ABKCS3586M) "(in respect of imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under various Bills of Entry (as worked out in Tables- A & B above) during the period from 07.02.2020 to 17.02.2024 at Jawaharlal Nehru Port, Nhava Sheva (INNSA1) and Air Cargo Complex, Mumbai (INBOM4), is hereby called upon to show cause to the Commissioner of Customs, NS-V, JNCH, Nhava Sheva, within thirty days from the receipt of this notice as to why:

A. Penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962, as discussed herein above should not be imposed upon him for his act with an intention to evade Customs Duty by way of suppression of facts and wilful mis-statement.

1.15. Now, therefore the Customs Broker Bhatia Shipping Private Limited, Mumbai (CHA Code AAACB2985LCH001) "(in respect of imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under various Bills of Entry (as worked out in Tables-A & B above) during the period from 07.02.2020 to 17.02.2024 at Jawaharlal Nehru Port, Nhava Sheva (INNSA1) and Air Cargo Complex, Mumbai (INBOM4), is hereby called upon to show cause to the Commissioner of Customs, NS-V, JNCH, Nhava Sheva, within thirty days from the receipt of this notice as to why:

A. Penalty under Regulation 18 of Customs Brokers Licensing Regulations (CBLR), 2018 and under Section 117 and/or Section 146 of the Customs Act, 1962, as discussed hereinabove should not be imposed upon him for his act of non-compliance of the CBLR Regulations, 2018.

B. Penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962, as discussed herein above should not be imposed upon them for their act as discussed herein above.

2. WRITTEN SUBMISSIONS

Written Submission of the Noticees viz., M/s. Doc Brown Industries LLP and Sh. Rahul Rajkumar Bajaj, Partner of M/s. Doc Brown Industries LLP.

2.1 The Noticees, viz., M/s. Doc Brown Industries LLP and Sh. Rahul Rajkumar Bajaj vide their letter dated 30.04.2025 have given their written submissions to the subject SCN through their authorized representative. The said Noticees in the said letter dated 30.04.2025 submitted, inter alia, as under:

2.1.1 that the demand proposed to be confirmed as per the SCN is completely erroneous, bad in law and without appreciation of the applicable statutory provisions, in complete disregard to the factual and legal position and therefore the SCN deserves to be quashed on this ground alone. The Noticee denied the allegations made in the SCN in its entirety and made the following submissions each of which was in the alternative and without prejudice to each other.

THE GOODS IN QUESTION ARE RIGHTLY CLASSIFIED UNDER CTH 9018 49 00

2.1.2 that the Noticee has classified the goods in question under CTH 9018 49 00 as instruments and appliances used in dental sciences. The said tariff heading is housed in Section XVIII of Schedule I to the Customs Tariff Act, 1975. CTH 9018 inter alia covers instruments and appliances used in dental sciences.

2.1.3 that the HSN Explanatory Notes to CTH 9018, the said tariff heading covers within its scope wide range of instruments meant to prevent or treat an illness, which may or may not be used in professional practice.

2.1.4. that the SCN has failed to appreciate that the phrase "in the vast majority of the cases" occurring in HSN Explanatory Notes to CTH 9018 does not mean "in all cases". Now, since the phrase "vast majority of the cases" is not defined in the Customs Tariff Act, 1975, the popular meaning of the said phrase can be derived. In this regard, reliance can be placed on the case of **Indian Cable Co Ltd Vs Commissioner of Central Excise 1994 (74) ELT 22 (SC)**. In Common Parlance, the phrase "in vast majority of the cases" implies that something is true in most cases but not necessarily in every single case. It merely suggests a high percentage but does not make for a 100% certainty. Therefore, CTH 9018 covers goods which are used in professional practice and goods which are not used in professional practice.

2.1.5 that, it cannot be disputed that the goods in question are used for preventing or treating an illness. This is evident from the catalogue of the cordless water flosser and the user manual of the tabletop pro dental flosser.

2.1.6. that the term 'illness' is neither defined in the Customs Tariff Act nor the HSN Explanatory Notes. The oxford English Reference Dictionary defines 'illness' as "a disease, ailment or a malady". In the instant case, tooth decay, gingivitis, periodontitis, etc. clearly qualify as an illness/disease in as much as they are medical conditions affecting normal bodily function, which requires treatment or medical attention. In this regard, reliance can be placed on the judgment of the Supreme Court of Washington in **Kaul Vs City of Chehalis** (vide judgment dated 02.12.1954); Supreme Court of Illinois in **Schuringa Vs City of Chicago** (vide judgment dated 18.03.1964); and on a case bearing Case-T 0290/86, titled "cleaning plaque," which was decided by the Technical Board of Appeal of the European Patent Office ('EPO') on 13.12.1990, wherein it was held that removal of plaque cannot be considered to be a purely cosmetic treatment.

2.1.7. that, since the goods in question are used to treat the aforesaid illnesses, they must be classified under CTH 9018.

- 2.1.8. that, also, the above submission is stand fortified by the fact that Part (II) of the HSN Explanatory Notes to CTH 9018 enlists “special instruments for cleaning of gums” as a dental instrument/appliance covered within the scope and ambit of CTH 9018.
- 2.1.9. that the goods in question are indeed “special instruments for cleaning of gums”. Here, since the term ‘instruments’ is not defined in the Customs Tariff Act, 1975, reference can be made to dictionaries to ascertain their common parlance meaning. The term ‘instrument’ has been defined in P Ramanatha Aiyar’s The Law Lexicon, 2nd Edition, 2007 as a material thing or mechanical devise for performing work.
- 2.1.10. that the HSN Explanatory Notes to CTH 9018 also provides a list of goods not covered within its ambit. That HSN Explanatory Notes CTH 9018 expressly excludes various goods from its ambit. However, the goods in question are conspicuously absent from the above list of exclusions. It is a well settled legal principle that the inclusion of one is the exclusion of others (Latin: *expressio unius est exclusio alterius*). Conversely, what is not expressly excluded is impliedly included. Since the goods in question are not expressly excluded from the ambit of CTH 9018, it must be said to be included therein.

PARTS AND ACCESSORIES OF THE GOODS IN QUESTION ARE ALSO CLASSIFIABLE UNDER CTH 9018:

- 2.1.11. that the parts and accessories of the goods in question are also to be classified under the same heading, viz CTH 9018 in view of Chapter Note 2(b) to Chapter 90.

THE GOODS IN QUESTION DO NOT MERIT CLASSIFICATION UNDER CTH 8509:

- 2.1.12. that the main ground on which the SCN proposes to classify the goods in question (along with and parts and accessories thereof) under CTH 8509 is that it is a domestic appliance weighing less than 20 kg and fitted with electric motor. At the outset, since it is established above that the goods in question get covered under the headings of chapter 90 (i.e, under CTH 9018), they cannot be classified under any headings of chapter 85 in view of Section Note 1(m) to Section XVI. That, they relied on **Jain Irrigation Systems Ltd Vs Commissioner of Customs 2018 (363) ELT 190 (Tri-Mum)**.

The SCN has erred in applying Rule 1 to GRI:

- 2.1.13. that the CTH 8509 covers only electro-mechanical domestic appliances with a self-contained electronic motor. That, as established in the forgoing paragraphs, the goods in question answers more accurately to the terms of heading contained in CTH 9018.

The goods in question cannot be classified under CTH 8509 even as per Chapter Note 4 to Chapter 85:

- 2.1.14. that, the Chapter Note 4 to Chapter 85 that the said heading covers “only the following” electro-mechanical machines of the kind commonly used for domestic purposes, namely: (i) floor polishers, food grinders and mixers, and fruit or vegetable juice extractors, of any weight; and (ii) other machines provided the weight of such machines does not exceed 20 kg. That, the phrase “only the following” is significant. In this regard, reference may be made to the case of **National Insurance Co Ltd Vs Life Insurance Corporation of India AIR 1963 SC 1911**, wherein, it was held that the word ‘only’ would mean “no other”. That, it implies that, the list specified in Chapter Note 4 to Chapter 85 is exhaustive. As can be seen, the term “other machines” occurring in clause (ii) are general words which follow specific words contained in clause (i), viz, floor polishers, food grinders and mixers, and fruit or vegetable juice extractors. Therefore, the term “other machines” occurring in clause (ii) must be read *eiusdem generis* with the specific words contained in clause (i) and accordingly, the meaning of the term “other machines” must be limited by the words contained in clause (i). That, they placed reliance on the case of **Parisons Foods Pvt Ltd Vs Joint Commissioner of Commercial Taxes 2018 (11) GSTL 44 (Ker)** wherein, it was held that while interpreting the commodities in the schedules, the term ‘other’ used in sub-entries should be construed by using the doctrine of *eiusdem generis*.
- 2.1.15. In the instant case, the goods in question does not remotely resemble floor polishers, food grinders and mixers, fruit or vegetable juice extractors or other similar machines. Therefore, the goods in question cannot be classified under CTH 8509.

The goods in question are not covered under CTH 8509 even as per HSN Explanatory Notes thereto:

- 2.1.16. The HSN Explanatory Notes to CTH 8509 specifies that CTH 8509 covers only those goods which are ‘normally’ used in the household.
- 2.1.17. that, as seen above, the goods in question are indeed capable of being used more than merely at the household in as much as they are designed *inter alia* for treating / preventing illness such as tooth decay, gingival bleeding, dental hypersensitivity and other gum diseases. In fact, the user manual of the table-top pro dental flosser makes it clear that has medical uses and is designed keeping in mind the requirement for professional oral irrigators.

Therefore, the goods in question operate at a level in excess of household requirements. Therefore, the goods in question cannot be classified under CTH 8509.

The goods in question cannot be classified under CTH 8509 based on Rule 3(a) of GRI:

- 2.1.18. that, if classification cannot be determined by application of Rule 1 of GRI, then classification must be based on application of Rule 3(a) of GRI. Rule 3(a) of GRI states that the heading which provides the most specific description shall be preferred to headings providing a more general description. This principle was also echoed by the Supreme Court in the case of **Moorco India Ltd Vs Commissioner of Customs 1994 (74) ELT 5 (SC)** wherein it was held that specific description will have to be adopted in place of a general description. The CTH 9018, which pertains to dental appliances, is certainly more specific as compared to CTH 8509 which generally covers any/all domestic appliances containing a motor.
- 2.1.19. As compared to CTH 9018, CTH 8509 is merely a generic / residuary entry. In this regard, reliance is placed on the case of **Bharat Forge & Press Industries Pvt Ltd Vs Commissioner of Central Excise 1990 (45) ELT 525 (SC)** and **Commissioner of Central Excise Vs Wood Craft Products Ltd 1995 (77) ELT 23 (SC)**.

The goods in question cannot be classified under CTH 8509 based on Rule 3(c) of GRI:

- 2.1.20. that, Rule 3(c) of GRI states that when goods cannot be classified by reference to other General Rules of Interpretation, they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. In the instant case, without prejudice to the forgoing submissions, even if the imported goods cannot be classified with reference to Rule 3(a) as above, they shall still be classified under CTH 9018 and not under CTH 8509 as the former occurs last in the numerical order. The reliance is placed on the case of **Tapex Corporation Vs CCE 1998 (103) ELT 580 (Tri)**.

Tariff heading beneficial to assessee should be adapted:

- 2.1.21. that even if it be said that both CTH 9018 and CTH 8509 are equally applicable, as held in the case of **Commissioner of Central Excise Vs Minwool Rock Fibres (2012) 278 ELT 581 (SC)**, where there are two competitive headings in tariff, the heading which is beneficial to assessee should be adopted. In the instant case, since CTH 9018 is more beneficial to the Noticee, the goods in question must be classified under CTH 9018.

WITHOUT PREJUDICE / IN THE ALTERNATIVE, THE GOODS IN QUESTION CAN BE CLASSIFIED UNDER CTH 8424 20 00:

- 2.1.22. that, assuming but not admitting that the goods in question are not classifiable under CTH 9018, the Noticee submitted that the goods in question can also be classified under CTH 8424 20 00.
- 2.1.23. that Rule 1 of GRI states that classification shall be determined according to the terms of the headings. The terms of CTH 8424 clearly includes mechanical appliances for spraying liquids, spray guns and jet projecting machines. The catalogues of the goods in question clearly indicates that the imported goods employ a jet tip and a nozzle to spray stream of pulsating water. This makes the imported goods an appliance similar to a spray gun. Therefore, the function and description of the imported goods answers accurately to the terms of CTH 8424 20 00. In support the reliance can be placed on the ruling of the US Customs and Boarder Protection dated 28.06.2012 bearing Customs Ruling No. NY219961 and US Customs and Boarder Protection dated 10.05.2001 bearing Customs Ruling No. NY H80038 wherein it was held that the water flosser is classifiable under CTH 8424 as mechanical appliances for projecting, dispersing or spraying liquids.
- 2.1.24. that, the HSN Explanatory Notes to CTH 8424 also makes it clear that CTH 8424 includes within its scope hand-controlled spray guns with self-contained electric motor, incorporating a pump and a container for the material to be sprayed
- 2.1.25. that the re-classification under CTH 8424 would not be prejudicial to the Department in as much as there is no further incidence of BCD. In support reliance is place on the cases **Share Medical Care Vs Union of India 2007 (209) ELT 321 (SC)**, **Collector of Central Excise Vs Indian Petro Chemicals 1997 (92) ELT 13 (SC)**, and **HCL Ltd Vs Collector of Customs 2001 (130) ELT 405 (SC)**. Therefore, the goods in question may be classified under CTH 8424.

SPECIFIC REBUTTALS:

The goods in question merit classification under CTH 9018 in terms of Rule 1 of GRI:

- 2.1.26. that Rule 1 of GRI appended to Schedule I to the Customs Tariff Act, 1975 states that classification shall be determined according to the terms of the headings. Therefore, primacy must be given to section, and chapter notes along with terms of the headings. The terms of the heading, namely “*instruments ... used in dental sciences*” does include the goods in question which are capable of being used in dental sciences. Analogy can

also be drawn from the case of **Nat Steel Equipments Pvt Ltd Vs Commissioner of Central Excise (1988) 34 ELT 8 (SC)** wherein it was held that it is not necessary that “domestic electrical appliances” must be actually used only in homes. They will be called “domestic electrical appliances” even if used elsewhere. Drawing therefrom and applying its ratio to the instant case, it is not necessary that the imported goods are used only in dental sciences. They can be said to be used in dental sciences even if used elsewhere. Therefore, if the goods in question are used domestically or elsewhere but are capable of being used in dental sciences, it would be classifiable under CTH 9018.

The SCN erred in interpreting the opinions tendered by DCI and MPSDC:

- 2.1.27. that the SCN has relied on letters dated 06.09.2024 and 05.08.2024 issued by DCI and MPSDC respectively to allege that the goods in question are not instruments / appliances used in professional practice by the professionals. That, CTH 9018 also covers within its ambit instruments and appliances not used professional practice, which is meant to prevent or treat an illness.
- 2.1.28. that in classification matters, it is well settled that express wordings of the tariff headings and relevant section, and chapter notes would take precedence over the classification based on an expert opinion. However, if the specific headings and notes do not cover the goods in question, then resort must be had to the commercial or trade understanding of the goods and not the expert opinion. Reliance can be placed on the case of **Muller & Philip (India) Ltd Vs Commissioner of Central Excise 2004 (167) ELT 374 (SC)**.
- 2.1.29. that on a close analysis of the letter issued by DCI and MPSDC, it cannot be alleged that the goods in question are not used in professional practice by the professionals. That, MPSDC merely stated that “*water flosser is oral hygiene maintenance devise used by patients*”. It does not answer, either in the affirmative or in the negative, whether the goods in question are used only in the professional practice by the professionals, i.e, dentists, either to make a diagnosis, to prevent or treat an illness or to operate etc. That, the MPSDC, has referred to Bachelor of Dental Surgery (‘BDS’) Course Regulations, 2007 framed by DCI to say that the goods in question are not covered in the list of instruments/appliances issued by DCI. It is relevant to note that the said BDS Course Regulations is framed by the DCI and approved by the Central Government under the Dentists Act, 1948. It is well settled that for purpose of interpretation of a statute, reference to another statute (or statutory instrument) is impermissible, especially where the statute is not dealing with any cognate subject. In this regard, reliance is placed on the cases of **MCSO Pvt Ltd Vs Union of India 1985 (19) ELT 15 (SC)**, **Union of India Vs RC Jain AIR 1981 SC 951** and **Zarafshan Chemicals Pvt Ltd Vs Commissioner of Central Excise 2000 (124) ELT 256 (Tri)**, **civil appeal against which was dismissed by Supreme Court, as reported in 2005 (188) ELT A130 (SC)**.
- 2.1.30. that DCI affirmatively stated that the goods in question are indeed recommended by dentists as complementary tool to traditional flossing. This too shows that the goods in question are capable of being used as an aid or supplementary tool for oral hygiene. Neither CTH 9018 nor the HSN Explanatory Notes thereto state that the goods must be used only in a clinical setting. That, the reliance placed on the letter of DCI dated 06.09.2024 and letter of MPSDC dated 05.08.2024 does not advance the case of the Department. On the contrary, it solidifies the case of the Noticee and confirms the classification of the goods in question under CTH 9018.

The SCN has applied irrelevant parameters to deny classification under CTH 9018:

- 2.1.31. The SCN has denied classification of the goods in question under CTH 9018 on the following further grounds:
- (a) The goods in question can be purchased without a doctor’s prescription.
- (b) Goods in question are meant for household use and are portable and travel friendly.
- 2.1.32. that the above requirements are the Department’s own ipse dixit and are not forthcoming the section/chapter notes, terms of heading or HSN Explanatory Notes to CTH 9018. The reliance can be placed on **Collector of Central Excise Vs Wood Craft Products Ltd 1995 (77) ELT 23 (SC)**, **Oswal Agro Mills Ltd Vs Collector of Central Excise 1993 (66) ELT 37 (SC)**, **Commissioner of Central Excise Vs Sharma Chemical Works 2003 (154) ELT 328 (SC)** and **Commissioner of Central Excise Vs Ciens Laboratories 2013 (295) ELT 3 (SC)**.
- 2.1.33. that usage of the goods in question for household purposes does not detract from classification under CTH 9018. It is already established in the forgoing paragraphs that the section / chapter notes and tariff headings of CTH 9018 does not necessitate the goods in question to be used only in professional practice by professionals in the course of treatment. As long as the goods are capable of being used in dental sciences, the requirements of CTH 9018 would be satisfied. It is also established in the forgoing paragraphs that the goods in question can indeed be used by professionals in their professional practice (i.e, in dental sciences) in as much as the goods in question they are embedded with characteristics designed to meet requirements of professional oral irrigators

(as is evident from the technical literature of the goods in question). Therefore, the allegation that the goods in question are meant only for household use does not hold water.

- 2.1.34. that the user manual of the cordless water flosser (hand-held) states “*For household use only. Do not use outdoors*”. The SCN has emphasized the first part of the sentence and concluded that the goods in question can only be used for household purposes. However, the second part of the sentence reads “do not use outdoors”. Therefore, when read in its context, the statement made in the user manual simply means that the goods in question are meant for indoor use only, whether at homes or clinical settings. Reliance is placed on the case of **Chief Controller of Imports and Exports Vs KT Kosalram (1970) 3 SCC 82**.
- 2.1.35. that it may be pertinent to note that the earlier user manuals of the Noticee erroneously contained the phrase “for household use only”. Since the said phrase ex facie did not accurately describe the intended character of the goods in question, the newer user manuals contain the rectified phrase, namely, “for indoor use only”.
- 2.1.36. In view of the above, the Noticee submitted that the goods in question are rightly classified under CTH 9018.

EXTENDED PERIOD OF LIMITATION CANNOT BE INVOKED IN THE INSTANT CASE

- 2.1.37. that the allegations in the SCN are factually and legally erroneous in as much as the classification adapted by the Noticee is legally valid and correct. It is submitted that the SCN is also barred by extended period of limitation as detailed below:

The noticee has not made any misdeclarations in the bills of entry:

- 2.1.38. It is alleged in the SCN that the Noticee has mentioned “Dental Equipment” in the “Item Description” field provided in the Bills of Entry to justify the classification of the goods in question under CTH 9018 without any documentary proof.
- 2.1.39. that the above allegations are erroneous in as much as the Department has failed to appreciate the complete description of goods mentioned in the Bills of Entry. A perusal of the below table shows that the Noticee has not used the description “dental equipment” in isolation but has used it along with “water flosser” or “dental flosser”. Therefore, the allegation stems from a selective reading of the description of the goods as mentioned in the Bills of Entry.
- 2.1.40. Further, two bills of entry cited in the SCN—namely, Bill of Entry No. 8507739 dated 18.08.2020 and Bill of Entry No. 5361856 dated 08.09.2021—do not relate to the goods in question at all. The former pertains to a massager device, while the latter pertains to a callus remover.
- 2.1.41. Therefore, the allegation in the SCN that the Noticee has mis-declared the goods in the Bills of Entry is factually erroneous and unsustainable.

Without prejudice to the above, suppression, misstatement, etc cannot be alleged when the Noticee has bona fide belief regarding the classification:

- 2.1.42. However, as per Section 28(4) of Customs Act, the proper officer can issue a show cause notice within an extended period of five years from the relevant date if it can be established that the duty has been short levied or short paid for the reason of collusion, willful misstatement, or suppression of facts on the part of the assessee or its agents.
- 2.1.43. that there was a bona fide belief on the part of the Noticee that the goods in question were indeed classifiable under CTH 9018 based on the technical literature. Reliance is placed on the case of **Padmini Products Vs Commissioner of Central Excise 1989 (43) ELT 195 (SC)**, **Commissioner of Central Excise Vs Surat Textile Mills 2004 (167) ELT 379 (SC)**.
- 2.1.44. Further, reliance is also placed on the following case laws to say that extended period of limitation cannot be invoked when there is bona fide belief:
- (a) **Centre for Development of Advanced Computing Vs Commissioner of Central Excise 2002 (141) ELT 06 (SC)**
 - (b) **Chamundi Die Cast Pvt Ltd Vs Commissioner of Central Excise 2007 (215) ELT 169 (SC)**
 - (c) **Jayaprakash Industries Vs Commissioner of Central Excise 2002 (146) ELT 481 (SC)**

Misstatement or suppression cannot be alleged in classification issues

2.1.45 that Misstatement or suppression cannot be alleged in classification issues as it relates to interpretation of chapter headings. In this regard, reliance is placed on the following cases:

(d) **Alembec Ltd Vs CCE 2009 (241) ELT 439 (Tri-Ahmd)**

(e) **Midas Fertchem Impex Pvt Ltd Vs Principal Commissioner of Customs 2023 (384) ELT 397 (Tri-Del):**

2.1.46. Reference can also be made to the following case laws:

(f) **Uniflex Cables Ltd Vs CCE 2011 (271) ELT 161 (SC)**

(g) **Gabbar Engineering Co Vs CCE 2009 (244) ELT 552 (Tri-Ahmd)**

No suppression / misstatement if goods in question are classified under CTH 8424:

2.1.47. Further, extended period of limitation cannot be invoked in case the goods in question are classified under CTH 8424 in as much as there is no further incidence of tax and no revenue implications.

2.1.48. Reliance is placed on the cases of **Share Medical Care Vs Union of India 2007 (209) ELT 321 (SC)**, **Collector of Central Excise Vs Indian Petro Chemicals 1997 (92) ELT 13 (SC)** and **HCL Ltd Vs Collector of Customs 2001 (130) ELT 405 (SC)**.

2.1.49. Therefore, suppression or misstatement cannot be alleged in case the goods in question are classified under CTH 8424 instead of CTH 9018.

Extended period of limitation cannot be invoked for inaccurate self-assessment:

2.1.50. One of the grounds on which the extended period of limitation has been invoked in the SCN is that the Noticee had a significant responsibility for accurate self-assessment and any attempt to evade payment of duty through mis-declarations or fraudulent means can lead to penalties and demands.

2.1.51. In this regard, the Appellant submits that here can be a difference of opinion between the department and an assessee. An assessee may genuinely believe that duty is not leviable or leviable at a lesser rate,

2.1.52. while the department may believe that duty is leviable at a higher rate. The assessee may, therefore, pay less duty in the self-assessment carried out by the assessee, but this would not mean that the assessee has willfully suppressed facts. To invoke the extended period of limitation, at least one of the necessary elements contained in Section 28(4) of the Customs Act must be established and their existence cannot be presumed merely because the assessee is operating under self-assessment. In this regard, reliance is placed on the case of **Kanoria Energy & Infrastructure Ltd Vs Commissioner, CGST & Central Excise 2024 (9) TMI 1244 (Tri-Del)**.

2.1.53. In the instant case, the Noticee had not suppressed any facts from the department, much less with an intent to evade payment of duty. The extended period of limitation could not, in view of the aforesaid decisions have been invoked in the present case even if the bills of entry were self-assessed.

2.1.54. For the aforesaid reasons, extended period of limitation under Section 28(4) could not have been invoked.

GOODS IN QUESTION ARE NOT LIABLE FOR CONFISCATION:

2.1.55. that SCN seeks confiscation of the goods in question on the ground that the Noticee has misclassified the same.

2.1.56. that it is a well settled position of law that for imposing confiscation under 111(m) of the Customs Act, misdeclaration is required to be proved and if there is no case of misdeclaration, confiscation cannot be made. Reliance in this regard is placed on the following cases:

- **Commissioner Vs Sony Impex 2007 (215) ELT A49 (SC)**

- **Commissioner of Customs Vs Kapil International 2008 (228) ELT 139 (Tri)**

- **Impex Vs Commissioner of Customs 2005 (191) ELT 1121(Tri – Kolkata)**

- **Actis Technologies Pvt Ltd Vs Commissioner of Customs 2005 (189) ELT 121 (Tri – Mum).**

2.1.57. The SCN has completely disregarded the fact that the classification adopted by the Noticee is appropriate and there is no misdeclaration whatsoever. Therefore, the provision of Section 111(m) of the Customs Act is not invocable in the present case.

2.1.58. that classification is a departmental function, and misclassification is not a ground for confiscating the goods. Since the department clearly failed to discharge its functions in the instant case, the goods in question could not have been held to be liable for confiscation under Section 111(m) of the Customs Act at all. Reliance is placed on the cases of **Lietronics Vijay India Pvt Ltd Vs Commissioner of Customs (2009) 234 ELT 535**

(Tri-Chennai) and Jay Kay Exports and Industries Vs Commissioner of Customs 2004 (163) ELT 359 (Tri-Cal).

2.1.59. Reliance is placed on the cases of **Northern Plastic Ltd Vs Commissioner of Customs and Central Excise 1998 (101) ELT 549 (SC)**, **Kriti Sales Corporation Vs Commissioner of Customs 2008 (232) ELT 151 (Tri-Del)** and **Oriental Containers Ltd Vs Union of India 2003 (157) ELT 503 (Bom)**.

2.1.60. In view of the forgoing, confiscation under Section 111(m) of the Customs Act is not sustainable.

NO INTEREST LEVIABLE UNDER SECTION 28AA OF THE CUSTOMS ACT

2.1.61. In the absence of a duty liability, there is no justification for confirming the demand of interest or imposition of penalty. Further in terms of the law declared by the Hon'ble Supreme Court in **CCE Vs HMM Ltd 1995 (76) ELT 497 (SC)**, where the duty demand is in itself not sustainable and there has been no contravention of the Act or the Rules, no penalty can be leviable. Reference can also be made to the decision of the Hon'ble Supreme Court of India in the case of **Pratibha Processors Vs Union of India [1996 (88) ELT 12 (SC)]**, **Commissioner of Customs, Chennai Vs Jayathi Krishna & Co [2000 (119) ELT 4 (SC)]**.

2.1.62. The Noticee further submits that in the absence of deliberate design to misrepresent or conceal facts from the Department or to deliberately wrongly avail of the benefit of any exemption, there is no justification to demand interest by invoking the provisions of Section 28AA, as upheld in the Hon'ble Tribunal in the case of **Alexcon Foamcast Ltd Vs Commissioner of Customs [2003 (156) ELT 241 (Tri - Mum)]**.

2.1.63. Therefore, interest under Section 28AA of the Customs Act is not leviable.

NO PENALTY IS IMPOSABLE UNDER SECTIONS 114A AND 114AA OF CUSTOMS ACT

No penalty if duty demand itself is not sustainable:

2.1.64. It is pertinent to note that since the demand itself is not sustainable, there is no question of imposition of penalty in the present case under Section 114A of the Customs Act, as upheld in **Commissioner of Customs Vs MMK Jewellers [2008 (225) ELT 3 (SC)]** as affirmed by **Commissioner Vs. M.M.K. Jewellers [2009 (243) ELT A90 (SC)]**, **International Trade & Affairs Vs Commissioner of Customs [2003 (162) ELT 584 (Tri-Bang)]**, **Ravideep Exports Vs Commissioner of Customs [2001 (136) ELT 458 (Tri-Mum)]**.

Bona fide belief:

2.1.65. that no penalty is imposable under Section 114A of the Customs Act as in the present case, there is no instance of non-levy/short-levy/ interest not been charged or paid/ part paid/ erroneous refund of duty or interest and there is no collusion / wilful misstatement / suppression of facts at the time of clearance of goods. The SCN has failed to consider the settled law, *inter alia*, by the judgment of the Supreme Court in **CCE Vs Orient Fabrics Pvt Ltd [2003 (158) ELT 545 (SC)]** and **Assistant Commissioner Vs Velliappa Textiles Ltd [2003 (157) ELT 369 (SC)]** that penal statutes must be strictly construed and must be applied with precision. Section 114A is a penal provision, which can only be applied if the essential conditions thereunder are satisfied.

2.1.66. that unless the ingredients of Section 114A of the Customs Act are made out, penalty is not imposable, even when the demand itself is sustained. The SCN has erred in proposing to impose penalty under Section 114A in the present case when it has not been demonstrated, in terms of the burden of proof to be discharged, that there was short payment of duty by reason of collusion or wilful misstatement or suppression of facts. In the circumstances, the SCN ought to have appreciated that Section 114A of the Customs Act was not applicable in the present case at all. In this regard, the Noticee places reliance on **Jeetendra Shah Vs Commissioner of Customs [2009 (237) ELT 92 (Tri-Chennai)]** and **Hindustan Cargo Ltd Vs Commissioner of Central Excise [2007 (220) ELT 349 (Tri-Chennai)]**.

2.1.67. that in order to attract penalty under Section 114A of the Customs Act, *mens rea* is an essential requirement as has been held in the case of **Commissioner of Central Excise Vs Indo Dacin Leather [2011 (272) ELT 430 (Tri-Mum)]** and in the case of **H. Kumar Gadecha Vs Commissioner of Customs [2009 (243) ELT 248 (Tri-Ahmd)]**.

2.1.68. The SCN has also ignored the settled position in law that no penalty is imposable under Section 114A of the Customs Act in cases which do not involve mis-declaration at the time of clearance of imported goods, as upheld in **Hissar Medical Diagnostic & Hospitals Ltd Vs Commissioner of Customs [2006 (202) ELT 268 (Tri - Del)]**, **Commissioner of Customs Vs Wipro Ltd 2019 (368) ELT 901 (Mad)**, **Tamil Nadu Housing Board Vs CCE [1994 (74) ELT 9]**, **Hindustan Steel Ltd Vs State of Orissa [1978 (2) ELT J159]**, **Anti-friction Bearings Corporation Ltd Vs CCE [1995 (79) ELT 156]**.

No penalty if there were no misdeclarations:

- 2.1.69. that there is no allegation in the SCN that the documents submitted at the time of clearance were forged on ingenuine. Therefore, penalties cannot be imposed under Section 114AA of the Customs Act in as much as the Noticee had not "knowingly or intentionally" made any misdeclarations. Reliance can be placed on the case of **Interglobe Aviation Ltd Vs Principal Commissioner of Customs 2022 (379) ELT 235 (Tri-Bang)**.

No penalty if issue involved is interpretational in nature:

- 2.1.70. The SCN failed to appreciate that the Noticee had acted *bona fide* based on an understanding of the classification of the goods in question and interpretation of the tariff entry, supported by case law as well as definitions under statutes and lexicons, and without any intention to evade payment of duty, no penalty whatsoever was imposable on them. It is well settled that no penalties can be imposed where the issue involved is interpretational in nature. Reference can be made to the case of **NCR Corporation of India Pvt Ltd Vs CCE 2009 (240) ELT 136 (Tri-Chennai)**, **Alembec Ltd Vs Commissioner of Central Excise 2009 (241) ELT 439 (Tri-Ahmd)**, **Lewek Altair Shipping Pvt Ltd Vs Commissioner 2019 (366) ELT 318 (Tri-Hyd)** [The civil appeal against the above decision was dismissed by the Supreme Court as reported in **Commissioner Vs Lewek Altair Shipping Pvt Ltd 2019 (367) ELT A328 (SC)**], **Gabbar Engineering Co Vs Commissioner of Central Excise 2009 (244) ELT 552 (Tri-Ahmd)** and **CCE Vs Raja Forgings & Gears Ltd 2009 (233) ELT 404 (Tri-Del) (Para 7)**.

Liberal view to be taken while imposing penalties:

- 2.1.71. Without prejudice to the above, the Noticee submits that penalty imposable under Section 114A is not mandatory and the assessing authority has the discretion to impose penalty under the said section only in cases which merit such imposition, and therefore, invoking such discretion, no penalty is imposable in the present case, as upheld in the decision of the Larger Bench in **Al-Falah (Exports) Vs Commissioner of Central Excise [2006 (198) ELT 343 (Tri - LB)]**.
- 2.1.72. Without prejudice to the aforesaid and in any view of the matter, the imposition of penalty by the Department is excessive, harsh and disproportionate, and, therefore, requires to be dropped.

PENALTY CANNOT BE IMPOSED ON MR. RAHUL BAJAJ UNDER SECTION 112(a)/(b):

- 2.1.73. that penalty under section 112 on Mr. Rahul Bajaj is legally untenable in as much as the Noticee classified the impugned goods under CTH 9018 is in the knowledge of the department which is evident from the fact that Customs Department has issued the duly assessed bills of entry for the goods in question. Therefore, the Noticee (or Mr. Rahul Bajaj) have not committed any act or omission which leads to confiscation of goods under Section 111 and therefore no penalty can be imposed. Considering the bonafide belief of Mr. Rahul Bajaj that the goods in question are correctly classifiable under CTH 9018 and not under CTH 8509 as alleged in the SCN, there was no intention to evade the payment of duty and thus, penalty cannot be imposed. On this ground also, the order of the respondent may be set aside.
- 2.1.74. that there is no evidence to show that he has done anything with mens rea and since he had bona fide belief that the classification adopted by the Noticee in respect of goods in question is correct. Reliance can be placed on the decision of the Tribunal in the case of **MN Shah Vs Commissioner of Central Excise 2008 (232) ELT 110 (Tri-Mum)**.
- 2.1.75. None of the statements tendered by Mr. Rahul Bajaj are false or misleading. Further, merely because the classification in respect of subsequent shipments was changed to CTH 8509, that does not mean that the Mr. Rahul Bajaj was aware of the fact that the goods in question are to be classified under CTH 8509 beforehand. As stated in the statements tendered by Mr. Rahul Bajaj, the classification was changed only because other similar shipments of his industry peers were not cleared under CTH 9018. In this context, reliance is placed on the case of **Commissioner of Central Excise Vs Rakesh Singhal 2007 (208) ELT 432 (Tri-Del)**.
- 2.1.76. that imposition of penalty on Mr. Rahul Bajaj under Section 112 of the Customs Act is legally untenable in as much as no penalty can be imposed on him on the basis of wrong classification since there is neither personal involvement nor concealment with an intention to evade payment of duty. Mr. Rahul Bajaj made it clear in his statement recorded by the DRI that he has bona fide belief on the classification of goods in question. The statements are consistent, and no contradictions are made out. In this context, reliance is placed on the decision of the Tribunal in **AV Swamy Vs Commissioner of Customs 2009 (240) ELT 419 (Tri-Chennai)**.
- 2.1.77. that imposition of penalty is legally untenable in as much as the entire dispute with regard to classification of imported goods relates to interpretation of chapter headings, hence no penalty can be imposed on such transactions as the importer had bona fide belief with regard to the classification of the impugned goods. Several judicial precedents on this issue have already been cited supra. Reliance can however still be placed on **AG Shibu Vs CCE 2008 (10) STR 317**, **Anand Metal Industries Vs Commissioner of Central Excise 2005 (187) ELT 119 (Tri)**, classification is purely a legal issue.

2.1.78. Therefore, no penalty can be imposed under section 112 of Customs Act.

Written Submission of the Noticees viz. M/s. Bhatia Shipping Private Limited, Custom Broker of M/s Doc Brown Industries LLP

Brief Facts

- 2.2 M/s. Bhatia Shipping Private Limited, acting as the Customs Broker for M/s. Doc Brown Industries LLP, submitted written representations on 30.04.2025 in response to the show cause notice. The noticee clarified that as a Customs House Agent, their role was limited to filing bills of entry and facilitating payment of duties under the importer's instructions, without any responsibility for determining product classification. Statements recorded from their representative, Shri Arvind Mishra, and from Shri Rahul Rajkumar Bajaj of Doc Brown, both emphasized that classification decisions were not the responsibility of the CHA, and no admission of misclassification was made.
- 2.2.1 The show cause notice dated 05.02.2025 alleged misclassification by Doc Brown, leading to a duty shortfall of Rs. 2.42 crore, and further claimed that the noticee had suggested CTI 9018 4900 in draft checklists. It also pointed to statements indicating that Bhatia Shipping prepared draft checklists and filed bills of entry for both Doc Brown and Shodan Care Pvt. Ltd., allegedly admitting to misclassification by later suggesting CTI 8509 for similar goods. The noticee, however, contends that these allegations are unfounded, reiterating that the responsibility for classification lies solely with the importer, and therefore the show cause notice against them is liable to be dropped.
- 2.2.2 The Customs Broker's role, as defined under the Customs Brokers Licensing Regulations (CBLR), 2018, is limited to assisting importers with documentation and compliance, not independently determining product classification. The noticee highlights that there is no allegation or evidence of collusion with Doc Brown Industries LLP, nor any proof of willful misclassification on their part.
- 2.2.3 Further, the noticee stresses that they rely on the importer's expertise and documentation for classification, as they lack specialized technical knowledge of the products. They cite the Bombay High Court's ruling in Commissioner of Customs (General) v. Worldwide Cargo Movers (2006), which held that liability cannot be imposed on a customs broker unless active conspiracy in mis-declaration is proven. Consequently, the allegation that the noticee failed to suggest the correct classification is legally untenable, as the onus remains on the importer to declare goods accurately. In view of these submissions, the noticee asserts that the show cause notice is unsustainable and liable to be dropped.
- 2.2.4 The noticee submits that Instruction No. 20/2024 issued by CBIC makes it clear that proceedings against Customs Brokers must be conducted strictly under the Customs Brokers Licensing Regulations (CBLR), 2018, and kept distinct from duty or penalty demands under the Customs Act, 1962. The CBLR provides an independent framework for addressing alleged lapses by brokers, with Regulations 16 and 17 prescribing strict timelines and procedural safeguards to ensure fairness and due process. Therefore, implicating the noticee in a dispute over product classification without following these procedures is contrary to law and violates principles of natural justice.
- 2.2.5 Furthermore, the noticee highlights that mere interpretative disputes over classification cannot automatically justify action against a customs broker unless active involvement or collusion is proven. The CESTAT, New Delhi, has emphasized that an offence report must clearly establish the broker's role and abetment in any alleged violation. Instruction No. 20/2024 also directs that brokers should not be made co-noticees in routine disputes unless abetment is specifically demonstrated. In the present case, the show cause notice fails to provide any substantive proof of abetment or wrongdoing by the noticee, rendering the proceedings against them unsustainable.
- 2.2.6 The show cause notice alleges that the noticee suggested CTI 9018 4900 in draft checklists for Doc Brown and acknowledged that the products in dispute should fall under CTI 8509. The noticee strongly refutes this, asserting that they never discussed or suggested classification entries with Doc Brown. Their role was limited to preparing draft checklists based on documents received from the importer, which were then sent for approval before filing bills of entry. Statements from Shri Arvind Mishra confirm that classification decisions were made solely by the importer, and supporting evidence such as email exchanges and signed checklists further demonstrate that the noticee acted only on instructions provided by Doc Brown.
- 2.2.7 Additionally, the noticee pointed out that out of 55 Bills of Entry listed, only 28 were filed by them, with the rest filed by other entities. Many of the BOEs they filed were examined and cleared by customs authorities after queries and scrutiny, meaning the classification was accepted by the department itself. They argue that liability cannot be imputed for BOEs not filed by them, nor for those already examined and approved by

customs. Moreover, the statement of Shri Rahul Rajkumar Bajaj does not implicate the noticee but instead confirms that the bills of entry were filed under his direction. Thus, the allegations of misclassification against the noticee are unfounded, unsupported by evidence, and contrary to principles of natural justice.

- 2.2.8 The noticee argued that no penalty can be imposed under Regulation 18 of the CBLR, 2018 or Sections 117 and 146 of the Customs Act, 1962, as the allegations are factually and legally unsustainable. They emphasize that the customs broker's duty is limited to exercising due diligence based on information provided by the importer, not independently determining classification. Section 17 of the Customs Act places the responsibility of self-assessment, including classification and valuation, squarely on the importer. Regulation 18 requires proof of misconduct, mala fide intent, or gross negligence by the broker, none of which has been established in this case. Similarly, Section 117 applies only where negligence or intent to evade duty is proven, while Section 146 requires clear evidence of willful non-compliance. The noticee highlights that no element of abetment or mens rea has been demonstrated, citing judicial precedents to reinforce that penalties cannot be imposed without proof of active involvement or guilty intent.
- 2.2.9 Additionally, the noticee contended that no penalty can be imposed under Section 112 of the Customs Act, 1962, as they neither imported, transported, nor sold the goods in question, but merely acted as a facilitator for Doc Brown. The department has failed to produce corroborative evidence beyond statements, which cannot implicate the noticee without independent proof. Since the goods are neither prohibited nor restricted, Section 112 cannot be invoked. The noticee stresses that they acted bona fide, and in quasi-criminal proceedings like these, penalties require proof of mens rea beyond reasonable doubt, which is absent here. Relying on the landmark *Hindustan Steel Ltd. v. State of Orissa* judgment, they conclude that penalties cannot be imposed for mere technical or procedural lapses without intent to evade duty. Therefore, the show cause notice is liable to be quashed.
- 2.2.10 The noticee submitted that penalty under Section 112 of the Customs Act, 1962 requires proof of mens rea—knowledge or belief that the goods were liable to confiscation. In this case, the department has failed to establish that the noticee, acting only as a Customs Broker for Doc Brown, had such knowledge or intent. The noticee derived no personal gain from the alleged misclassification, and therefore, the essential ingredients for imposing penalty are absent. As a result, the show cause notice is unsustainable and liable to be set aside.
- 2.2.11 The burden of proof lies squarely on the department to demonstrate that the noticee knowingly abetted misclassification or mis-declaration. This burden has not been discharged, as corroborated by several Tribunal decisions such as Buhariwala Logistics, Deepak Kumar, Prime Forwarders, and Parekh & Sons. None of the recorded statements implicate the noticee, and without evidence of abetment, penalties under Sections 112, 114AA, or Regulation 18 of CBLR, 2018 cannot be justified. Penal provisions must be applied strictly and cannot be invoked whimsically, as held by the Supreme Court in *Orient Fabrics, Tamil Nadu Housing Board, and Hindustan Steel Ltd.*
- 2.2.12 The reliance placed by the department on statements recorded during investigation is misplaced, since these statements are exculpatory and do not establish any willful misclassification by the noticee. Classification disputes are matters of legal interpretation, not admissions, and cannot be resolved solely on statements without corroborative evidence. Moreover, the goods were rightfully classified under CTI 9018 4900, and the bills of entry were duly assessed and cleared by customs authorities. Thus, the proceedings are beyond jurisdiction and lack legal authority.
- 2.2.13 Finally, the show cause notice is vague, cryptic, and bereft of reasoning, failing to specify how the noticee is liable to penalty. It proceeds on presumptions without evidence of suppression or misconduct by the Customs Broker. Judicial precedents such as *Amrit Foods, Brindavan Beverages, and Mahindra & Mahindra* confirm that demands unsupported by clear grounds are unsustainable. Additionally, the notice is barred by limitation. In view of these submissions, the noticee prays that the proceedings initiated under the show cause notice be dropped forthwith in toto.

3. RECORD OF PERSONAL HEARINGS

- 3.1. In compliance of provisions of Section 28(8) read with Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, the Noticees viz., M/s. Doc Brown Industries LLP, Sh. Rahul Rajkumar Bajaj, Partner of M/s. Doc Brown Industries LLP and M/s. Bhatia Shipping Pvt. Ltd. (Customs Broker) were granted opportunity of Personal Hearing on 02.12.2025. On 02.12.2025, Mr. Rajath Bharadwaj, Advocate, appeared in person on behalf of M/s. Doc Brown Industries LL and Sh. Rahul Rajkumar Bajaj, Partner of M/s. Doc Brown Industries LLP before the Adjudicating Authority. He reiterated the contents of reply to SCN submitted dated 30.04.2025 acknowledged on 06.05.2025 and requested for dropping of the charges levelled against the said

Noticees in the SCN. Also, on 02.12.2025, Mr. Mahesh Raichandani, Advocate, appeared in virtual Personal Hearing on behalf of M/s Bhatia Shipping Pvt. Ltd. (Customs Broker) before the Adjudicating Authority. He reiterated the contents of submission to subject SCN submitted vide email dated 28.11.2025 and requested for dropping of the charges levelled against the Noticee in the SCN.

4. DISCUSSION AND FINDINGS

4.1 I have carefully gone through the subject Show Cause Notice (SCN) and its enclosures, material on record and facts of the case, as well as oral submissions made during the PH and written submission made by the Noticees.

4.2 Section 122A of the Customs Act, 1962, stipulates that the Adjudicating Authority shall give an opportunity of being heard to a party in a proceeding, if the party so desires. The adjudicating authority may, if sufficient cause is shown, at any stage of proceeding, grant time, from time to time, to the parties or any of them and adjourn the hearing, provided that no such adjournment shall be granted more than three times to a party during the proceeding.

4.3 I find that in compliance to the provisions of the Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunities for Personal Hearing (PH) were granted to both the Noticees. Thus, the principles of natural justice have been followed during adjudication proceedings. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the allegation made in the SCN as well as the Submission/Contention made by both the Noticees.

4.4 The Noticees have placed reliance on various judgments of Tribunals, High Courts and Apex Court on various issues, however, I find that the facts and circumstances involved in these judgements are not similar to facts and circumstances of the case in hand. Further, I find that the Hon'ble Supreme Court of India in case of *Ambica Quarry Works Vs. State of Gujarat & Others* [1987(1) S.C. C. 213] observed that "*the ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides and not what logically follows from it.*" Further in the case of *Bhavnagar University Vs. Palitana Sugar Mills (P) Ltd.* 2003 (2) SCC 111, the Hon'ble Apex Court observed "*It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.*"

One other reference on the situation, I have noted is the decision of the Hon'ble Supreme Court in *Ispat Industries Vs. Commissioner of Customs, Mumbai* [2004 (202) ELT 56C (SC)], wherein, the Hon'ble Court has quoted Lord Denning and ordered as under:

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly reliance on a decision is not proper.

The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

4.5 I find that the investigations against M/s Doc Brown by DRI, Bhopal Regional Unit revealed that the importer was engaged in import of goods - Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser, from China under Customs Tariff Item (CTI) 90184900 and thereby paying BCD, Health Cess, SWS & IGST at the rate of 7.5%, 5%, 10% & 12% (paid IGST@12% as per Notification No. 01/2017- Integrated tax (Rate) dated 28.06.2017), respectively. From analysis of the 55 and 31 Bills of Entry related to the said imported goods i.e. Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser, respectively during the period from 07.02.2020 to 17.02.2024 at ports bearing code INNSA1 & INBOM4, it was revealed that the said imported goods i.e. Oral Irrigator/Flosser/Water Flosser are Electro-Mechanical Domestic Appliances with self-contained Electric Motor and thus appear to be correctly classifiable under CTI 85098000 attracting BCD, SWS & IGST at the rate of 20%, 10% & 18%, respectively. Further, Parts/Accessories of Oral Irrigator/Flosser/Water Flosser appear to be correctly classifiable under respective Customs Tariff Head under CTI 85099000 attracting BCD, SWS & IGST at the rate of 10%, 10% & 18%, respectively.

4.6 I find that during the investigation, based on perusal of the website of Brand Caresmith, it was revealed that the aforesaid imported goods Oral Irrigator/Flosser/Water Flosser are meant for everyday oral healthcare routine, and are personal care items and not the items that are used in professional practices. Also, the aforesaid imported goods available on the website are hand-operated and table top appliances, portable and weigh less than 20 kg and they are fitted with electric motor. Further, during the investigation, on-going through various

E-Commerce websites such as Amazon, Flipkart, Nykaa and importer's website i.e. Caresmith, it was revealed that the Oral Irrigator/Flosser/Water Flosser are readily available on the afore-mentioned websites from which any individual can easily purchase such goods for oral healthcare for personal use without a doctor's prescription. Also, during the investigation it was revealed that as per User Manual of Caresmith (Caresmith is a brand of Doc Brown Industries LLP and subsequently Shodan Care Pvt. Ltd.) Professional Cordless Flosser the Water Flosser/Oral Irrigator is "For Household use only. Do not use outdoors". From the collective facts stated above, it appears that the said imported goods i.e., "Oral Irrigator/Flosser/Water Flosser" is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor whose weight is less than 20 kg.

- 4.7. I find that during the investigation based on the submissions received by DRI through email and statements recorded under Section 108 of the Customs Act, 1962 at the office of DRI, it was revealed that the importer Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP had admitted to mis-classification of Oral Irrigator/Flosser/Water Flosser under CTI 90184900, by stopping the import of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 on the IEC of Doc Brown Industries LLP from 17.02.2024 onwards and he started importing same goods Oral Irrigator/Flosser/Water Flosser and parts/accessories of Oral Irrigator/Flosser/Water Flosser on his another new firm i.e. Shodan Care Private Limited under correct CTI 85098000. He also admitted that he changed the CTH of the goods i.e. Oral Irrigator/Flosser/Water Flosser & Parts/Accessories of Oral Irrigator/Flosser/Water Flosser from CTH 9018 to CTH 8509 on the IEC of Shodan Care Private Limited from 16.04.2024. Further, he stated that he has never requested for provisional assessment nor contested or filed any appeal before the Customs Authorities or any other authorities that whether the said goods are classifiable under CTH 8509 or CTH 9018 and no documentary evidence has been provided by him to DRI in this regard. Additionally, during the investigation GST E-way Bill portal analysis revealed that the importer Doc Brown Industries LLP, Mumbai (GSTIN – 27AAPFD1171LZ5) had been clearing Flosser under the HSN Code – 85098000 since May, 2024 onwards, thereby admitting the correct classification.
- 4.8. I find that during investigation DRI sought clarification vide their letter dated 05.07.2024 from Dental Council of India (DCI), New Delhi and Madhya Pradesh Dental Council of India (MPDCI), Indore. I find that MPDCI vide their letter dated 05.08.2024 replied that *water flosser is Oral Hygiene maintenance device used by patients and list of instruments required for dental institutions is published and updated by DCI on their website*. Further, I find that DCI, New Delhi vide their dated 06.09.2024 replied that *Dentists often recommended water flosser as complementary tool to traditional flossing, so as to enhance oral hygiene to address different aspects of plaque, debris removal, sensitive/ inflamed/ bleeding gums and for effective cleaning around braces, implant, gums and bridges and Water Flosser/ Oral Irrigator is not an instrument/ appliance that is mentioned or covered in the list of instruments/ appliances issued by the Dental Council of India*.
- Further, I find that during the investigation, the noticee failed to produce any evidence in support of their claim that the water flosser/oral irrigator instrument is used by any Professionals such as doctors or dentists while performing their professional functions or for specific treatment of any disease.
- 4.9. I find that during the course of investigation, upon scrutiny of the website of Caresmith Brand (www.caresmith.com), it was observed that in the 'Contact Us' section, the firm name was changed from Doc Brown Industries LLP to Shodan Care Private Limited. From this, it was revealed that Shri Rahul Rajkumar Bajaj, Partner of Doc Brown Industries LLP and Director of Shodan Care Private Limited, has intentionally changed the firm name. I find that he has also admitted in his statement dated 06.06.2024 recorded under Section 108 of the Customs Act, 1962 that "*the Caresmith website i.e. www.caresmith.com was run by firm i.e. Doc Brown Industries LLP, Mumbai and is now run by Shodan Care Private Limited, Mumbai.*"
- 4.10. I find that the CHA of Doc Brown Industries LLP through Shri Arvind Mishra, Authorised Representative of Bhatia Shipping Private Limited, admitted in his statement dated 21.05.2024 recorded under Section 108 of the Customs Act, 1962 that Bhatia Shipping Private Limited has been looking after the Customs related Work of Doc Brown Industries LLP since 2019. Their firm suggested CTI 90184900 in the draft checklist for the said imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser to the importer Doc Brown Industries LLP. Also, he acknowledged that the imported goods Oral Irrigator/Flosser/Water Flosser is an electro-mechanical domestic appliance with a self-contained motor and falls under CTI 85098000 and Parts/ Accessories of Oral Irrigator/Flosser/Water Flosser fall under CTI 85099000. Thus, in view of above, the SCN alleges that Bhatia Shipping Private Limited, CHA of Doc Brown Industries LLP has admitted to mis-classification of Oral Irrigator/Flosser/Water Flosser and Parts/ accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 and did not suggest the correct classification of imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser to the importer Doc Brown Industries LLP, that has been mandated under regulation 10 of the Customs Brokers Licensing Regulations (CBLR), 2018 read with Section 146 of the Customs Act, 1962.

- 4.11. I find that the SCN alleges that M/s. Doc Brown Industries LLP had not disclosed the correct classification of the imported goods **Oral Irrigator/Flosser/Water Flosser** and **Parts/Accessories of Oral Irrigator/Flosser/Water Flosser** before the Customs while filing the Bills of Entry for the clearance of the said imported goods and have knowingly mis-classified the said imported goods under Customs Tariff Item (CTI) 90184900 instead of the correct Customs Tariff Items (CTI) 85098000 for Oral Irrigator/Flosser/Water Flosser and 85099000 for Parts/Accessories of Oral Irrigator/Flosser/Water Flosser. The same was done with the sole intention to evade the payment of applicable duty leviable thereon. Therefore, the differential duty, in respect of Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser, is proposed to be demanded and recovered under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962. I find that the SCN also proposes confiscation of the impugned goods and imposition of penalty on the importer, Shri Rahul Rajkumar Bajaj, Partner of M/s Doc Brown Industries LLP and Director of Shodan Care Private Limited, and the Customs Broker M/s. Bhatia Shipping Private Limited.
- 4.12. Furthermore, the Legal position about the importance and validity of statements rendered under Section 108 of the Customs Act, 1962 is well settled. It has been held by various judicial fora that Section 108 is an enabling act and an effective tool in the hands of Customs to collect evidences in the form of voluntary statements. The Hon'ble Courts in various judicial pronouncements, have further strengthened the validity of this enabling provision. It has been affirmed that the statement given before the Customs officers is a material piece of evidence and certainly can be used as substantive evidence, among others, as held in the following cases:
- i *Asst. Collector of Central Excise, Rajamundry v. M/s. Duncan Agro India Ltd.* reported in 2000 (120) E.L.T. 280 (S.C.) : Statement recorded by a Customs Officer under Section 108 is a valid evidence
 - ii In 1996 (83) E.L.T. 258 (S.C.) in the case of *Shri Naresh J. Sukawani v. Union of India* : “ 4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act.”
 - iii It was held that statement recorded by the Customs officials can certainly be used against a co-noticee when a person giving a statement is also tarnishing his image by making admission of guilt. Similar view was taken in the case of *In Gulam Hussain Shaikh Chougule v. S. Reynolds* (2002) 1 SCC 155 = 2001 (134) E.L.T. 3 (S.C.)
 - iv *State (NCT) Delhi Vs Navjot Sandhu @ Afsan Guru*, 2005 (122) DLT 194 (SC): Confessions are considered highly reliable because no rational person would make admission against his interest unless prompted by his conscience to tell the truth. “Deliberate and voluntary confessions of guilt, if clearly proved are among the most effectual proofs in law.” (Vide Taylors’s Treatise on the Law of Evidence, VI. I).
 - v Hon’ble Supreme Court in the case of *Kanhailal Vs. UOI*, 2008 (1) Scale 165 observed: “ *The law involved in deciding this appeal has been considered by this court from as far back as in 1963 in Pyare Lal Bhargava’s case (1963) Supp. 1 SCR 689. The consistent view which has been taken with regard to confessions made under provisions of section 67 of the NDPS Act and other criminal enactments, such as the Customs Act, 1962, has been that such statements may be treated as confessions for the purpose of Section 27 of the Indian Evidence Act.*”
 - vi The Hon’ble Supreme Court in the case of *Badaku Joti Savant Vs. State of Mysore* [1966 AIR 1746 = 1978 (2) ELT J 323 (SC 5-member bench)] laid down that statement to a Customs officer is not hit by section 25 of Indian Evidence Act, 1872 and would be admissible in evidence and in conviction based on it is correct.
 - vii In the case of *BhanaKhalpa Bhai Patel Vs. Asstt. Collr. of Customs, Bulsar* [1997 (96) E.L.T. 211 (SC)], the Hon’ble Apex Court at Para 7 of the judgment held that :-“ *It is well settled that statements recorded under Section 108 of the Customs Act are admissible in evidence vide Romesh Chandra v. State of West Bengal, AIR 1970 S.C. 940 and K.I. Pavunny v. Assistant Collector (H.Q.), Central Excise Collectorate, Cochin, 1997 (90) E.L.T. 241 (S.C.) = (1997) 3 S.C.C. 721.*”
 - viii In the case of *Raj Kumar Karwal Vs. UOI & Others* (1990) 2 SCC 409, the Court held that *officers of the Department of Revenue Intelligence who have been vested with the powers of an Officer-in-Charge of a police station under Section 53 of the NDPS Act, 1985, are not police officers within the meaning of Section 25 of the Evidence Act. Therefore, a confessional statement recorded by such officer in the course of investigation of a person accused of an offence under the Act is admissible in evidence against him.*

ix The Hon'ble Supreme Court's decisions in the case of Romesh Chandra Mehta Vs. the State of West Bengal (1969) 2 S.C.R. 461, A.I.R. 1970 S.C. 940. The provisions of Section 108 are judicial provisions within statement has been read, correctly recorded and has been made without force or coercion. In these circumstances there is not an iota of doubt that the statement is voluntary and truthful. The provisions of Section 108 also enjoin that the statement has to be recorded by a Gazetted Officer of Customs and this has been done in the present case. The statement is thus made before a responsible officer and it has to be accepted as a piece of valid evidence.

x Jagjit Singh vs State of Punjab And Another, Hon'ble Punjab and Haryana High Court in Crl. Appeal No.S-2482-SB of 2009 Date of Decision: October 03, 2013 held that : *The statements under Section 108 of the Customs Act were admissible in evidence as has been held by the Hon'ble Supreme Court in Ram Singh vs. Central Bureau of Narcotics, 2011 (2) RCR (Criminal) 850.*

4.13 In view of the above referred consistent judicial pronouncements, the importance of statements rendered under Section 108 of the Customs Act, 1962 during the case is quite imperative. I find that the statements made in the case were voluntary and are very much valid in Law and can be relied upon as having full evidentiary value.

4.14. On 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:

(A) Whether or not the classification of imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 should be rejected and both should be re-classified under CTI 85098000 and CTI 85099000, respectively.

(B) Whether or not total Short paid Customs Duty (BCD+SWS+IGST) amounting to **Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only)** (as worked out in Tables- C, D & E of the notice) by the act of mis-classification of the subject goods by wilful mis-statement and suppression of facts, should be demanded and recovered under section 28(4) of the Customs Act, 1962 along with interest under Section 28AA *ibid*.

(C) Whether or not the said goods imported under the 55 Bills of Entry as mentioned in Table-A of the notice and 31 Bills of Entry as mentioned in Table-B of the notice, by way of mis-classifying the said goods instead of the correct Customs Tariff Items imported in violation of Section 46 of Customs Act, 1962 having total assessable value of **Rs. 14,62,74,582/- (Rupees Fourteen Crore, Sixty-Two Lacs, Seventy-Four Thousand and Five Hundred Eighty-Two only)** (as worked out in Tables- C, D & E of the notice) should be confiscated under Section 111(m) of the Customs Act, 1962.

(D) Whether or not penalty under Section 114A of the Customs Act, 1962, should be imposed upon the importer for their act of duty Short paid and wilful mis-statement and suppression of facts.

(E) Whether or not Penalty under Section 114AA of the Customs Act, 1962, should be imposed upon the importer for their act of duty short paid by way of knowingly and intentionally mentioning that it is a Dental Equipment and Accessories of Dental Equipment in the 'Items Description' section in Bills of Entry for the said imported goods, without any proof, with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts.

(F) Whether or not Penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962, should be imposed upon Shri Rahul Rajkumar Bajaj, Partner of M/s Doc Brown Industries LLP bearing IEC AAPFD1171L and Director of Shodan Care Private Limited, Mumbai (IEC ABKCS3586M), for his act with an intention to evade Customs Duty by way of suppression of facts and wilful mis-statement.

(G) Whether or not Penalty under Regulation 18 of Customs Brokers Licensing Regulations (CBLR), 2018 and under Section 117 and/or Section 146 of the Customs Act, 1962, should be imposed upon the Customs Broker M/s. Bhatia Shipping Private Limited (CHA Code AAACB2985LCH001) for his act of non-compliance of the CBLR Regulations, 2018. Whether or not Penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962, should be imposed upon M/s. Bhatia Shipping Private Limited.

4.15. After having framed the substantive issues raised in the SCN which are required to be decided, I now proceed to examine each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN; provision of the Customs Act, 1962; nuances of various judicial pronouncements, as well as Noticee's oral and written submissions and documents / evidences available on record.

4.16. **Whether or not the classification of imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 should be rejected and both should be re-classified under CTI 85098000 and CTI 85099000, respectively.**

4.16.1 I find that the noticee had imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 and thereby paying BCD, Health Cess, SWS & IGST at the rate of 7.5%, 5%, 10% & 12% (paid IGST@12% as per Notification No. 01/2017- Integrated tax (Rate) dated 28.06.2017), respectively. As per subject SCN, aforesaid Oral Irrigator/Flosser/Water Flosser is correctly classifiable under CTI 85098000 attracting BCD, SWS & IGST at the rate of 20%, 10% & 18%, respectively, while Parts/Accessories of Oral Irrigator/Flosser/Water Flosser are correctly classifiable under CTI 85099000 attracting BCD, SWS & IGST at the rate of 10%, 10% & 18% respectively. Also, it is alleged in the SCN that the Noticee has mentioned "Dental Equipment" in the "Item Description" field provided in the Bills of Entry to justify the classification of the goods in question under CTH 9018 without any documentary proof. Thus, I find that the main issue involved here is determination of correct classification for the aforesaid impugned goods.

4.16.2 It is settled law that the classification of goods under First Schedule of the Customs Tariff Act, 1975, is governed by the General Rules of Interpretation (hereinafter referred to as "GRI") and the same needs to be followed. The relevant extract of GRIs is as follows:

"General Rules for the interpretation of this Schedule Classification of goods, in this Schedule shall be governed by the following principles:

1. The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:"

Thus, GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and the headings and legal notes do not otherwise require, then and only then the remaining GRIs may be applied. In this regard, I rely on the case of the Larger Bench of the Tribunal in the matter of **Saurashtra Chemical Vs. CC - 1986 (23) ELT 283 (Tri-LB)**. The above decision of the Tribunal was upheld by the **Hon'ble Supreme Court of India in 1997 (95) ELT 455 (SC)**.

4.16.3. I find that the HSN Explanatory Notes constitute the official interpretation of the nomenclature at the international level. While not legally binding, they do represent the considered views of classification experts of the Harmonized System Committee. It is well settled that the Explanatory Notes have persuasive value and in the event of disputes, Courts in a number of cases have upheld seeking recourse to the Explanatory Notes. In this regard, I rely on the case of **O. K. Play (India) Vs. CCE — 2005 (180) ELT 300 (SC)**, wherein the Hon'ble Supreme Court made the following observations:

- a. There cannot be a static parameter for correct classification.
- b. HSN along with the explanatory notes provide a safe guide for interpretation of an Entry.
- c. Functional utility, design, shape, and predominant usage have also got to be taken into account while determining the classification of an item.
- d. Afore-stated aids and assistance are more important than the names used in the trade or common parlance in the matter of correct classification.

4.16.4 Further, the Hon'ble Apex Court in **L.M.L. Limited Vs. CC - 2010 (258) ELT 321 (SC)** held that in order to resolve a dispute on tariff classification, internationally accepted nomenclature emerging from HSN Explanatory Notes is a safe guide for classification. Further HSN explanatory Notes are also a dependable guide for interpretation of Customs Tariff apart from interpreting Central Excise Tariff,

4.16.5 The Hon'ble Mumbai Tribunal in the case of **Nestle India Vs. CCE - 2008 (227) ELT 631 (Tri)** [maintained by the Hon'ble Supreme Court in 2009 (237) ELT 102 (SC)] has held as under:

"Moreover, it is now well settled by various decisions of the Hon'ble Apex Court that HSN Explanatory notes are not only of persuasive value, but are entitled to far greater consideration in classifying goods under the Central Excise and the Customs Tariff as held by the Hon'ble Supreme Court in the case of Collector of Customs, Bombay v. Business Forms Ltd - 2002 (142) ELT 18 (S.C). Following its earlier decision in the case of CCE, Shillong v. Wood Craft Products Ltd. - 1995 (77) E.L.T. 23(8.C0)."

4.16.6. I note that the noticee had classified the subject imported goods under CTI 90184900. Therefore, Customs Tariff Heading 9018 merits some deliberation. The CTH 9018 and its WCO Explanatory notes are reproduced as under:

CTH 9018:

9018: Instruments And Appliances Used In Medical, Surgical, Dental Or Veterinary Sciences, Including Scientigraphic Apparatus, Other Electromedical Apparatus And Sight-Testing Instruments

.....

Other Instruments And Appliances, Used In Dental Sciences:

9018 41 00 -- Dental Drill Engines, Whether or Not Combined On A Single Base With Other Dental Equipment

9018 49 00 – Other

WCO Explanatory notes of CTH 9018:

“This heading covers a very wide range of instruments and appliances which, in the vast majority of cases, are used only in professional practice (e.g., by Doctors, surgeons, dentists, veterinary surgeons, midwives), either to make a diagnosis, to prevent or treat an illness or to operate, etc. Instruments and appliances for anatomical or autoptic work, dissection, etc., are also included, as are, under certain conditions, instruments and appliances for dental laboratories (see Part (II) below). The instruments of the heading may be made of any material (including precious metals).”

- 4.16.7 Based on conjoint reading of Customs Tariff Heading 9018 of First Schedule of Customs Tariff Act, 1975, and its WCO Explanatory, it is evident that a key criterion for classification under CTH 9018 is that the goods should be instruments or appliances principally or solely used in professional clinical or laboratory setting. Thus, it means that the instruments or appliances which have **principal use or end-use in professional clinical or laboratory settings** should be classified under CTH 9018.
- 4.16.8 It is a settled position of law that end use is a relevant criterion for classification only when the tariff entry or chapter note itself incorporates such use, in which case the classification under that Heading or entry must establish compliance with the said requirement. {Ref: Kumudam Publications (P) Limited [1997 (96) E.L.T. 226 (S.C.)]}
- 4.16.9 In this regard, reference can be further made to the decision of Hon’ble Tribunal in the case of Camlin Limited [2000 (121) E.L.T. 178 (Tribunal)] wherein while determining the classification of ‘Aluminium ferrules designed for bonding the rubber eraser with the lead pencil’ it was held that “on the aspect of functionality we find that the aluminium ferrules are solely designed for use in the pencils and therefore become parts meriting classification under the same entry as the lead pencils”.
- 4.16.10. From the technical descriptions and statements on record, I note that the Water Flosser/Oral Irrigator has following nature and characteristic features:
- (a) it contains a **self-contained electric motor and pump**,
 - (b) it is powered by **rechargeable battery or electricity**,
 - (c) it has a water reservoir/tank and interchangeable tips,
 - (d) it is portable and consumer-friendly,
 - (e) it is designed for oral hygiene by directing a pressurized water jet between teeth and gums,
 - (f) It is an appliance used by an individual for oral care and used at anywhere such as office, home etc.
 - (g) The Hand-Held Water Flosser weighs around 200 grams to 300 grams approximately and the Table-Top Water Flosser weighs around 600 grams to 800 grams approximately and has water tank capacity of 600 ml (approx.).
- 4.16.11 The aforementioned characteristic features establish that the impugned goods are electro-mechanical appliances incorporating self-contained electric motor and pump, and powered by electricity/rechargeable batteries. Accordingly, I hold that the impugned goods are electro-mechanical machines incorporating self-contained motor weighing less than 20kg.
- 4.16.12. I find that during the investigation following facts were revealed:
- (a) the noticee in the statements recorded under Section 108 of the Customs Act, 1962, admitted that no license or approval from CDSCO or any health authority is required for import or sale of the product.
 - (b) the impugned goods are readily available to the consumers on the e-commerce platforms and sold directly to customers without any doctor’s prescription.
 - (c) The product user manual specifies **“For household use only”**.

- (d) The Dental Council of India (DCI) and Madhya Pradesh Dental Council of India (MPDCI) clarified that Water Flosser/Oral Irrigator is **not included in the list of dental instruments/appliances**, and is only recommended as a complementary oral hygiene tool.
- (e) the Noticee in their statement recorded under Section 108 of the Customs Act, 1962, admitted that they had no evidence to establish that the impugned goods are meant for professional use or sold as such.

4.16.13. In view of above, I am of considered view that the impugned goods are not instruments used solely or principally by dental professionals in clinical or laboratory settings. At best, they are consumer oral hygiene devices which may be recommended by dentists, but recommendation by a professional does not convert a consumer product into a professional dental instrument. Therefore, the essential requirement of principal use or end-use for classification under CTH 9018 is not satisfied.

4.16.14 I find that the SCN has proposed the classification of aforesaid Oral Irrigator/Water Flosser/Flosser under CTI 85098000. Therefore, it would be worthwhile to look at the Customs Tariff Heading 8509, relevant Chapter Notes and WCO Explanatory Notes which cover the goods of broad description as under:

CTH 8509:

8509		8509 ELECTRO-MECHANICAL DOMESTIC APPLIANCES, WITH SELF CONTAINED ELECTRIC MOTOR, OTHER THAN VACUUM CLEANERS OF HEADING 8508.
8509 40	-	Food grinders and mixers; fruit or vegetable juice extractors:
8509 40 10	---	Food grinders
85094090	---	Other
85098000	-	Other appliances
85099000	-	Parts

Chapter Notes of CTH 8509:

“4. Heading 8509 covers only the following electro-mechanical machines of the kind commonly used for domestic purposes:

- (a) floor polishers, food grinders and mixers, and fruit or vegetable juice extractors, of any weight;
- (b) other machines provided the weight of such machines does not exceed 20 kg.”

WCO Explanatory Notes of CTH 8509:

“This head covers a number of domestic appliances in which an electric motor is incorporated. The term “domestic appliances” in this heading means appliances normally used in the household. These appliances are identifiable according to type, by one or more characteristic features such as overall dimensions design capacity, volume. The yardstick for judging these characteristics is that the appliances in question must not operate at a level in excess of household requirements.

Subject to the exclusions and in appropriate cases the limitations of weight given in Chapter Note 4, the heading covers apparatus which fulfil the above criteria. The heading does not cover appliances driven by a separate electric motor (whether by means of a flexible shaft, transmission belts or other transmission equipment) nor appliances which though similar in construction and use, are clearly intended solely for industrial use (e.g., in the food industries, in chimney sweeping machine cleaning or road cleaning); these are classified, in general in heading 82.10 or in Chapter 84.

The appliances of this heading are of two groups (see Chapter Note 4):

(A) A limited class of articles are classified here irrespective of their weight.

This group consists of the following only:

- (1) **Floor polishers** (whether or not with a waxing attachment, and whether or not with a heating element for liquefying the wax).
- (2) **Food grinders and mixers** e.g. grinders for meat fish, vegetables or fruit multi-purpose grinders (for coffee, rice, barley split peas etc.); milk shakers; ice cream mixers; sorbet mixers; dough kneaders; mayonnaise beaters; other similar grinders and mixers (including those which by means of interchangeable parts, can also be used for cutting or other manipulations).
- (3) **Fruit or vegetable juice extractors.**

(B) A non-limited class of articles are classified in this heading provided their weight is 20 kg or less.

This group includes, inter alia:

- (1) Floor scrubbing, scraping or scouring appliances, and appliances for sucking up dirty water or soap suds after scrubbing.
- (2) Appliances for spraying polish on to floors before polishing. These are usually fitted with heating elements to liquefy the wax.
- (3) Kitchen waste disposers. These devices are designed to be attached to the kitchen sink and are used to grind kitchen waste.
- (4) Peelers, chippers, cutters, etc., for potatoes or other vegetables.
- (5) Slicers of all kinds (e.g., for meat, sausages, bacon, cheese, bread, fruit or vegetables).
- (6) Knife sharpeners and cleaners.
- (7) Electric tooth brushes.
- (8) Air humidifiers and dehumidifiers.”

4.16.15 On perusal of Customs Tariff Heading, relevant Chapter Notes and WCO Explanatory Notes, it is evident that the goods which are not “floor polishers, food grinders and mixers, and fruit or vegetable juice extractors, of any weight” must fulfill all the following three conditions to be classified under CTH 8509:

- (i) the goods must be electro-mechanical machines with self-contained electric motor.
- (ii) the goods must be of kind commonly used for domestic purposes. This condition establishes principal use or end-use of the goods should be for domestic purpose
- (iii) the weight of the machines does not exceed 20kg.

4.16.16 In para 4.16.11, I have determined that the impugned goods Oral Irrigator/Water Flosser electro-mechanical machines incorporating self-contained motor weighing less than 20kg. Therefore, Water Flossers satisfy above-mentioned condition (i) and (iii). 1

4.16.17. Further, based on conjoint reading of Customs Tariff Heading, Chapter Notes and WCO Explanatory Notes, I find that the expression “domestic appliance” appearing under CTH 8509 is not confined to kitchen appliances or equipment used for household upkeep. In classification jurisprudence, the term “domestic” is understood to mean appliances of a kind normally intended for use by individuals for personal or household purposes, as opposed to appliances designed for professional, industrial or institutional use. The determination of domestic character depends on objective factors such as the nature and design of the appliance, its typical user, the place and manner of use, and its commercial and regulatory identity.

4.16.18 In the instant case, the impugned Water Flosser is designed for routine personal oral hygiene and preventive dental care by individual users. It is ordinarily used in household bathrooms as part of daily personal care, in the same manner as other accepted domestic appliances such as electric toothbrushes, electric shavers and personal grooming devices. The appliance is compact, portable and user-friendly, operates on a self-contained electric motor, and does not require any specialised skill, calibration, clinical setup or professional supervision for its use.

4.16.19 The manner in which the goods are marketed and sold further establishes their domestic character. The Water Flosser is sold directly to consumers through e-commerce platforms as a personal care product, without prescription or restriction. It is not marketed as dental clinic equipment, nor the Noticee could produce any evidence in support of intended institutional or professional dental use. The commercial perception and market identity of the product is that of a consumer oral-care appliance rather than a medical or dental instrument.

4.16.20 It is also relevant that the impugned goods are not regulated as medical or dental devices and do not require any license or approval from health authorities for import, sale or use. The absence of regulatory control

applicable to professional medical or dental instruments reinforces the conclusion that the product is not regarded in trade or law as a professional dental appliance.

4.16.21 On the basis of above factors, namely, the design and functionality of the goods, their principal use by individual consumers not by professionals in clinical or laboratory settings, the domestic environment in which they are ordinarily used, their market identity as personal care appliances, and the absence of medical regulation, I find that the impugned Water Flosser squarely satisfies the condition (ii) of “principal use or end-use of domestic purpose” as understood under Heading 8509 of the Customs Tariff. Therefore, I find that Water Flosser/Oral Irrigator satisfies all the aforementioned three conditions. Accordingly, I hold that the impugned goods Water Flossers/Oral Irrigators are correctly classifiable under CTI 85098000.

4.16.22 In view of above, as I have determined the classification of the principal product under CTI 85098000, therefore, its identifiable parts and accessories are appropriately classifiable under **CTI 85099000**, in terms of Section XVI Note 2 (b) and the scheme of the tariff. The Section XVI Note 2(b) is as under:

“2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a)

*(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. *However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517, and parts which are suitable for use solely or principally with the goods of heading 8524 are to be classified in heading 8529*

(c) ...”

Therefore, in view of Note 2(b) of Section XVI, I am of the opinion that the Parts of Oral Irrigator/Water Flosser are correctly classifiable under CTI 85099000. Accordingly, I hold that the Parts of Oral Irrigator/Water Flosser should be classified under CTI 85099000.

4.16.23 In view of the foregoing discussion, taking in view the importer’s submission and above referred judgement, I am of the opinion that the subject goods Oral Irrigators/Flossers/Water Flossers and Parts of Oral Irrigators/Flossers/Water Flossers are more appropriately classifiable under CTI 85098000 and CTI 85099000, respectively. Accordingly, I reject the classification of impugned goods Oral Irrigators/Flossers/Water Flossers and Parts of Oral Irrigators/Flossers/Water Flossers under CTI 90184900 and hold that aforesaid goods should be classified under CTI 85098000 and CTI 85099000, respectively.

4.17. **Whether or not total Short paid Customs Duty (BCD+SWS+IGST) amounting to Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only) (as worked out in Tables- C, D & E of the notice) by the act of mis-classification of the subject goods by wilful mis-statement and suppression of facts, should be demanded and recovered under section 28(4) of the Customs Act, 1962 along with interest under Section 28AA ibid.**

4.17.1 After having determined the correct classification of the impugned imported goods, it is imperative to determine whether the demand of differential/short paid duty as per the provisions of Section 28(4) of the Customs Act, 1962, in the subject SCN is sustainable or otherwise. In this regard, the relevant legal provision is as under:

SECTION 28(4) of the Customs Act, 1962.

Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. –

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

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the

refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

4.17.2 I have determined that the impugned imported goods Oral Irrigator/Flosser/Water Flosser & Parts/Accessories of Oral Irrigator/Flosser/Water Flosser are correctly classifiable under CTI 85098000 and CTI 85099000, respectively. Doc Brown Industries LLP self-assessed the Oral Irrigator/Flosser/Water Flosser & Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 of the CTA. I find that being a regular importer, the Noticee must be well aware of the type of equipment, their parts and accessories, correct classification and leviability of IGST thereon. Further, I find that the importer Doc Brown Industries LLP was completely aware that the Oral Irrigator/Flosser/Water Flosser imported by them is a personal care item used for self-oral care (as mentioned on their Brand website Caresmith) and is an Electro-Mechanical Domestic Appliance whose weight is less than 20 Kgs, with self-contained Electric Motor. Also, the importer has admitted that: -

- Two types of goods Oral Irrigator/Flosser/Water Flosser imported by them. 95% imported flossers are hand-operated whose weight is around 200 grams to 300 grams approx. and 5% imported flossers are Table Top whose weight around 600 grams to 800 grams approx.
- Both types of Oral Irrigator/Flosser/Water Flosser are portable and travel friendly which contains pump with self-contained electric motor, Water Tank, Tips. Hand operated Oral Irrigator/ Flosser contains rechargeable battery but the Table top one doesn't contain rechargeable battery and it operates on electricity.
- The said goods are easily available on their website i.e. www.caresmith.com as well as other e-market platforms such as Amazon, Flipkart, Nykaa etc. from where any individuals can purchase it without the need for Doctor's/Dentist's prescription.
- The said goods are used by an individual for self-oral care.
- As per User Manual of their brand "Caresmith", the said goods are for *Household Use only*.
- As per the contents available on their brand website i.e. "Caresmith" it appears that said imported goods are used in everyday oral healthcare routines details of which is as below: -

Oral Irrigator / Flosser is a device used for deep cleaning between teeth & ideal for dental cleaning using a unique combination of water pressure and pulsation. This product is used for continuous flossing and easy cleaning. Caresmith is a personal care brand on a mission to improve and upgrade everyday health routine in oral care, relaxation, recovery and personal grooming. Caresmith design innovative products that make daily rituals more fun, convenient and effective.

4.17.3 Thus, in view of above facts, the said imported goods Oral Irrigator/Flosser/Water Flosser are correctly classifiable under CTI 85098000 and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser are correctly classifiable under CTI 85099000. Even after having prior knowledge of the facts of the said imported goods i.e. Oral Irrigator/Flosser/Water Flosser, the importer Doc Brown Industries LLP has continuously mis-classified Oral Irrigator/Flosser/Water Flosser and parts & accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 by mentioning that it is a Dental Equipment and Accessories of Dental Equipment in the 'Item Description' section in the declaration filed before the Customs in Bills of Entry, without any Documentary proof, with an intention to evade Customs Duty by way of wilful misstatement and suppression of facts. The importer Doc Brown Industries LLP has been dealing with these goods since a long time, and therefore, they cannot be considered as an inexperienced importer who did not know the correct classification of the goods. Thus, it appears that the importer Doc Brown Industries LLP was having full knowledge that the goods Oral Irrigator/Flosser imported by them is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor and omission on their part to correctly classify them under relevant CTI only proves the malafide intention of Doc Brown Industries LLP. Therefore, the classification adopted by Doc Brown Industries LLP for the goods i.e. Oral Irrigator/Flosser/ Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under tariff item 90184900 of the CTA, is incorrect and the same is deliberately declared by them to evade Customs Duty. As the Noticee got monetary benefit due to their wilful mis-declaration, mis-statement and suppression of facts leading to evasion of applicable duty on the subject goods, hence, I find that duty was correctly demanded under Section 28(4) of the Customs Act, 1962, by invoking extended period.

4.17.4 I find that the Noticee evaded correctly payable duty by intentionally suppressing the correct classification of the imported goods and mis-stating the description of the impugned goods at the time of filing of the Bills of Entry. Further, they wilfully mis-classified the goods under wrong CTI 90184900 when knowing that the aforesaid imported goods were rightly classifiable under CTI 85098000 and CTI 85099000, respectively. By

resorting to this deliberate suppression of facts and wilful mis-classification, the Noticee has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer. Thus, this wilful and deliberate act was done with the fraudulent intention to claim ineligible lower rate of duty.

- 4.17.4 Regarding the larger period of limitation attracted in this case, I find that the Noticee mis-classified and mis-stated the description of the impugned goods, and also fraudulently claimed lower rate of duty at the time of filing of the Bills of Entry. This involves an element of 'mens rea' on the part of the importer. The instant case is not a simple case of bonafide wrong declaration of classification and claiming lower rate of duty. Instead, the Noticee deliberately chose to mis-classify the goods imported to claim lower rate of duty, being fully aware of the correct nature and classification of the imported goods. This wilful and deliberate act clearly brings out their 'mens rea'. Once the 'mens rea' is established on the part of the Noticee, the extended period of limitation, automatically get attracted.
- 4.17.5 I find that, due to deliberate / wilful mis-classification of goods, duty demand against the Noticee has been correctly proposed under Section 28(4) of the Customs Act, 1962 by invoking the extended period of limitation. In support of my stand of invoking extended period, I rely upon the following court decisions:
- (a) 2013(294)E.L.T.222(Tri.-LB): Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi [Misc. Order Nos.M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008]
- In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified.*
- (b) 2013(290)E.L.T.322 (Guj.): Salasar Dyeing & Printing Mills (P) Ltd. Versus C.C.E. & C., Surat-I; Tax Appeal No. 132 of 2011, decided on 27.01.2012.
- Demand - Limitation - Fraud, collusion, wilful misstatement, etc. - Extended period can be invoked up to five years anterior to date of service of notice - Assessee's plea that in such case, only one year was available for service of notice, which should be reckoned from date of knowledge of department about fraud, collusion, wilful misstatement, etc., rejected as it would lead to strange and anomalous results;*
- 4.17.6 In view of the above, the differential duty resulting from re-classification of the imported goods attracting higher rate of duties as proposed in the subject Show Cause Notice, is recoverable from M/s Doc Brown Industries LLP under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.
- 4.17.7 Therefore, I hold that the differential/short paid duty amounting to **Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only)** (as worked out in Tables- C, D & E of the notice) resulted from the act of mis-classification of the subject goods by wilful mis-statement and suppression of facts, should be demanded and recovered under section 28(4) of the Customs Act, 1962, by invoking extended period.
- 4.17.8 As per Section 28AA of the Customs Act, 1962, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2) of Section 28AA, whether such payment is made voluntarily or after determination of the duty under that section. From the above provisions, it is evident that regarding demand of interest, Section 28AA of the Customs Act, 1962 is unambiguous and mandates that where there is a short payment of duty, the same along with interest shall be recovered from the person who is liable to pay duty. The interest under the Customs Act, 1962 is payable once demand of duty is upheld and such liability arises automatically by operation of law. In an umpteen number of judicial pronouncements, it has been held that payment of interest is a civil liability and interest liability is automatically attracted under Section 28AA of the Customs Act, 1962. Interest is always accessory to the demand of duty as held in case of *Pratibha Processors Vs UOI [1996 (88) ELT 12 (SC)]*. In *Directorate of Revenue Intelligence, Mumbai Vs. Valecha Engineering Limited*, Hon'ble Bombay High Court observed that, in view of Section 28AA, interest is automatically payable on failure by the assessee to pay duty as assessed within the time as set out therein.
- 4.17.9 Therefore, in terms of the provisions of Section 28AA of the Customs Act, 1962, interest on the aforesaid amount of differential/short paid duty amounting to **Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only)** is also liable to be recovered from M/s Doc Brown Industries LLP.
- 4.18. **Whether or not the said goods imported under the 55 Bills of Entry as mentioned in Table-A of the notice and 31 Bills of Entry as mentioned in Table-B of the notice, by way of mis-classifying the said goods instead of the correct Customs Tariff Items imported in violation of Section 46 of Customs Act, 1962 having total assessable value of Rs. 14,62,74,582/- (Rupees Fourteen Crore, Sixty-Two Lacs, Seventy-**

Four Thousand and Five Hundred Eighty-Two only) (as worked out in Tables- C, D & E of the notice) should be confiscated under Section 111(m) of the Customs Act, 1962.

- 4.18.1 The SCN proposes confiscation of goods imported under the 55 Bills of Entry as mentioned in Table-A of the notice and 31 Bills of Entry as mentioned in Table-B of the notice, by way of mis-classifying the said goods instead of the correct Customs Tariff Items imported in violation of Section 46 of Customs Act, 1962 having total assessable value of Rs. 14,62,74,582/- (Rupees Fourteen Crore, Sixty-Two Lacs, Seventy-Four Thousand and Five Hundred Eighty-Two only) (as worked out in Tables- C, D & E of the notice) under the provisions of Section 111(m) of the Customs Act, 1962.
- 4.18.2 Section 111(m) of the Customs Act, 1962 states that the following goods brought from a place outside India shall be liable to confiscation:
- (m) Any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77, in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of Section 54;*
- 4.18.3 Section 111(m) deals with any and all types of mis-declaration regarding any particular of Bill of Entry. Therefore, the declaration of the importer herein by mis-classification of the impugned goods, amounts to mis-declaration and shall make the goods liable to confiscation.
- 4.18.4 I have already held that the goods Oral Irrigator/Flosser/Water Flosser and parts & accessories of Oral Irrigator/Flosser/Water Flosser imported by the Noticee were correctly classifiable under CTI 85098000 and CTI 85099000 attracting higher Customs Duties. The Noticee was very well aware of the actual nature of the imported goods and their correct classification. However, they deliberately suppressed this correct classification, and instead mis-classified the impugned goods under Tariff Item 90184900 in the Bills of Entry to claim lower rate of duty. Further, Doc Brown Industries LLP has failed to prove his contention for classifying the goods i.e., Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 and continuously misclassified the said goods under CTI 90184900 with an intention to evade Customs Duty. Further, as per Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was obligatory on the part of the importer to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods but the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, since they have mis-classified the goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser imported by them by way of wilful mis-statement and suppression of facts, while filing the declaration seeking clearance at the time of importation of said imported goods. The same was done with the sole intention to evade the payment of applicable duty leviable thereon. This deliberate suppression of facts and wilful mis-classification resorted by the Noticee, therefore, renders the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, I find that acts of omission and commission on part of the Noticee have rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.
- 4.18.5 I find that Section 111(m) provides for confiscation even in cases where goods do not correspond in respect of any other particulars in respect of which the entry is made under the Customs Act, 1962. I have to restrict myself only to examine the words "*in respect of any other particular with the entry made under this act*" would also cover case of mis-classification. As this act of the importer has resulted in short levy and short payment of duty, I find that the confiscation of the imported goods invoking Section 111(m) is justified and sustainable.
- 4.18.6 As per Section 46 of the Customs Act, 1962, the importer of any goods, while making entry on the Customs automated system to the Proper Officer, 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. He shall ensure the accuracy and completeness of the information given therein and the authenticity and validity of any document supporting it.
- 4.18.7 I find that the importer while filing the Bill of Entry for the clearance of the subject goods had subscribed to a declaration as to the truthfulness of the contents of the Bill of Entry in terms of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2011 in all their import declarations. Thus, under the scheme of self-assessment, it is the importer who has to diligently ensure that he declares all the particulars of the imported goods correctly e.g., the correct description of the imported goods, its correct classification, the applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods when presenting the Bill of Entry. With the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April, 2011, the complete onus and responsibility is on

the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and claim correct exemption notification and pay the applicable duty in respect of the imported goods.

4.18.8 Prior to 08.04.2011, sub-section (2) of Section 2 of the Customs Act, 1962 read as under:

(2) "assessment" includes provisional assessment, reassessment and any order of assessment in which the duty assessed is nil;

Finance Act, 2011 introduced provision for self-assessment by the importer. Subsequent to substitution by the Finance Act, 2011 (Act 8 of 2011), (w.e.f. 08.04.2011) sub-section (2) of Section 2 ibid read as under:

Section 2 - Definitions, Sub-section (2) – assessment:

(2) "assessment" includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;

With effect from 29.03.2018, the term 'assessment' in sub-section (2) of Section 2 ibid means as follows:

(2) "assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to-

- a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;*
- b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;*
- c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;*
- d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;*
- e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods,*
- f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment self-assessment, re-assessment and any assessment in which the duty assessed is nil;*

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

4.18.10 In view of the foregoing discussion, I hold that the impugned goods imported under the 55 Bills of Entry as mentioned in Table-A and 31 Bills of Entry as mentioned in Table-B, by way of mis-classifying the said goods instead of the correct Customs Tariff Items imported in violation of Section 46 of Customs Act, 1962 having total assessable value of Rs. 14,62,74,582/- (Rupees Fourteen Crore, Sixty-Two Lacs, Seventy-Four Thousand and Five Hundred Eighty-Two only) (as worked out in Tables- C, D & E above) should be held liable for confiscation under Section 111(m) of the Customs Act, 1962, on the grounds of suppression and mis-classification of the imported goods.

4.18.11 As the importer, through wilful mis-statement and suppression of facts, had mis-classified the goods while filing the Bills of Entry with intent to evade the applicable Customs duty, resulting in short levy and short payment of duty, I find that the confiscation of the imported goods under Section 111(m) is justified & sustainable in law. However, I find that the goods imported 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 regularised, 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 authorised by this Act", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of 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. (iii)."

- (i) 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.)*.
- (ii) I also find that the decision of Hon'ble Madras High Court in case of *M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.)* and the decision of Hon'ble Gujarat High Court in case of *M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.)* have not been challenged by any of the parties and are in operation.
- (iii) I find that the declaration under Section 46(4) of the Customs Act, 1962 made by the importer at the time of filing Bill of Entry is to be considered as an undertaking which appears as good as conditional release. I further find that there are various orders passed by the Hon'ble CESTAT, High Court and Supreme Court, wherein it is held that the goods cleared on execution of Undertaking/ Bond are liable for confiscation under Section 111 of the Customs Act, 1962 and Redemption Fine is imposable on them under provisions of Section 125 of the Customs Act, 1962.
- (iv) I also find that any goods improperly imported as provided in any sub-section of the Section 111 of the Customs Act, 1962, the impugned goods become liable for confiscation. Hon'ble Bombay High Court in case of *M/s Unimark reported in 2017(335) ELT (193) (Bom)* held Redemption Fine (RF) imposable in case of liability of confiscation of goods under provisions of Section 111(o). Thus, I also find that the goods are liable for confiscation under other sub-sections of Section 111 too, as the goods committing equal offense are to be treated equally. I opine that merely because the importer was not caught at the time of clearance of the imported goods, can't be given different treatment.
- (v) In view of the above, I find that the decision of Hon'ble Madras High Court in case of *M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.)*, which has been passed after observing 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. I observe that the present case also merits imposition of Redemption Fine having held that the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, since the impugned goods are not prohibited goods, the said goods are required to be allowed for redemption by the owner on payment of fine in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

4.19. **Whether or not penalty under Section 114A of the Customs Act, 1962, should be imposed upon the importer for their act of duty Short paid and wilful mis-statement and suppression of facts.**

4.19.1 I find that the SCN has proposed penalty on M/s. Doc Brown Industries LLP under Section 114A of the Customs Act, 1962.

4.19.2 The provisions of Section 114A of the Customs Act, 1962 are reproduced as under:

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

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or

any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (2) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

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

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

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

- 4.19.3 I find that in the regime of self-assessment, the Noticee had wrongly self-assessed the Bills of Entry and evaded the payment of correctly leviable duty in respect of the impugned imported goods viz., **Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser**. As the Noticee got monetary benefit due to their wilful mis-classification, mis-statement and suppression of facts on the aforesaid goods, I find that duty was correctly demanded under Section 28(4) of the Act by invoking extended period.
- 4.19.4 I find that the subject Bills of Entry were self-assessed by the Noticee. They were aware of the true nature and characteristics of the imported goods and accordingly, were knowing about the correctly leviable duty thereon. However, still they wilfully suppressed this fact and evaded payment of legitimately payable duty in the Bills of Entry filed before the Customs authorities. By resorting to the aforesaid suppression, mis-statement and mis-declaration, they evaded legitimately payable duty. Under the self-assessment scheme, it is obligatory on the part of importer to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correctly leviable duty thereon, to claim the undue duty benefit at the time of clearance of the said imported goods. This wilful and deliberate suppression of facts amply points towards the “mens rea” of the Noticee to evade the payment of legitimate duty. Thus, the Noticee, by their various acts of omission and commission discussed above, have rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962, thereby making themselves liable for penalty under Section 114A of the Customs Act, 1962.
- 4.19.5 I find that as per Section 114A, imposition of penalty is mandatory once the elements for invocation of extended period are established. Hon’ble Supreme Court in *Grasim Industries Ltd. V. Collector of Customs, Bombay [(2002) 4 SCC 297=2002 (141) E.L.T.593 (S.C.)]* has followed the same principle and observed:
- “Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for Court to take upon itself the task of amending or altering the statutory provisions.” (para 10).*
- Hon’ble Supreme Court has again in *Union of India Vs. Ind-Swift Laboratories* has held: *“A taxing statute must be interpreted in the light of what is clearly expressed. It is not permissible to import provisions in a taxing statute so as to supply any assumed deficiency....” [2011 (265) ELT 3 (SC)].*
- 4.19.6 Thus, in view of the mandatory nature of penalty under Section 114A no other conclusion can be drawn in this regard. I also rely upon case reported in 2015 (328) E.L.T. 238 (Tri. - Mumbai) in the case of *SAMAY ELECTRONICS (P) LTD. Versus C.C. (IMPORT) (GENERAL), Mumbai*, in which it has been held:
- Penalty - Imposition of - Once demand confirmed under Section 28 of Customs Act, 1962 read with Section 9A of Customs Tariff Act, 1975 on account of fraud, penalty under Section 114A ibid mandatory and cannot be waived - Therefore imposition of penalty cannot be faulted - Section 114A ibid.*
- 4.19.7 As I have held above, that the extended period of limitation under Section 28(4) of the Customs Act, 1962 for the demand of duty is rightly invoked in the present case. Therefore, penalty under Section 114A is rightly proposed on the Noticee, M/s Doc Brown Industries LLP. in the impugned SCN. Accordingly, the Noticee is liable for a penalty under Section 114A of the Customs Act, 1962 for wilful mis-declaration and suppression of facts, with an intent to evade duty.
- 4.20 **Whether or not Penalty under Section 114AA of the Customs Act, 1962, should be imposed upon the importer for their act of duty short paid by way of knowingly and intentionally mentioning that it is a**

Dental Equipment and Accessories of Dental Equipment in the 'Items Description' section in Bills of Entry for the said imported goods, without any proof, with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts.

4.20.1 I find that I find that the SCN has proposed penalty on M/s. Doc Brown Industries LLP under Section 114AA of the Customs Act, 1962.

4.20.2 The provisions of Section 114A of the Customs Act, 1962 are reproduced as under:

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.

Thus, for invoking penalty under Section 114AA, the following essential ingredients are required to be satisfied:

- a) A declaration, statement or document is made, signed or used in connection with customs transactions;
- b) Such declaration, statement or document is false or incorrect in a material particular; and
- c) The same is made or used knowingly or intentionally.

4.20.3 I find that the noticee filed Bills of Entry declaring the impugned goods as Water Flosser/Oral Irrigator and Parts/Accessories of Water Flosser/Oral Irrigator, and classified the same under CTH 9018, claiming the goods to be dental/medical appliances. This declaration formed the basis for assessment and clearance of the goods. However, the impugned goods are not dental or medical instruments solely or principally used in professional practice in clinical or laboratory settings but are electro-mechanical appliances normally used for domestic purposes correctly classifiable under CTH 8509. Thus, the classification declared by the noticee under CTH 9018 is found to be incorrect in a material particular.

4.20.4 I find that during the investigation, based on statements recorded under Section 108 of the Customs Act, 1962, it is established that the noticee was fully aware of the true nature and use of the product at the time of import. The following facts are relevant:

- a) The goods were marketed and sold by the noticee as consumer personal oral-care appliances through e-commerce platforms.
- b) The user manuals clearly indicated that the product was meant for household or personal use.
- c) No licence, registration or approval from any medical or dental regulatory authority was obtained or required by the noticee.
- d) During investigation, the noticee admitted that the goods were freely sold to the general public and were not restricted to professional dental use.

Despite being aware of these facts, the noticee chose to declare the impugned goods as dental instruments under CTH 9018. Such declaration cannot be treated as a mere interpretational difference but amounts to a deliberate misdeclaration of classification, as the noticee sought to present a consumer appliance as a professional dental instrument.

4.20.5. I find that Doc Brown Industries LLP possessed full knowledge that the goods Oral Irrigator/Flosser/Water Flosser imported by them is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor weighing less than 20kg and their omission to correctly classify them under suitable CTI only proves the malafide intention of Doc Brown Industries LLP. The importer has continuously mis-classified Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts for the said imported goods. Furthermore, the noticee by mentioning that Oral Irrigator/Flosser/Water Flosser as Dental Equipment and Accessories of Dental Equipment in the 'Items Description' section in Bills of Entry, without any proof, with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts, have rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.

4.20.6 In view of the above, I find that the noticee has knowingly used incorrect declarations and documents in relation to classification of the impugned goods. The conditions stipulated under Section 114AA are therefore fully satisfied. I also note that Section 114AA is a civil penalty provision, and the existence of intent or knowledge can be inferred from surrounding facts and conduct. In the instant case, the conduct of the noticee, the nature of the goods, and the admissions on record clearly establish such knowledge.

4.20.7 Accordingly, I hold that penalty under Section 114AA of the Customs Act, 1962, should be imposed upon the importer for their act of duty short paid by way of knowingly and intentionally mentioning that it is a Dental Equipment and Accessories of Dental Equipment in the 'Items Description' section in Bills of Entry for the said imported goods, without any proof, with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts.

4.21. **Whether or not Penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962, should be imposed upon Shri Rahul Rajkumar Bajaj, Partner of M/s Doc Brown Industries LLP bearing IEC AAPFD1171L and Director of Shodan Care Private Limited, Mumbai (IEC ABKCS3586M), for his act with an intention to evade Customs Duty by way of suppression of facts and wilful mis-statement.**

4.21.1 I have carefully examined the role of **Shri Rahul Rajkumar Bajaj**, the statements recorded under Section 108 of the Customs Act, 1962, the documents relied upon in the Show Cause Notice, and the submissions made by him. The issue for consideration is whether Shri Rahul Rajkumar Bajaj is liable to penalty under the provisions of the Section 112(a) and/or 112 (b) Customs Act, 1962.

4.21.2 The provisions of Section 112 of the Customs Act, 1962 are reproduced as under:

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

- (a) *who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*
- (b) *who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, 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 the greater;*
 - (ii) *in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater:*

4.21.3 I find from the records that Shri Rahul Bajaj was actively associated with the import transactions of the impugned goods. He was involved in decisions relating to declaration of description and classification of the goods in the Bills of Entry and was responsible for providing information and documents to the Customs authorities at the time of import. During the course of investigation, statements recorded under Section 108 reveal that Shri Rahul Bajaj was aware of the nature, functionality and end-use of the Water Flosser/Oral Irrigator and was conversant with the manner in which the goods were marketed and sold in India.

4.21.4 As discussed in detail in the preceding findings, I have determined that the impugned goods are electro-mechanical domestic appliances classifiable under CTH 8509 and not dental instruments classifiable under CTH 9018. It is on record that the goods were:

- a) Marketed and sold as consumer personal care appliances;
- b) Intended for household use without professional supervision;
- c) Not regulated as medical or dental devices; and
- d) Freely sold to the consumers through e-commerce websites without doctor's prescriptions.

In spite of being aware of these facts, the goods were declared under CTH 9018 as dental appliances. Shri Rahul Bajaj, being directly involved in the import process and declarations made to Customs, cannot plead ignorance of the true nature and use of the goods.

4.21.5 Penalty on an individual under the Customs Act is attracted where such person has played an active role or has consciously abetted or caused the commission of an act or omission rendering the goods liable to action under the Act. In the instant case, Shri Rahul Bajaj was not a mere employee or clerical functionary but was involved in decision-making relating to classification and documentation. His role was therefore not passive or mechanical in nature. The incorrect declaration of classification was not Bonafide error but flowed from a conscious decision taken at the time of import. Further, I find that as per his statements recorded under Section 108 of the Customs Act, 1962, he had full knowledge that the goods Oral Irrigator/Flosser/Water Flosser imported by him on their firm Doc Brown Industries LLP is an Electro-Mechanical Domestic Appliances with self-contained Electric Motor. His omission to correctly classify them under relevant CTI proves his malafide intention. His act was not one-off omission but he was continuously engaged in mis-classification of Oral

Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 with an intention to evade Customs Duty by way of wilful mis-statement and suppression of facts while filing the declaration before Customs in their Bills of Entry. I find that he has intentionally changed the firm name in Caresmith Brand website i.e. www.caresmith.com from Doc Brown Industries LLP to Shodan Care Private Limited, the same is also admitted in his statement recorded under Section 108 of Customs Act, 1962 that the Caresmith website i.e. www.caresmith.com was run by firm i.e. Doc Brown Industries LLP, Mumbai and is now run by Shodan Care Private Limited, Mumbai. Furthermore, he failed to prove his contention for classifying the goods i.e., Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 imported by him.

4.21.6 In view of the above facts, I find that Shri Rahul Rajkumar Bajaj, by his acts and omissions, have rendered the imported goods liable to confiscation under Sections 111(m) of the Customs Act, 1962, as he was knowingly concerned with and responsible for the incorrect declaration made in the import documents. It is a settled position that mens rea need not be proved with mathematical precision for imposition of civil penalties under the Customs Act. Knowledge and intent can be inferred from the conduct of the person, surrounding circumstances and the nature of the transaction. In the present case, such knowledge is clearly visible.

I find that clauses (a) and (b) of Section 112 provide for penalties "under completely different circumstances" and both provisions cannot be applied together to the same person for the same set of actions himself liable to penalty under the Customs Act, 1962,

4.21.7 Therefore, I am of considered view that Shri Rahul Rajkumar Bajaj is liable to penalty under Section 112(a) only of the Customs Act, 1962, for his role in the incorrect declaration of classification of the impugned goods. Accordingly, I agree with the proposal made in the subject SCN and hold that penalty should be imposed on the Noticee, Shri Rahul Rajkumar Bajaj under Section 112(a) of the Customs Act, 1962.

4.22 **Whether or not Penalty under Regulation 18 of Customs Brokers Licensing Regulations (CBLR), 2018 and under Section 117 and/or Section 146 of the Customs Act, 1962, should be imposed upon the Customs Broker M/s. Bhatia Shipping Private Limited (CHA Code AAACB2985LCH001) for his act of non-compliance of the CBLR Regulations, 2018. Whether or not Penalty under Section 112(a) and/or 112(b) of the Customs Act, 1962, should be imposed upon M/s. Bhatia Shipping Private Limited.**

4.22.1 I have carefully examined the role of the Customs Broker, M/s Bhatia Shipping Pvt. Ltd., the submissions made by them, the statements recorded under Section 108 of the Customs Act, 1962, and the documents relied upon in the Show Cause Notice. The issue for consideration is whether the Customs Broker is liable to penalty under the provisions of the Customs Act, 1962, for their role in the importation of the impugned goods.

4.22.2 I note that M/s Bhatia Shipping Pvt. Ltd. acted as the licensed Customs Broker for clearance of the impugned goods and filed the Bills of Entry on behalf of the importer. As a licensed Customs Broker, they are required to discharge their functions in accordance with the provisions of the Customs Act, 1962 and the Customs Brokers Licensing Regulations (CBLR), 2018, including the obligation to exercise due diligence while filing customs documents and to ensure correctness of particulars to the extent reasonably possible. A Customs Broker is not expected to merely act as a conduit for filing documents, but is required to exercise reasonable care and caution, especially where the nature of the goods and the declarations made are prima facie inconsistent.

4.22.3 Section 112 of the Customs Act, 1962 provides for imposition of penalty on any person who, by any act or omission, renders goods liable to confiscation under the Act. For imposition of penalty under Section 112, it is required to be established that the person concerned has, by an act or omission, directly contributed to or facilitated the improper importation of the goods.

4.22.4 I note that M/s Bhatia Shipping filed the Bills of Entry based on the information and classification provided by the importer. Further, I find based on information obtained from the ICES 1.5 system, that an earliest Bill of Entry for the same importer had been filed on 07.12.2018 by another Customs Broker, M/s. SS Clearing & Forwarding Agency Pvt. Ltd., declaring the Water Flosser/Oral Irrigator under CTH 9018. Therefore, in this regard, and considering this fact that M/s Bhatia Shipping Pvt. Ltd relied upon an existing classification practice adopted earlier for the same importer, I find that the element of abetment or conscious facilitation required for imposition of penalty under Section 112 of the Customs Act, 1962 is not conclusively established against the Customs Broker. Further, I find that Shri Rahul Rajkumar Bajaj in his statement recorded under Section 108 of the Customs Act, 1962, admitted that on his direction, their CHA i.e., Bhatia Shipping Private Limited (CHA Code: AAACB2985LCH001) filed the Bills of Entry of the goods imported by both Doc Brown Industries LLP & Shodan Care Private Limited.

4.22.5 I note that Section 117 of the Customs Act, 1962 provides for imposition of penalty on any person who contravenes any provision of the Act or fails to comply with any obligation imposed thereunder, for which no express penalty is provided elsewhere. The provisions of Section 117 of the Customs Act, 1962 are as under:

Section 117 of the Customs Act, 1962: 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 four lakh rupees.

4.22.6 In view of above, as a licensed Customs Broker, M/s Bhatia Shipping Pvt. Ltd. is statutorily obliged to exercise due diligence and to ensure correctness of declarations filed before Customs authorities, in terms of the Customs Act, 1962 and the Customs Brokers Licensing Regulations framed thereunder. In the instant case, evidently M/s Bhatia Shipping failed to independently verify and assess the correctness of classification of the impugned goods at the time of filing the Bills of Entry. The mechanical adoption of an earlier classification, without independent application of mind, amounts to failure to comply with the statutory obligation of due diligence. Such failure constitutes a contravention of the provisions of the Customs Act, 1962 and the regulations made thereunder.

4.22.7 In view of the foregoing discussions, I hold that while the ingredients necessary for imposition of penalty under Section 112 of the Customs Act, 1962 are not satisfied in the present case, the conduct of Customs Broker clearly establishes failure to discharge statutory obligations imposed under the Customs Act and the Customs Brokers Licensing Regulations. Therefore, I hold that M/s Bhatia Shipping Pvt. Ltd. is liable to penalty under Section 117 of the Customs Act, 1962 for failure to exercise due diligence and ensure correctness of declarations filed before Customs.

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

ORDER

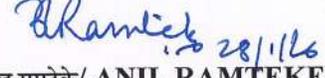
- (i) I reject the classification of imported goods Oral Irrigator/Flosser/Water Flosser and Parts/Accessories of Oral Irrigator/Flosser/Water Flosser under CTI 90184900 and order to reclassify and re-assess the aforesaid imported goods under Customs Tariff Items 85098000 and 85099000, respectively.
- (ii) I confirm the demand of total Short paid Customs Duty (BCD+SWS+IGST) amounting to **Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only)** (as worked out in Tables- C, D & E of the notice) under section 28(4) of the Customs Act, 1962 along with interest under Section 28AA *ibid*.
- (iii) I order to confiscate the goods, imported under the 55 Bills of Entry mentioned in Table-A and 31 Bills of Entry mentioned in Table-B of the notice, having a total assessable value of **Rs. 14,62,74,582/- (Rupees Fourteen Crore, Sixty-Two Lacs, Seventy-Four Thousand and Five Hundred Eighty-Two only)** (as worked out in Tables C, D & E of the notice), under Section 111(m) of the Customs Act, 1962.

I also impose a redemption fine of **Rs. 1,00,00,000/- (Rupees One Crore Only)** on M/s Doc Brown Industries LLP in lieu of confiscation of goods under Section 125(1) of the Customs Act, 1962.

- (iv) I impose a penalty equivalent to differential duty of **Rs. 2,41,58,901/- (Rupees Two Crore Forty-One Lac Fifty-Eight Thousand Nine Hundred One only)** along with applicable interest under Section 28AA of the Customs Act, 1962, on M/s Doc Brown Industries LLP under Section 114A of the Customs Act, 1962.
- (v) I impose a penalty of **Rs. 10,00,000/- (Rupees Ten Lakhs only)** on the importer under Section 114AA of the Customs Act, 1962.
- (vi) I impose a penalty of **Rs. 5,00,000/- (Rupees Five Lakhs Only)** on Shri Rahul Rajkumar Bajaj, Partner of M/s Doc Brown Industries LLP and Director of Shodan Care Private Limited, under Section 112(a) of the Customs Act, 1962.
- (vii) I impose a penalty of **Rs. 2,00,000 /- (Rupees Two Lakhs Only)** on M/s Bhatia Shipping Pvt. Ltd. under Section 117 of the Customs Act, 1962, for his act of non-compliance of the CBLR Regulations, 2018.

(viii) I do not impose any penalty on M/s Bhatia Shipping Pvt. Ltd. under Section 112(a) of the Customs Act, 1962,

6. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.



(अनिल रामटेके/ ANIL RAMTEKE)

सीमाशुल्कआयुक्त/ Commissioner of Customs

एनएस-V, जेएनसीएच / NS-V, JNCH

To:

- M/s Doc Brown Industries LLP bearing IEC AAPFD1171L**
Add.- "602-F, Neelkanth, 6th Floor, 98,
Marine Drive, Mumbai,
Maharashtra-400002",
E-mail ids: docbrownind@gmail.com, rahul.r.bajaj@gmail.com
(email id of Shri Rahul Rajkumar Bajaj, Partner of M/s Doc Brown Industries LLP) rushabh.0702@gmail.com
(email id of other Partner of M/s Doc Brown Industries LLP)
- Shri Rahul Rajkumar Bajaj,**
Partner of M/s Doc Brown Industries LLP bearing IEC AAPFD1171L and Director of Shodan Care Private Limited, Mumbai (IEC ABKCS3586M) E-mail id: rahul.r.bajaj@gmail.com
Add:- "S/o Rajkumar M Bajaj, 701,
Jamuna Niketan, 10, Manav Mandir Road,
Manav Mandir School, Malabar Hill, Mumbai-Maharashtra-400006,
- M/s Bhatia Shipping Private Limited (Customs Broker)**
(CHA Code AAACB2985LCH001)
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Ballard Estate, Mumbai Maharashtra – 400001",
E-mailIds- info@bhatiashipping.com, impcs@bhatiashipping.com and impdocs@bhatiashipping.com.

Copy to:

1. The Pr. Commissioner/Commissioner of Customs, Air Cargo Complex, Sahar, Andheri (E), Mumbai-400099 (Port Code: - INBOM4), Email id:- import.acc@gov.in for information please.
2. The Joint Director, DRI, Indore Zonal Unit for your information.
3. The Addl. Commissioner of Customs, Group VA, JNCH
4. AC/DC, Chief Commissioner's Office, JNCH.
5. The Deputy Commissioner of Customs CAC, JNCH
6. The Deputy/Assistant Commissioner of Customs, CBS section, New Customs House, Mumbai- I
7. Notice Board. (CHS Section)
8. EDI Section
9. Office Copy.

