सीमाशुल्क आयुक्त का कार्यालय (न्हावा शेवा–V
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V),
जवाहरलाल नेहरू सीमाशुल्क भवन, न्हावा शेवा
JAWAHARLAL NEHRU CUSTOMS HOUSE, NHAVA SHEVA
तालुका : उरण, जिला: रायगड, महाराष्ट्र 400707
TALUKA:URAN DIST. RAIGAD, MAHARASHTRA – 400707

F. No. S/26-Misc-358/2025-26/Gr. VA JNCH

Date of Order: 03.11.2025
Date of issue: 03.11.2025

S/10-1041/2025-26/Adj/Commissioner of Customs/Gr.5A/NS-V/CAC/JNH
Show Cause Notice No. 1247/2025-26/Commr./Gr. VA/NS-V/CAC/JNCH
DIN: 20251178NX000000FB05

SHOW CAUSE NOTICE ISSUED UNDER SECTION 28(4) OF THE CUSTOMS ACT, 1962

M/s Reliance Jio Infocomm Limited, a Company having registered office at DC Wahuli, Saptashree Warehouse, PP. Pushkar Mela Resort, Wahuli, Bhiwandi, Maharashtra - 421302 and holders of IEC (Importer-Exporter Code) Number 2207004091 along with GSTIN (Goods and Services Tax Identification Number) 27AABCI6363G1ZJ (hereinafter referred to as the "Noticee"), are in the business of providing telecommunication services.

2. INTELLIGENCE:

2.1 Pursuant to the Intelligence Report approved by the Additional Director General, Directorate of Revenue Intelligence, Hyderabad Zonal Unit (DRI, HZU) on 26.12.2023 in respect of investigation into availment of concessional duty benefit of Basic Customs Duty (BCD) @10% ad valorem, with wrongful claim of coverage of the goods under S. No. 20 of Table to Notification 057/2017-Customs, Dt. 30.06.2017 (as amended), thereby evading payment of applicable duties of Customs with BCD @20% ad valorem against Customs Tariff Item Number 8517 62 90 of the First Schedule to the Customs Tariff Act, 1975 (hereinafter referred to as CTI) by the Noticee, M/s. Reliance Jio Infocomm Limited, against import of item having declared description of "4 FXS ANALOG TEL ADAP WTHROUTER-IAD440S [ITEM CODE-491894743]", an inquiry was initiated by Bhubaneswar Regional Unit of DRI, HZU.

3. INVESTIGATION:

3.1 A letter was issued to the Noticee, vide File Number DRI/HZUBRU/26/ENQ-09/2023/402 dated 27.12.2023 having DIN (document identification number) : 202312DDZ50000777D07 (copy enclosed as Annexure - 1), calling for copies of the relevant Bill of Entry bearing Number 6944338 dated 19.07.2023 along with related documents and asking to clarify correctness of availment of Customs duty concession vide said S. No. 20 of above Notification No. 057/2017-Customs, Dt.30.06.2017 (as amended).

3.2 The Noticee vide email dated 02.01.2024 requested 30 days time for compiling of required documents and submission of their reply.

3.3 Subsequently, the Noticee vide email dated 08.01.2024 submitted their reply along with the copy of Bill of Entry, Technical Writeup and Commercial Invoice (copy of email dated 02.01.2024 and reply vide email dated 08.01.2024 collectively enclosed as Annexure – 2).

3.4 Scrutiny of the Bill of Entry (B/E):

3.4.1 On perusal of the afore-said Bill of Entry, it is noticed that the Noticee had imported item viz. **"4 FXS ANALOG TEL ADAP WTHROUTER-IAD440S[ITEM CODE491894743]"** under cover of the said Bill of Entry through Jawaharlal Nehru Custom House (JNCH), Nhava Sheva, Maharashtra (Port code INNSA1) from China, availing concessional BCD @10% ad valorem vide Entry S. No. 20 of Notification No. 57/2017 – Customs, Dated 30.06.2017 (as amended). The relevant details of the said imports are captured in **Table-I** below :

Sl. No.	**Bill of Entry Number, Date**	**Customs Tariff Item Number**	**Item description**	**Quantity (pieces)**	**Assessable Value**	**Duty Paid @ concessional cumulative 30.98%***	**Duty Foregone @ cumulative 12.98% #**
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)=30.98% of (vi)	(viii)=12.98% of (vi)
1	6944338 Dt. 19.07.2023	85176290	4 FXS ANALOG TEL ADAP WTHROUTERIAD440S [ITEM CODE-491894743	25000	7,82,05,134	2,42,27,950	1,01,51,026
TOTAL				**25000**	**7,82,05,134**	**2,42,27,950**	**1,01,51,026**
Supplier : Wuhan Fibrehome International Technologies Co Ltd, China							

* Basic Customs Duty (BCD) @ 10% of Assesssable Value (AV) plus Social Welfare Surcharge (SWS) @10% on BCD plus IGST @18% on (AV + BCD + SWS) = **10 + 1** (10% of 10) + **19.98%** [18% of (100 + 10 +1)] =**30.98%** [vide Sl. No. 20 of Notification No. 57/2017 – Customs, Dated 30.06.2017]

[Tariff rate @43.96% minus concessional rate @30.98%] with Tariff rate being Basic Customs Duty (BCD) @ 20% of Assesssable Value (AV) plus Social Welfare Surcharge (SWS) @10% on BCD plus IGST @18% on (AV + BCD + SWS) = **20 + 2** (10% of 20) + **21.96%** [18% of (100 + 20 +2)] =**43.96%**

3.4.2 From above, it appears that the Noticee has paid Customs Duty of Rs.2,42,27,950/- at cumulative lower rate @30.98% [with BCD @ 10% of AV + SWS@10% on BCD + IGST @18% on (AV + BCD + SWS)], instead of Rs.3,43,78,976/- at its cumulative tariff rate @43.96% [with BCD @ 20% of AV + SWS@10% on BCD + IGST @18% on (AV + BCD + SWS)] under CTI 8517 62 90 of the First Schedule to Customs Tariff Act, 1975 with duty foregone being Rs.1,01,51,026/- [Rs.3,43,78,976/- minus Rs.2,42,27,950/-], consequent to their declared coverage of the said imported '4 FXS Analog Tel Adapter With Router' under S. No. 20 of Notification No. 57/2017 – Customs, Dated 30.06.2017 (as amended).

3.4.2 For ready reference, the said CTI 8517 62 90 under Customs Tariff Heading (CTH) 8517 of the First Schedule to Customs Tariff Act, 1975 is reproduced as under in Table-II:

TABLE-II

[DETAILS OF CTH 8517 &CTI 8517 62 90]

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential
(1)	(2)	(3)	(4)	(5)
8517	**Telephone sets, including smartphones and other telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of heading 8443, 8525, 8527 or 8528**			
	- Telephone sets, including smartphones and other telephones for cellular networks or for other wireless networks:			
8517 11		u		-
.				-
.				-
.				
.				
8517 62	-- Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus:			-
8517 62 10	--- PLCC equipment	*u	Free	-
8517 62 20	--- Voice frequency telegraphy	u	Free	-
8517 62 30	--- Modems (modulators-demodulators) for xDSL based Wireline Telephony	u	Free	
8517 62 40	[* * *]	u	Free	-
8517 62 50	--- Digital loop carrier system (DLC)	u	Free	-
8517 62 60	--- Synchronous digital hierarchy system (SDH)	u	Free	
8517 62 70	--- Multiplexers, statistical multiplexers for PDH based Wireline Telephony	u	Free	
8517 62 90	--- Other	u	20%	

*Unit (Number)

3.5 **Provisions of Notification No. 57/2017** – Customs, Dated 30.06.2017 (as amended) and its Analysis - Having been empowered by Section 25(1) of the Customs Act, 1962 read with Section 3(12) of the Customs Tariff Act, 1975, the Central Government issued the Notification No. 57/2017 – Customs, Dated 30.06.2017, exempting either absolutely or subject to some conditions, certain goods, when imported into India, from whole or any part of duty of customs leviable thereon.

3.6 The relevant part of **S. No. 20 of above Exemption Notification No. 57/2017- Customs, Dt. 30.06.2017** (as amended) read as:

[In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 ...., the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below or column (3) of the said Table, as the case may be, and falling within the Chapter, heading, subheading or tariff item of the First Schedule to the said Customs Tariff Act, as are specified in the corresponding entry in column (2) of the said Table, when imported into India, from so much of the duty of customs leviable

thereon under the said First Schedule as is in excess of the amount calculated at the standard rate specified in the corresponding entry in column (4) of the said Table subject to any of the conditions, as specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (5) of the said Table.

TABLE-III

S. No.	Chapter / heading / sub-heading / tariff item	Description of goods	Standard rate	Condition No.
(1)	(2)	(3)	(4)	(5)
20	**8517 62 90** or **8517 69 90**	*All goods **other than** the following goods, namely :-* *(a) Wrist wearable devices (commonly known as smart watches);* *(b) Optical transport equipment;* *(c) Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS)* *(d) Optical Transport Network (OTN) products;* *(e) IP Radios;* *(f) Soft Switches and **Voice over Internet Protocol (VoIP) equipment**, namely, VoIP phones, **media gateways**, **gateway controllers** and **session border controllers**;* *(g) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS-TP) products;* *(h) Multiple Input / Multiple Output (MIMO) Products;* *(i)Long Term Evolution (LTE) products*	10%	-

3.7 On plain reading of the above Notification, it appears that vide S. No. 20, as amended, concessional BCD @10% ad valorem has been provided to certain goods on its import, other than the goods mentioned in column (3) of above Table annexed to the said Notification.

3.8 For better understanding and effective identification of the products and equipments mentioned at (b) to (h) of column (3) of above Table, the Central Board of Indirect Taxes and Customs (CBIC), in consultation with the Department of Telecommunication (DoT), issued one Circular bearing No. 08/2023, Dt. 13.03.2023, illustrating the machines / apparatus covered under said items (b) to (h) of S. No. 20 ofabove Notification No. 57/2017 – Custom, Dt. 30.06.2023 in Annexure-1 to the said Circular. The said **Annexure-1** is reproduced below:

TABLE-IV

Annexure-1

Notfn item	Notification description	Identification of products/equipment covered
(b) and (d)	Optical transport equipment and Optical Transport Network products	Machines and apparatus covered include – i. OTN equipment; ii. Dense Wavelength Division Multiplexer (DWDM); iii. Coarse Wavelength Division Multiplexer (CWDM); iv. Elements of (i), (ii) or (iii) above: ROADM, Booster Amplifiers, Pre-Amplifiers, Inline Amplifiers, Raman Amplifiers, Mux-demux, Transponders, Mux-ponders, OADM and Regenerators, Optical Power Monitoring and Optical Line Protection equipment.
(c)	Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS)	The Machines/apparatus covered under this category include- i. Optical Line Terminal (OLT) for FTTX (GPON/ EPON/ XGSPON/ 10GEPON/ NG-PON2 / 25GPON / 50GPON etc.); ii. Optical Network Terminal (ONT) for FTTX (GPON/ EPON/ XGSPON/ 10GEPON/ NG-PON2 / 25GPON / 50GPON etc.).
(e)	Internet Protocol (IP) Radios	The Machines/apparatus covered under this category include - i. Wi-Fi Access Point Equipment and Wi-Fi Controller ; ii. Repeaters (RF/RF-over-Optical) & In-Building Solution (IBS)- Indoor/Outdoor including active and passive Accessories (2G/3G/ 4G/5G and onwards); iii. Wireless Radio Link – (IP/Hybrid) equipment.
(f)	Soft switches and **Voice over Internet Protocol (VoIP) equipment,** namely, VoIP phones, **Media gateways, Gateway controllers** and **Session border controllers**	**Card/module or sub-systems converting analog voice signal into digital packets that are carried over internet protocol use one or more of these products.** <u>Some examples</u> are- i. Internet Protocol Private Branch Exchange (IP PBX); ii. IP Multimedia Systems (IMS); iii. Unified communication systems (UCS).
(g)	Carrier Ethernet Switches, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS-TP) products	The Machines/apparatus covered under these categories include- i. IP-MPLS Based equipment; ii. MPLS-TP based equipment; iii. SDN Based MPLS equipment; iv. PTN products for Carrier Ethernet Network (CEN) for Access and Aggregation Network Applications
(h)	Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) products	The Machines/apparatus covered under these categories include- i. 4G(LTE) products and their Elements, namely-eNode B, RRH, CU, DU, RU, BBU, EPC, MME, SGW, PGW, HSS, IMS, Network In a Box (NIB), 4G CPE, etc.; ii. 5G products and its Elements, namely- gNodeB, RRH, CU, DU, RU, BBU, 5GC, IMS, Network In a Box (NIB), 5G CPE, etc.; iii. 4G and 5G enabled NB IoT devices; iv. Equipment incorporating technologies beyond 5G.

3.9 A conjoint reading of the above Notification and the CBIC Circular appears to indicate that the 'Card/module or sub-systems converting analog voice signal into digital packets that are carried over internet protocol which uses Internet Protocol Private Branch Exchange (IP PBX) or IP Multimedia Systems (IMS)' is a kind of 'Voice over Internet Protocol (VoIP) equipment' and hence is not eligible for concessional rate of BCD @10% ad valorem, being covered under the exclusion clause 20(f) to above Notification read with item (f) mentioned in Annexure-1 to the above Circular.

3.10 The details of the imported item here i.e. **"4 FXS ANALOG TEL ADAP WTH ROUTER-IAD440S [ITEM CODE-491894743]"** as available in the <u>Datasheet / Technical Writeup</u> uploaded by the importer in E-Sanchit of ICES portal [Indian Customs Electronic Data Interchange System], are as below:

- FiberHome IAD440S is leading intelligent manageable customer premises devices developed by FiberHome for service providers and enterprise networks to meet the demands of integrated voice & data access. It can be deployed in various scenarios, such as small business, SOHO, residential, enterprises and network operators as well.
- IAD440S designed as a compact unit with 4FXS ports, 1 WAN port, 1 LAN port. Which allows users to apply it as an N-to-1 capable of providing versatile solutions by connecting analog phone, fax, POS machine, IP telephony and PSTN.
- As an Intelligent gateway running on embedded Linux operating system, IAD440S is compatible with many highlighted features such as call forward, call transfer, 3 – party conference, caller ID, DND, color ringback, forking, automatic routing, digitmap, PSTN failover, and much more to provide a complete and highly reliable VoIP solution applicable to most scenarios.
- Product Features & Benefits
    a) Supports fax over IP
    b) Provides automatic switching between voice / fax
    c) Provides a complete and highly reliable VoIP solution applicable to most scenarios
    d) IAD440S is perfectly interoperable with **legacy telephone terminals**, SIP servers, and **IPPBXs (Internet Protocol Private Branch Exchange)**.
- Product Specifications: Supports **IMS (IP Multimedia Systems)**.

3.10.1 From above product catalogue, it thus appears that the subject imported goods, Analogue Telephone Adapters (IAD440S), is a <u>compact unit with 4FXS ports, 1 WAN port, 1 LAN port capable of providing versatile solutions by connecting analog phone, fax, POS machine, IP telephony and PSTN</u>. The said item, an intelligent gateway, alsoappears to provide a complete VoIP (Voice over Internet Protocol) solution applicable to most scenarios and is <u>perfectly interoperable with legacy telephone terminals, SIP (Session Initiation Protocol) servers and IPPBXs (Internet Protocol Private Branch Exchange) and to support IMS (IP Multimedia Systems) as well</u>.

3.11 As per the website https://www.patton.com/voip-adapter/, a manufacturer of similar product - *A VoIP adapter, also known as an Analog Telephone Adapter (ATA) or phone adapter, is a protocol converter (bridge) between analog phones and the digital (IP) network that carries voice calls. The device converts a digital (VoIP) voice stream to an analog signal so you can use existing analog phones, call boxes, intercoms, alarm circuits or fax machines with an IP-based voice service. VoIP phone adapters make the cost-savings of voice-over-internet protocol (VoIP) accessible to you without having to replace your existing analog telephony equipment.*

3.12 Voice Over Internet Protocol (VoIP): As defined on Telecom Regulatory Authority of India (TRAI)website https://www.trai.gov.in/sites/default/files/Recommendations_24_10_2017_0.pdf, when voice is transmitted over managed IP networks, it is termed as Voice over Internet Protocol (VoIP). <u>VoIP uses packet switching networks in which, the message (voice data) is broken into packets, each of which can take a different route to the destination</u>, where the packets are recompiled into the original message.

3.13 IP Private Branch Exchange: A PBX ("Private Branch Exchange") appears to be a system that connects telephone extensions to the Public Switched Telephone Network (PSTN) and provides internal communication for a business. An IP PBX ("Internet Protocol Private Branch Exchange") appears to be a PBX system with IP connectivity and may provideadditional audio, video, or instant messaging communication utilizing the IP protocol stack.

3.13.1 As per information available on https://www.techopedia.com/definition/7814/internet-protocol-private-branch-exchangeip-pbx, it appears that IP PBX can be built or provided by a telecom operator, a third-party Internet service provider or it can be hosted in-house. Unlike PSTN PBX, IP PBX has the ability to switch, forward and route the calls between VoIP networks to PSTN and PSTN to VoIP.

3.14 **IP Multimedia Systems**: The IP Multimedia Subsystem (IMS) appears to be the 3rd Generation Partnership Project's (3GPP) vision for a converged telecommunications architecture that merges cellular and Internet technologies to uniformly deliver voice, video and data on a single network. Simply stated, IMS appears to be a framework for sending multimedia data/packets over IP networks [Reference: the website of Oracle Corporation, the Computer Technology Major, https://www.oracle.com/technicalresources/articles-architecture/ims-sip-voicexml.html].

3.15 Imported Item : 4 FXS ANALOG TEL ADAP (Analog Telephone Adaptor) WTH ROUTER-IAD440S [ITEM CODE-491894743]: Being a kind of VoIP equipment : Not eligible for exemption :As per the above the Datasheet / Technical Writeup uploaded by the importer in E-Sanchit [Reference : Para 3.9 and 3.9.1], the subject imported product, Analog Telephone Adapter (ATA), appears to be an Intelligent gateway acting as a bridge between analog phones and the digital [Internet Protocol (IP)] network [Para 3.9III above refers]. It appears to transfer data over IP networks and also provide seamless switching between Voice and Fax. It also appears to use IMS and IPPBX framework / technology [Reference : Para 3.9IV. & 3.9V.] which appears to specifically fall under the exclusion clause of item (f) of CBIC Circular No. 08/2023, Dt. 13.03.2023.

3.16 The above features / capabilities of the subject imported Analog Telephone Adapter appear to match squarely with the description provided in the said exclusion clause 20(f) to Notification No. 57/2017 – Custom, Dt. 30.06.2023 read with item (f) of Annexure-1 to the CBIC Circular No. 08/2023, Dt. 13.03.202.

3.17 It therefore appears that the subject imported item does not qualify for benefit of concessional BCD @10% ad valorem, as claimed. It, thus, appears to attract merit rate of BCD @20% ad valorem.

3.18 Correspondence with the Noticee: Thus a letter vide File Number DRI/HZU-BRU/26/ENQ-09/2023/402 dated 27.12.2023 having DIN (document identification number) : 202312DDZ50000777D07 was issued to Noticee, M/s Reliance Jio Infocomm Limited, requesting to clarify the correctness of availment of concessional duty vide Entry No. 20 of the Notification No. 57/2017– Customs, dated 30.06.2017 (as amended), and furnish the attested copies of import documents i.e., copies of Bills of Entry, related commercial invoices, packing list, agreement with the supplier and technical specification of the imported item.

3.19 **Noticee's Submission:** The Noticee, vide email dated 08.01.2024 (copy enclosed as Annexure-2), furnished their submission justifying the correctness of their claim of concessional duty @10%. Their above submission reads inter alia as under:

I. *We had imported 4FXS Analog Tel Adap with Router -IAD440S vide bill of entry no. 6944338 dated 19.07.2023. The goods were supplied by Wuhan Fibrehome International Technologies Co. Ltd. Hubei Province, 430074, China against their Commercial invoice No. FH/RJIL/29901 dated 08.06.2023 and packing list.*

II. *As evident from the product catalogue imported item being Analogue Telephone Adapter with Router, it enables Analogue Phones to be used for Voice Over Internet Protocol (VOIP) telephony. VOIP telephony transmits voice, after conversion into digital data, over data network using the Internet Protocol (IP). An Analogue Phone when connected to Analogue Telephone Adapter, can be used for VOIP telephony as the Analogue Telephone Adapter converts the analogue voice into digital data for transmission over the IP network and conversely converts the incoming traffic (digital data) into analogue voice.*

III. *We had claimed classification of the said goods under CTH 85176290 which covers "Others" under the description "Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus". Goods were proposed for assessment under First Check Procedure by us. The Department preferred to go for Second Check procedure instead and assessed the goods as claimed by us with 10% BCD, 10% SWS and 18% IGST allowing partial exemption available under notification 057/2017 Cus. dated 30.06.2017, Sl. No. 20 under the CTI 85176290.*

IV. *All goods of CTH 85176290 are exempted from custos duty in excess of 10%, except the goods specified at (a) to (h) of the Notification No. 57/2017 -Cus dated 30.06.2017. The goods viz. Analogue Telephone Adapters are not appearing in the exceptions (a) to (h) and were therefore entitled to the partial exemption from duty in excess of 10%.*

V. *The Voice Over Internet Protocol (VOIP) equipment which are excluded from the aforesaid exemption at Sr. No. (f) above are VOIP Phones, Media Gateways, Gateway controllers and Session Border Controllers. The Analogue Telephone Adapters imported by us are not any of the said VOIP equipment specified at Sr. No. (f). The imported goods are not by themselves VOIP phones but are Adapters which enable Analogue phones when attached to them to make VOIP calls. The Analogue Telephone Adapters are also not Media Gateways, Gateway Controllers nor Session Border Controllers.*

VI. *It may be seen from Sl. No. 20(f) of the notification 57/2017 -Cus dated 30.06.2017 that the criteria for applying 20% BCD is limited to VoIP phones; Media Gateways; Gateway Controllers; and Session Border Controller because they have been 'specifically named' above and the item in question not being any of the four items specifically named and mentioned above thus becomes eligible for the partial exemption of BCD @ 10%.*

VII. *CBIC had also come out with clarification in its Circular 08/2023 dated 13.03.2023 in the context of Notification No. 57/2017 on claim of exemption. In this Circular the CBIC has identified products/equipment covered by various sub clauses [(b) to (h)] of S. No. 20 of the Notification. Following equipment have been specified as covered by the phrase "Soft switches and Voice over Internet Protocol (VoIP) equipment" in item (f) of Notification: "Card/module or sub-systems converting analogue voice signal into digital packets that are carried over internet protocol use one or more of these products. Some examples arei. Internet Protocol Private Branch Exchange (IP PBX); ii. IP Multimedia Systems (IMS); iii. Unified communication systems (UCS)."*

VIII. *As per DRI's subject letter, Analog Telephone Adapter matches squarely with the description provided in exclusion clause 20(f) to Notification No. 57/2017 - Customs, Dt. 30.06.2017 read with clause (i) i.e., IP-PBX of item (f) of Annexure - 1 to the CBIC Circular No. 08/2023, Dt. 13.03.2023 and hence does not appear to be eligible for concessional BCD @10 % ad-valorem.*

IX. *Without prejudice to our stand on legality of CBIC Circular 08/2023 dated 13.03.2023 interpreting the said exemption notification, we wish to draw your attention to study paper on IP PABX by TEC, DoT. As per the study paper, "an IP PABX includes: (a) Telephone Extensions (multiple phone) lines that terminate at the PABX (b) A CPU card or server or a separate computer with memory that manages the switching of the calls within the PABX and in and out of it (c) Trunk / Junction Lines connected to the Telephone Service Provider (d) A console/PC for management functions".*

X. *On the other hand, the item imported by us is simply an adapter for connecting analogue telephone to IP network. Apart from legacy telephones, this item can also be used for connecting SIP servers and IPBPX's which are designed to handle analogue signals and the know-how to be connected to IP networks. This is clearly explained in the product catalogue under the heading "High Interoperability".*

XI. *From the explanation given in point 9 and 10 above, it is amply clear that the item in question is merely an adapter that converts the analogue voice into digital data for transmission over the IP network and conversely converts the incoming traffic (digital data) into analogue voice and neither has the essential constituents of a PABX / IP PBX.*

XII. *Thus, the product imported is not IP PBX but an adapter to convert the analogue signals to IP signals and vice-versa.*

3.20 With above, the Noticee added that they hoped to have substantiated their claim for assessment of the subject imported goods @10% BCD vide S. No. 20 of Table to Notification 57/2017 - Customs, Dt. 30.06.2017.

3.21 Summons Proceeding : In order to conduct further verification / investigation regarding the points raised in the Noticee's above submission including their claim that the item imported by them i.e. Analogue Telephone Adapter with Router (ATA) is not belonging to any of the 4 (four) VoIP equipments, namely, VoIP phones, Media Gateways, Gateway Controllers and Session Border Controller, as specifically mentioned in exclusion clause vide S. No. 20(f) of the Notification No. 57/2017-Cus Dated 30.06.2017 and thus partial exemption of 10% BCD is available to the said imported product, summons under Section 108 of the Customs Act, 1962 was served on the Noticee, vide F.No.DRI/HZU-BRU/26/ENQ09/2023/15 dated 09.01.2024 having DIN: 202401/DDZ5000000F0F5, requesting appearance before the Senior Intelligence Officer (SIO), DRI on 17.01.2024.

3.22 Duty Payment under Protest : Meanwhile, the Noticee vide email dated 15.01.2024, informed that, they are paying the differential duty amounting toRs.1,01,51,027/- under protest to "Commissioner of Customs, Nhava Sheva" against the goods imported vide the subject Bill of Entry No. 6944338, dated 19.07.2023 and further requested to excuse them from personally appearing before the Senior Intelligence Officer for recording of statement on 17.01.2024.

3.22.1 Subsequently, the Noticee vide email dated 17.01.2024 submitted copy of TR-6 Challan No. HC – 243, Dated 17.01.2024 in respect of the said payment of Rs. 1,01,51,027/- towards differential custom duty without interest (copy of the Summons dated 09.01.2024, reply of the importer vide email dated 15.01.2024 and Challan submitted vide email dated 17.07.2024 are collectively enclosed as Annexure – 3).

3.23 To take the investigation forward in respect of the Noticee's submission dated 08.01.2024, as above, another summons was thus issued to the Noticee vide F.No.DRI/HZU-BRU/26/ENQ-09/2023/59 dated 17.01.2024 having DIN: 202401DDZ5000000F8C5 (copy enclosed as Annexu44re - 4), requesting to appear on 01.02.2024 for recording of statement.

3.24 Statement of the Noticee : Shri Anil Kumar K T, Senior General Manager and Authorized representative of the Noticee appeared on 01.02.2024 before the SIO, DRI and in his statement recorded under Section 108 of the Customs Act, 1962 stated interalia, as under (Copy enclosed as Annexure - 5) :

Question No. 1 - *Personal introduction? Answer: Towards my self-introduction, I state that my name is Anil Kumar K T. My father's name is Shri K.T.S. Madhavan. My date of Birth is 10.05.1967. I am presently staying at C – 5/25/1-1, Nilgiri Apartments, near Sector – 5 Market Sector – 5 CBD, Belapur, Navi Mumbai, Thane – 400615 (Maharashtra). Towards my ID proof I submit a copy of Aadhar Card bearing no. 6531 2483 3431. My education qualification is B.Com & MBA. I can read and write English and Hindi language. My Mobile No. is 9867718243 and email ID is anil.kt.kumar@ril.com. I am Senior General Manager of M/s Reliance Jio Infocomm Limited and I started working for Reliance group in the year 2002. I am submitting the Power of Attorney to present before the respective authorities on behalf of M/s Reliance Jio Infocomm Limited.*

Question No. 2 – *Please state the activities of M/s Reliance Jio Infocomm Limited and your role in the said company? Answer – M/s Reliance Jio Infocomm Limited is a telecommunication service provider. I handle Customs clearance function for M/s Reliance Jio Infocomm Limited.*

Question No. 3 – *You had imported "4 FXS Analog Tel Adapter with Router IAD440S" vide BOE No. 6944338, Dated 19.07.2023. In this regard, please explain the functionalities of the said product? Answer – This product Telephone Adapter IAD440S is for small businesses / individuals. The said adapter contains one input port and one output port to connect the same to Jio IP telecom network. There are four ports, which are used for connecting Analog phones, so that the analog phones can access the Jio Internet Protocol (IP) Network i.e., the adapter converts the analog signal from the analog phone to digital signal and connects to the Jio Internet Protocol (IP) Telecom Network.*

Question No. 4 – *As per your above answer, the imported item i.e., "4 FXS Analog Tel Adapter with Router IAD440S" vide BOE No. 6944338, Dated 19.07.2023", after conversion from analog to digital signal, lets the analog phone access the Jio Internet Protocol based telecom network. Hence, it appears that, the analog phone with the help of the said adapter, allows the respective user to talk through the Jio Internet Protocol Network only. Do you agree? Answer – Yes it allows.*

Question No. 5 – *In your submission dated 08.01.2024, at para 2, you have stated that, "... Analogue Telephone Adapter with Router, it enables Analogue Phones to be used for Voice Over Internet Protocol (VoIP) telephone...". In this regard, from your said submission, it appears that the* *imported item is nothing but a device based on VoIP Phones technology. Please clarify? Answer – It is an adapter that converts the signals from analog to digital and enables connecting to the IP network.*

Question No. 6 *– For better understanding and effective identification of the products and equipments mentioned at (b) to (h) of column (3) of the Sl.No. 20 of the Notification No. 57/2017 – Customs, Dt. 30.06.2017, the CBIC, in consultation with the Department of Telecommunication (DoT), issued one Circular bearing No. 08/2023, Dt. 13.03.2023, illustrating the machines / apparatus covered under said items (b) to (h) of S. No. 20 of the Notification No. 57/2017 – Custom, Dt. 30.06.2023 in Annexure-1 to the said Circular. In the said Circular, at item of (f) of the Annexure-1, it was stated that, "Card/Module or subsystems converting analog voice signal into digital packets that are carried over internet protocol use one or more of these product. Some examples are – i. IP PBX; ii. IMS; iii. UCS". In this regard, in your submission dated 08.01.2024, at para 2, it was mentioned that, "...Analogue telephone adapter converts the analogue voice into digital data for transmission over the IP network...". In this regard, it appears that, the imported item clearly falls under the exclusion clause of the Sl.No. 20 of the Notification No. 57/2017 – Customs, Dt. 30.06.2017, as amended and attracts BCD@20%. Please clarify? Answer – No, I don't agree that, because the Notification 57/2017 – Cus, Sl.No. 20(f), mentions VoIP equipment, namely, VoIP phones, media gateway, gateway controllers and session border controllers. Therefore, the ambit of the notification covers only goods specified & mentioned by name above i.e., VoIP phones, media gateway, gateway controllers and session border controllers. The said imported product is none of the above but merely an adapter. Further, the said Circular 08/2023, Dt. 13.03.2023, cannot widen the scope and ambit of the Notification No. 57/2017 – Cus, Dt. 30.06.2017. Notification has to be strictly construed and a circular cannot expand the scope of an exemption notification.*

Question No. 7 *– Do you want to add anything at this moment? Answer – I pray to the Customs department to issue us a Show Cause Notice at the earliest, so that it can be taken forward, as appropriate.*

3.25 **Analysis of Noticee's submission** : The sum and substance of the Noticee's above submission appears to be that exclusion clause vide Sl. No. 20(f) to Notification 57/2017 – Cus, specifically covers 4 (four) VoIP equipments, namely, (i) VoIP phones, (ii) Media gateways, (iii) Gateway controllers and (iv) Session border controllers, which are not eligible for concessional duty of 10% and although their subject imported item being Analogue Telephone Adapter with Router (ATA) enables Analogue Phones to be used for Voice Over Internet Protocol (VoIP) telephony by way of converting the analogue voice into digital data for transmission over the IP network and vice versa, and thus perfectly matches with the description of products / equipments i.e. - "Card/module or sub-systems converting analogue voice signal into digital packets that are carried over internet protocol" - given in column (3) of exclusion clause against item (f) of Annexure-1 to CBIC Circular No. 08/2023, Dt. 13.03.2023, the said ATA is merely an adapter, not belonging to any of the above 4 (four) VoIP equipments mentioned in the Notification. The partial exemption of BCD @ 10% is, therefore, admissible to the imported item, the Noticee contended.

3.26 With regard to the above submission of the Noticee, visited the website https://www.patton.com/voip-gateway/ of Patton LLC, USA, a Technology Major focused on communications infrastructure, and the following information is found available on the subject imported product - Analogue Telephone Adapter (ATA) :

<u>VoIP Gateways | SIP Gateways : What is a Voice Gateway?</u>

3.26.1 Voice-over-Internet-Protocol is a packet-based technology for transmitting digitized voice over an Ethernet/IP network. Because many businesses deliver the packetized voice traffic across the Internet to lower the phone bill, VoIP is sometimes called Internet Telephony. VoIP technology, or packet-based voice, underlies such recent developments as unified communication (UC). Related terms include network transformation--referring to carriers that migrate to All-IP network service delivery--as well as real-time communication, since voice transmission is especially sensitive to network issues as delay and jitter (variance in delay).

3.26.2 <u>A VoIP gateway--a.k.a. analog telephone adapter (ATA)</u>--is a networking device that converts a traditional (legacy) phone signal (analog or digital) into a (digitized) packet-based, Internet Protocol (IP) communication stream. The gateway serves as the conversion point between Time Division Multiplexed (TDM) telephone network and an IP-based network such as the Internet or private corporate LAN or WAN. The gateway converts voice received from the PBX into IP packets suitable for transmission over a data network. Similarly, the gateway re-formats the stream of incoming IP data packets for use by the PBX system.

<u>What is another name for a VoIP Gateway?</u>

3.26.3 A VoIP gateway may be referred to by many other names, such as SIP gateway, FXS gateway, FXO gateway, or **analog telephone adapter**.

3.26.4 <u>A VoIP Gateway can support numerous use cases (application scenarios) to enable IP telephony implementations. A media gateway may provide several types of bi-directional conversion,</u> including SIP-to-TDM and TDM-to-SIP. Some high-end models may even provide such session border controller (SBC) functions as transcoding, security firewall, failover, and others. <u>VoIP media gateways can be used to address many different challenges when implementing an IP-based voice system.</u>

3.26.5 **<u>What is Media Gateway? How does a Digital Media Gateway or SIP Media Gateway work?</u>**A Media Gateway is a networking device that provides valuable and essential functions for organizations, service providers, and network operators. When interconnecting traditional time-division-multiplexed (TDM) telephony systems with modern voice-over-internet protocol (VoIP) systems, a VoIP media gateway works by providing protocol conversion (translation) and interoperability between the two network technologies. Also known as an IP media gateway or SIP media gateway, the device converts a traditional analog plain-old-telephone-system (POTS) voice signal or related digital telephony signals such as T1, DS3, STM1 or OC3 into packets for transmission over a data network such as the Internet, private IP Network or a corporate LAN. When the legacy system is based on digital integrated services digital network (ISDN) technology, the device may be called a digital VoIP gateway or ISDN media gateway. Some manufacturers combine gateway functionality with WAN-access (internet-access) capability into a single device or network appliance. Such a dual-purpose device may be known as an access media gateway.

3.26.6 Website - https://www.clearlyip.com/2021/07/06/what-is-a-media-gateway/ - of another Company, EarlyIP, USA, leading in telecommunications software, infrastructure, services and cloud, has been visited and the following is found:

3.26.7 **<u>What is a Media Gateway and what does it do?</u>** A media gateway, also known as a VoIP gateway or digital gateway, is a device that enables communication between different types of networks and protocols. It acts as a bridge between traditional telephone networks (such as the Public Switched Telephone Network or PSTN) and Voice over IP (VoIP) networks, allowing the conversion of voice signals from one format to another.

3.26.8 From the website of above 2 (two) telecom companies, it appears that –

(i) A VoIP gateway is also known as (a.k.a.) analog telephone adapter (ATA) and the terms Analog Telephone Adapter, VoIP Gateway, Digital Gateway and Media Gateway are used interchangeably.

(ii) The functions of each of the above products appear to be similar i.e., to convert traditional signals into packet based / IP streams.

(iii) Each of the above Gateways / Adapters also appears to provide protocol translation and interoperability between networks.

3.26.9 In view of above, it appears that impugned imported goods i.e. Analogue Telephone Adapter with Router (ATA), described in the product datasheet as an 'intelligent gateway', is nothing but a 'Media gateway' which is one of the 4 (four) VoIP equipments specifically excluded from the purview of concessional BCD @10% ad valorem vide Sl. No. 20(f) to Notification 57/2017 – Customs dated 30.06.2017 (as amended). Therefore, the Noticee's contention that the above imported ATA is not falling under the ambit or scope of any of the said 4 (four) specific VoIP equipments, namely, (i) VoIP phones, (ii) Media gateways, (iii) Gateway controllers and (iv) Session border controllers and thus becomes eligible for the partial exemption of BCD @ 10% does not appear to be acceptable.

3.27 The Noticees's another submission appears to be that the subject imported item i.e. ATA definitely converts analogue voice signal into digital packets that are carried over internet protocol and therefore answers the description of goods covered under exclusion clause provided in column (3) against item (f) of Annexure-1 to CBIC Circular Number 08/2023, Dt. 13.03.2023, but a Circular cannot expand the scope of an exemption Notification which is to be strictly construed. The above Circular here says that any - "Card/module or sub-systems converting analogue voice signal into digital packets that are carried over internet protocol that uses products like IP PBX, IMS or UCS" - is to be termed as VoIP equipments, i.e. (i) VoIP phones, (ii) Media gateways, (iii) Gateway controllers or (iv) Session border controllers, which are barred by the above Notification No. 57/2017 – Cus, Dt. 30.06.2017 from coverage under partialexemption of BCD. However, as per Noticee, the said imported ATA is merely an adapter, and not any of the above 4 (four) VoIP equipments mentioned against S. No. 20 of in the above Notification, and, therefore, the above Circular is widening the scope and ambit of Notification No. 57/2017 – Cus, Dt. 30.06.2017, which it cannot.

3.28 Regarding above submission of the Noticee, it appears to be pertinent to quote the clause (f) of above Circular Number 08/2023, Dt. 13.03.2023 corresponding to S. No. 20(f) of Notification No. 57/2017 – Cus, Dt. 30.06.2017, which is as below:

TABLE-V

Notification item	Notification description	Identification of products/equipment covered
(f)	Soft switches and **Voice over Internet Protocol (VoIP) equipment**, namely, VoIP phones, Media gateways, Gateway controllers and Session border controllers	**Card/module or sub-systems converting analog voice signal into digital packets that are carried over internet protocol use one or more of these products**. Some examples are i. Internet Protocol Private Branch Exchange (IP PBX); ii. ii. IP Multimedia Systems (IMS); iii. Unifiedcommunication systems (UCS).

3.28.1 In view of the terminologies described in the websites of Patton LLC, USA and EarlyIP, USA, two leading telecommunications companies, as discussed supra, it appears that the terms, Analog Telephone Adapter, VoIP Gateway, Digital Gateway and Media Gateway are used interchangeably, and therefore, the subject imported item i.e. Analogue Telephone Adapter with Router (ATA), described in the product datasheet as an intelligent gateway, appears to be a Media gateway only and thus falling squarely under the ambit of one of the 4 (four) VoIP equipments specified in the above Notification. Hence, the above CBIC Circular does not appear to be overriding or going beyond the Notification No. 57/2017 – Cus, Dt. 30.06.2017 at all. It rather appears that the above Circular is in perfect tune with the said Notification. The Noticee's above contention, therefore, appears to be without any merit.

3.29 Hence, based on the datasheet / product catalogue [Para 3.9, 3.9.1 above], the evidences available in above 2 (two) websites and discussion thereof [Para 3.26, 3.26.6, 3.26.8 above], it appears that the subject imported goods, ATA with Router(IAD440S), an intelligent gateway, is a compact unit with 4FXS ports, 1 WAN port, 1 LAN port capable of providing (i) versatile solutions by connecting analog phone, fax, POS machine, IP telephony and PSTN, and (ii) a complete VoIP solution applicable to most scenarios. It also appears to be perfectly interoperable with legacy telephone terminals, SIP (Session Initiation Protocol) servers and IPPBXs (Internet Protocol Private Branch Exchange) and to support IMS (IP Multimedia Systems), which has partly been admitted by the Noticee in their submission dated 08.01.2024. The above imported item thus appears to be a 'media gateway' covered under exclusion vide clause (f) of Sl. No. 20 of the Notification No. 57/2017 – Customs Dt. 30.06.2017 read with Circular Number 08/2023, Dt. 13.03.2023 and partial BCD exemption benefit of 10% appears to be not available to the said item.

3.30 Quantification of Customs Duty Liability: From the statutory provisions vis-à-vis the facts and evidences of the case, submission of the Noticee, its analysis and discussion, as above, it appears that the concessional BCD @10% ad valorem under S. No. 20 of the Notification No. 57/2017 – Customs, dated 30.06.2017, as amended, is not applicable to the Noticee's subject imported goods of description - "4 FXS ANALOG TEL ADAP WTHROUTER-IAD440S [ITEM CODE-491894743]" with CTI 8517 62 90 - the said goods appearing to fall squarely within the scope of exclusion clause vide the above Entry S. No. 20(f) of the Notification No. 57/2017 – Customs, dated 30.06.2017 read with CBIC Circular Number 08/2023, Dt. 13.03.2023.

3.31 Hence, the goods in question appears to attract levy of BCD at its merit rate @20% ad valorem, as per the CTI 8517 62 90 of the First Schedule to the Customs Tariff Act, 1975.

3.32 In view of above, the Noticee appears to have short-paid Customs Duty to the tune of Rs.**1,01,51,027/-**, arising out of payment of BCD at lower rate @ 10% advalorem instead of its tariff rate @20% ad valorem. Details of said short-paid Duty calculation are shown in Table-VI below:

TABLE-VI

[COMPUTATION OF SHORT-PAID CUSTOMS DUTY]

(Amount in Rupees)

Sl. No	Bill of Entry Number and Date	Item-wise Assessable Value (AV)	Basic Customs Duty @20%			Basic Customs Duty @10%			Differential Duty		
			BCD @20 % of AV	SWS @10 % of BCD	IGST @18% of (AV+ BCD+ SWS)	BCD @10 % of AV	SWS @10 % of BCD	IGST @18 % of (AV+ BCD + SWS)	Differential BCD	Differential SWS	Differential IGST
			Cumulative duty @43.96% #			Cumulative duty @30.98%			Cumulative @12.98%		
[1]	[2]	[3]	[4] = 20% of [3]	[5] =10 % of [4]	[6] = 18% of[3]+ [4]+ [5]	[7] =10 % of [3]	[8] = 10% of [7]	[9] = 18% of[3]+ [7] + [8]	[10] = [4] - [7]	[11] = [5] - [8]	[12] =[6]- [9]
1	6944338 Dt. 19.07.2023	7,82,05,134	15641027	1564103	17173847	7820513	782051	15625386	7820514	782052	1548461
TOTAL		**7,82,05,134**	**Rs.3,43,78,977/-**			**Rs.2,42,27,950/-**			**Rs.1,01,51,027/-**		

Basic Customs Duty (BCD) @ 20% of Assesssable Value (AV) plus Social Welfare Surcharge (SWS) @10% on BCD plus IGST @18% on (AV + BCD + SWS) = 20 + 2 (10% of 20) + 21.96% [18% of (100 + 20 +2)] =43.96%

3.33 The above Customs Duty amount of Rs. 1,01,51,027/-, short-paid sby the Noticee, thus, appears to be recoverable from the Noticee as per the provisions of Section 28 of the Customs Act, 1962.

3.34 **Interest**: The Noticee also appears liable to pay interest @15% per annum on the above short-paid duty, as per provisions of Section 28AA of the Act read with Notification Number

33/2016-Customs - (NT), dated 01.03.2016, as amended, for the period starting from the date of importation of the subject goods on which the concessionalduty benefit has been availed by them and ending with the date of actual payment of the entire amount of the said differential duty.

3.35 **Duty payment under protest**: As discussed above, the Noticee paid the above differential duty of Rs. 1,01,51,027/- under protest vide TR-6 Challan No. HC-243, Dt.17.01.2024, as informed by them vide emails dated 15.01.2024 and 17.01.2024 [Para 3.22, 3.22.1 above].

3.36 **Confiscation and Penalty**: The Importer, M/s. Reliance Jio Infocomm Limited, have imported item with description - "4 FXS ANALOG TEL ADAP WTHROUTER-IAD440S [ITEM CODE491894743]" under CTI 8517 62 90, claiming coverage of the said imported goods under Sl. No. 20 of Notification No. 057/2017-Customs, Dt.30.06.2017 (as amended). However, from the datasheet / product catalogue of the imported item and the information available on websites of telecommunication companies, as discussed supra, it appears that the said imported Analog Telephone Adapter (ATA) with Router (IAD440S) is an Intelligent gateway / Media gateway only and thus falling under the purview of one of the 4 (four) VoIP equipments specified in S. No. 20(f) to the above Notification, thereby appearing to attract its merit rate of BCD @20% ad valorem, as per above CTI 8517 62 90 of the First Schedule to the Customs Tariff Act, 1975. In terms of provisions of Section 46(4) of the Customs Act, 1962, the Noticee while presenting the instant Bill of Entry was to make and subscribe to a declaration as to the truth of the contents of said Bill of Entry and was also to produce documents in support of said declaration. From above discussion, it, however, appears that the Noticee have not provided any documentary evidence to corroborate their Bill of Entry declaration of coverage of the subject imported goods under S. No. 20 of the exemption Notification No. 057/2017-Customs, Dt. 30.06.2017. It thus appears that the subject imported goods are liable for confiscation under section 111(m) & 111(o) of the Customs Act, 1962 andconsequently the Noticee is liable for penalty under section 112(a) of the Customs Act, 1962.

3.37 The Noticee, thus, appears to have violated the provisions of above Section 46 read with Section 17 of the Customs Act, 1962 and also appears to have failed to comply with the provisions of above Sections of the Act, by incorrectly availing the exemption benefit under Notification 57/2017-Customs dt. 30.06.2017 (as amended), and thus appears liable for penal action under section 117 of the Customs Act, 1962 as well.

4. SUMMARY OF INVESTIGATION: In view of the foregoing facts, provisions of law, its analysis and discussion, the following points appear to emerge:

i. The Noticee, M/s Reliance Jio Infocomm Limited, have imported "4FXS Analog Tel Adap with Router -IAD440S" under CTI 8517 6290 at lower BCD @10% ad valorem, claiming coverage of the said imported goods under Sl. No. 20 of the Notification No. 057/2017-Customs, Dt.30.06.2017 (as amended).

ii. However, the above imported goods i.e. Analog Telephone Adapter (ATA) with Router (IAD440S) appears to convert analogue voice signal into digital packets that are carried over internet protocol and thus an 'Intelligent Gateway' / a 'media gateway' and one of the VoIP equipments falling under the exclusion clause (f) to the said Sl. No. 20 of Notification No. 057/2017-Customs, Dt.30.06.2017 (as amended) read with clause (f) of Annexure-1 to the CBIC Circular bearing No.

08/2023, Dt. 13.03.2023. Thus, the goods in question appears to attract merit rate of BCD @20% ad valorem.

iii. The Noticee, therefore, appears to have short-paid Customs Duty of Rs. 1,01,51,027/-, being the duty differential between [BCD @20% + SWS @10% + IGST @18%] and [BCD @10% + SWS @10% + IGST @18%] [Table-VI above refers] on importation of subject goods.

iv. Hence, the above short-paid duty along with interest thereon, as applicable, appears to be recoverable from the Noticee as per the provisions of Section 28 and 28AA of the Customs Act, 1962.

v. On being informed about the said short-payment of Customs Duty, the crux of the Noticee's submission was that although above imported item i.e. Analog Telephone Adapter (ATA) with Router (IAD440S) converts analogue voice signal into digital packets that are carried over internet protocol and thus answers the description of goods, excluded from lower duty benefit, as provided in column (3) against Notification item (f) of Annexure-1 to CBIC Circular Number 08/2023, Dt. 13.03.2023, the said imported ATA is merely an adapter, and not belonging to any of the above 4 (four) VoIP equipments, namely (i) VoIP phones, (ii) Media gateways, (iii) Gateway controllers or (iv) Session border controllers, which are excluded from partial duty benefit and, therefore, the said item imported item is eligible for concessional duty @10%. Further, a Circular cannot widen the scope and ambit of a Notification, contended by the Noticee.

vi. Subsequently, the Noticee paid the above differential Customs duty of Rs. 1,01,51,027/-, albeit under protest.

vii. Notwithstanding the above submission of the Noticee, facts appear to remain that the datasheet of the above imported item clearly describes it as an 'intelligent gateway' providing a complete VoIP (Voice over Internet Protocol) solution in most scenarios and perfectly interoperable with legacy telephone terminals, SIP (Session Initiation Protocol) servers and IPPBXs (Internet Protocol Private Branch Exchange) and to support IMS (IP Multimedia Systems) as well. Further, the websites of 2 (two) leading telecom companies appear to say that the terms Analog Telephone Adapter (ATA), VoIP Gateway, Digital Gateway and Media Gateway are used interchangeably. Thus, the subject imported Analogue Telephone Adapter with Router (ATA) appears to be a Media gateway only, specifically excluded in the above Notification from enjoying lower duty benefit @10%. The above CBIC Circular also, classifying the subject import goods under category of 'Media Gateways', does not appear to exceed themandate of the above Notification at all. The above contention of the Noticee, therefore, does not appear to have any merit.

5. The importer knowingly claimed a concessional BCD rate of 10% under an inapplicable entry of Notification No. 50/2017–Cus., despite being fully aware that the imported goods were correctly classifiable under CTI 8517 6290 attracting a 20% duty rate. The mis-declaration in the Bill of Entry and the failure to disclose the true nature and classification of the goods demonstrate a deliberate intent to mislead the department and evade payment of legitimate customs duty. Such deliberate actions indicate collusion, willful misstatement, and suppression of facts, attracting the provisions of Section 28(4) of the Customs Act, 1962.

6. Now, therefore, the Noticee, M/s Reliance Jio Infocomm Limited (IEC: 2207004091) are hereby required to show cause to the **Commissioner of Customs, NhavaSheva-V, Jawaharlal**

Nehru Custom House, NhavaSheva, Tal: Uran, Dist- Raigad, Maharashtra-400707 within 30 (Thirty) days of the receipt of this Show Cause Notice as to why:-

(i) The amount of Rs.**1,01,51,027** (Rupees one crore one lakh fifty one thousand and twenty seven only), the Customs duty short-levied and short-paid in respect of import made under Bill of Entry **6944338** Dt. 19.07.2023, arising out of their wrongful claim of concessional BCD @10% ad valorem vide Sl. No. 20 of the Notification No. 50/2017 – Customs, dated 30.06.2017, as amended, instead of its merit rate of BCD @20% ad valorem under CTI 8517 62 90, discussed supra [calculation at Table-VI above], should not be demanded and recovered from them under **Section 28(4) of the Customs Act, 1962**;

(ii) Interest at applicable rate/(s) on the duty amount demanded at Sl. No.(i) above, should not be paid by them in terms of Section 28AA of the Customs Act, 1962.

(iii) The amount of **Rs.1,01,51,027** (Rupees one crore one lakh fifty one thousand and twenty seven only) paid under protest during the course of investigation should not be appropriated against the above demand at Sl. No. (i) [Para 3.35 above refers].

(iv) The subject imported goods valued at Rs.7,82,05,134/- [Rupees seven crore eighty-two lakh five thousand one hundred and thirty four only] [TABLE-I & TABLE-VI above refer] should not be liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962;

(v) Penalty should not be imposed on them under Section 112(a)/114(A) of the Customs Act, 1962;

7. This show cause notice is being issued on the basis of the evidences available on record and relied upon documents as discussed hereinabove. The department reserves its right to add, alter, amend, modify to supplement this notice at any time on the basis of any evidence, material facts related to the issue which may come to the notice of the department after issuance of this notice and prior to the adjudication of the case.

8. This notice is issued without prejudice to any other action that has been or may be initiated against the concerned under any other law for time being in force.

ARamteke
3/11/25
(Anil Ramteke)
Commissioner of Customs
NS-V, JNCH, Nhava Sheva

To,

1. **Registered Address:** M/s Reliance Jio Infocomm Limited, DC Wahuli, Saptashree Warehouse, PP. Pushkar Mela Resort, Wahuli, Bhiwandi, Maharashtra - 421302

Copy to:

1. **DIRECTORATE OF REVENUE INTELLIGENCE REGIONAL UNIT, BHUBANESWAR, dribbsr.od@gov.in**
2. The Additional Director General, Directorate of Revenue Intelligence, Hyderabad Zonal Unit, H.No.10-2-289/57/1 & 2, 'Suryavanshi Residency', II Cross Road, Shantinagar, Masab Tank, Hyderabad – 500 028; (drihzu@nic.in)
3. CAC
4. Notice Board
5. EDI
6. File copy/Office copy.