



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



F.No. S/26-Misc-462/2025-26/Gr.VA/JNCH

Date **03** /12/2025

F.No. CADT/CIR/ADT/PBA/72/2023-PBA-Cir-B3-O/o Commr-Cus-Adt-Delhi

1468  
Show Cause Notice No. /2025-26/Commr/Gr. VA/CAC/JNCH  
S/10- /2025-26/Adj/Commr./Gr.VA/NS-V/CAC/JNCH  
DIN No. **1265**  
**-20251278NX0000142702**

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

The Premises Based Audit (PBA) in respect of **M/s Samsung India Electronics Pvt Ltd. (IEC -0595032818)** having address at 20th to 24th Floor, Two Horizon, Golf Course Road, DLF Phase-V, Sector-43, Gurugram-122002 having address at Building No. 1, Okhla Estate Phase - III, South Delhi, Delhi, India- 110020 (**in short "the Auditee" or 'Noticee'**) was conducted under Section 99A of the Customs Act, 1962. The Auditee is engaged in import of various goods including Integrated Circuits, GH81-17125A A/S-CAMERA\_FRONT\_SVC SM-T295, Alloy, Parts of Mobiles, Oled Display Assy for manufacturing of mobile phone, PCB-Mobile phone parts, Battery Pack, LCD Display Assy for Manufacturing of Mobile phone etc.

2. The Auditee vide letter dated 18.10.2023 vide C. No. CADT/CIR/ADT/PBA/72/2023-PBA-Cir-B3-O/o Commr-Cus-Adt-Delhi was informed regarding conducting Customs On-site Post Clearance Audit (OSPCA) under Section 99A of the Customs Act, 1962 (**RUD: Annexure-43**) for the Financial Year 2019-20, 2020-21, 2021-22 and 2022-23. **The Auditee vide letter dated 02.05.2024 was further informed that the audit period has been revised from F.Y. 2020-21 to 2023-24 to 2021-2022 to 2024-2025 (RUD: Annexure-44).** The team of auditors of Customs Audit Commissionerate, New Customs House, New Delhi conducted the audit through Conference under Section 99A of the Customs Act, 1962 for the **period F.Y. 2020-21 to 2024-25**. The audit was initiated on 17.07.2025 (Entry Conference) in the presence of Shri Ravi Kumar Chadha, Director, M/s Samsung India Electronics Pvt. Ltd., Sh. Abhishek Singhania, DGM, M/s Samsung India Electronics Pvt. Ltd., Sh. Rahul Shukla, PWC, Authorised Representative & Sh. Yatin Gupta, PWC, Authorised representative of M/s Samsung India Electronics Pvt. Ltd. The Audit was conducted from **18.07.2025 to 25.07.2025** on the basis of ADVAIT data and documents provided by the Auditee under Section 99A of the Customs Act, 1962 and was concluded on 11.09.2025 (Exit Conference) in the presence of Sh. Abhishek Singhania, DGM of the Auditee, Sh. Byung Heum Park, Head Customs Affair of Samsung India Electronics Pvt. Ltd., Sh. Rahul Shukla, PWC, authorised representative and Sh. Yatin Gupta, PWC, Authorised representative of the Auditee.

3. During the course of audit and on examination of records the following discrepancies have been observed: -

**3.1 Mis-classification of "ASSY CABI FOAM JIG 2450 X 1650 X 1600 (2360KG) (JIG USE FORMAKING THE OUTER CABINET OF REFRIGERATOR BY FOAMING PROCESS)" under CTH 84663020 instead of CTH 84807100 (Para No. 13 of Final Audit Report).**

It has been observed that the Auditee has imported goods i.e." ASSY CABI FOAM JIG 2450 X 1650 X 1600 (2360KG) (JIG USE FORMAKING THE OUTER CABINET OF REFRIGERATOR BY FOAMING PROCESS)" under CTH84663020 instead of CTH 84807100 and availed benefit of Sr. No. 752 of Customs Notification No. 152/2009 dated 31.12.2009 and



paid duty @ 0%. The imported goods are classifiable under CTH 84807100, therefore benefit of Notification No. 152/2009 is not available. The applicable rate is BCD-7.5% & IGST-18%.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

8466	Parts and accessories suitable for use solely or principally with the machines of headings 8456 to 8465, including work or tool holders, self-opening die-heads, dividing heads and other special attachments for machine-tools; Tool holders for any type of tool, for working in the hand.
84663020	Jigs and Fixtures.
8480	Moulding Boxes for metal foundry; mould bases; moulding patterns; moulds for carbides, glass, mineral materials, rubber or plastics.
84807100	Injection or compression types

Accordingly, the Auditee appears liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
9645673	723425	72343	143238	939006

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 1)

### **3.2 Mis-classification of "CONVEYOR IN DISMANTLE CONDITION WITH STANDARD SPARES AND ACCESSORIES" under CTH 84282019 & 84283900 instead of CTH 84283900. (Para 14 of Final Audit Report).**

It has been observed that the Auditee has imported goods i.e. "CONVEYOR IN DISMANTLE CONDITION WITH STANDARD SPARES AND ACCESSORIES" under CTH 84282019 & 84283900 instead of CTH 84283900 and availed benefit of Sr. No.691 & 693 of Notification No.152/2009-cus dtd. 31.12.2009 respectively whereas the said goods are classifiable under CTH 84283900 attracting BCD @ 7.5%. In some case the auditee also imported the same goods under CTH 84283900. In the present case, the auditee could not produce relevant Country of Origin (COO) certificate for the correct HSN and thus the benefit of Sr. No. 691 of Notification No. 152/2009 is not available. The imported goods are classifiable under proper HSN i.e. 84283900 wherein benefit of Sr. No. 691 of Notification No. 152/2009 is not available. Applicable rate of BCD-7.5% & IGST-18%.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

8428	Other Lifting, Handling, Loading or Unloading Machinery (For Example, Lifts, Escalators, Conveyors, Teleferics)
842820	Pneumatic elevators and conveyors
84282019	Other
84283900	Other

Accordingly, the Auditee appears liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:



(Amount in Rs.)

AV	BCD	SWS	IGST	Total
564575586	42343169	4234317	8383947	54961433

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 2)

**3.3 Mis-classification of "MOTOR AC PUMP" under CTH 84137010, 84138190 & 84139190 instead of CTH 85011020. (Para No. 15 of Final Audit Report).**

It has been observed that the Auditee has imported goods i.e., "MOTOR AC PUMP" under CTH 84137010, 84138190 & 84139190 instead of CTH 85011020 and paid BCD @ 7.5% whereas the said goods are classifiable under CTH 85011020 attracting BCD@15%. The imported goods are classifiable under CTH 85011020, wherein the Applicable rate of BCD is 15% & IGST is 18%.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

8413	Pumps for liquids, whether or not fitted with a measuring device; Liquid elevators Pumps fitted or designed to be fitted with a measuring device; liquid elevators.
841370	other centrifugal pumps
84137010	primarily designed to handle water
841381	Other Pumps
84138190	Other
84139190	Parts of other pumps.
8501	Electric Motors and generators (excluding generating sets)
85011020	AC Motor

The description of the goods in the Bills of Entry describe the product as part of the assembly of the drain pump. The 'part' word is the operative word here. As it is not the complete unit of the drain pump, it is not classifiable under the category of pump. The part of the assembly is a motor that function with the pump. As the motor is separately imported, it is classifiable as such under its specific heading of 85011020 attracting BCD @15%.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)

AV	BCD	SWS	IGST	Total
111176035	2779401	277940	550321	3607662

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 3)

**3.4 Mis-classification of "CHILLER WITH STANDARD ACCESSORIES CHILLER WITH STANDARD ACCESSORIES" under CTH 84198940 instead of CTH 84186990. (Para No. 16 of Final Audit Report).**



It has been observed that the Auditee has imported goods i.e., "CHILLER WITH STANDARD ACCESSORIES" under CTH 84198940 instead of CTH 84186990 and availed benefit of Sr. No. 34 of Notification No.151/2009-cus dtd. 31.12.2009 whereas the said goods are classifiable under CTH 84186990 attracting BCD@15%. The imported goods are classifiable under CTH 84186990 wherein benefit of Sr. No. 34 of Notification No. 151/2009 is not available. Applicable rate of BCD-15% & IGST-18%.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

8419	Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, steaming, sterilizing, pasteurising, rectifying, drying, evaporating, vaporising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non-electric.
841989	Other, other machinery, plant and equipment.
84198990	Other
8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines or heading 8415
841869	Other (other refrigerating or freezing equipment; heat pumps)
84186990	Other

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
64600012	9186615	918661	1818950	11924226

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 4)

### **3.5 Mis-classification of "GAS LEAK DETECTOR MACHINE under CTH 90318000 instead of CTH 90271000. (Para No. 17 of Final Audit Report).**

It has been observed that the Auditee has imported goods i.e. GAS LEAK DETECTOR MACHINE under CTH 90318000 instead of CTH 90271000 and paid BCD @7.5% & 0% after availing benefit of Sr. No. 950 of Customs Notification. 152/2009. CTH 90271000 is for "INSTRUMENTS AND APPARATUS FOR PHYSICAL OR CHEMICAL ANALYSIS (FOR EXAMPLE, POLARIMETERS, REFRACTOMETERS, SPECTROMETERS, GAS OR SMOKE ANALYSIS APPARATUS); INSTRUMENTS AND APPARATUS FOR MEASURING OR CHECKING VISCOSITY, POROSITY, EXPANSION, SURFACE TENSION OR". Hence, the goods are classifiable under CTH 90271000 wherein the BCD is @10% instead of 7.5% and IGST is 18%.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:



9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors
90318000	Other instruments, appliances and machines
9027	Instruments And Apparatus For Physical Or Chemical Analysis (For Example, Polarimeters, Refractometers, Spectrometers, Gas Or Smoke Analysis Apparatus); Instruments And Apparatus For Measuring Or Checking Viscosity, Porosity, Expansion, Surface Tension Or The Like, Instruments Or Apparatus For Measuring Or Checking Quantities Of Heat, Sound Or Light (Including Exposure Meters); Microtomes
90271000	Gas or smoke analysis apparatus

A gas leak detector works by using specialized sensors to detect the concentration of a specific gas in the air. Here's a step-by-step breakdown of how a gas leak detector works:

#### 1. Air Sampling:

The detector continuously samples the surrounding air, drawing it into the unit to be analyzed by the sensors.

#### 2. Gas Detection:

Inside the device, a specialized sensor reacts to the presence of the target gas.

**Electrochemical sensors:** convert the gas into an electrical current, with the strength of the current indicating the gas concentration.

**Infrared sensors:** detect specific wavelengths of infrared light absorbed by the gas.

**Ultrasonic sensors:** detect for high-frequency sounds that gas leaks produce.

**Solid-state sensors:** experience a change in electrical conductivity when they come into contact with the gas.

As can be seen from the description above, the gas detector analyses the gas of the surrounding and signals when composition of a gas increases more than a prescribed limit. Thus, in light of the above, it is clearly classifiable in the CTH of 9027 rather than a residual heading of 90311000. Despite this clear understanding of the working of the product, the auditee chose to misclassify the product under a generic residual heading in place of a specific heading available for the product.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
65292486	5375945	537595	1064437	6977977

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 5)

#### **3.6 Mis-classification of "ANALOG TO DIGITAL DATA CONVERSION DEVICE (ACTUAL USER)" under CTH 90318000 instead of CTH 85437099. (Para No. 18 of Final Audit Report).**

It has been observed that the Auditee has imported goods i.e. ANALOG TO DIGITAL DATA CONVERSION DEVICE (ACTUAL USER)" under CTH 90318000 instead of CTH 85437099 and paid BCD @ 0% after availing benefit of Sr. No. 950 of Customs Notification No. 152/2009 dated 31.12.2009.



The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors
90318000	Other instruments, appliances and machines
8543	Electrical machines and apparatus having individual functions, not specified or included elsewhere in this chapter.
854370	other machines and apparatus
85437099	Other

In electronics, an analog-to-digital converter is a system that converts an analog signal, such as a sound picked up by a microphone or light entering a digital camera, into a digital signal. Hence, the said goods are classifiable under CTH 85437099.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
17972318	1347924	134792	266889	1749605

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 6)

### **3.7 Alleged mis-classification of "ASSY COVER EVAP-REF Assemble & Inspector" under CTH 90318000 instead of CTH 90328990. (Para No. 20 of Final Audit Report).**

It has been observed that the Auditee has imported goods i.e., ASSY COVER EVAP-REF under CTH 903180000 instead of CTH 90328990 and paid BCD @ 0% after availing benefit of Sr. No. 950 of Customs Notification No. 152/2009 dated 31.12.2009.

9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors
90318000	other instruments, appliances and machines.

As per the documents submitted by the auditee, this equipment is used for automatic assembly as well as inspection of refrigerator.

As per Explanatory Notes, the said item does not fall under CTH 90318000. Further, the WCO Explanatory Notes read as below –

*"It should, however, be noted that this group does not include any instruments, apparatus, etc., falling in headings 90.01 to 90.12 or 90.15 to 90.30; in particular, the following are therefore excluded :*

- Astronomical instruments of heading 90.05.*
- Microscopes (heading 90.11 or 90.12).*
- Surveying, etc., instruments and appliances of heading 90.15.*
- Instruments for measuring length, for use in the hand (heading 90.17).*
- Medical, surgical, etc., instruments and appliances of heading 90.18.*



- (f) Machines or appliances for testing the mechanical properties of Materials (heading 90.24).  
 (g) Flowmeters, etc., of heading 90.26.  
 (h) Instruments and apparatus for measuring and checking electrical quantities and instruments and apparatus for measuring or detecting ionising radiations of heading 90.30. **(ii Automatic regulating or controlling instruments and apparatus (heading 90.32))"**

Further, as per CTH 9032 –

9032	Automatic regulating or controlling instruments and apparatus.
903210	Thermostats
903220	Manostats
	Other instruments and apparatus
90328100	Hydraulic or pneumatic
903289	Other
9032.90	Parts and accessories

Thus, the said product is classifiable under CTH 90328990, wherein applicable rate of BCD@7.5% & IGST@18% after extending benefit of Sr. 494A of Customs Notification No. 50/2017 dated 30.06.2017.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
3310333	248275	24827	49158	322261

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**(Detail duty calculation sheet is attached as RUD No. 7)**

**3.8 Mis-classification of "FOLD4 3D SIGNAGE (LED) (FOR SECURITY ALARM SYSTEM) FOLD4 3D SIGNAGE (LED) (FOR SECURITY ALARM SYSTEM)" under CTH 90230090 instead of CTH 85319000. (Para no. 22 of Final Audit Report).**

It has been observed that the Auditee has imported goods i.e. FOLD4 3D SIGNAGE (LED) (FOR SECURITY ALARM SYSTEM) FOLD4 3D SIGNAGE (LED) (FOR SECURITY ALARM SYSTEM) under CTH 90230090 instead of CTH 85319000 and paid BCD @ 0% after availing benefit of Sr. No. 942 of Customs Notification No. 152/2009 dated 31.12.2009.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

9023	Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses
90230090	Other
8531	Electric sound or visual signalling apparatus (for example, bells, sirens, indicator panels, burglar or fire alarms), other than those of heading 8512 or 8530



85319000	other
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Thus, the said product is part of security alarm system and is classifiable under CTH 85319000 wherein benefit of the notification No. 152/2009 dated 31.12.2009 is not available. Applicable rate of is BCD@10% & IGST@18%.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

				(Amount in Rs.)
AV	BCD	SWS	IGST	Total
480040	48004	4800	9505	62309

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 8)

### 3.9 Mis-classification of "NEW TAG" under CTH 90230090 instead of CTH 85235990. (Para No. 23 of Final Audit Report)

It has been observed that the Auditee has imported goods i.e. NEW TAG under CTH 90230090 instead of CTH 85235990 and paid BCD @ 0% after availing benefit of Sr. No.942 of Customs Notification No. 152/2009 dated 31.12.2009.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

9023	Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses
90230090	Other
8523	Discs, Tapes, Solid state non-volatile storage devices, "smart cards" and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs, but excluding products of chapter 37
852359	other semi-conductor media
85235990	other.

The said product is part of security alarm system and is classifiable under CTH 85235990 wherein benefit of the notification is not available. Applicable rate of BCD@10% & IGST@18%.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

				(Amount in Rs.)
AV	BCD	SWS	IGST	Total
252900	25290	2529	5007	32826

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 9)



**3.10 Mis-classification of “WIRELESS DEVICE MODULE” under CTH 90230090 instead of CTH 85177990. (Para No. 24 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. WIRELESS DEVICE MODULE under CTH 90230090 instead of CTH 85177990 and paid BCD @ 0% after availing benefit of Sr. No. 942 of Customs Notification No. 152/2009 dated 31.12.2009 under FTA. The auditee was asked to submit FTA and Form 1 and additional supporting documents as required under CAROTAR Rules, 2020. The auditee has submitted the FTA and Form 1 but during detailed scrutiny of the Form 1, the auditee was asked to submit the RVC Calculation Worksheet, in order to substantiate the value addition criteria used by the importer for claiming preferential rate of duty. The representatives from the auditee side i.e. Mr. Abhishek Singhanian and Mr. Ravi Chadha outrightly denied submitting RVC calculation worksheet stating that neither the auditee nor their supplier would provide with such confidential information. Thus, non-submission of RVC calculation worksheet is intentional on behalf of the auditee and proves a malafide intent of the auditee as there is no confidentiality involved in this. It is an essential information which must be provided to the proper officer as and when demanded, to avail the FTA Notification Benefit. The auditee is bound to possess such information as per Rule 4(a) of CAROTAR Rules, 2020 and should provide the same to the proper officer on request. Further, as per Rule 4(b) of CAROTAR Rules, 2020, the importer is required to keep all the information related to FORM 1 for 5 years. Further, as per Sec-99A of Customs Act, 1962 read with manual for Custom Post Clearance Audit Para No. 1.1.1..... In this manual, ‘proper officer’, who conducts audit under the PCA procedure shall for convenience’s sake be referred to as ‘auditor’. Thus, the auditors as per Audit Manual are the proper officers in terms of Section 99A of Custom Act, 1962.

Therefore, the auditee is in contravention of Rule 4(a) and Rule 4 (b) of CAROTAR Rules, 2020 and in the absence of such information related to RVC content, the auditee cannot avail preferential rate of duty and is bound to pay duty at merit.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
227936	22794	2279	4513	29586

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 10)

**3.11 Mis-classification of “SENSOR PRESSURE - DC96-01703G (SPARE PARTS FOR WASHING MACHINE)” under CTH 90262000 instead of CTH 84509010. (Para No. 25 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. SENSOR PRESSURE - DC96-01703G (SPARE PARTS FOR WASHING MACHINE) under CTH 90262000 instead of CTH 84509010 and paid BCD @ 0% after availing benefit of Sr. No. 31 of Customs Notification No. 24/2005 dated 01.03.2005.

Pressure Sensor (or water level sensor) is an essential part of a modern washing machine, as it monitors and controls the water level in the drum during wash and rinse cycles. Without this sensor, a washing machine could overflow, underfill, fail to start, or not drain properly, leading to inefficient operation and potential damage. The pressure sensor detects these changes in air pressure and sends a signal to the washing machine's control board. It ensures the machine doesn't get filled with too much water, preventing leaks and water waste. It also signals the control board when the wash cycle is complete and the water is fully drained, which is necessary before the spin



cycle can begin. In light of above pressure sensor is an essential part of a modern washing machine and will be classified under CTH 84509010.

*In terms of the note 2 of the Section XVI:*

*Subject to Note 1 of this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:*

*(a) Parts which are goods included in any of the headings of Chapter 84 or 85 other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;*

*(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 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17, and parts which are suitable for use solely or principally with the goods of heading 85.24 are to be classified in the heading 85.29;*

In the matter of Delton Cables Ltd reported in 2005(181) ELT 373 (SC) the Hon'ble Supreme Court had laid down the ratio of sequential application of Note 2 to Section XVI. In accordance with this ratio, once Note 2(a) is found applicable, recourse to Note 2(b) or 2(c) ibid would not be appropriate.

Therefore, the imported goods being part of washing machine are to be classified in terms of Note 2(a) to Section XVI read with the Hon'ble Supreme Court judgement in the matter of Delton Cables Ltd reported in 2005(181)ELT 373 (SC) and would be classifiable under 84509010.

Thus, the said product is classifiable under CTH 84509010, wherein benefit of the notification is not available. Applicable rate of BCD is 10% & IGST is 18%.

Accordingly, the Auditee appears liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
85980608	8598061	859806	1702412	11160279

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**(Detail duty calculation sheet is attached as RUD No. 11)**

### **3.12 Mis-classification of "PCB Assembly/Display (Washing machine parts)" under CTH 85371000 instead of CTH 84509010 (Para No. 26 of Final Audit Report)**

It has been observed that the auditee has imported 'PCB Assembly/Display' classifying it under 'CTH 85371000' while claiming benefits of 'Exemption Notification No. 50/2017 dated 30.06.2017, Sr. No. 490. However, it has been noticed that the said goods 'PCB Assembly/Display for washing machine' appears to be appropriately classifiable under respective product i.e. heading '8450' when the said part pertains to washing machine. These assemblies are essential and integral to the functioning of the final appliance, and as per Section Notes 2(b) XVI, parts and accessories which are identifiable as being suitable solely or principally for use with a particular kind of machine or apparatus are to be classified under the heading appropriate to that machine or apparatus. Therefore, the import goods are classifiable under CTH 84509010 attracting



BCD@10% & IGST@18%, as these assemblies have lost their identity as generic PCBs and have become part and parcel of the final product.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
30648497	766213	76621	151710	994544

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 12)

### **3.13 Mis-classification of "WALLMOUNT" under various CTHs 83024190 instead of CTH 83025000 (Para No. 27 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. WALLMOUNT" under CTHs 83024190, instead of CTH 83025000 and paid BCD @ 0% by availing benefit of Sr. No. 629 of Notification No. 152 / 2009 dated 31.12.2009.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal
830241	Suitable for buildings
83024190	Other
83025000	Hat-Rcks, Hat-pegs, Brackets and similar fixtures

The auditee wilfully ignored the right CTH i.e. 83025000 for the product which was available for the given category of product and chose to mis-classify it under the residual heading of 83024190. Even after it was pointed out to the auditee, it chose to stick to the wrong classification of the product causing substantial revenue loss to the Government. The said product is classifiable under CTH 83025000 wherein applicable rate of duty is BCD @ 15% & IGST@18%.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
82942403	12441360	1244136	2463389	16148886

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 13)

### **3.14 Mis-classification of "CUSHION-SHEET" under CTH 48237010 (Para No. 28 of Final Audit Report)**



It has been observed that the Auditee has imported CUSHION-SHEET” under CTH 48237010 and availed Sr. No. 584 of Customs Notification No.46/2011 dated 01.06.2011. The auditee was asked to submit FTA and Form 1 and additional supporting documents as required under CAROTAR Rules, 2020. The auditee has submitted the FTA and Form 1. During detailed scrutiny of the Form 1, the auditee was asked to submit the RVC Calculation Worksheet, in order to substantiate the value addition criteria used by the importer for claiming preferential rate of duty. The representatives from the auditee side i.e. Mr. Abhishek Singhanian and Mr. Ravi Chadha outrightly denied submitting RVC calculation worksheet stating that neither the auditee nor their supplier would provide with such confidential information. The auditee is bound to possess such information as per Rule 4(a) of CAROTAR Rules, 2020 and should provide the same to the proper officer on request. Further, as per Rule 4(b) of CAROTAR Rules, 2020, the importer is required to keep all the information related to FORM 1 for 5 years. Therefore, the auditee contravened of Rule 4(a) and Rule 4 (b) of CAROTAR Rules, 2020 and in the absence of such information related to RVC content, the auditee cannot avail preferential rate of duty and is bound to pay duty at merit.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
567683501	56768350	5676835	7493422	69938607

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 14)

**3.15 Mis-classification of “BRACKET” under CTH 73209090, 73269099, 76109030, 76169990, 83088099, 74799090 and 94069900 instead of CTH 83025000. (Para No. 29 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. BRACKET” under CTH 73209090 73269099 76109030, 76169990, 83088099, 74799090 and 94069900 instead of CTH 83025000.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal
83025000	Hat-racks, hat-pegs, brackets and similar fixtures

The said product is classifiable under CTH 83025000 wherein BCD@15% & IGST@18% is applicable. Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
177253998	17794021	1779402	3523216	23096640



The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**(Detail duty calculation sheet is attached as RUD No. 15)**

**3.16 Mis-classification of "Various type of Hinges" under CTH 73209090, 73079990, 73181500, 73269099, 84141000, 84159000 and 84189900 instead of CTH 830210/10/20/90 (Para No. 30 of Final Audit Report)**

It has been observed that the Auditee has imported various type of Hinges" under CTH 73209090 73079999, 73181500, 73269099, 84141000, 84159000 and 84189900 instead of CTH 830210/10/20/90.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:

8302	Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal
830210	Hinges
83021010	Of Steel
83021020	Of Brass
83021090	Others

Misclassification and wrong availment of Notification No. 24/2005-10 dated 01.03.2005, 152/2009-594 & 720 dated 31.12.2009, 752, 788, 950, 151/2009-55, 50/2017 - 377, 377A, 449A, 563A whereas the same is classifiable under proper CTH 830210/10/20/90 attracting BCD@15% and IGST @18%. Thus, the said product is classifiable under CTH 830210/10/20/90, wherein BCD@15% & IGST@18% is applicable.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
326993829	32827504	3282750	36110254	72220508

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**(Detail duty calculation sheet is attached as RUD No. 16)**

**3.17 Mis-classification of "Damper, Assy Damper, Aassy damper module, Damper shock" under CTH 84159000, 84189900, 84229020, 84509010 and 84799090 instead of CTH 40169990 (Para No. 32 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. Damper, Assy Damper, Aassy damper module, Damper shock" under CTH 84159000, 84189900, 84229020, 84509010 and 84799090 instead of CTH 40169990.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:



4016	OTHER ARTICLES OF VULCANISED RUBBER OTHER THAN HARD RUBBER
401699	Other
40169990	Other

It is pertinent to understand the difference between the part/component and accessory: A part is a component essential for an item's function, meaning the item cannot operate without it, while an accessory is an optional additional that enhances the primary item's function, appearance, or ease of use but is not required for its basic operation. In the present product, the Chartered Engineer from the Chennai plant first acknowledged that the product is not essential to the functioning of the washing machine and that the washing machine would perform all its essential functions even in the absence of the product in discussion. However, the very next day, the auditee team shifted their stand on its understanding of the product and termed it as essential product.

On close observation of the product, it appears that the rubber part is for dampening the shocks while the washing machine drum is rotating and doesn't hamper the operation of the washing machine in its absence. As such it is an accessory and thus its classification is driven by the material of the product i.e. Rubber. Further, as per Customs law, accessories are distinguished from parts by being secondary, subsidiary, or supplementary to a main product, rather than essential for its function. A key principle for classification is that accessories contribute to the effectiveness or add functionality to the primary article but are not necessary for the article's core operation. The correct classification relies on the Harmonized System (HS) Code, and if a distinct heading exists for the accessory, that specific classification generally takes precedence over one as a generic accessory.

Thus, the said product is classifiable under CTH 40169990, wherein BCD@10% (after allowing benefit of Notification No.050/2017-284), SWS@10% and IGST@18% is applicable. Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
865960641	47078737	4707874	9321590	61108201

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 17)

**3.18 Wrong availment of benefit of Sr. No. 284 of Customs Notification No. 50/2017 dated 30.06.2017: The auditee has imported "GH02-17958A TAPE SPONGE-VT CAM; SM-A505F, PU SS M030SD (FOR MOBILE PHONE) "under CTH 40169990 and availed benefit of Sr.No.284 of Customs Notification No.50/2017 (Para No. 38 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e GH02-17958A TAPE SPONGE-VT CAM; SM-A505F, PU SS M030SD (FOR MOBILE PHONE)" under CTH 40169990 and availed benefit of Sr.No.284 of Customs Notification No.50/2017 dated 30.06.2017.

Sr. No. 284 of Customs Notification No. 50/2017 is as under: -

- 284 - (4016 95 90, 4016 99 90) - 10% BCD for All goods, other than-
- Natural rubber latex made balloons;
  - Microphone Rubber Case for cellular mobile phones; or



(iii) *Sensor Rubber Case / Sealing Gasket including sealing gaskets / cases from Rubbers like SBR, EPDM, CR, CS, Silicone and all other individual rubbers or combination / combination of rubbers for cellular mobile phones.*

Thus, the benefits of the notification are not available for the said product and the BCD is applicable @ 20% and IGST @18%.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
12786541	1278654	127865	253174	1659693

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 18)

### **3.19 Wrong availment of Sr. No. 284 of Customs Notification No. 50/2017 (Para No. 42 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. "GASKET-TAPE EMI SHIELDING" under CTH 40169990 and availed benefit of Sr. No. 284 of Customs Notification No.50/2017 dated 30.06.2017.

The auditee is not eligible for notification benefit as the said goods are of USA origin. Thus, the benefits of Sr. No. 284 of Customs Notification No. 50/2017 dated 30.06.2017 is not available to the auditee. The, applicable BCD rate on merit is 10% & IGST is @18%.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
9838508	983851	98385	194802	1277038

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 19)

### **3.20 Mis-classification of "HEATER METAL SHEATH" under various CTHs 85169000, 84189900 and 84195099 instead of CTH 85168000 (Para No. 44 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. HEATER METAL SHEATH" (for Refrigerator) under various CTHs 85169000, 84189900 and 84195099 instead of CTH 85168000. In this regard, the auditee submitted that "Heater, Sheath / Heater Plate is an Electric Heating Resistor which is Driven with 240 V AC, to Generate the Heat. Principle Heat produced due to the electric current passed through resistance. In Refrigerator, it is assembled with the Evaporator to Clear the Frosting generated on it. Item Heater, Sheath / Heater Plate is an Electric Heating Resistor which produces Heat when electric current passes through Resistance. In Customs Tariff, there is a specific HSN 85168000 for Electric heating resistor is available.

The relevant entries of the Custom Tariff Heading of the Customs Tariff Act, 1975 are as follows:



8516	ELECTRIC INSTANTANEOUS OR STORAGE WATER HEATERS AND IMMERSION HEATERS; ELECTRIC SPACE HEATING APPARATUS AND SOIL HEATING APPARATUS; ELECTROTHERMIC HAIR-DRESSING APPARATUS (FOR EXAMPLE, HAIR DRYERS, HAIR CURLERS, CURLING TONG HEATERS) AND HAND DRYERS; ELECTRIC SMOOTHING IRONS; OTHER ELECTRO-THERMIC APPLIANCES OF A KIND USED FOR DOMESTIC PURPOSES; ELECTRIC HEATING RESISTORS, OTHER THAN THOSE OF HEADING 8545
85168000	Electric heating resistors

It appears that the said goods are appropriately classifiable under CTH 85168000 attracting BCD@20% and IGST@18%. Accordingly, the differential duty, interest, and penalty, as applicable are recoverable from the auditee under the relevant provisions of the Customs Act, 1962

Therefore, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
559897624	70180625	7018063	13895764	91094452

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 20)

### **3.21 Mis-classification of "REMOCON 06-HWT400-RC2S TONLY (REMOTE FOR LCDTV)" under CTH 85437099 instead of CTH 85299090. (Para No. 45 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. REMOCON 06-HWT400-RC2S TONLY (REMOTE FOR LCD TV) under CTH 85437099. The auditee has misclassified the item in the description under CTH 85437099 & wrongly availed the benefit of Sr. No. 1450 of Customs Notification No.46/2011 dated 01.06.2011. The item appears to be correctly classified under CTH 85299090. CTH 8529 read as parts suitable for use solely or principally with the apparatus of heading 8524 to 8528. The imported goods are Parts of LED, thus rightly classifiable under 85299090 attracting BCD @15%, SWS@10% and IGST @18%. Therefore, the differential duty along with the applicable interest and penalty is recoverable from the auditee under the relevant provisions of the Customs Act, 1962.

Therefore, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
157366773	12145767	1214577	2404862	15765206

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 21)



**3.22 Mis-classification of “Thermistor”/“Thermistor Assembly” under CTH 85334030 (Para No. 46 of Final Audit Report)**

It has been observed that the Auditee has imported goods i.e. “Thermistor/Thermistor Assembly” under CTH 85334030 paying BCD @ 0% by availing benefit of Sr. No. 21 of Customs Notification No.24/2005.

Thermistors, being part of refrigerator, mobile phone etc. should be classified under the appropriate parts heading for the said machines they are used in i.e. CTH 85177990 attracting BCD @15% & IGST@18% and CTH 84189900 attracting BCD @7.5%& IGST@18% respectively, rather than under the category for Thermistors under CTH 85334030. As per Section Note 2(b) of Section XVI of the Customs Tariff Act, 1975 parts that are suitable for use solely or principally with a particular kind of machine, or with a number of Machines of the same heading, are to be classified with those machines.

Accordingly, the Auditee appears to be liable for payment of the BCD, SWS and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
76065648	8363780	836378	1656028	10856186

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 22)

**3.23 Non-payment of Anti-dumping duty on imports of Bare PCB (Para No. 47 of Final Audit Report).**

It has been observed that the Auditee has imported goods i.e. 'PCB MAIN', 'PCB Inverter' etc. under CTH-85340000. An anti-dumping duty was imposed on import of bare PCB from China and Hongkong by Customs Notification No. 03/2024.

Accordingly, the Auditee appears to be liable for payment of the Anti-dumping duty @ 30% and differential IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)					
AV	BCD	SWS	Anti – Dumping Duty	IGST	Total
50749190	0	0	15224757	2740456	17965213

The Auditee not agreed with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 23)

**3.24 Misclassification of the imported goods i.e. "ASSY MONITOR; H60 V1.0, LCD,18.5", FIRMWARE MI96-01181F (FOR ULTRASOUND MACHINE) ASSY MONITOR; H60 V1.0, LCD,18.5", FIRMWARE MI96-01181F" under CTH 85285200 instead of CTH 85285900. (Para No. 48 of Final Audit Report).**

It has been observed that the auditee has imported the said goods under CTH 85285200 and availed the benefit of Sr. No. 17 of the Notification No. 24/2005 and paid Nil BCD duty.



These monitors are being utilised for Ultrasound machine and thus do not fall under the CTH 85285200 and should fall under the CTH 85285900 wherein BCD is 10% and IGST is 28%. It was noticed that Sl.No.17 of Notification No. 24/2005-Customs dated 01.03.2005 pertains to goods which are covered under CTH 852842/852852 and 852862 wherein the goods are solely or principally used in an automatic data processing system of heading 8471. The said item is not eligible for BCD Exemption vide Sl.No.17 of Notification No. 24/2005-Customs dated 01.03.2005.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
6671430	667143	66714	872623	1606480

**(Detail duty calculation sheet is attached as RUD No. 24)**

The auditee has submitted that the issue is already under litigation and submitted a copy of SCN No. 158/ 2024 dated 02.04.2024 issued under F. No. ACC/ASST /MISC/175/2022-GR-5A by the Commissioner of Customs (Air Cargo), Chennai -VII, NCH, Chennai (**RUD NO. 42**). The issue raised under this SCN is being contested by the auditee. Differential duty has been calculated for the entire audit period i.e. Dec, 2020-2021 to 2024-25. Therefore, Auditee is liable to pay short paid duty for the remaining period u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962, if the protective demand for the subsequent period has not been issued by the jurisdictional Customs Commissionerate.

**3.25 Mis-classification of the imported goods i.e. "LED MONITOR TILE (IT PRODUCT), IW006B,0, IN (MODEL NO: LH006IWBMEs/XL) LED MONITOR TILE (IT PRODUCT), IW006B,0, IN (MODEL NO: LH006IW" under CTH 85285200 instead of CTH 85285900 (Para No. 49 of Final Audit Report).**

It has been observed that the auditee has imported the said goods under CTH 85285200 and availed the benefit of Sr. No. 17 of the Notification No. 24/2005 and paid Nil BCD duty. These imported goods should fall under the CTH 85285900 wherein BCD is 10% and IGST is 28%. It was noticed that Sl.No.17 of Notification No. 24/2005-Customs dated 01.03.2005 pertains to goods which are covered under CTH 852842/852852 and 852862 wherein the goods are solely or principally used in an automatic data processing system of heading 8471. The said item is not eligible for BCD Exemption vide Sl.No.17 of Notification No. 24/2005-Customs dated 01.03.2005.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
488980290	48898029	4889803	15060593	68848425

**(Detail duty calculation sheet is attached as RUD No. 25)**

The auditee has submitted that the issue is already under litigation and submitted a copy of SCN No. 158/ 2024 dated 02.04.2024 issued under F. No. ACC/ASST /MISC/175/2022-GR-5A by the Commissioner of Customs (Air Cargo), Chennai -VII, NCH, Chennai (**RUD NO. 42**). The issue raised under this SCN is being contested by the auditee. Differential duty has been calculated for the entire audit period i.e. Dec, 2020-2021 to 2024-25. Therefore, Auditee is liable to pay short paid duty for the remaining period u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A



of the Customs Act, 1962, if the protective demand for the subsequent period has not been issued by the jurisdictional Customs Commissionerate.

**3.26 Misclassification of the imported goods i.e. "-RAY ACC - MED. GRADE MON. 23" BRAND EIZO MODEL MS236WT-A DGR-PMNBIN1/WR (FOR X-RAY MACHINE) X-RAY ACC - MED. GRADE MON. 23" BRAND EIZO MODEL MS236WT-A" under CTH 85285200 instead of CTH 85285900 (Para No. 51 of Final Audit Report).**

It has been observed that the Auditee has misclassified the imported goods i.e. "RAY ACC - MED. GRADE MON. 23" BRAND EIZO MODEL MS236WT-A DGR-PMNBIN1/WR (FOR X-RAY MACHINE) X-RAY ACC - MED. GRADE MON. 23" BRAND EIZO MODEL MS236WT-A" under CTH 85285200 instead of CTH 85285900. The auditee has imported the said goods under CTH 85285200 and availed the benefit of Sr. No. 17 of the Notification No. 24/2005 and paid Nil BCD duty. These monitors are being utilised for X-Ray machine and thus do not fall under the CTH 85285200 and should fall under the CTH 85285900 wherein BCD is 10% and IGST is 28%. It was noticed that Sl.No.17 of Notification No. 24/2005-Customs dated 01.03.2005 pertains to goods which are covered under CTH 852842/852852 and 852862 wherein the goods are solely or principally used in an automatic data processing system of heading 8471. The said item is not eligible for BCD Exemption vide Sl.No.17 of Notification No. 24/2005-Customs dated 01.03.2005.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
198937	19894	1989	26021	47904

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**(Detail duty calculation sheet is attached as RUD No. 26)**

**3.27 Misclassification of the goods under CTH 85285200 instead of CTH 85285900. (Para No. 52 of Final Audit Report).**

It has been observed that the Auditee has misclassified the imported goods i.e. "SAMSUNG MONITOR (5JGCH3AT800002Z) (LS28BG700ENXGO) (SAMPLE FOR SOFTWARE DEVELOPMENT, TESTING/ R&D PURPOSE )(FOC)(SAMPLE FOR SOFTWARE DEVELOPMENT, TESTING/ R&D PURPOSE ) & COMPUTER MONITOR C27F390FW,27,IN (MODEL: LC27F390FWXXL) (COMPUTER MONITOR WITHOUT T.V. TUNER) (QTY- 208 PCS)COMPUTER MONITOR C27F390FW,27,IN (MODEL: C27F390FWXXL)" under CTH 85285200 instead of CTH 85285900. The Auditee has imported the above goods under CTH 85285200 and availed the benefit of Sr. No. 17 of the Notification No. 24/2005 and paid Nil BCD duty. These imported goods should fall under the CTH 85285900 wherein BCD is 10% and IGST is 28%. It was noticed that Sl.No.17 of Notification No. 24/2005-Customs dated 01.03.2005 pertains to goods which are covered under CTH 852842/852852 and 852862 wherein the goods are solely or principally used in an automatic data processing system of heading 8471. The said item is not eligible for BCD Exemption vide Sl.No.17 of Notification No. 24/2005-Customs dated 01.03.2005.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:



				(Amount in Rs.)
AV	BCD	SWS	IGST	Total
4444626345	444462634.5	44446263.45	580074356.2	1068983254

(Detail duty calculation sheet is attached as RUD No. 27)

The auditee has submitted a copy of SCN 2679/2023-24/Commr/Gr-VA/CAC/JNCH dated 23.02.2024 issued under F. No. S/26-MISC-1518/2023-24/GR. VA/JNCH by Nhava Sheva (NS-V) (RUD No. 40) based on DRI, Hyderabad investigation wherein the similar issue was taken up for 684 Bill of Entry having Diff. Duty of Rs. 89,13,38,184/- for the period March, 2022 to Dec, 2023. The issue raised under this SCN is being contested by the auditee. Differential duty has been calculated for the entire audit period i.e. Dec, 2020 to 2024 - 2025. Therefore, Auditee is liable to pay short paid duty for the remaining period u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962, if the protective demand for the subsequent period has not been issued by the jurisdictional Customs Commissionerate.

**3.28 Wrong availment of benefit of Sr No. 30 of the Notification No 24/2005 (Para No. 54 of Final Audit Report).**

It has been observed that the Auditee has wrongly availed the benefit of Sr No. 30 of the Notification No 24/2005 for the imported goods i.e. "DIFFUSER PLATE;20Y\_TU7000\_65INCH\_DP, PS, T (BN61-16882A) (PART OF LCD PANEL)" imported under 85299090. The auditee has imported the said goods and paid Nil BCD by availment the benefit of Sr No. 30 of the Notification No 24/2005. During the audit, it was discussed that this Diffuser used in LCD panel and the said Notification benefit is not available for parts of LCD panel.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

				(Amount in Rs.)
AV	BCD	SWS	IGST	Total
53551282	8032692	803269	1590473	10426434

(Detail duty calculation sheet is attached as RUD No. 28)

The auditee has submitted a copy of SCN No.101/2023 dated 27.12.2023 issued under F. No. CUS/APR/SCN/963/2023-ICD-IGKT by Chennai-II, Import Commissionerate (RUD No. 41) based on DRI, Delhi investigation wherein the similar issue was taken up. Differential Duty has been calculated for the audit period and all the BoEs need to be checked whether they are covered under the said SCN or not. The Auditee is liable to pay short paid duty for the remaining BOE's u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**3.29 Wrong availment of benefit of Sr No. 30 of the Notification No 24/2005 (Para No. 55 of Final Audit Report).**

It has been observed that the Auditee has wrongly availed the benefit of Sr No. 30 of the Notification No 24/2005 for the imported goods i.e. "ASSY LED BAR P (BN96-50320A) (PARTS FOR LCD PANEL) (ACTUAL USER)" imported under CTH 85299090.

The auditee has imported the said goods and paid Nil BCD by availment of the benefit of Sr No. 30 of the Notification No 24/2005. During the audit, it was discussed that the said Diffuser is used in Samsung television and the said Notification benefit is not available for parts of Televisions.



Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
126312920	18946938	1894694	3751494	24593125

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 29)

**3.30 Wrong availment of benefit of Sr No. 6J of the Notification No 57/2017 (Para No. 56 of Final Audit Report).**

It has been observed that the Auditee has wrongly availed the benefit of Sr No. 6J of the Notification No 57/2017 for the imported goods i.e. "ASSY SPEAKER-BOTTOM\_S938U 1610, 2.31MM, 1. (VIBRATION MOTOR, SPEAKER & ASSY FOR MANUFACTURING OF MOBILE PHONE)" imported under CTH 85177990. The auditee has imported the said goods and paid BCD@10% by availment of the benefit of Sr No. 6J of the Notification No 57/2017. As these imported goods are loudspeaker and will be classified under CTH 85182990 attracting BCD@15% after benefit of Sr. No. 10 of the Notification No. 12/2022.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
6179878	308989	30899	61180	401068

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 30)

**3.31 Wrong availment of benefit of Sr No. 1364 (I) of the Notification No 46/2011 (Para No. 57 of Final Audit Report).**

It has been observed that the Auditee has wrongly availed the benefit of Sr No. 1364(I) of the Notification No 46/2011 for the imported goods i.e. "ASSY SPEAKER-BOTTOM\_S938U 1610,2.31MM,1. (VIBRATION MOTOR, SPEAKER & ASSY FOR MANUFACTURING OF MOBILE PHONE)" imported under CTH 85177990. The auditee has imported the said goods and paid NIL BCD by availment of the benefit of Sr No.1364 (I) of the Notification No 46/2011. During the Audit, the auditee has failed to provide and substantiate the RVC content as required under CAROTAR Rules, 2020. Hence, the FTA benefit of Sr No. 1364(I) of Notification No. 46/2011 is wrongly availed and the auditee is liable to pay BCD @ 15% under CTH 85182990 attracting BCD@15% after benefit of Sr. No. 10 of the Notification No. 12/2022 as these imported goods are loudspeaker.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)



AV	BCD	SWS	IGST	Total
1113049611	166957442	16695744	33057571	216710757

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 31)

### 3.32 Wrong availment of benefit of Sr No. 18 of the Notification No 24/2005(Para No. 58 of Final Audit Report).

It has been observed that the Auditee has wrongly availed the benefit of Sr No. 18 of the Notification No 24/2005 for the imported goods i.e. "X RAY ACC - WORKSTATION PC WIN10 TOUCH MON. 23.5" DGR-PMEBIN1/WR (FOR X-RAY MACHINE)" imported under CTHs 84715000, 84713010, 84714900 & 84713090. The auditee has imported the said goods and paid NIL BCD by availment the benefit of Sr No.18 of the Notification No 24/2005. During the Audit proceeding it was noticed that the said imported goods are monitor for x-ray machine, classifiable under CTH 85285900 wherein the BCD is 10% and IGST is 28% after benefit of the Sr. No. 515C of the Notification 50/2017.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
11752561	1175256	117526	1537235	2830017

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 32)

### 3.33 Mis-classification of goods imported i.e. "PARTS AND ACCESSORIES FOR SAMSUNG AIR CONDITIONER MXD-K075AN (ACCESSORY/AHU KIT) PARTS AND ACCESSORIES FOR SAMSUNG AIR CONDITIONER MXD-K075AN" under CTH 84159000 instead of CTH 84158390 (Para No. 59 of Final Audit Report).

It has been observed that the Auditee has mis-classified the imported goods i.e. "PARTS AND ACCESSORIES FOR SAMSUNG AIR CONDITIONER MXD-K075AN (ACCESSORY/AHU KIT) PARTS AND ACCESSORIES FOR SAMSUNG AIR CONDITIONER MXD-K075AN" imported under CTH 84159000 instead of CTH 84158390 and paid BCD@5% by availing the benefit of Sr No. 654 of the Notification No.152/2009 & Sr No. 449A of Customs Notification No.50/2017.

It was found that said goods were Air Handling Units and are classifiable under CTH 84158390 wherein the benefit of the Notifications is not available. Accordingly, the auditee appears liable for payment of differential duty along with applicable interest and penalty.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
33985826	5056467	505647	1557392	7119505



The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 33)

**3.34 Misclassification and Wrong availment of benefit of Notification No. 152/2009 for the imported goods i.e. ICT FIXTURE SBC3-V6 DA41-00905C (1388455100) imported under CTH 90318000(Para No. 60 of Final Audit Report).**

It has been observed that the Auditee has misclassified and wrongly availed the benefit of Notification No. 152/2009 for the imported goods i.e. ICT FIXTURE SBC3-V6\_DA41-00905C (1388455100) imported under CTH 90318000 and paid BCD@NIL. The item appears to be correctly classified under 84663020 for all fixture attracting BCD @ 7.50%. During the course of audit, the auditee was asked to submit FTA and Form 1 and additional supporting documents as required under CAROTAR Rules, 2020. The auditee submitted the FTA and Form 1 but during detailed scrutiny of the Form 1, the auditee was asked to submit the RVC Calculation Worksheet, in order to substantiate the value addition criteria used by the importer for claiming preferential rate of duty. The representatives from the auditee side i.e. Mr. Abhishek Singhanian and Mr. Ravi Chadha outrightly denied submitting RVC calculation worksheet stating that neither the auditee nor their supplier would provide with such confidential information. Thus, non-submission of RVC calculation worksheet is intentional on behalf of the auditee and proves a malafide intent of the auditee as there is no confidentiality involved in this. It is an essential information which must be provided to the proper officer as and when demanded, to avail the FTA Notification Benefit. The auditee is bound to possess such information as per Rule 4(a) of CAROTAR Rules, 2020 and should provide the same to the proper officer on request. Further, as per Rule 4(b) of CAROTAR Rules, 2020, the importer is required to keep all the information related to FORM 1 for 5 years. Further, as per Sec-99A of Customs Act, 1962 read with manual for Custom Post Clearance Audit Para No. 1.1.1..... In this manual, 'proper officer', who conducts audit under the PCA procedure shall for convenience's sake be referred to as 'auditor'. Thus, the auditors as per Audit Manual are the proper officers in terms of Section 99A of Custom Act, 1962.

Therefore, the auditee contravened Rule 4(a) and Rule 4 (b) of CAROTAR Rules, 2020 and hence, the auditee cannot avail preferential rate of duty and is bound to pay duty at merit. Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)

AV	BCD	SWS	IGST	Total
21609141	1620686	16207	294640	1931533

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 34)

**3.35 Wrong availment of benefit of Notification No. 152/2009 for the imported goods i.e. "AUTO DISPLAY S - V1 Q230-163316 (TO CHECK THE PHYSICAL AND ELECTRICAL INTEGRITY OF THE ASSEMBLED DISPLAYS)" imported under CTH 90318000(Para No. 61 of Final Audit Report).**

It has been observed that the Auditee has wrongly availed the benefit of Notification No. 152/2009 for the imported goods i.e. "AUTO DISPLAY S - V1 Q230-163316 (TO CHECK THE PHYSICAL AND ELECTRICAL INTEGRITY OF THE ASSEMBLED DISPLAYS)" imported under CTH 90318000 and paid NIL BCD. The item appears to be correctly classified under CTH 85249990 flat panel display module weather or not incorporating touch sensitive screens attracting BCD @ 15%. During the course of audit, the auditee was asked to submit FTA and Form 1 and additional supporting documents as required under CAROTAR Rules, 2020. The auditee



submitted the FTA and Form 1 but during detailed scrutiny of the Form 1, the auditee was asked to submit the RVC Calculation Worksheet, in order to substantiate the value addition criteria used by the importer for claiming preferential rate of duty. The representatives from the auditee side i.e. Mr. Abhishek Singhania and Mr. Ravi Chadha outrightly denied submitting RVC calculation worksheet stating that neither the auditee nor their supplier would provide with such confidential information. Thus, non-submission of RVC calculation worksheet is intentional on behalf of the auditee and proves a malafide intent of the auditee as there is no confidentiality involved in this. It is an essential information which must be provided to the proper officer as and when demanded, to avail the FTA Notification Benefit. The auditee is bound to possess such information as per Rule 4(a) of CAROTAR Rules, 2020 and should provide the same to the proper officer on request. Further, as per Rule 4(b) of CAROTAR Rules, 2020, the importer is required to keep all the information related to FORM 1 for 5 years. Further, as per Sec-99A of Customs Act, 1962 read with manual for Custom Post Clearance Audit Para No. 1.1.1..... In this manual, 'proper officer', who conducts audit under the PCA procedure shall for convenience sake be referred to as 'auditor'. Thus, the auditors as per Audit Manual are the proper officers in terms of Section 99A of Custom Act, 1962.

Therefore, the auditee contravened Rule 4(a) and Rule 4 (b) of CAROTAR Rules, 2020 and hence, the auditee cannot avail preferential rate of duty and is bound to pay duty at merit. Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
13537043	2030556	203056	402050	2635662

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 35)

**3.36 Wrong availment of benefit of Notification No. 152/2009 for the imported goods i.e. "DYNAMIC LOAD TESTER / HYDRAULIC TESTER (ACTUAL USER)/MODULE TESTER COVER PANEL GLASS DISASSEMBLY FORCE TESTER "imported under CTH 90318000 (Para No. 62 of Final Audit Report).**

It has been observed that the Auditee has wrongly availed the benefit of Notification No. 152/2009 for the imported goods i.e. "DYNAMIC LOAD TESTER/HYDRAULIC TESTER (ACTUAL USER)/MODULE TESTER COVER PANEL GLASS DISASSEMBLY FORCE TESTER " imported under CTH 90318000 and paid NIL BCD. The item appears to be correctly classified under 90248099 for machine and appliances for testing the hardness, strength compressibility, elasticity or other mechanical properties of material (for example, metal, wood, textiles, paper, plastics) and attracting BCD @ 7.5%. During the course of audit, the auditee was asked to submit FTA and Form 1 and additional supporting documents as required under CAROTAR Rules, 2020. The auditee has submitted the FTA and Form 1 but during detailed scrutiny of the Form 1, the auditee was asked to submit the RVC Calculation Worksheet, in order to substantiate the Value addition criteria used by the importer for claiming preferential rate of duty. The representatives from the auditee side i.e. Mr. Abhishek Singhania and Mr. Ravi Chadha outrightly denied submitting RVC calculation worksheet stating that neither the auditee nor their supplier would provide with such confidential information. Thus, non-submission of RVC calculation worksheet is intentional on behalf of the auditee and proves a malafide intent of the auditee as there is no confidentiality involved in this. It is an essential information which must be provided to the proper officer as and when demanded, to avail the FTA Notification Benefit. The auditee is bound to possess such information as per Rule 4(a) of CAROTAR Rules, 2020 and



should provide the same to the proper officer on request. Further, as per Rule 4(b) of CAROTAR Rules, 2020, the importer is required to keep all the information related to FORM 1 for 5 years. Further, as per Sec-99A of Customs Act, 1962 read with manual for Custom Post Clearance Audit Para No. 1.1.1..... In this manual, 'proper officer', who conducts audit under the PCA procedure shall for convenience sake be referred to as 'auditor'. Thus, the auditors as per Audit Manual are the proper officers in terms of Section 99A of Custom Act, 1962.

Therefore, the auditee contravened Rule 4(a) and Rule 4 (b) of CAROTAR Rules, 2020 and hence, the auditee cannot avail preferential rate of duty and is bound to pay duty at merit. Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)

AV	BCD	SWS	IGST	Total
15762568	1182193	118219	234074	1534486

The Auditee not agreed with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

(Detail duty calculation sheet is attached as RUD No. 36)

**3.37 Wrong availment of benefit of Notification No. 152/2009 dated 31.12.2009 for the imported goods i.e. "ROBOT TNP CURRENT S- V1 Q230-177029 (FOR AUTOMATED CURRENT LEAKAGE TESTING IN MOBILE DEVICES) imported under CTH 90303390 (Para No. 63 of Final Audit Report).**

It has been observed that the Auditee has wrongly availed the benefit of Notification No. 152/2009 dated 31.12.2009 for the imported goods i.e. "ROBOT TNP CURRENT S- V1 Q230-177029 (FOR AUTOMATED CURRENT LEAKAGE TESTING IN MOBILE DEVICES) "imported under CTH 90303390 and paid NIL BCD. The item appears to be correctly classifiable under CTH 90318000 as measuring and checking instrument, appliances and machines, not specified or included elsewhere in this chapter, profile projectors and attracting BCD @ 15%. During the course of audit, the auditee was asked to submit FTA and Form 1 and additional supporting documents as required under CAROTAR Rules, 2020. During detailed scrutiny of the Form 1, the auditee was asked to submit the RVC Calculation Worksheet, in order to substantiate the Value addition criteria used by the importer for claiming preferential rate of duty. The representatives from the auditee side i.e. Mr. Abhishek Singhania and Mr. Ravi Chadha outrightly denied submitting RVC calculation worksheet stating that neither the auditee nor their supplier would provide with such confidential information. Thus, non-submission of RVC calculation worksheet is intentional on behalf of the auditee and proves a malafide intent of the auditee as there is no confidentiality involved in this. It is an essential information which must be provided to the proper officer as and when demanded, to avail the FTA Notification Benefit. The auditee is bound to possess such information as per Rule 4(a) of CAROTAR Rules, 2020 and should provide the same to the proper officer on request. Further, as per Rule 4(b) of CAROTAR Rules, 2020, the importer is required to keep all the information related to FORM 1 for 5 years. Further, as per Sec-99A of Customs Act, 1962 read with manual for Custom Post Clearance Audit Para No. 1.1.1..... In this manual, 'proper officer', who conducts audit under the PCA procedure shall for convenience sake be referred to as 'auditor'. Thus, the auditors as per Audit Manual are the proper officers in terms of Section 99A of Custom Act, 1962.

Therefore, the auditee contravened Rule 4(a) and Rule 4 (b) of CAROTAR Rules, 2020 and hence, the auditee cannot avail preferential rate of duty and is bound to pay duty at merit. Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)



AV	BCD	SWS	IGST	Total
14836610	2225492	222549	440647	2888688

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**(Detail duty calculation sheet is attached as RUD No. 37)**

**3.38 Wrong availment of benefit of Notification No. 152/2009 for the imported goods i.e. "AUTOMATIC METAL MASK INSPECTION MACHINE WITH STANDARD ACCESSORIES (ACTUAL USER) "imported under CTH 90318000 (Para No. 64 of Final Audit Report).**

It has been observed that the Auditee has wrongly availed the benefit of Notification No. 152/2009 for the imported goods i.e. "AUTOMATIC METAL MASK INSPECTION MACHINE WITH STANDARD ACCESSORIES (ACTUAL USER)" imported under CTH 90318000 and paid NIL BCD. The item appears to be correctly classifiable under 90241000 for machine and appliances for testing the hardness, strength compressibility, elasticity or other mechanical properties of material (for example, metal, wood, textiles, paper, plastics) and attracting BCD @ 7.5%. During the course of audit, the auditee was asked to submit FTA and Form 1 and additional supporting documents as required under CAROTAR Rules, 2020. The auditee has submitted the FTA and Form 1 but during detailed scrutiny of the Form 1, the auditee was asked to submit the RVC Calculation Worksheet, in order to substantiate the Value addition criteria used by the importer for claiming preferential rate of duty. The representatives from the auditee side i.e. Mr. Abhishek Singhanian and Mr. Ravi Chadha denied submitting RVC calculation worksheet stating that neither the auditee nor their supplier would provide with such confidential information. Thus, non-submission of RVC calculation worksheet is intentional on behalf of the auditee and proves a malafide intent of the auditee as there is no confidentiality involved in this. It is an essential information which must be provided to the proper officer as and when demanded, to avail the FTA Notification Benefit. The auditee is bound to possess such information as per Rule 4(a) of CAROTAR Rules, 2020 and should provide the same to the proper officer on request. Further, as per Rule 4(b) of CAROTAR Rules, 2020, the importer is required to keep all the information related to FORM 1 for 5 years. Further, as per Sec-99A of Customs Act, 1962 read with manual for Custom Post Clearance Audit Para No. 1.1.1..... In this manual, 'proper officer', who conducts audit under the PCA procedure shall for convenience sake be referred to as 'auditor'. Thus, the auditors as per Audit Manual are the proper officers in terms of Section 99A of Custom Act, 1962.

Therefore, the auditee contravened Rule 4(a) and Rule 4 (b) of CAROTAR Rules, 2020 and hence, the auditee cannot avail preferential rate of duty and is bound to pay duty at merit. Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

**(Amount in Rs.)**

AV	BCD	SWS	IGST	Total
4080128	306010	30601	60590	397200

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**(Detail duty calculation sheet is attached as RUD No. 38)**



**3.39 Mis-classification of imported goods i.e. "DIODE-RECTIFIER" under CTH 85411000 instead of CTH 85044021 (Para No. 65 of Final Audit Report).**

It has been observed that the Auditee has mis-classified the imported goods i.e. "DIODE-RECTIFIER" under CTH 85411000 instead of CTH 85044021 and paid BCD@ 0% by availing the benefit of Sr No. 23 of the Notification No.24/2005. During the course of audit, it was found that the auditee has imported Bridge Rectifier under CTH 85411000 and paid BCD@0% by availing the benefit of Sr No. 23 of the Notification No.24/2005 wherein the same is correctly classifiable under the CTH 85044021 attracting BCD @ 10%, SWS @ 10% of BCD and IGST @ 18% when exemption benefit is availed under Sr. No.13 of Notification No. 57/2017 dated 30.06.2017.

Accordingly, the Auditee appears to be liable for payment of the BCD and IGST along with applicable interest and penalty under Section 28 (4) of the Customs Act, 1962 as detailed under:

(Amount in Rs.)				
AV	BCD	SWS	IGST	Total
118114132	11811413	1181141	2338660	15331214

The Auditee did not agree with the objection raised by the Audit and did not pay differential duty along with applicable interest and penalty. Hence, the Auditee is liable to pay short paid duty u/s 28(4), applicable interest u/s 28AA and the penalty u/s 114A of the Customs Act, 1962.

**(Detail duty calculation sheet is attached as RUD No. 39)**

4. Frequent extensions were sought by the auditee on one pretext or the other. Even in cases where documents were submitted, those were either insufficient/incomplete or irrelevant. On several occasions the auditee and/or their legal team took plea that relevant information is not forthcoming from their far away plants like Chennai. This wilful delay in audit proceedings and refusal to provide documents e.g. supporting documents of Form-I of FTA certificates terming the same as confidential is in violation of the provisions of Section 99A of the Customs Act, 1962 read with CAROTAR Rules, 2020 and the Auditee appears liable to **penalty up to Rs. 50,000/- in terms of para 7 of the Notification No 45/2018-NT issued for OSPCA Import and Export Regulation, 2011.**

5. Relevant legal provisions which are applicable in this instant case are reproduced for ease of reference.

5.1 After the introduction of self-assessment vide Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including classification and calculation of duty, but in the instant case the subject goods have been mis-classified and duty amount has not been paid correctly. **Section 17 (Assessment of duty)**, subsection (1) reads as:

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

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

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

- (a) collusion; or*
- (b) any wilful mis-statement; or*
- (c) suppression of facts,*



by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

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

**5.3 Section 46 (Entry of goods on importation), subsection (4) reads as:**

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

**5.4 Section 111 (Confiscation of improperly imported goods etc.) reads as:**

‘The following goods brought from a place outside India shall be liable to confiscation:

(m) any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77<sup>3</sup> [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;’

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

‘Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, 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, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher.’

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

‘Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to



*pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.'*

6. Whereas, consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in customs clearance. Section 17 of the Customs Act, effective from 08.04.2011 [CBEC's (now CBIC) Circular No. 17/2011 dated 08.04.2011], provides for self-assessment of duty on imported goods by the importer himself by filing a bill of entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service Centre, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the importer more specifically the RMS facilitated Bill of Entry, to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In other words, the onus on the importer in order to prove that they have classified the goods and claimed the notification correctly by giving the complete description of the goods.

7. In view of the above, the importer **M/s. Samsung Electronics India Pvt. Ltd. (IEC -0595032818)** is required to show cause to the **Commissioner of Customs**, Nhava Sheva-V Commissionerate, Jawaharlal Nehru Custom House, Nhava Sheva, Taluk: Uran, District: Raigad, Maharashtra, Pin: 400707 within 30 days of receipt of this notice as to why: -

- (i) The goods covered under Bills of Entry as detailed in **Annexure-I** to this Show Cause Notice, amounting to **Rs. 190,30,04,295/- (Rupees One Hundred Ninety Crore Thirty Lakh Four Thousand Two Hundred and Ninety-Five Only)** should not be held liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962.
- (ii) The benefit of Sr. No. 34 of Notification No. 151/2009, Sr. No. 691, Sr. No. 654, Sr. No. 942, Sr. No. 629, Sr. No. 950 of Notification No. 152/2009 dated 31.12.2009 & Sr. No. 494A, Sr. No. 449A, Sr. No. 284 of Customs Notification No. 50/2017 dated 30.06.2017 & Sr. No. 942, Sr. No. 18, Sr. No. 17, Sr. No. 31, Sr. No. 21, Sr. No. 23, Sr. No. 30 of Customs Notification. 24/2005 Customs dated 01.03.2005 & Sr. No. 1450 of Customs Notification No. 46/2011 should not be denied for the goods covered under Bills of Entry, of said paras, as detailed in **Annexure-I** to this Show Cause Notice.
- (iii) The differential duties amounting to **Rs. 190,30,04,295/- (Rupees One Hundred Ninety Crore Thirty Lakh Four Thousand Two Hundred and Ninety-Five Only)** should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- (iv) Penalties should not be imposed on them under Section 112(a) and/or 114A of the Customs Act, 1962.

8. It is also advised that the importer may avail the benefit of reduced penalty @15% of duty and interest so specified in this notice in terms of Section 28(5) of the Customs Act, 1962 by payment of duty and interest within 30 days of receipt of this notice, failing which importer may be subject to higher penalty equal to the duty and interest so determined.



9. The written explanation/reply should be filed by the noticee to the **Commissioner of Customs**, NS-V, JNCH, Nhava-Sheva, Tal. - Uran, Distt. Raigad, Maharashtra-400707 within 30 days from the date of this notice. They are further required to intimate in their written reply whether they wish to be heard in person before the case is adjudicated.
10. If no cause is shown against the action proposed to be taken or the importer does not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on merits.
11. The department reserves its right to amend, modify or supplement this notice at any point of time prior to the adjudication of the case.
12. This present show cause notice is issued without prejudice to any other action that may be taken against the notice or any other firm(s) or person(s) under the provisions of the Customs Act, 1962 or any other law for the time being in force in the Union of India.

*Anil Ramteke*  
(Anil Ramteke)

Commissioner of Customs  
NS-V, NHAVA SHEVA, JNCH

**To,**  
**M/s Samsung India Electronics Pvt Ltd. (IEC -0595032818)**  
20th to 24th Floor, Two Horizon, Golf Course Road,  
DLF Phase-V, Sector-43, Gurugram-122002

Copy to:

1. The Asst./Dy. Commissioner of Customs, CAC, JNCH (For adjudication)
2. The Dy. Commissioner of Customs, Audit, JNCH
3. The Dy. Commissioner of Customs, Audit, NCH, Delhi
4. Notice Board (CHS Section).
5. Office.

Encl:

RUD No's.	Description	Remarks
1 - 39	Duty calculation sheets	Copy enclosed via email.
40	SCN 2679/2023-24/Commr/Gr-VA/CAC/JNCH dated 23.02.2024 issued under F. No. S/26-MISC-1518/2023-24/GR. VA/JNCH by Nhava Sheva (NS-V)	Copy enclosed.
41	SCN No. 101/2023 dated 27.12.2023 issued under F. No. CUS/APR/SCN/963/2023-ICD-IGKT by Chennai-II, Import Commissionerate	Copy enclosed.
42	SCN No. 158/ 2024 dated 02.04.2024 issued under F. No. ACC/ASST /MISC/175/2022-GR-5A by the Commissioner of Customs (Air Cargo), Chennai -VII, NCH, Chennai	Copy enclosed.
43	Letter dated 18.10.2023 vide C. No. C. No. CADT/CIR/ADT/PBA/72/2023-PBA-Cir-B3-O/o Commr-Cus-Adt-Delhi	Copy enclosed.
44	Letter dated 02.05.2024	Copy enclosed.