	<p style="text-align: center;"> सीमा शुल्क आयुक्त का कार्यालय OFFICE OF THE COMMISSIONER OF CUSTOMS केंद्रीय अधिनिर्णय प्रकोष्ठ, एन एस-V CENTRAL ADJUDICATION CELL, NS-V जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA, ताल-ऊरण, डिस्ट-राइगड, महाराष्ट्र-४०० ७०७. TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400 707. </p>
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DIN : 20251278NX0000000E0E

Date of Order: 05/12/2025

F.No. S/10-732/2024-25/ADC/Gr. VA/CAC/JNCH

Date of issue: 05/12/2025

SCN No.: 1471/2024-25/ADC/Gr. VA/CAC/JNCH

SCN Date: 11/12/2024

Passed By: **Shri Mazid Khan**

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

Order-In-Original No. : 1274/2025-26/JC/GR. VA/NS-V/CAC/JNCH

Name of Party/Noticee :- M/s. INTEGRATEDMOBI TECH PRIVATE LIMITED (IEC- 1315013771)

मूल आदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगड, महाराष्ट्र -400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Tal : Uran, Dist : Raigad, Maharashtra - 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.2.00 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 2.00 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
3. Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.



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

DIN : 20251278NX0000000E0E

Date of Order: 05/12/2025

F.No. S/10-732/2024-25/ADC/Gr. VA/CAC/JNCH

Date of issue: 05/12/2025

SCN No.: 1471/2024-25/ADC/Gr. VA/CAC/JNCH

SCN Date: 11/12/2024

Passed By: Shri Mazid Khan
Joint Commissioner of Customs, CAC, NS-V, JNCH

Order-In-Original No. : 1274/2025-26/JC/GR. VA/NS-V/CAC/JNCH

Name of Party/Noticee :- M/s. INTEGRATEDMOBI TECH PRIVATE LIMITED (IEC- 1315013771)

मूल आदेश

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- इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

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- Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Brief Facts of the case

On the basis of the Alert Circular No. 11/2019 dated 30.03.2019 issued by the Commissioner of Customs (Audit), Mumbai, Zone-I vide F. No. S/16-Misc-75/2018-19 Audit (P&C), data pertaining to imports made by various importers through JNCH (INNSA1) during 01.03.2018 to 30.11.2022 was analysed in detail. It is observed that M/s. INTEGRATEDMOBI TECH PRIVATE LIMITED (IEC- 1315013771) having address as 8-D BAPU NAGAR Contact No: 919799425686 CHITTORGARH RAJASTHAN 312001 have imported goods having description "Battery" under the CTH 8507 as detailed in Annexure- 'A' and paid lower rate of BCD and/or IGST under Sl. No. 203 of Schedule II of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 @ 12% and/or @18% under sr. nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018- Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in other Schedule, however, the imported goods attracts levy of BCD & IGST as per Table-A below.

2. The Bills of Entry (as per Annexure-A) wherein goods have been classified under CTH 8507 attract levy of BCD & IGST as per Table-A. However, they have been cleared under lower rate of BCD.

Table-A

Tariff Item	Description of goods	BCD % (Ntn.)	SWS	IGST	Total Duty	Remarks
8507 (except 8507 60 00 and 8507 90)	Battery pack of cellular mobile phones [Other than Lithium-ion]	15	10	28	49.12	02.02.18- till date
85076000	Lithium-ion battery of cellular mobile phones	15	10	28	49.12	02.02.18- 26.07.18
		15	10	18	37.47	27.07.18-till date
85076000	Battery pack of cellular mobile phones [Lithium-ion]	20	10	18	43.96	30.01.19-till date
85076000	Power Bank [Lithium-ion]	20	10	18	43.96	30.01.19-till date

3. From the above table, it appears that

- Battery pack of cellular mobile phones except 85076000 and 850790 (other than lithium ion) falls under CTH 8507 & attracts BCD @ 15% & IGST @ 28% under Serial No. 139 of Schedule-IV of IGST notification No. 01/2017.
- Till 26.07.2018 lithium ion battery of cellular mobile phones were classifiable under CTH 85076000 & attracted BCD @ 15% & IGST @ 28% under Serial No. 139 of Schedule-IV of IGST notification No. 01/2017.
- From 27.07.2018 to 30.01.2019 lithium ion battery of cellular mobile phones were classifiable under CTH 85076000 & attracted BCD @ 15% & IGST @ 18% under Serial No. 376AA of Schedule-III of IGST notification No. 01/2017.
- From 30.01.2019 till date lithium ion battery of cellular mobile phones falls under CTH 85076000 & attracts BCD @ 20% & IGST @ 18% under Serial No. 376AA of Schedule-III of IGST notification No. 01/2017.
- From 30.01.2019 power bank (lithium ion) falls under CTH 85076000 & attracts BCD @ 20% & IGST @ 18% under Serial No. 376AA of Schedule-III of IGST notification No. 01/2017.

3.1. On scrutiny of the import data, it was observed that goods covered under CTH 8507 were cleared by declaring lower rate of BCD and/or IGST under Sl. No. 203 of Schedule II of IGST Notification No. 01/2017-Integrated Tax (Rate)

dated 28.06.2017 @ 12% and/or @18% under sr. nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018- Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in other Schedule, however, the imported goods attracts levy of BCD & IGST as per Table-A above.

3.2. The total assessable value of the BE items so imported is ₹ 7544488/- and it appears that a short levy of BCD and/or IGST amounting to ₹ 1116347/- (as detailed in Annexure-'A') is recoverable from the Importer along with applicable interest and penalty.

4. Annexure-A to the SCN is reproduced below:

IEC Name	BE Number	BE Date	Full Item Description	Assessable Value Amount	Total Duty Amount	DUTY APPLICABLE @43.96	DIFFERENTIAL DUTY
INTEGRATEDMOBI TECH PRIVAT	9677481	23-11-2020	Li-ion Cell 5000 MAH, MODEL: 955565, BIS: -	2255544	552382.6	991537	439154.4
INTEGRATEDMOBI TECH PRIVAT	9677481	23-11-2020	Li-ion Cell 10000 MAH, MODEL:1160100 , BI	2175687	532825.6	956431.9	423606.3
INTEGRATEDMOBI TECH PRIVAT	8930217	24-09-2020	LI-ION CELL 10000 MAH, MODEL: 1260110, B	1302444	318968.6	572554.6	253586
INTEGRATEDMOBI TECH PRIVATE LIMITED Total				5733675	1404177	2520524	1116347

5. In view of the above, Consultative letter No. 2619 dated 2/6/2023 was issued to importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty alongwith applicable interest and penalty. However, no reply or submission is given by importer in this regard.

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

6.1. 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.'

6.2. 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. '

6.3. 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.'

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

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

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;'

6.5. 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.'

6.6. 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.'

7. 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, under self-assessment, it is the Importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. 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 to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods

8. Therefore, in view of the above facts, it appears that the importer has deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to ₹ 1116347/- (as detailed in Annexure-'A'). Therefore, the differential duty, so not paid, is liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

9. Section 111(o) of Customs Act, 1962 provides for confiscation of the goods if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

10. It appears that the Importer has failed to comply with the conditions mentioned above; therefore, it also appears that the imported goods are liable for confiscation under Section 111(o) of the Customs Act, 1962. It further appears that the Importer for the acts of omission and commissions mentioned above has rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act. 1962.

11. In view of the above, the importer was called to show cause as to why:

- (i) Differential/short paid Duty amounting to ₹ 1116347/- for the subject goods imported vide Bills of Entry as detailed in Annexure-'A' should not be demanded under Section 28(4) of the Custom Act, 1962.
- (ii) In addition to the duty short paid, interest on delayed payment of Custom Duty should not be recovered from the Importer under section 28AA of the Customs Act. 1962.
- (iii) The said subject goods imported vide Bills of Entry as detailed in Annexure-'A' having assessable value of ₹ 7544488/- should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962.
- (iv) Penalty should not be imposed on them under Section 112(a) of the Customs Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.
- (v) Penalty should not be imposed under Section 114A of Customs Act, 1962 for short levy of duty.

RECORDS OF PERSONAL HEARING

12. In order to comply with the principal of natural justice, opportunity of personal hearing in the matter was provided to the Importer vide letter F. No. S/10-732/2024-25/ADC/Gr. VA/NS-V/CAC/JNCH dated 24.07.2025 to appear before the adjudicating authority on 19.08.2025 on virtual mode, for their oral/written submission against the subject show cause notice. The above personal hearing on 19.08.2025 was virtually attended by Mr. Anurag Nalwaya, Director, Integratedmobi Tech Pvt. Ltd. He requested to grant a week's time to submit his written submission in the matter, which was agreed to by the Adjudicating Authority. The importer vide their letter dated 11.09.2025 submitted their reply to the said SCN. The importer was provided another personal hearing on 27.11.2025 in the matter vide letter of even no. dated 20.11.2025. The importer, vide their email dated 22.11.2025, requested that they didn't have any further PH requirement as no further submission was to be made and requested to pass the order as per their submissions filed on 15.9.2025 along with enclosures and O-in-O copy of the same case with another Custom Branch at the same port.

WRITTEN SUBMISSIONS OF THE IMPORTER

13. The noticee/importer, in response to the said SCN dated 11.12.2024, submitted their letter dated 26.12.2024 in which they enclosed their reply to SCN no. 671/2024-25/commr/Gr. VA/CAC/JNCH dated 30.04.2024 and requested to consider the same and do the needful. The above reply was taken on record.

14. The noticee/importer, in response to the said SCN dated 11.12.2024, submitted their letter dated 11.09.2025, which inter-alia stated:-

14.1. No liability of BCD Under Notification No. 57/2017-Customs, 68/2017 Custom:

(i) They imported goods under Notification No. 57/2017-Customs Dated 30-06-2017 and 68/2017 Dated 30-06-2017 which provided BCD exemption for materials used in the manufacture of goods in India as Import of Goods at

Concessional Rate of Duty. They had complied fully with the conditions mentioned in the notification. The imported materials were not sold or diverted and were used entirely in manufacturing activities. The records of usage and production are maintained and have been submitted to the concerned range from time to time.

(ii) Hence in their case BCD @15% From 2017 to 30-01-2019 (Table B derived from the Annexure A Provided along with the SCN) and BCD at 20% amended through notification number 2/2019 Custom Dated 29-01-2019 (Table C derived from the Annexure A Provided along with the SCN) is not applicable. They had already submitted declarations and annexures provided by the concerned range to the Customs department at the Port during the time of import of goods and custom officer allowed the same and cleared the goods.

(iii) Raising the issue of BCD is not tenable and there is no liability of BCD as mentioned in show cause notice. They are enclosing herewith and copy of BE Allowing to clear the goods under IGCR.

14.2. Full IGST Already Paid - No Loss to Revenue:

(i) The Goods were originally imported @ 18% However, Industry vide noticed were given by DRI Noida citing the issue that 376AA and 376AAA are different entities. The industry explained it to the DRI that this was clearly a matter of interpretation and not a malafide intention. The whole industry was of the view that inverted duties were not anticipated as the finished goods were being allowed at a lower rate of 18% while the raw material was asked to be paid at 28% specially under the circumstances when the Government of India was pushing for Make in India.

(ii) The BOE Before 31-12-2018 were all revised by SIIB, JNCH @ 28% and interest were also paid. We have already revised the BOEs and paid IGST at 28% on the imported goods.

(iii) DRI Noida and SIIB, JNCH Have already closed the issue as 376AA and 376AAA have common rate of duty @ 18% post the notification issued by the department WEF 01-01-2019.

14.3. No Suppression of Facts - Notification Benefit Claimed Transparently:

(i) The exemption under Notification No. 57/2017-Customs Dated 30-06-2017 and 68/2017 Customs was transparently claimed in the Bill of Entry. All documents, including the usage records and manufacturing details, were submitted. There was no intent to evade duty, hence invocation of extended period under Section 28(4) is invalid. No element of suppression or willful misstatement is involved.

14.4. O-in-O by Commissioner of Customs (Import - 1), New Custom House Mumbai:

An Order was passed by Honorary Commissioner of Customs (Import - I), New Custom House Mumbai on 10-07-2025 In a Similar Case Where on Page No. 31, Point No. 20.1-3, The IGST Rate of lithium Ion Cell has been stated as 18% Only & not 28% as stated by the SCN, Further on Page NO. 32, A Table has been attached in the O-in-O which clearly states the same fact.

14.5. Request for Personal Hearing:

They requested to grant a personal hearing under principles of natural justice before any decision is taken.

They submitted that assessee was not a willful defaulter neither evaded any payment of GST nor having any intention to evade payment of CGST by paying lower tax rate than applicable rate. They requested to consider the same and do the needful for withdrawal of proceeding and oblige.

14.6. They enclosed the OinO copy of the order by Commissioner of Customs (Import - 1), New Custom House Mumbai and Highlighted part of page no. 31,32 separately.

DISCUSSIONS AND FINDINGS

15. I have carefully gone through the facts of the case, material on record, submissions of the importer and relevant Notifications. I find that the Show Cause Notice has proposed for the recovery of differential duty amounting ₹11,16,347/- (Rupees Eleven Lakh Sixteen Thousand Three Hundred and Forty Seven Only) under Section 28(4) of Customs Act,1962, on account of short payment of BCD and/or IGST along with applicable interest under Section 28AA of the Customs Act, 1962. I find that the SCN has also proposed for confiscation of subject goods valued at ₹75,44,488/- under section 111(o) and penal action under Section 112(a) and 114A of the Customs Act,1962.

16. I find that the description of the impugned goods mentioned in the in Annexure- 'A' of said Show Cause Notice is '**Li-ion Cell MAH, MODEL:, BIS:-**', which has been verified from the copies of subject Bill of Entry and it has been found that the description of the impugned goods is mentioned as '**Li-ion Cell MAH, MODEL:, BIS:-... parts for power bank**'.

17. I find that the SCN has not contested the classification of the subject imported goods i.e. Li-ion Cell MAH, MODEL:, BIS:-... under CTH 85076000, hence there is no classification dispute of the impugned goods. However, Furthermore, I observe that the SCN contended that the impugned goods will attract BCD & IGST as per Table-A.

18. I find that the core issue of the SCN is that the importer has paid lower rate of BCD and/or IGST under Sl. No. 203 of Schedule II of IGST Notification no. 01/2017-Integrated Tax (Rate) dated 28.06.2017 @ 12% and/or @18% under sr. nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018-Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in another Schedule. Department contended that the importer is liable to pay BCD & IGST as per Table below and, whereas, the subject imported goods have been cleared under lower rate of BCD.

Tariff Item	Description of goods	BCD % (Ntfn.)	SWS	IGST	Total Duty	Remarks
8507 (except 8507 60 00 and 8507 90)	Battery pack of cellular mobile phones [Other than Lithium-ion]	15	10	28	49.12	02.02.18- till date
85076000	Lithium-ion battery of cellular mobile phones	15	10	28	49.12	02.02.18- 26.07.18
		15	10	18	37.47	27.07.18-till date
85076000	Battery pack of cellular mobile phones [Lithium-ion]	20	10	18	43.96	30.01.19-till date
85076000	Power Bank [Lithium-ion]	20	10	18	43.96	30.01.19-till date

18.1. From the above table, I observe that the department has assumed that the impugned goods are either 'Battery pack of cellular mobile phones [Lithium-ion]' or 'Power Bank [Lithium-ion]', as against the above goods the total duty applicable is indicated as 43.96%.

19. Now the following issues emerges for decision in this case:

- Whether the importer has paid BCD @20% & IGST @18%.
- Whether the goods are liable for confiscation under Section 111(o) and the importer is liable for penalty under Section 112(a) and 114A of the Customs Act, 1962.

20. I find that the importer, in their written submission, has submitted that they paid BCD at 5%, by availing benefit of Sr. No. 17 B of Notification No. 57/2017 dt. 30.06.2017 as amended and IGST @18% in respect of all the Bills of Entry mentioned in Annexure-A of the SCN. Here, I observe that the said SCN has completely overlooked the fact that the Noticee had availed the benefit of the above BCD exemption Notifications, while clearing the subject Bills of Entry. I find that the contention of the SCN appears to be based on assumptions without considering the documents already available on record, as the BCD exemption notifications availed by the said importer, while clearing the subject Bills of Entry, has neither discussed nor challenged by the said SCN.

21. Now, the issue is to decide that whether the importer was eligible to avail exemption of BCD as claimed vide above notification nos. 57/2017-Customs (Sl. no. 17B), at the material time of import.

21.1. I have verified the subject Bill of Entries of the Annexure-A to the SCN and found that the importer has paid BCD @5% by claiming following exemption benefit: -

Sr. No.	Bill of Entry No.	BOE Date	BCD Exemption Notification availed
1.	9677481	23-11-2020	Serial No. 17B, Notification No. 57/2017-Customs (as amended by Notification no. 02/2019-Cus dated
3.	8930217	24-09-2020	

21.2. I find that the as per Notification No. 57/2017-Cus dt. 30.06.2017 (as amended by Notification No. 02/2019 dated 29th January, 2019), Lithium-ion cell for use in the manufacture of power bank of Lithium ion under CTH 85076000 will attract standard rate of BCD@5% subject to the condition that the importer will have to follow the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Relevant entries of the Notification No. 57/2017-Cus (as amended by Notification No. 02/2019 dated 29th January, 2019) are reproduced below for ease of reference: -

Sr. No.	Chapter or Heading or Sub-heading or tariff item	Description of Goods	Standard rate	Condition No.
17A	85076000	Lithium ion cell for use in the manufacture of battery pack of cellular mobile phone.	5%	1
17B	85076000	Lithium ion cell for use in the manufacture of power bank of Lithium ion.	5%	1

ANNEXURE

Condition No.	Conditions
1.	If the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

21.3. I find that the importer, in their written submission, has submitted that they have followed the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, as detailed below: -

(i) Certification by Assistant/Deputy Commissioner, Circle Ujjain, Camp at Pithampur (M.P.) vide F. No. VIII (CUS) 03/CirPith/Integrated mobi/18-19/146 dated 16.09.2020 regarding intimation for procurement and movement of Imported Goods under Rule 5 of Custom (import of Goods at Concessional rate of duty), Rule 2017 under Notification no. 68/2017-Cus (NT) dated 30.06.2017 with following details:

Description of Goods/CTH	Commercial Invoice No./Date	Continuity Bond Amount and acceptance Ref.
Lithium-ion Cell /85076000	BT-4-20200727B dt. 02.09.2020	Rs. 3,00,000/- Sr. No. 90 dt. 16.09.2020 at Page. No. 146-147

(ii) Certification by Assistant/Deputy Commissioner, Circle Ujjain, Camp at Pithampur (M.P.) vide F. No. VIII (CUS) 03/CirPith/Integrated mob/18-19/180 dated 03.11.2020 regarding intimation for procurement and movement of Imported Goods under Rule 5 of Custom (import of Goods at Concessional rate of duty), Rule 2017 under Notification no. 68/2017-Cus (NT) dated 30.06.2017 with following details:

Description of Goods/CTH	Commercial Invoice No./Date	Continuity Bond Amount and acceptance Ref.
Lithium-ion Cell /85076000	PCFE20201020001 dt. 20.10.2020	Rs. 9,50,000/- Sr. No. 91 dt. 02.11.2020 at Page. No. 147

21.4. The above invoices and certificates have been cross-checked from the respective Bills of Entry nos. 8930217 dt. 24.09.2020 and 9677481 dt. 23.11.2020 and found to be same. From the above submission of the importer, it is amply clear that the importer has followed the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, for import of subject imported goods.

21.5. In view of the discussions made in the preceding paras, I find that the importer is eligible for the benefit of 17B of Notification no. 57/2017 dt 30.06.2017 (as amended by Notification No. 02/2019 dated 29th January, 2019) and the importer had correctly paid the Basic Customs Duty BCD @5% in respect of impugned goods, as per the details of Bills of Entry mentioned in the Annexure-A of the subject Show Cause Notice. Hence, I am of the

considered view that the demand of BCD@20% in respect of impugned goods raised through the impugned Show Cause Notice is not sustainable.

22. Now, I will discuss the applicable IGST on the impugned goods. I find that the SCN contended that the importer has paid lower rate of BCD and/or IGST under Sl. No. 203 of Schedule II of IGST Notification no. 01/2017-Integrated Tax (Rate) dated 28.06.2017 @ 12% and/or @18% under sr. nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018-Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in another Schedule.

22.1. I observe that the importer in his written submission has submitted that they have paid IGST @18% as per Sl. No. 376AA, Schedule-III of Notn. 01/2017 in respect of all the Bills of Entry mentioned in Annexure-A of the SCN. I have cross-checked the Bills of Entry, referred to, in the Annexure-A of the subject SCN and found that the importer has paid IGST@18% against all the Bills of Entry of the subject SCN by claiming the benefit of Sl. No. 376AA of Schedule-III of the Notification no. 01/2017.

22.2. I further find that as per the IGST Notification 01/2017-Integrated Tax (Rate) dated 28.06.2017, the applicable rate of IGST for the impugned goods with description as Lithium Ion Cell was @ 18% during the material period. Relevant entry of the said Notification is reproduced below for ease of reference.

Schedule	Sr. No.	Chapter/Heading/Subheading/ Tariff item	Description of Goods	IGST
III	376AA	85076000	Lithium-ion Batteries.	18%

22.3. I observe that higher IGST @28% has not been proposed anywhere in the said SCN. The same can be easily understood by the calculations of duty (BCD & IGST) given in Table-A, reproduced below for ease of reference: -

Tariff Item	Description of goods	BCD % (Ntfn.)	SWS	IGST	Total Duty	Remarks
8507 (except 8507 60 00 and 8507 90)	Battery pack of cellular mobile phones [Other than Lithium-ion]	15	10	28	49.12	02.02.18- till date
85076000	Lithium-ion battery of cellular mobile phones	15	10	28	49.12	02.02.18- 26.07.18
		15	10	18	37.47	27.07.18-till date
85076000	Battery pack of cellular mobile phones [Lithium-ion]	20	10	18	43.96	30.01.19-till date
85076000	Power Bank [Lithium-ion]	20	10	18	43.96	30.01.19-till date

The proposed total duty @ 43.96% in the Annexure-A is calculated with IGST @ 18% as per Table-A.

22.4. From para 22.3 above, it can be seen that the SCN has proposed IGST @ 18% only. Also, from the respective Bills of Entry nos. 8930217 dt. 24.09.2020 and 9677481 dt. 23.11.2020 it has been verified that the importer had cleared the subject goods after paying IGST at the rate of 18% and hence, I am of the considered view that there is no short payment of IGST, for the impugned goods.

23. In view of the discussions made in the preceding paras, I am of the considered view that the demand of differential duty/short-paid duty for impugned goods imported vide subject Bills of Entry raised through the said Show Cause Notice is not sustainable and the importer has correctly paid applicable duty @5% & IGST @18% by availing relevant notification benefits, as

discussed above. Hence, there is no shortfall of duty paid by the importer and I hold the same.

24. Since there is no shortfall of duty paid on the part of the importer, the question of demand of Interest on Differential Duty u/s 28AA does not arise at all.

25. Further, since the demand of differential/short-paid duty raised by said SCN is not sustainable, the liability of confiscation of impugned goods u/s 111(o) and penalty on the importer u/s 112(a) and 114A of the Customs Act, 1962 does not sustain and hence, I refrain from imposing Penalty under Section 112 (a) and/or Section 114A as well as order for confiscation of the imported goods under Section 111(o) of the Customs Act, 1962.

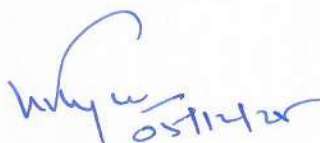
26. Accordingly, I pass the following order:

ORDER

I, hereby, drop all the charges levelled against the importer **M/s INTEGRATEDMOBI TECH PRIVATE LIMITED (IEC- 1315013771)** in the impugned Show cause Notice No. 1471/2024-25/ADC/Gr.VA/CAC/JNCH dated 11.12.2024.

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

Encl: Annexure -A



(माजिद खान / MAZID KHAN)

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

To:

**M/s. INTEGRATEDMOBI TECH PRIVATE LIMITED,
8-D BAPU NAGAR,
CHITTORGARH, RAJASTHAN, 312001**

Copy to:

1. The Dy./Asstt Commissioner of Customs, Review Cell, JNCH.
2. The Dy./Asstt Commissioner of Customs, Recovery Cell, JNCH.
3. The Dy./Asstt. Commissioner of Customs, Group VA, JNCH.
4. The Dy. /Asstt. Commissioner of Customs, AUDIT, Circle-D1, JNCH.
5. The Dy./Asstt. Commissioner of Customs, EDI, JNCH, for uploading on website.
6. Notice Board, through the Superintendent (CHS Section), JNCH.
7. Office Copy.

