



ऑफिस ऑफ द कमिशनर ऑफ कस्टम्स
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V.
 जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,
 ताल-ऊरण, डिस्ट-राइगड़, महाराष्ट्र-४००७०७.
TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400707.

F. No.: S/10-68/2025-26/ADC/GR-VB/NS-V/CAC/JNCH

Date of Order: 04.09.2025

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Passed By: **Shri Satish Kumar****Additional Commissioner of Customs, NS-V****DIN-20250978NX000000B4A9****Order-In-Original No. 763/2025-26/ADC/GR.VB/NS-V/CAC/JNCH**

(Arising out of SCN No. 312/2025-26/ADC/Gr.VB/NS-V/CAC/JNCH dated 17.06.2025)

Noticee: **M/s. DELHI METRO RAIL CORPORATION LTD (IEC: AAACD3254A)****मूलआदेश**

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र - 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र कास्टांप 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 1.50 रुपये का स्टांप 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.1.50 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. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
3. Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. DELHI METRO RAIL CORPORATION LTD (IEC: AAACD3254A). having address at 3rd Floor, B Wing, Metro Bhawan, Barakhamba Road, Fire Brigade Lane, CENTRAL DELHI, 110001 (hereinafter referred to as 'the Importer') had imported items viz. parts of Railway or Tramway Locomotives, or Rolling stock etc. (hereinafter referred to as 'the subject goods') vide Bill of Entry as mentioned in Annexure -A, classifying the same under CTH 8607 and the same has been cleared through Customs.

2. During the course of Post Clearance Audit Bill of Entry, it is prima-facie noticed that the Importer has imported the goods as mentioned in Annexure-A and has been paid IGST@05% under serial number 241 of Schedule-I of Nt No.01/2017-integrated Tax (Rate) dated 28.06.2017. The details of description of goods, Bill of Entry, assessed IGST amount are as per Annexure -A.

3. After going through the imported goods description and IGST Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017, it appears that imported goods listed at Sr. No. 7,9 and 10 and with descriptions as elaborated in Table B will fall under Sl. No.205G of Schedule II wherein applicable IGST rate @ 12% instead of Serial No. 241 of Schedule-I wherein applicable IGST rate @ 05%. However, importer paid IGST rate @ 05% as per Sl. No. 241 of Schedule-I of Notification No.01/2017 against the imported goods. For better appreciation, the relevant part of Notification 01/2017 is as below in **Table A**:

Sr. No.	Time Period	IGST Rate	Sl. No. of Notification No.01/2017 I.T. (Rate)
1	01.07.2017 to 30.09.2019	5%	241 of Schedule I
2	01.10.2019 to 30.09.2021	12%	205G of Schedule II
3	01.10.2021 onwards	18%	398G of Schedule III

4 As mentioned above in Table A the subject goods were applicable for IGST @ 5% under Serial Number 241 of IGST Notification No. 01/2017 I.T. (Rate). The said IGST rate was in force for the period 01.07.2019 to 30.09.2019, where after, Notification number 14/2019 Integrated Tax was brought into force, wherein, the subject goods were listed at Sr. No. 205G in Schedule II @ 12%. Against the said entry, the description of the goods was same as Serial number 241 of Schedule I in the original Notification. Serial number 205 G was later revoked by introducing Serial Number 398 G in Schedule III of the said

later revoked by introducing Serial Number 398 G in Schedule III of the said Notification. During the intervening period between the second Notification and the third (as mentioned in Table A), the importer filed the Bill of Entry 7916493 dated 16-06-2020 and tried paying the IGST under an entry that was no longer in force. Since, the applicability of IGST @ 12% as per Sr.No. 205G of Schedule II of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 on “parts of Railway or Tramway Locomotives, or Rolling stock etc” is very clear and specific, it appears that the Importer had wilfully made short payment of IGST by wrong availment of IGST Schedule against imported goods, thereby paying lower duty than applicable and thus the provisions of Section 28 (4) are invokable in this case.

5 Accordingly, a **Consultative Letter No. 31/2025 Dated 17.04.2025** vide F. No. S/2-Audit-Gen-283/2021-22/JNCH /D3 was issued to the Importer for the Bills of entry as shown in the Annexure -A and it was advised to the Importer for payment of short levied duty along with applicable interest and penalty. Vide the aforementioned Consultative letter, the Importer was advised to pay the Differential IGST (details mentioned in below Annexure -A) along with interest and penalty in terms of Section 28(4) of the Customs Act 1962. The Importer was further advised to avail the benefit of lower penalty in terms of Section 28(5) of the Customs Act, 1962, by early payment of short paid IGST duty and interest along with penalty @15%. The Consultation letter was issued taking into account the Pre-Notice Consultation Regulations, 2018. However, the Importer has not responded till the issuance of the SCN.

Table B

BE NO.	BE Date	ITEM NO.	Description	Assessed Value	IGST PAID 5%	IGST TO BE Paid 12%	DIFF IGST (in Rs.)
7916493	16-06-2020	10	BRAKE CONTROL (PARTS OF BRAKE SYSTEM OF METRO TRAIN - DMRC RS10 PROJECT)PARTS OF BRAKE SYSTEM OF METRO TRAIN	2280932	126592	303820	177228
7916493	16-06-2020	9	BRAKE CONTROL (PARTS OF BRAKE SYSTEM OF METRO TRAIN - DMRC RS10 PROJECT)PARTS OF BRAKE SYSTEM OF METRO TRAIN	1661907	92236	221366	129130
7916493	16-06-2020	7	SHOE BRAKE (PARTS OF BRAKE SYSTEM OF METRO TRAIN - DMRC RS10PROJECT) ARTS OF	888043	49286	118287	69001

			BRAKE SYSTEM OF METRO TRAIN				
				4830882	268114	643473	375360

6 After the introduction of self-assessment vide Finance Act, 2011, the onus is on the Importer to make true and correct declaration in all aspects including Classification, payment of duty and calculation of duty, but in the instant case IGST amount on the subject goods has not been paid correctly.

7 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:

7.1 Section 17(1) Assessment of duty, reads as:

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

7.2 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) Where the Importer or the exporter or the agent or the employee of the Importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub- section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5).

7.3 Section 28AA- (Interest on delayed payment of duty).

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

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

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

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

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

8 Acts of omission and commission by the Importer:

8.1 As per section 17(1) of the Act, "An Importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods." Thus, in this case the Importer had self-assessed the Bills of Entry and appears to have Short levy of IGST by way of wrong availment of IGST Schedule. As the Importer got monetary benefit due to said act, it is apparent that the Importer deliberately made short payment of IGST by wrong availment of IGST Schedule against said goods in

the Bills of Entry during self-assessment. Therefore, differential duty is recoverable from the Importer under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the said Act.

8.2 It appears that the Importer has given a declaration under section 46(4) of the Act, for the truthfulness of the content submitted at the time of filing Bill of Entry. However, the applicable IGST rate on the subject goods was not paid by the Importer at the time of clearance of goods. It also appears that the Importer has submitted a false declaration under section 46(4) of the Act. By the act of presenting goods in contravention to the provisions of section 111(m), it appears that the Importer has rendered the subject goods liable for confiscation under section 111(m) of the Act. For the above act of deliberate omission and commission that rendered the goods liable to confiscation. Accordingly, the Importer also appears liable to penal action under Section 112 (a) and /or 114 A of the Customs Act, 1962.

9. From the foregoing, it appears that the Importer has wilfully made short payment of IGST against the import goods; that the Importer has submitted a false declaration under section 46(4) of the said Act. Due to this act of omission of Importer, there has been loss to the government exchequer equal to the differential duty.

10. Therefore, in terms of Section 124 read with Section 28(4) of the Customs Act, 1962; M/s. DELHI METRO RAIL CORPORATION LTD, is hereby called upon to show cause to the Additional Commissioner of Customs, Gr. VB, NS-V, JNCH, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra - 400707, within 30 days of the receipt of the notice, as to why:

- i. The IGST rate 05% claimed under Schedule I - Sr. No.241 of IGST levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 for the subject goods should not be rejected and IGST rate 12% under Schedule II - Sr. No.205G of said notification should not be levied.
- ii. Differential IGST amount of Rs. 3,75,360/- (Rupees Three Lakh Seventy Five Thousand Three Hundred Sixty Only) with respect to the items covered under Bill of entry as mentioned in Annexure- A to this notice should not be demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.
- iii. The subject goods as detailed in Annexure- A to this notice having a total assessable value of Rs. 48,30,882/- (Rupees Forty Eight Lakhs Thirty Thousand Eight Hundred Eighty Two Only) should not be held liable for confiscation under Section 111(m) of the Customs Act,

1962.

- iv. Penalty should not be imposed on the Importer under Section 112 (a) and /or 114 A of the Customs Act, 1962.

WRITTEN SUBMISSIONS BY THE IMPORTER

11 During the course of adjudication proceedings, detailed written submissions were received from M/s Hyundai Rotem Company (HRC), the contractor responsible under the RS10 Project of Delhi Metro Rail Corporation (DMRC). HRC emphasized that the classification and assessment of IGST was done bona fide at the time of filing the Bill of Entry, relying on an earlier applicable entry under Notification No. 01/2017-Integrated Tax (Rate).

11.2 Upon receipt of the Department's Consultative Letter pointing out that the correct IGST rate applicable at the material time was 12% (Sl. No. 205G, Schedule II) and not 5% (Sl. No. 241, Schedule I), HRC, acting in good faith and without waiting for the issuance of a Show Cause Notice, voluntarily arranged for the discharge of the entire differential IGST liability. Specifically, HRC deposited the sum of ₹3,75,360/-, being the differential duty, together with the statutory interest and an additional amount equivalent to 15% of the duty as penalty under Section 28(5) of the Customs Act, 1962, on 04.06.2025. This payment was made well before the date of issuance of the SCN (17.06.2025).

11.3 In support of the aforesaid payment, HRC furnished documentary evidence including:

- I. A copy of the RTGS outward remittance report generated by Shinhan Bank, clearly indicating the transfer of funds to the designated Government account.
- II. A communication dated 20.08.2025 issued by the Reserve Bank of India (RBI) confirming that the transaction identified as UTR No. MURXX250604672925 / Transaction ID SHBK20256045241267295 was successfully settled and duly credited to the Government account.

11.3.1. A covering letter dated 26.06.2025 addressed by HRC to the Department formally requesting withdrawal of the SCN, while explaining that the short payment of IGST had arisen solely on account of an inadvertent reference to an outdated schedule under Notification No. 01/2017, and was in no manner a deliberate attempt to suppress facts or evade payment of duty.

11.4 HRC stressed that the misapplication of the IGST rate was purely an unintentional error arising from reliance on the outdated entry under Schedule I of the Notification, which was in force in earlier years, and not out of any wilful misstatement or suppression of facts. The company pointed out that as soon as

the discrepancy was brought to its attention, corrective action was taken expeditiously to remit the duty along with interest and penalty, thereby discharging the entire liability.

11.5 In light of the above facts, HRC submitted that the case squarely falls within the ambit of Section 28(5) and Section 28(6) of the Customs Act, 1962, **which provide that once the duty, interest, and penalty @15% have been paid, the matter shall be deemed settled and all proceedings concluded.** Accordingly, HRC requested this adjudicating authority to acknowledge the compliance and treat the SCN as fully satisfied and settled.

DISCUSSION AND FINDINGS

12. I have carefully gone through the records of the case, the submissions of the Importer/HRC, and the statutory provisions. M/s. Delhi Metro Rail Corporation Ltd. (IEC: AAACD3254A) filed Bill of Entry No. 7916493 dated 16.06.2020 for clearance of goods described as "Brake Control System and Shoe Brake – parts of braking system of Metro Train (RS10 Project)" under CTH 8607. The Importer assessed the goods to IGST at the rate of 5% under Sl. No. 241, Schedule I of Notification No. 01/2017-Integrated Tax (Rate), dated 28.06.2017. However, on post-clearance audit scrutiny, it was noticed that w.e.f. 01.10.2019, the said entry was shifted to Sl. No. 205G, Schedule II, attracting 12% IGST up to 30.09.2021, thereafter amended to 18%.

12.1 The short levy of IGST of ₹3,75,360/- on the subject Bill of Entry is evident, as at the time of import (June 2020), the applicable rate was 12% under Sl. No. 205G, Schedule II of Notification 01/2017-IT (Rate).

12.2 Upon receipt of the Department's Consultative Letter highlighting that the correct rate of IGST applicable at the material time was 12% under Sl. No. 205G of Schedule II, and not 5% under Sl. No. 241 of Schedule I, M/s Hyundai Rotem Company (HRC), before issuance of a Show Cause Notice, voluntarily complied with the statutory requirements. The company remitted the entire differential IGST of ₹3,75,360/-, along with the applicable statutory interest and an additional amount equal to 15% of the duty as penalty under Section 28(5) of the Customs Act, 1962, collectively Rs 7,13,174 on 04.06.2025 vide UTR No. MURXX250604672925 / Transaction ID SHBK20256045241267295 IN RBI Account and same has been verified from RBI itself. **Notably, this payment was affected well prior to the issuance of the SCN dated 17.06.2025, thereby discharging the liability in full at the earliest possible stage.**

13 The core issue now is whether the proceedings under the instant SCN survive in light of the fact that the entire duty, interest, and penalty have already been remitted prior to issuance of the SCN or otherwise;

13.1 Section 28(5) of the Customs Act, 1962 provides that where any duty has not been levied or has been short-levied, the person chargeable may pay such duty in full along with interest and penalty equal to 15% of duty, within thirty days of receipt of notice, and intimate the proper officer.

13.2 Section 28(6)(i) further provides that where such payment has been made, "the proceedings in respect of such person shall be deemed to be conclusive as to the matter stated therein." Thus, upon such voluntary payment, adjudication proceedings cannot be continued further.

13.3 In the present case, the noticee (through HRC) has already deposited the entire differential duty of ₹3,75,360/-, interest, and 15% penalty on 04.06.2025, i.e., even prior to issuance of the SCN and documentary evidence including:

- I. A copy of the RTGS outward remittance report generated by Shinhan Bank, clearly indicating the transfer of funds to the designated Government account.
- II. A communication dated 20.08.2025 issued by the Reserve Bank of India (RBI) confirming that the transaction identified as UTR No. MURXX250604672925 / Transaction ID SHBK20256045241267295 was successfully settled and duly credited to the Government account.

Thus the RBI confirmation establishes that the payment has been successfully credited to the Government account and the entire duty, interest, and penalty have already been remitted prior to issuance of the SCN.

14 Since the statutory conditions of Section 28(5) are fulfilled, the matter attains finality, and by operation of law under Section 28(6)(i), the proceedings are deemed to be conclusive. In such a situation, the proposals for confiscation of goods under Section 111(m), and penalties under Sections 112(a), 114A, and 117, no longer survive, as the primary duty demand itself has been settled. The allegation of wilful misstatement is also mitigated by the fact that the short payment was corrected voluntarily prior to issuance of SCN.

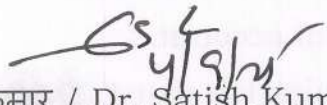
15. In view of above discussion and findings, I pass the following order:

ORDER

- I. I confirm the differential IGST demand of ₹3,75,360/- (Rupees Three Lakh Seventy-Five Thousand Three Hundred Sixty only) under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA.
- II. I appropriate the amount of ₹3,75,360/- along with interest and penalty @15% already deposited on 04.06.2025, towards the aforesaid confirmed demand.

III. In terms of Section 28(6)(i) of the Customs Act, 1962, the proceedings in respect of the instant SCN are deemed to be conclusive, and no further action is required and consequently, the proposals for confiscation of goods under Section 111(m) and imposition of penalties under Sections 112(a), 114A, and 117 of the Customs Act, 1962, are hereby dropped.

16. 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.


(डॉ. सतीश कुमार / Dr. Satish Kumar)

अतिरिक्त आयुक्त, सीमा शुल्क / Additional Commissioner of Customs
ग्रुप-VB, एनएस-V, जेएनसीएच / Gr.VB, NS-V, JNCH

To,

M/s. DELHI METRO RAIL CORPORATION LTD.,
3rd Floor, B Wing, Metro Bhawan, Barakhamba Road,
Fire Brigade Lane, CENTRAL DELHI, 110001.

Copy to:

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