

 <p><b>BHARAT SARKAR</b></p>	<p>सीमाशुल्क आयुक्त का कार्यालय (एन एस-1)  <b>OFFICE OF COMMISSIONER OF CUSTOMS (NS-1)</b>  जवाहरलालनेहरूकस्टमहाउस, न्हावा-शेवा  <b>JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA</b>  ताल-उरण, जिला- रायगढ़, महाराष्ट्र-400 707  <b>TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707</b></p>	 <p><b>INDIAN CUSTOMS</b></p>
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**DIN:20250978NW000000E36F**

F. No: CUS/AG/MISC/1426/2025/Gr. IIG/JNCH  
S/10/Adj-256/2025-26/Gr.IIG/JNCH

Date of Order: 04.09.2025

**Passed by: Jay Girijappa Waghmare,**  
**Joint Commissioner of Customs (NS-I),**  
**JNCH, NhavaSheva.**

द्वारा पारित : राज कुमार मिश्रा

सहायक आयुक्त, सीमाशुल्क, एनएस-I, जेएनसीएच.

**Order No. 775(L)/2025-26/JC/Gr. IIG/NS-I/CAC/JNCH**  
आदेश संख्या : **775(L)/2025-26/JC/Gr. IIG/NS-I/CAC/JNCH**

Name of Importer/Party/Noticee: **M/s Nakshatra Enterprises (IEC-IEXPS0573H)**

**मूल आदेश**

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
- 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, न्हावा 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 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 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- 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**

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Taluka: 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.
- 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 Nakshatra Enterprises (IEC-IEXPS0573H)having registered address at 9, Kumbhar Chawl, Sainath Nagar Marg, Datta Mandir, Ghatkopar West, Mumbai-400086 (hereinafter referred to as ‘the Importer’ for sake of brevity) filed Bill of Entry no. 9997151 dt. 11.05.2025[**RUD-1**]for import of goods. Based on a specific input, the consignment was put on hold vide Hold Letter No. 49/2025-26 SIIB(I) dated 23.05.2025 [**RUD-2**]. The details of the examined Consignment are tabulated below as per table –I:-

**Table-I**

<b>BE No. &amp; Date</b>	9997151 dt. 11.05.2025
<b>IGM No. &amp; Date</b>	1133667 dated 20.01.2025
<b>Bill of Lading No.</b>	SNLFNSDLMF00099 dated 25.04.2025
<b>Container No.</b>	TLLU4726831 (40 fts)
<b>Importer</b>	M/s Nakshatra Enterprises (IEC-IEXPS0573H)
<b>Customs Broker</b>	M/s Samarth International (ABKFS0826KCH002)
<b>Country of Origin</b>	China
<b>Port of Loading</b>	Nansha New Pt, China

**2. Examination Findings: -**

The container No. TLLU4726831 (40 fts), containing goods imported under Bill of Entry no. 9997151 dt. 11.05.2025was examined by officers of SIIB(I), JNCH under Panchanama dated 24/25.05.2025 [**RUD-3**]. The container was found sealed with bottle seal bearing seal no. 322958 and matching with the seal no. mentioned in the Bill of Lading. The weighment details are mentioned as per weighment slip is tabulated below:

**Table-II**

S r N o.	Container Nos. (40 RF fts)	Seal No. f ound	Gross Wt. as per B/E and B /L (in Kgs)	Gr Weight foun d on weighbrid ge (in Kgs)	Vehicle Tare Wei ght(kg)	VgmW eight(in kgs)	Container T are Weight (in Kgs.)	Cargo Weight( in kgs)
1	TLLU47 26831	3229 58	14270	30610	13370	17240	3700	13540

The goods found during the examination are mentioned in Table-III below: -

Table-III

Sr. no.	Goods found during examination	No. of cartons	Total quantity per cartons	Total Quantity found	Gross Weight per Carton(in kgs)	Total Gross Weight of Cartons(in kgs)	Declared weight/quantity as per Packing list
1	Plastic Back Case	221	500	110500	20.5	4530.5	
		125	600	75000	17.5	2187.5	
		49	600	29400	11.5	563.5	
Total		395				7281.5	7636 kgs
2	Tempered Glass	61	100	6100			9100 pcs
3	Assorted Bag (Pink and Black Colour)	17	16	272			272 pcs
4	Furniture Storage Drawer	18	5	90			90 pcs
5	Paper Cutting Machine	1	1	1			1 pcs
6	Paint Sprayer Machine for motor vehicle	1	1	1			1 pcs
7	Artificial Nails Accessories	10	60	600			600 pcs
8	Invertor	1	1	1			1 pcs
9	Warm Belt	125	15	1875			1875 pcs
10	USB Cable	45	140	6300			6300 pcs
11	Fan Accessories Chip Capacitor	8	30	240			672 pcs
	Fan Accessories (Canopy)	38	10	380			
	Fan Head/Motor Housing	2	12	24			
12	Plastic Jar	29	100	2900			2900 pcs
13	Mobile Battery	14	200	2800			Not Declared
14	Mobile Charging Adapter	14	500	7000			Not Declared
15	Packing material	2	241	482			Not Declared



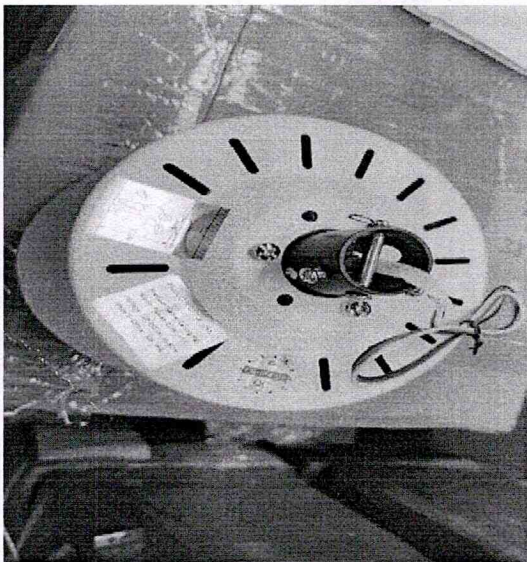
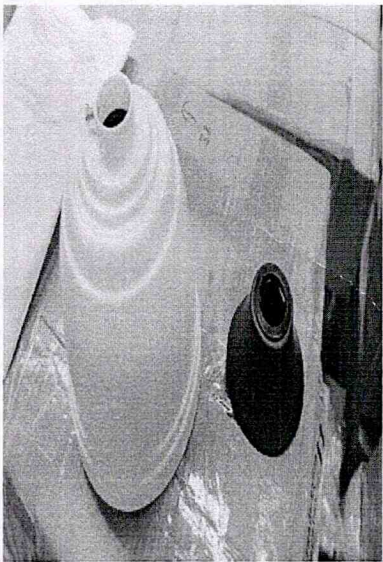
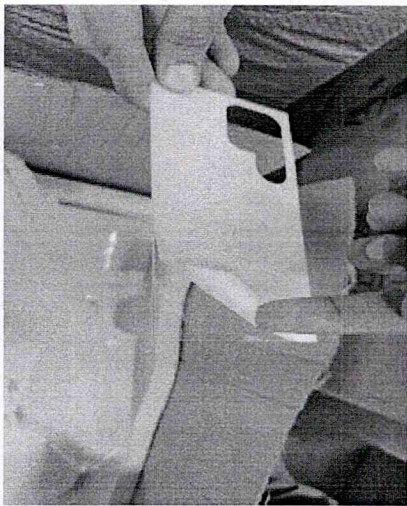
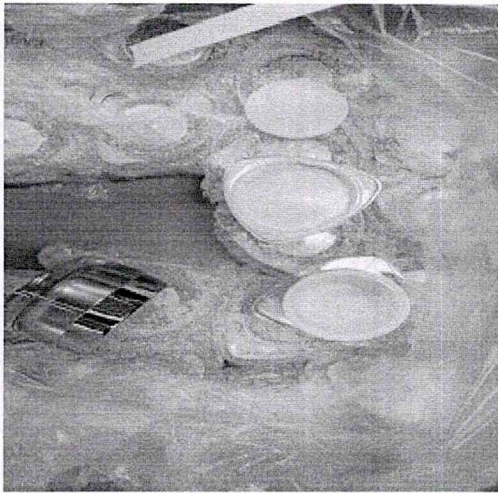
Total	781					
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- I. A total of 781 cartons were found against the declared 781 cartons in the Bill of Entry.
- II. Cargo’s net weight as per the Bill of Lading is 14270 kgs, while during the examination, the net weight of the cargo was found to be 13540 kgs, which is 730 kgs less than declared.
- III. The seal of the said container matched with the Bill of Lading dated 25.04.2025 i.e. “322958”.
- IV. The importer has submitted the Bill of Entry, Bill of Lading, commercial Invoice, and Packing list pertaining to the subject consignment.
- V. During the examination, goods were found in different coloured cartons having two layer of packing. Outer layer was green and brown coloured and inner layer was transparent PP bags.
- VI. Representative sealed samples have been drawn. However, sampling of certain goods, such as the Paper Cutting Machine, Paint sprayer machine for motor vehicles, and inverter, was not feasible.
- VII. During examination of goods, the goods found were Plastic Back Case, Plastic Jar, Warm Belt, tempered Glass, Fan accessories, USB Cable, Assorted bags, Furniture Storage Drawer, Paper Cutting Machine, Paint Sprayer Machine for Motor Vehicle, Artificial Nails and Accessories, Inverter, Batteries, Packing Materials, and Mobile Charging Adapter.
- VIII. Further, 14 Cartons of Mobile Battery of having marking one plus (model no. BLP801, BIS no. R-41134988) manufactured by Sunwoda Electronic Co. Ltd., 14 Cartons of CMF by Nothing Mobile charging adapter having (BIS no R-41262528, model no.- C332) manufactured by Dazhou Ten Pao Jinhua Electronics Co. ltd and 02 Cartons of packing material were found during the examination. The articles Mobile Battery and Charging Adapter require a mandatory BIS registration certificate. The importer has submitted an online BIS Certificate for Battery and Adapter. Which is verified online at <https://www.bis.gov.in/>, the details of the certificates are found to be corroborated with the information labelled on the article.
- IX. Also, for the inverter, the importer has not submitted a BIS registration copy nor the product any marking of registration number.
- X. Further, all producers and importers of electrical and electronic equipment (EEE) must be registered on the EPR Portal maintained by CPCB. The importer must possess a valid Extended Producer Responsibility Authorisation (EPRA) issued by CPCB. Micro enterprises as per the MSMED Act, 2006, are exempted from EPR requirements but must provide documentary evidence (Udyam Registration / MSME Certificate).In the present case, neither an EPRA nor an MSME certificate has been submitted by the importer, attracting non-compliance.

3. **IPR Verification-**

A letter was sent to IPR Cell dated 23.06.2025 regarding verification of IPR angle of the goods imported vide Bill of Entry no. 9997151 dt. 11.05.2025 imported by M/s Nakshatra Enterprises (IEC-IEXPS0573H) having following markings on goods:



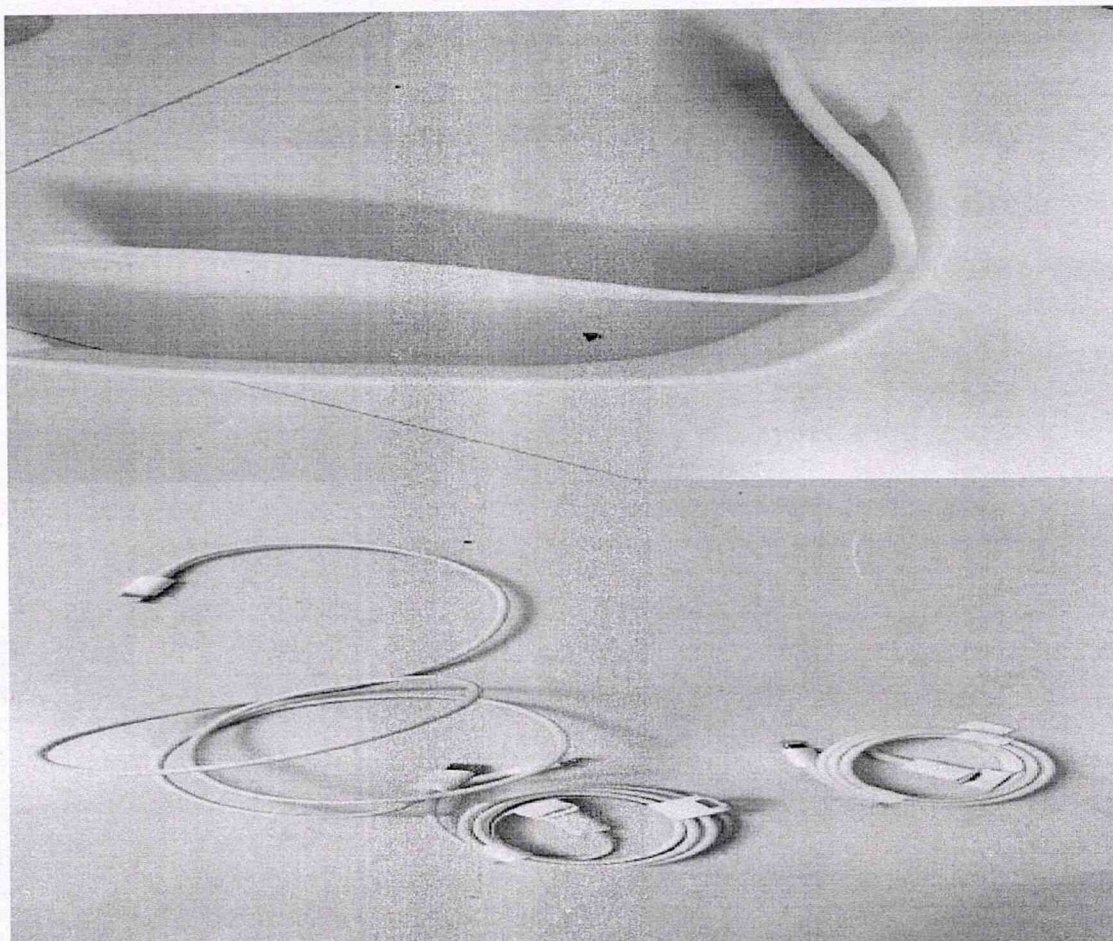


**Table-IV**

S. No.	Item description	Brand Name
1.	Mobile Battery	One Plus
2.	Mobile Charging Adapter	CMF BY NOTHING

Vide letter dated 01.08.2025 IPR Cell, JNCH informed that the brand “CMF By Nothing” was found to be registered with customs under Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. In this regard, a email was sent to right holder regarding the physical inspection of the imported goods. The authorized representative of “CMF BY NOTHING” participated in the physical inspection[RUD-4] of goods and informed via mail that the goods Adapter of brand “CMF By Nothing” are found to be counterfeit. Further, the authorized representative of right holder submitted the Bond with





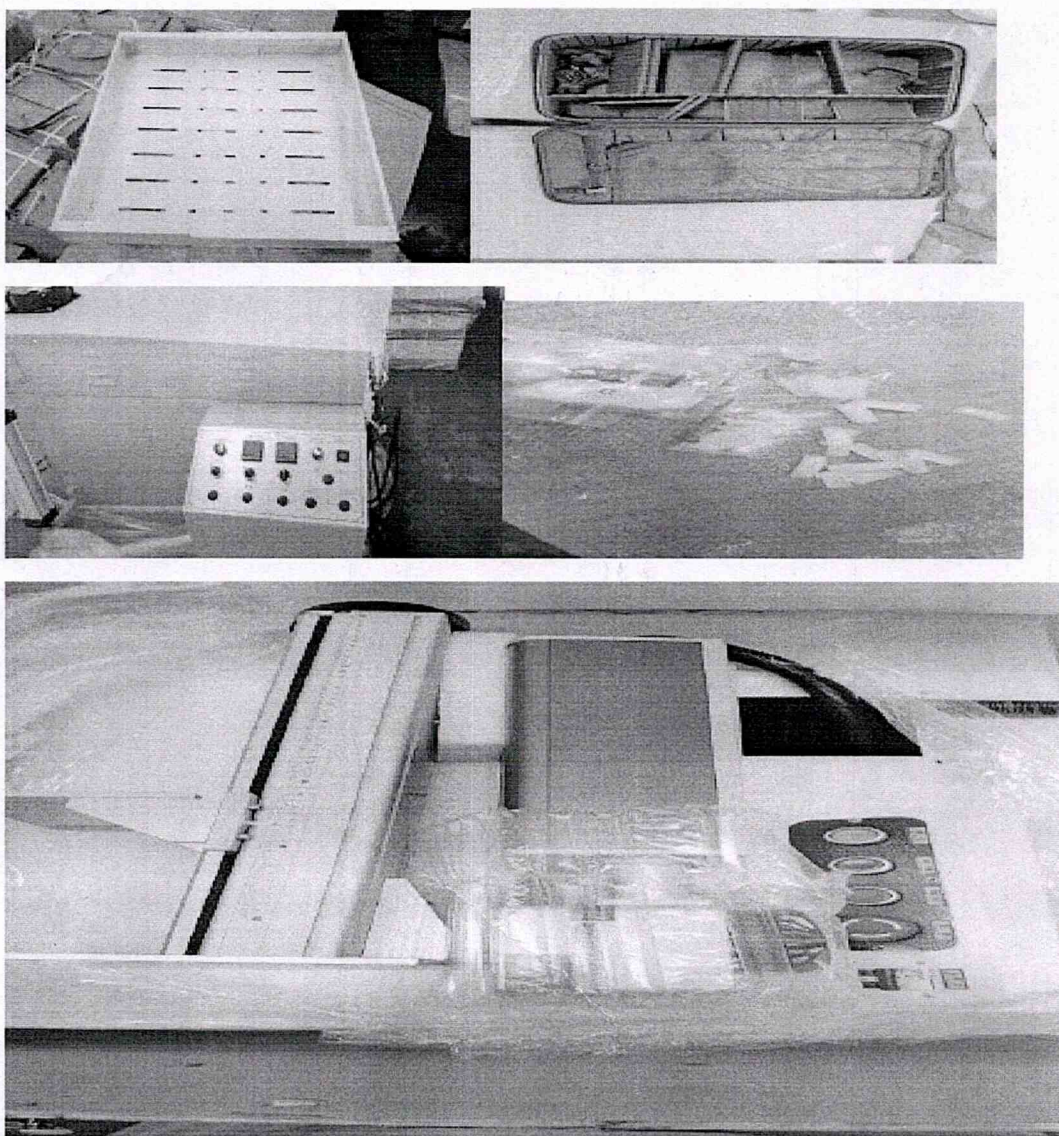
certificate no. G0G2025H1617 dated 07.08.2025 and Bank Guarantee to HDFC Bank with serial no. 06082509141000198 and Bond with Certificate no. G0G2025H1617 dated 07.08.2025[RUD-5] for the destruction of goods. However, In case of mobile battery having marking “One Plus”, the right holder did not participate in the verification process and the said goods were given NOC by the IPR cell [RUD-6] vide letter dated 08.08.2025.

4. Further, a letter was received from the importer M/s Nakshatra Enterprises dated 28.05.2025 regarding clarification about the mis-declaration of goods found during the examination, vide which he submitted that the shipment was wrongly loaded by our shipper at his warehouse because of confusion, as packages were wrapped in similar green packing at the origin while loading. Further, the importer readily accepted the mistake that the goods were not declared in the Bill of Entry and was ready to pay the differential duty for the said goods.

5. **Determination of Value:**

The Rule 3(4) of Customs Valuation (Determination of Value of Import Goods) Rules, 2007 says that “if the value cannot be determined under the provisions of sub-rule 3(1), the value shall be determined by proceeding sequentially through rule 4 to 9”. As the value of impugned goods could not be determined under the provisions of sub-rule (1) of Rule 3 of the Customs Valuation Rules (CVR), 2007, the same was required to be determined sequentially under rule 4 to 9 of CVR 2007. As per Rule 4 of CVR, 2007, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued; Further, as per Rule 5 of CVR, 2007 the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being

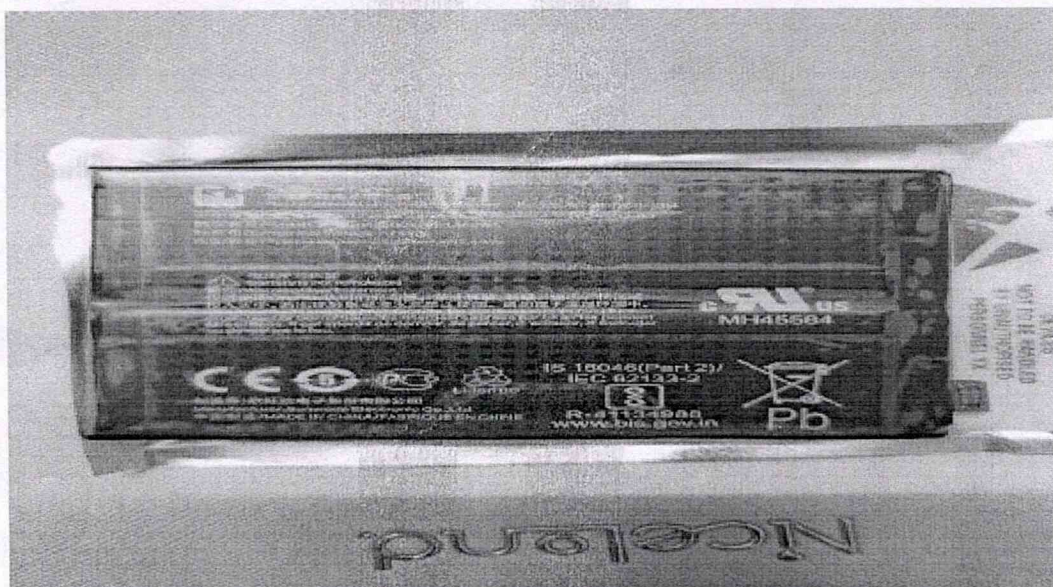
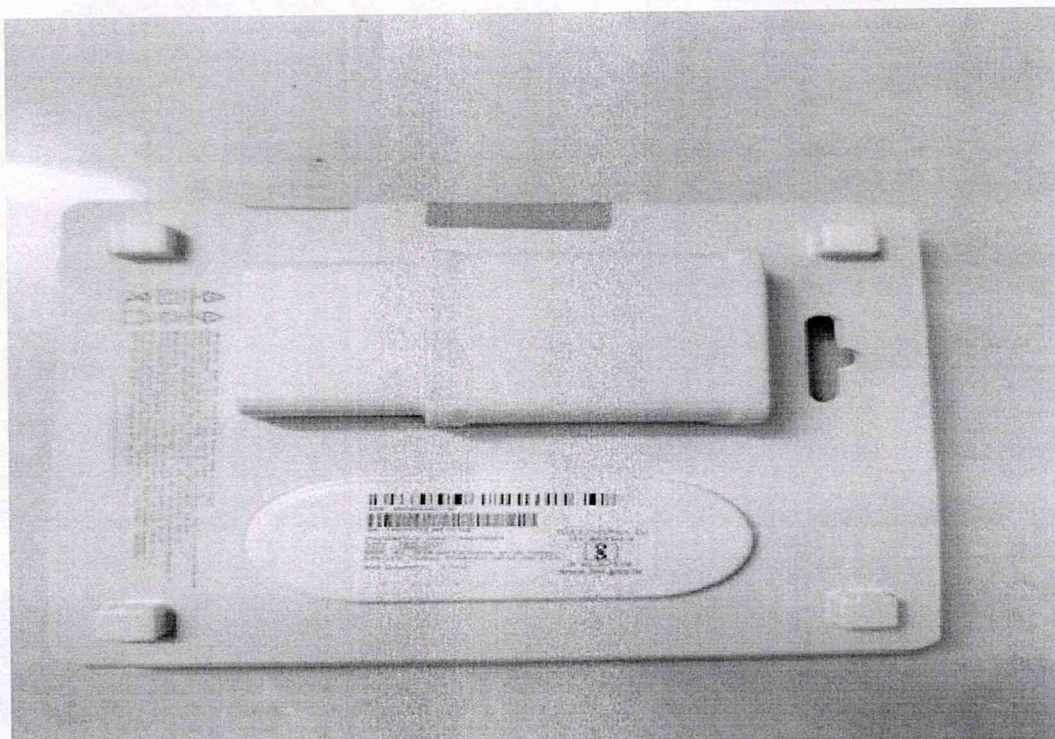




valued: To determine the value of the imported goods as per Rule 4 or Rule 5 of CVR 2007, contemporaneous data of import of identical or similar goods was required, however, no concrete data of identical or similar items in terms of description, quantity and country of origin was found in customs database, therefore, value of the goods cannot be determined as per Rule 4 and 5 of the Customs Valuation Rules (CVR), 2007. As per Rule 6 of the CVR, 2007 if the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, then under rule 8. Further, due to non-availability of the actual profit, transportation, general expenses in each transaction and cost of production & profit percentage of the supplier, it appears that determination of value under Rule 7 and Rule 8 of the CVR 2007 is not a feasible option. Therefore, the valuation of impugned goods was to be done under Rule 9 of the CVR, 2007 using reasonable means consistent with the principles and general provisions of these Rules and on the basis of data available in India. Accordingly, for the valuation of the goods, letter was written to Government approved valuer for the purpose of valuation of the goods as per market rate available in India.

As per the provisions of Rule 9 of the Customs Valuation Rules, 2007, the value of the impugned goods is re-determined under residual method as under: Interpretative notes





to the Customs Valuation Rules, 2007 lay down the method to be followed for applying the provisions of various rules contained therein. Such notes in respect of Rule 9 of the Customs Valuation Rules, 2007 lay down as under:

- 1) *The value of imported goods determined under the provisions of the said Rule 9 should to the greatest extent possible, be based on previously determined customs values.*
- 2) *The methods of valuation to be employed under Rule 9 may be those laid down in Rule 3 to 8, inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Rule 9.*
- 3) *Some examples of reasonable flexibility are as follows:*



- (a) *Identical goods:* The requirement that the identical goods should be imported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being value could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Rule 7 and Rule 8 could be used.
- (b) *Similar goods:* The requirements that the similar goods should be imported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Rule 7 and Rule 8 could be used.

Accordingly, a Market survey was conducted on 18.07.2025 [RUD-7], for all the goods found during examination in the presence of Mr. Nikhil Subhash Landge, Authorized representative of M/s Nakshatra Enterprises (IEC – IEXPS0573H) on behalf of M/s Nakshatra Enterprises(IEC – IEXPS0573H).Based on the market enquiry, the average of the values quoted in the three quotations has been taken for the calculation of the valuation. Each item was enquired at least three different shops. Some shopkeepers agreed to provide a quotation, whereas some shopkeepers expressed their inability to provide invoices and told the rates verbally. Some shopkeepers also provided their cards. The shopkeepers informed that the price of the goods varies from time to time as per demand, supply, and quantities etc. The details of the prices quoted and the average value are as follows:

Table-V

Sr NO.	Item Description	UQC	Shop price 1	Shop price 2	Shop price 3	Avg price
1	furniture Storage Unit	PCS	3600	3750	3700	3683.333333
2	Paper Cutting Machine	PCS	32500	31500	32000	32000
3	Invertor	PCS	17000	16500	17500	17000
4	Fan Accessories Chip Capacitor	PCS	80	70	75	75
5	Paint Sprayer Machine	PCS	38000	39000	37000	38000
6	Fan Accessories Canopy	PCS	80	85	75	80
7	Fan head Mould	PCS	405	400	420	408.3333333
8	Assorted Bag	PCS	210	200	205	205
9	Artificial Nail Accessories	PCS	70	68	68	68.66666667
10	Warm Belt	PCS	260	270	270	266.6666667
11	Plastic jar	PCS	65	68	68	67
12	Tempered glass	PCS	36	35	37	36
13	Packing Material	PCS	1.5	1	2	1.5
14	USB Cable	PCS	17	18	17.5	17.5



15	Battery	PCS	350	360	370	360
16	Plastic Back Case	kgs	180	185	175	180

Determination of the Value Of IPR-infringing goods:

Accordingly, the goods described as Adapters bearing the brand name “CMF By Nothing”, it has been officially communicated by the authorized rights holder of the said brand that these goods are counterfeit.

As such, the market value cannot be accepted as a reliable basis for determining a fair and reasonable price for the purpose of valuation under Customs regulations. To ensure compliance with valuation norms and to establish an appropriate assessed value, a letter was sent to a Registered Chartered Engineer for the valuation of the impugned goods.

Accordingly, the Registered Chartered Engineer provided a valuation report of the said goods vide letter no. INS/CER/2526-0054 dated 05.08.2025[RUD-8]determining the value of the goods. The details of the value provided by the Chartered Engineer are as follows:

Sr No.	Description of Goods	Price/piece(Exchange Rate 1\$=85.55)	Total Quantity	Total Assessable Value in Rs.
1	Adapter of Brand “CMF BY NOTHING”	USD 2.00	7000	1197700

6. Calculation showing proposed deductions for arriving at the Unit assessable value:

For HSN 94032090			
	Rate	Amount	Total
CIF			100
BCD	20	20	120
AIDC	5	1	121
IGST	18	21.78	142.78
Transportation and Misc Charges	20	28.556	171.336
Importer Profit	10	17.1336	188.4696
IGSt on Importer's Profit	18	3.084048	191.553648
Wholesaler Profit	10	19.1553648	210.7090128
IGST on wholesaler profit	18	3.447965664	214.1569785
Effective rate for arrival of Unit Price			46.69471932
Market Value			100
For HSN 42022210, 3926, 3923, 7007, 85076000			



	Rate	Amount	Total
CIF			100
BCD	15	15	115
SWS	10	1.5	116.5
IGST	18	20.97	137.47
Transportation and Misc Charges	20	27.494	164.964
Importer Profit	10	16.4964	181.4604
IGSt on Importer's Profit	18	2.969352	184.429752
Wholesaler Profit	10	18.4429752	202.8727272
IGST on wholesaler profit	18	3.319735536	206.1924627
Effective rate for arrival of Unit Price			48.49837801
Market Value			100
For HSN 85444299, 42034090			
	Rate	Amount	Total
CIF			100
BCD	10	10	110
SWS	10	1	111
IGST	18	19.98	130.98
Transportation and Misc Charges	20	26.196	157.176
Importer Profit	10	15.7176	172.8936
IGSt on Importer's Profit	18	2.829168	175.722768
Wholesaler Profit	10	17.5722768	193.2950448
IGST on wholesaler profit	18	3.163009824	196.4580546
Effective rate for arrival of Unit Price			50.90145079
Market Value			100
For HSN 8441, 84242000			
	Rate	Amount	Total
CIF			100
BCD	7.5	7.5	107.5
SWS	10	0.75	108.25



IGST	18	19.485	127.735
Transportation and Misc Charges	20	25.547	153.282
Importer Profit	10	15.3282	168.6102
IGSt on Importer's Profit	18	2.759076	171.369276
Wholesaler Profit	10	17.1369276	188.5062036
IGST on wholesaler profit	18	3.084646968	191.5908506
Effective rate for arrival of Unit Price			52.19455924
For HSN 85044010, 84145190			
	Rate	Amount	Total
CIF			100
BCD	20	20	120
SWS	10	2	122
IGST	18	21.96	143.96
Transportation and Misc Charges	20	28.792	172.752
Importer Profit	10	17.2752	190.0272
IGSt on Importer's Profit	18	3.109536	193.136736
Wholesaler Profit	10	19.3136736	212.4504096
IGST on wholesaler profit	18	3.476461248	215.9268708
Effective rate for arrival of Unit Price			46.31197572
Market Value			100

7. Duty Calculation Sheet has been attached as **Annexure- A** of this Investigation Report. The calculation of re-determined duty for goods covered vide Table-V above for Bill of Entry No. 9997151 dt. 11.05.2025.

8. **Classification of the Goods:** The classification of the goods imported by the importer vide Bill of Entry 9997151 dated 11.05.2025 is as follows:

Sr No.	Description of goods	Declared CTH	Correct Classification of goods
1	Paper Cutting Machine	84411090	84411090
2	Invertor	85044010	85044010
3	furniture Storage Unit	94032090	94032090
4	Paint Sprayer Machine	84242000	84242000



5	Fan Accessories Chip Capacitor	84145190	84145190
6	Fan Accessories Canopy	84145190	84145190
7	Fan head Mould	84145190	84145190
8	Assorted Bag	42022210	4202
9	Artificial Nail Accessories	39269099	3926
10	Warm Belt	42034090	42034090
11	Plastic jar	39269099	3923
12	Plastic Back Case	39264049	39264049
13	USB Cable	85299090	85299090
14	Tempered glass	85299090	7007
15	Packing Material	Not declared	3923
16	Battery	Not declared	85076000
17	Adapter	Not declared	85044090

9 . In response to the Summonses issued vide DIN CBIC-20250778NY000000E2C4 dated 28.07.2025, the Authorized representative of M/s Nakshatra Enterprises, Shri Nikhil Subhash Landge, was recorded under Section 108 of the Customs Act, 1962, in connection with the investigation regarding import of goods covered under Bill of Entry No. 9997151 dated 11.05.2025 [RUD-9]. Wherein he, inter alia, stated that:

1. My name is Nikhil Subhash Landge,S/o Shri ShubhashLandge, authorised representative of M/s Nakshatra Enterprises(IEC- IEXPS0573H), having address near Datta Mandir, Near Sarvoday Hospital, room no. 6, Kumbhar Chawl, Sainath Nagar Road, Ghatkopar West S.O, Mumbai, Maharashtra-40086. My mobile no. 8898301302 and email id is landgenikhil009@gmail.com. My Aadhar card no. 9264 7155 0449. I am the Purchase Head for Nakshatra Enterprises.
2. We deal mostly in trading items as per the demand of our customers major product is a plastic back case.
3. The said IEC is in the name of M/s. Nakshatra Enterprises is on my Boss's Name Namita Landge. And I am the authorized person to attend to this summons, and I have submitted the authorized letter on my name to appear on behalf of the importer.
4. We normally import as per the demand of the customers and cash flow available, but usually 2 to 3 shipments a month.
5. We met the supplier face to face and placed orders as I am visiting China every 15 days of interval and I submit the relevant document for this and visa In and out Stamp Photocopy.
6. After knowing the mis-declaration in the present consignment, I directly connected to my supplier and as we are using a consulated warehouse it was found that it was the labour mistake from the origine as all boxes are similar packed in green package and the warehouse operates for many other clients also.
7. The Purchase invoice and the packing list from the supplier which is also e sanchit



during the filling of document.

8. We provided Invoice, packing list, Bill of Lading, KYC details, MSME license, EPR and also LMPC and also the e-waste of warm Belt etc to the Customs Broker before filing Bill of Entry.
  9. We got the goods covered under the said B.E on credit as we met the supplier through one of our known friends named Bowen Zhu. Hence, on trust he has given the consignment on credit.
  10. I agree with the market survey conducted on 18.05.2025.
  11. I accept that on such big consignment little slight counting mistake was happen form labour side and the battery and adapter mistakenly loaded from the rented warehouse side.
  12. I accept the Duty difference and I am ready to pay it and I request to fast forward the process so that I can get early release for the goods.
10. The importer has submitted the Certificate of Registration under Rule 27 of Legal Metrology (Packaged Commodities), Rules 2011, Udhyam Registration Certificate for Micro, Small and Medium Enterprises, and Central Pollution Control Board Certificate under Rule 4 of Battery Waste Management Rules, 2022. Further, the importer vide letter dated 05.08.2025 submitted a clarification regarding "inverter" that is intended strictly for our own use and not for commercial resale, and requested clearance of the inverter under the self-consumption category.

# **11. Relevant Legal Provisions**

## **A. Section 17:- Assessment of Duty**

Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter regarding valuation of goods, classification, exemption or concessions of duty availed consequent to any notification issued therefor under this Act and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re- assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

## **B. Rule 12 of the Customs Valuation Rule, 2007 :-**

- (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

.....

Explanation-(1) For the removal of doubts, it is hereby declared that:-

.....

- (iii) The proper officer shall have the powers to raise doubts on the truth



or accuracy of the declared value based on certain reasons which may include –

.....

(d) the mis-declaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;

**C. SECTION 46: Entry of goods on importation: -**

.....

*46(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, 12[and such other documents relating to the imported goods as may be prescribed].*

*(4A) The importer who presents a bill of entry shall ensure the following namely: -*

- (a) The accuracy and completeness of the information given therein;*
- (b) the authenticity and validity of any documents supporting it; and*
- (c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under other law for the time being in force*

During self-assessment of duty under Section 17 of the Customs Act, 1962 and while presenting Bill of entry for home consumption under Section 46 of the Customs Act, 1962, Importer furnished incorrect information in bill of entry, invoice, and Packing list in respect of description, quantity, classification and valuation too. Hence, violated section 46(4) and section 46(4A) of the Customs Act, 1962.

**D. SECTION 111. Confiscation of improperly imported goods, etc.-The following goods brought from a place outside India shall be liable to confiscation: -**

.....

**111(d)** any goods which are imported or attempted to be imported or are brought within the Indian Customs water for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

.....

**111(l)** any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under Section 77;

**111(m)** any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-Section (1) of Section 54;

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

*(a) who, in relation to any goods, does or omits to do any act which act or omission would*



render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111, shall be liable,

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, 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:

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

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under Section 77 (in either case hereafter in this Section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

**F. Section 114AA. Penalty for use of false and incorrect material: -**

If any person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of the goods.

**G. SECTION 124: Issue of show cause notice before confiscation of goods**

"No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person-

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;"

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

**H. Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007**

**Rule 7 (Suspension of clearance of infringing goods):** "The proper officer shall suspend the clearance of imported goods that are suspected of infringing intellectual property rights, including cases involving counterfeit trademarks and pirated copyrights."

**Rule 8 (Examination of infringing goods):** "Where the proper officer has suspended the clearance of goods under Rule 7, he shall inform the right holder and provide an



*opportunity to examine the goods in order to determine whether the goods infringe on the rights of the right holder."*

***I. Trade Marks Act, 1999:***

***Section 102 (Falsifying and falsely applying trademarks):*** "Any person who, without authorization, falsifies or falsely applies a trademark to imported goods, or imports goods to which a false trademark is applied, shall be guilty of an offense under the Trade Marks Act."

***Section 103 (Penalty for applying false trademarks, trade descriptions, etc.):*** "Any person who applies a false trade description to goods, or imports such goods, shall be punishable with imprisonment or fines, or both."

**12. From the foregoing investigation, it appears that:**

i. From the investigation as mentioned in foregoing paras, it appears that the importer had resorted to mis-declaration of goods in terms of their description & quantity for the goods covered under subject Bill of entry no. 9997151 dated 11.05.2025 to evade legitimate customs duty and also tried to clear the goods covered under the above Table-III (S. No. 13,14 & 15) which have not been declared by the importer. Also, as per Section 46 (4) the importer while presenting a bill of entry shall at the foot

there of 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 relating to the imported goods. In the instance case, the importer has not declared the truth of the contents in the bill of entry and hence the goods are found mis-declared in respect of description & quantity and importer also tried to clear the goods covered under the above Table- III (S. No. 13, 14 & 15) which have not been declared by the importer. The impugned goods covered under bill of entry no. 9997151 dated 11.05.2025 appeared to be liable for confiscation under Section 111 (m) and Section 111(l) of the Customs Act, 1962. The impugned goods mentioned in above Table- III (Sr no. 14) appear to be imported in contravention of the provisions of IPR Rules, 2007. Hence, the same are liable to be held for confiscation under section 111(d) of the Customs Act, 1962.

ii. M/s Nakshatra Enterprises (IEC-IEXPS0573H) attempted to import goods covered under bill of entry no. 9997151 dated 11.05.2025 by way of Misdeclaration of goods in terms of their description & quantity of the goods. M/s Nakshatra Enterprises (IEC-IEXPS0573H) have declared the total assessable value of the goods as Rs. 10,32,692.87(Ten lakh thirty two thousand six hundred Ninety two rupees and 87 paisa only) with declared duty of Rs. 3,94,597 (Three lakh ninety four thousand five hundred ninety seven Rupees Only).

iii. Based on the investigation findings, value of the goods other than IPR infringing goods (i.e Adapter of Brand CMF By Nothing) liable to be rejected under Rule-12 of the Customs Valuation Rule 2007 and thus, re-totalled re-determined value of releasable goods in Bill of Entry No. 9997151 dated 11.05.2025 is Rs.1909408.69/- (Nineteen Lakh Nine thousand four hundred eight rupees and 69paisa only) with redetermined duty is Rs. 702218.7599 (seven Lakh two thousand two hundred eighteen rupees and .7599 paisa only/ and the differential duty is Rs. 307621.76 (Three lakh Seven thousands Six hundred twenty one rupees and .76 paisa Only).

iv. Based upon the value determined by the chartered Engineer, the assessable value of IPR infringing goods in the Bill of Entry no. 9997151 dated 11.05.2025 is Rs. 11,97,700/- (Eleven Lakh Ninety Seven thousand Seven hundred Only).

v. Upon detailed examination, it has been found that the goods under import were mis-declared in terms of both description, quantity & Valuation. Furthermore, the importer



attempted to clear goods listed under Table-III (Sr. No. 13, 14 &15), which were neither declared in the Bill of Entry nor disclosed in any accompanying import documentation, indicating deliberate concealment. Themis-declaration in terms of both description and quantity renders the goods liable for confiscation under Sections 111(l) and 111(m) of the Customs Act,1962.

Additionally, the goods mentioned at Sr. No. 14 of Table-III appear to have been imported in contravention of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 (IPR Rules). In view of the above, the misdeclared goods and importer in contravention of IPR Rules, 2007 are liable for absolute confiscation under Section 111(d) of the Customs Act, 1962. Consequently, the acts of omission and commission on the part of the importer, including mis-declaration, non-declaration, and attempted clearance of IPR infringing goods, attract penal liability under Section 112(a) of the Customs Act,1962.

vi. The Importer knowingly and intentionally caused to submit false import documents for the purpose of clearing the goods and with intent to fraud the government exchequer, and has tried to clear undeclared goods which are imported in contravention of the provisions of Customs Act,1962 read with IPR Rules, 2007. By the above act of knowingly or intentionally making, false declaration and document and providing incorrect material particular, in the transaction, he rendered these goods liable for confiscation under Section 111 (d), 111(l) & 111(m) of the Customs Act, 1962 and consequently rendered himself liable for penal action under Section 114AA of the Customs Act, 1962.

vii. As per the voluntary statement recorded from Shri Nikhil Subhash Landge on 28.07.2025, it has been revealed that he holds the designation of Purchase Head at Nakshatra Enterprises. He has further confirmed that he is the authorized representative of the firm, entrusted with the responsibility of travelling to China at regular intervals specifically, once every fifteen days for the purpose of procurement and importation of goods on behalf of the enterprise. During the course of the statement, Shri Landge has also explicitly stated that he independently takes key decisions pertaining to purchase, import, and related logistics for Nakshatra Enterprises. This assertion clearly establishes his central and authoritative role in the firm's import-related activities. Given his acknowledgment of holding a position of responsibility and being directly involved in the import process, Shri Nikhil Subhash Landge's actions and conduct attract penal provisions under Sections 112a and 114AA of the Customs Act, 1962.

### **Personal Hearing & Written Submissions:**

13. The importer vide letter dated 01.09.2025 has requested for waiver of the Show Cause Notice and the Personal Hearing (PH) for the said consignment.

### **DISCUSSION AND FINDINGS**

14. I have carefully gone through the records of the case and the applicable provisions of the Acts/Rules/Notifications/Circulars etc. The case has been legally analyzed along with the evidence produced by the SIIB(I), Importer/CHAs. I, therefore, proceed based on the facts of the case and available records.
15. Upon scrutiny of the records of the case, it is established that M/s. Nakshatra Enterprises (IEC: IEXPS0573H) attempted to import goods under Bill of Entry No. 9997151 dated 11.05.2025 by way of mis-declaration of the description and quantity.



The importer declared the total assessable value of the goods as Rs. 10,32,692.87 (Rupees Ten Lakh Thirty-Two Thousand Six Hundred Ninety-Two and Paise Eighty-Seven only), with the corresponding duty liability of Rs. 3,94,597/- (Rupees Three Lakh Ninety-Four Thousand Five Hundred Ninety-Seven only).

16. I find that the declared value of the goods, excluding IPR infringing goods (viz. Adapters of brand "CMF by Nothing"), merits to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. I also find that the value of the said goods merits be re-determined as per provisions of Rule 9 of CVR, 2007 for reasons detailed in Para 5 above. I find that the re-determined value of the said goods as per Rule 9 of CVR 2007 works out to be Rs. 19,09,408.69 (Rupees Nineteen Lakh Nine Thousand Four Hundred Eight and Paise Sixty-Nine only), with corresponding re-determined duty of Rs. 7,02,218.76 (Rupees Seven Lakh Two Thousand Two Hundred Eighteen and Paise Seventy-Six only). Therefore, I observe that the differential duty as per Annexure A works out to Rs. 3,07,621.76 (Rupees Three Lakh Seven Thousand Six Hundred Twenty-One and Paise Seventy-Six only).
17. The goods i.e. Mobile Charging Adapter detailed at Sr. 14 of Table-III are found to have been imported in contravention of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. I find that the release of the said goods are not permissible for home consumption and hence liable for absolute confiscation under Section 111(d) of the Customs Act, 1962. I find that the value of the IPR infringing goods as per the valuation report submitted by the Chartered Engineer works out to be Rs. 11,97,700/- (Rupees Eleven Lakh Ninety-Seven Thousand Seven Hundred only). I uphold the valuation suggested by the Chartered Engineer for the IPR Infringing goods (RUD-8).
18. I find that during the course of investigation it has been revealed that the importer has knowingly and intentionally submitted false import documents with the intent to defraud the Government exchequer. The importer attempted to clear undeclared goods imported in contravention of the provisions of the Customs Act, 1962. By such deliberate mis-declaration and submission of false documents, I find that the subject goods are rendered liable for confiscation under Sections 111(l) and 111(m) of the Customs Act, 1962, and the importer is liable for penalty under Section 112(A) & 114AA of the Customs Act, 1962.
19. I find from the voluntary statement of Shri Nikhil Subhash Landge, recorded on 28.07.2025, reveals that he is the Purchase Head of M/s. Nakshatra Enterprises and an authorized representative of the firm. He has admitted that he frequently travels to China once in every fifteen days for procurement and importation of goods on behalf of M/s. Nakshatra Enterprises. In view of his active involvement and admitted responsibility, the acts of Shri Nikhil Subhash Landge attracts penalty under Sections 112(b) and 114AA of the Customs Act, 1962.
20. In view of the discussion and findings in above paras, I pass the following order:

#### **ORDER**

- i. I order for redetermination of value and classification of the non IPR infringing goods as detailed in enclosed Annexure-A. I order for re-assessment of the Bill of Entry No. 9997151 dated 11.05.2025 for all goods excluding the IPR infringing items (Adapters of brand "CMF by Nothing") under Section 17(4) of the Customs



Act, 1962.

- ii. I confirm the re-determined assessable value of the non IPR infringing goods at Rs. 19,09,408.69 (Rupees Nineteen Lakh Nine Thousand Four Hundred Eight and Paise Sixty-Nine only). Accordingly, I confirm the demand of differential duty of Rs. 3,07,621.76 arising on account of said redetermination of duty.
- iii. I order to confiscate the non IPR infringing goods valued at Rs. 19,09,408.69 under Section 111(l) & 111(m) of the Customs Act, 1962. However, I allow redemption of these goods for home consumption on payment of a redemption fine of **Rs. 1,00,000/- (Rupees one lakh only)** in lieu of confiscation under Section 125 of the Customs Act, 1962.
- iv. I order for absolute confiscation of IPR infringing items (Adapters of brand "CMF by Nothing"), valued at Rs. 11,97,700/- (Rupees Eleven Lakh Ninety-Seven Thousand Seven Hundred only) under Section 111(d) of the Customs Act, 1962 read with the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. I order for the destruction of the infringing goods as per the provisions of Customs Act, 1962.
- v. I impose a Penalty of **Rs. 50,000/- (Rupees fifty thousand only)**, on Importer M/s. Nakshatra Enterprises under Section 112(a) of the Customs Act, 1962. I also impose penalty of **Rs. 50,000/- (Rupees fifty thousand only)** on M/s. Nakshatra Enterprises under Section 114AA of the Customs Act, 1962.
- vi. I impose a Penalty of **Rs. 10,000/- (Rupees ten thousand Only)**, on Shri Nikhil Subhash Landge, Purchase Head of M/s. Nakshatra Enterprises under Section 112(b) of the Customs Act, 1962. I also impose penalty of **Rs. 10,000/- (Rupees ten thousand Only)** on Shri Nikhil Subhash Landge, Purchase Head of M/s. Nakshatra Enterprises under Section 114AA of the Customs Act, 1962.

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

Yours faithfully,

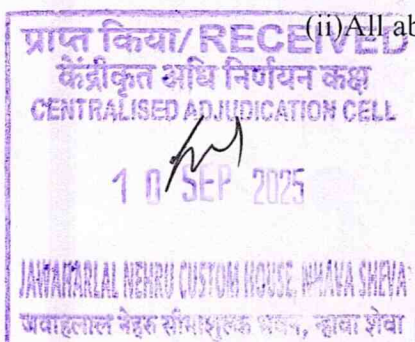
Digitally signed by  
Jay Girijappa Waghmare  
Date: 04-09-2025  
18:45:23

Jay G. Waghmare,  
Joint Commissioner of Customs (NS-I),  
JNCH, NhavaSheva



Enclosures: (i) Annexure -A Calculation Sheet.

(ii) All above mentioned RUDs



Original copy received on  
for. behalf of  
Dinesh. Importer.  
8459540110.  
LKH.



Copy to:

1. The Deputy Commissioner of Customs, CRAC, JNCH, Nhava Sheva).
2. The Deputy Commissioner of Customs, Central Adjudication Cell, JNCH.
3. Notice Board
4. Office Copy