



OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V,
APPRAISING GROUP VA,
JAWAHARLAL NEHRU CUSTOMS HOUSE,
NHAVA SHEVA, TALUKA- URAN, DISTRICT- RAIGAD,
MAHARASHTRA- 400707.



F. No. S/26-Misc- 549/2025-26/Grp.VA/JNCH
S/10-Adj-234/2025-26/Gr. VA, JNCH

Date of Order: 16.09.2025
Date of issue: 09.2025

DIN: 20250978NX0000555A08

Passed by: Shri Mazid Khan

Joint Commissioner of Customs, Gr. VA, (NS-V), JNCH, Nhava Sheva

Order No 825/2025-26/JC/Gr. VA/NS-V/CAC/JNCH

Name of Party/Noticee: M/S Himdweep Newgen Solutions Pvt. Ltd. (IEC-AAGCH6142M)

मूल आदेश

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 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।
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, 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

1. M/s. Himdweep Newgen Solutions Pvt. Ltd. (IEC-AAGCH6142M) (hereinafter referred as the "Importer", having address at Flat No. 452, Arun Vihar, Sector 29, Noida, Uttar Pradesh 201301, has filed a Bill of Entry No. 5263009 dated 28.03.2023 through the Customs Broker, M/s. Perfecto Logistics (CHA No. AAVFP5498ECH001) for clearance of the goods declared as "Mono 600W 2172x1303x35MM" under CTH 8541 3090. The total assessable value of the goods is Rs. 4,48,48,469/- and the total duty payable is Rs. 80,72,724/-. Details of the shipment is as under-

TABLE-I

Sr No.	Description	Particulars
1	Bill of Entry	BE No. 5263009 dated 28.03.2023
2	Importer	M/s. Himdweep Newgen Limited Solutions Private (IEC: AAGCH6142M)
3	CHA	M/s. Perfecto Logistics (CHA No. AAVFP5498ECH001)
4	Description of the goods	Mono 600W 2172x1303x35MM (QS 600-120MH10)
5	Generic Description	Solar Panel
6	CTI	8541 3090
7	Quantity	3660 Nos.
8	Unit Price	146.4 USD
9	IGM No.	2339112 dated 27.03.2023
10	Invoice No.	HNS-QSPV20230207 dated 07.02.2023
11	Value declared in Rs.	Rs. 4,48,48,468.80/-
12	Duty Declared	Rs. 80,72,724/-
13	Total Declared Weight	115,113 kgs
14	Country of Origin	CHINA
15	Supplier	Ningbo Quality Electronics Co. Ltd., China

2. An intelligence was developed that some of the importers are importing Solar Panel or Photovoltaic Module by mis-declaring those in terms of classification to avail notification benefit of Notification No. 024/2005 dated 01.03.2005. One such importer was identified as M/s. Hidweep Newgen Solutions Pvt. Ltd. (IEC-AAGCH6142M).

3. The goods covered under subject Bill of Entry No. 5263009 dated 28.03.2023 filed by M/s. Himdweep Newgen Solutions Pvt. Ltd. was put on hold by SIIB(I), JNCH, in order to check whether the importer has mis-declared the goods in terms of classification, description, quantity, and value. Thereafter, the goods covered under Bill of Entry No. 5263009 dated 28.03.2023 was examined 100% by SIIB(I) officers under Panchnama dated 12.04.2023 at M/s Ocean Gate

Container Terminals Private Limited CFS. On examination of subject consignment, total quantity and description of the goods were found as declared; however, the total weight of the cargo was found 111,510 kgs which is **lower than** the gross declared weight. Total 3660 pcs of Solar Panel/Photovoltaic Module were found in these 7 containers covered under subject bill of entry as declared by the Importer. The details of the goods found during examination under Panchanama dated 12.04.2023 is given as under in Table-II.

Table-II

Sr. No.	Description of Goods	Container No.	No. of Pallets	Quantity per Pallet	Total Quantity
1	Solar Panel Model No. QS 600- 120HM10 Diamentions: 2172*1303*35mm	BEAU4287405	18	31	558
2	Solar Panel Model No. QS 600- 120HM10 Diamentions: 2172*1303*35mm	TRHU5529995	18	31	558
3	Solar Panel Model No. QS 600- 120HM10 Diamentions: 2172*1303*35mm	CAIU7829628	18	31	558
4	Solar Panel Model No. QS 600- 120HM10 Diamentions: 2172*1303*35mm	MSMU4478735	18	31	558
5	Solar Panel Model No. QS 600- 120HM10 Diamentions: 2172*1303*35mm	MEDU8449900	18	31	558
6	Solar Panel Model No. QS 600- 120HM10 Diamentions: 2172*1303*35mm	TGBU5640372	8	31	248
			2	32	64

7	Solar Panel Model No. QS 600- 120HM10 Diamentions: 2172*1303*35mm	FCIU8257314	18	31	558
Total			118	249	3660

A sticker was pasted on the backside of each solar panel wherein Model No. Q600-120HM10 and dimension 2172*1303*35 mm were mentioned. Also, a BIS Mark bearing no. **R-41121363** was mentioned.

4. **Classification of the goods:** Importer has **misclassified** the impugned goods "Solar Panel" or "Photovoltaic Module" under CTI 8541 3090 whereas Solar Panel or Photovoltaic Module is rightly classifiable under CTI 8541 4300. It appears that Importer has misclassified the impugned goods under CTI 8541 3090 to avail the notification benefit of Notification No. 24/2005 dated 01.03.2023 which makes BCD-Nil under CTI 8541 3090 whereas CTI 8541 4300 attracts duty structure of BCD @ 40% + SWS @ 10% and IGST @ 18%.

5. **Explanatory Notes:** The HSN explanatory Notes for Section XVI and Chapter 85 explains the tariff heading 8541 as follows-

85.41- *Semiconductor devices (for example, diodes, transistors, semiconductor-based transducers); photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED), whether or not assembled with other light-emitting diodes (LED); mounted piezoelectric crystals.*

8541.10 - *Diodes, other than photosensitive or light-emitting diodes (LED) - Transistors, other than photosensitive transistors*

8541.21 - - *With a dissipation rate of less than 1 W*

8541.29 - - *Other*

8541.30 - *Thyristors, DIAC and TRIACS, other than photosensitive devices*

-*Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED)*

8541.41 - - *Light-emitting diodes (LED)*

8541.42 - - *Photovoltaic cells not assembled in modules or made up into panels*

8541.43 - - *Photovoltaic cells assembled in modules or made up into panels*

8541.49 - - *Other*

- *Other semiconductor devices :*

8541.51 - - *Semiconductor-based transducers*

8541.59 - - *Other*

8541.60 - *Mounted piezo-electric crystals*

8541.90 - *Parts*

In view of the above, it is clearly construed that Photovoltaic Modules/ Solar Panel is **rightly classifiable** under CTI 85414300.

6. **Policy Conditions:** On perusal of import policy of impugned goods it is seen that Solar Panel or Photovoltaic Module are freely importable into India subject to BIS Compliance. In this regard, Importer has submitted BIS certificate issued in favour of supplier M/s. Ningbo Quality Electronic Co. Ltd vide ref. REGISTRATION/ CRS 2019-0548/R-41121363 dated 15.03.2023 wherein the model of imported goods is mentioned. Further, during examination a BIS mark were also found on outer package.

7. **Seizure:** During the examination under Panchanama dated 12.04.2023, goods were found Photovoltaic Module/Solar Panel as declared by the Importer in subject bill of entry. However, Importer has mis-classified the impugned goods Solar Panel/Photovoltaic Module under CTI 85413090 to avail concessional rate of duty (NIL BCD) under Notification No. 24/2005-Cus dated 01.03.2005 whereas the said imported goods is rightly classifiable under CTI 8541 4300 which attracts BCD @ 40% + SWS @ 10% and IGST @ 18%. Since, the impugned goods covered under Bill of Entry No. 5263009 dated 28.03.2023 appeared to be liable for confiscation under Section 111(m), therefore, the impugned goods were seized under Section 110(1) of the Customs Act, 1962 vide Seizure Memo No. 12/2023 dated 03.05.2023. Further, warehousing permission under Section 49 of the Customs Act, 1962 was granted on 17.04.2023.

8. **Statement of Importer:** Statement of **Shri Inderdeep Singh Khurana**, Director of M/s. Himdweep Newgen Solution Pvt. Ltd. was recorded on 18.04.2023 under Section 108 of the Customs Act, 1962 wherein he, interalia stated that;

i) His company, M/s. Himdweep Newgen Solution Pvt. Ltd., was incorporated on 20th December, 2022 and is engaged in consulting, trading and EPC (Equipment procurement and Construction) of Solar Power Projects. His company is having MOU with various State Government of India for development of Renewable Energy (Solar Power Energy).

ii) He is director of his company M/s. Himdweep Newgen Solution Pvt. Ltd. and he looks after management of entire company.

iii) M/s. Perfecto Logistics, who is their authorized Customs Broker, has filed the instant BE No. 5263009 dated 28.03.2023.

iv) We came in contact with Custom Broker M/s. Perfecto Logistics through a local Indian agent in China who was introduced to me by one of my friends.

v) He has seen the original panchanama dated 12.04.2023 drawn at M/s. Ocean Gate Container Terminals Put. Ltd-CFS in present of his authorized CB and find that the findings mentioned in

panchanama dated 12.04.2023 is correct. He put his dated signature on panchanama as a token to having seen the same. Further, he stated that he had ordered "Mono 600W 2172x1303x35 MM Photovoltaic Module (Solar Panel)" and same has been imported vide Bill of Entry No. 5263009 dated 28.03.2023.

vi) He is first time importer and not aware about the classification code and duty structure. He had search the internet and finalize a company in China for procuring of Solar Panel. One of his friends introduced him to the local agent in China to ensure that the amount he sent to the Chinese company gets safeguarded and ensures the quality of the product by co-ordinating with the Chinese Company for hassle free shipment of his goods. They provided him Proforma Invoice detailing the cost of goods and packing list containing HSN Code (common worldwide code used for classification). They have mentioned HSN code 85413090 for the said goods mono 600W (Solar Panel). Accordingly, his CHA has filed the Bill of Entry for clearance of imported goods i.e. Mono 600W 2172x1303x35MM (Photovoltaic Module/Solar Panel) on the basis of Import Invoice and Packing list provided by our supplier. Further, he would like to submit that this confusion happened as we went ahead with his supplier provided HSN code and ongoing through the Customs Tariff Manual, there would have been 85414 sub code in item description column [Photosensitive, Semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light emitting diodes (LED)] just below to HSN code 85313090. This would have let to no confusion at all. Further, he agree to classification of imported goods Mono 600W 2172x1303x35MM (Photovoltaic Module/Solar Panel) under 85414300 and there is no intention in anyways to evade the Custom Duty. This confusion created due to packing list HSN code and HSN Code Tariff.

vii) As per his Knowledge, BIS is applicable on goods imported by him under Bill of Entry No. 5263009 dated 28.03.2023 and he have already submitted necessary BIS Certification bearing Registration No. CRS/2019-0548/R-41121363 dated 15.03.2023 and valid up to 22.03.2024 issued to supplier Manufacturing Unit Quality Solar, Ningbo Quality Electronics Co. Ltd., No. 312, Kemao Raod Wanghuan Industrial Park, Ningbo, China.

viii) There is the international site (PV insight), this website is used by various government agencies such as HPERC (Himachal Pradesh Electricity Regulatory Commission), CERC (Central Electricity Regulatory Commission) and other State Electricity Regulatory Commissions. It provides the estimated value and the range in which one can negotiate with the manufacturer to finalize the rates of the goods. Accordingly, they have negotiated with their supplier and finalize the rates on telephonic discussion and based upon it they shared the proforma invoice which specified terms and condition of the payment to be made to the supplier. They made first advance payment through ICICI Bank of USD 249000 and remaining amount in the second instalment of USD 286824 through ICICI Bank before dispatch of goods. He submitted the remittance certificate for both transactions. Further, as submitted that as per HPERC, the rate considered is 0.215 USD/Watt according to which the cost comes out to be USD 472140 whereas the invoice value of consignment covered under Bill of Entry No. 5263009 dated 28.03.2023 is USD 535824. The said document is available on website <https://hperc.org/new1/File/fsolartr22-23.pdf>.

ix) Further, he stated that he has no intention to evade the Customs Duty by misclassification of imported goods covered under BE No. 5263009 dated 28.03.2023. However, this happened due to packing list HSN code and HSN Code Customs Tariff Book. **He requested to give permission for re-export of the imported goods to China or third country. He also requested to Customs Department to take a lenient view in this matter as he is the first-time importer and the reason stated above. He doesn't want any Show Cause Notice or Personal Hearing in this matter and will accept the decision taken by the Customs Department as per law.**

x) Shri Inderdeep Singh Khurana, Director of M/s. Himdweep Newgen Solution Pvt. Ltd., also, in his statement dated 18.04.2023 stated that they don't want any SCN or Personal Hearing in the case.

9. Statement of Customs Broker: Statement of Shri Subhash Gulab Bhosale, G-Card Holder and power of attorney holder of Custom Broker M/s. Perfecto Logistics was recorded on 03.05.2023 under Section 108 of the Customs Act, 1962 (RUD-5) wherein he, interalia stated that;

i) They do not work in any specific category. They work in general category which means any kind of work which comes to them and allowed under Customs Act and other allied act.

ii) They generally try to acquire clients through his references in the industry and sometimes, freight forwarders give them clearance work from Customs.

iii) There are 06 employees including him in his CB firm in Mumbai. There is 01 G-card holder and 03 H-Card holder. There are 02 Employees in office who look after accounting, marketing and other office related work, they don't have any customs pass. They clear around 25-30 shipments of import on monthly basis.

iv) He is the G Card holder of the Custom Broker, M/s. Perfecto Logistics in Mumbai and got the G- Category pass in year 2012. He looks after the work related to assessment of Bill of Entry, Examination of goods in Docks and clearance of the goods covered under Bill of Entry.

v) They charge Rs. 3500/- to Rs. 7000/- depending upon the size of the container. They provide service like assessment and examination. Further any other charges like freight, etc. are being charged on the basis of actual receipt.

vi) Their firm M/s. Perfecto Logistics has filed Bill of Entry No. 5263009 dated 28.03.2023 on behalf of Importer M/s. Himdweep Newgen Solution Pvt. Ltd.

vii) They came in contact with Importer M/s. Himdweep Newgen Solution Pvt. Ltd three months ago through reference of a common friend.

viii) They asked for Invoice, packing list, Bill of Lading, COO Certificate, BIS Certificate as applicable etc. and after providing such documents they prepared the checklist as per discussion with importer and after approval of said checklist, they have filed the Bill of Entry No. 5263009 dated 28.03.2023.

ix) In his firm M/s. Perfecto Logistics, he files the Bill of Entry and classification is also decided in discussion with importer.

x) He stated that he doesn't have technical knowledge. In discussion with Importer and on the basis of packing list wherein CTI of imported goods is mentioned, he filed the Bill of Entry for imported goods Solar Panel/Photovoltaic Module under CTI 85413090. However, it appears that Solar Panel/Photovoltaic Module is rightly classifiable under CTI 85414300. There is no intention to evade the Custom duty as they have declared the right description in Bill of Entry and there may be due to CTI mentioned on packing list provided by Supplier, it has been filed inadvertently under CTI 85413090.

xi) They receive documents from importer through E-mail and sometimes they receive the same through Courier. They take invoice, packing list, bill of lading, brochures, registration certificate, wherever required and any other documents as per compliance to Rules and Regulations.

10. From the discussion in the foregoing paras, it is clearly construed that the impugned goods Mono 600W 2172x1303x35mm (QS600-120HM10)' is a 'Solar Panel/Photovoltaic Module' and it is correctly classifiable under CTI 85414300. Further, the Board, vide notification no. 15/2022-Cus dated 01.02.2022, has amended the principal notification no. 024/2005 dated 01.03.2005, to the extent that the benefit of Sr. No. 23 of Notification No. 024/2005 dated 01.03.2005 is not for the goods of heading 85414300 (i.e. Photovoltaic Cells assembled in modules or made up into panels)'. Such goods attract a Basic Customs Duty @ 40%. This information is also available on open source. However, it appears that Importer and their CHA has deliberately mis-classified the impugned good under CTI 85413090 to evade the Custom duty by availing notification benefit of Notification No. 024/2005 dated 01.03.2005.

11. Legal provisions relevant to the instant case are:

The relevant provisions of law relating to import and valuation of goods in general, the Policy and Rules relating to imports, the liability of the goods to confiscation and the persons concerned are liable to penalty for illegal importation under the provisions of the Customs Act, 1962 and the other laws for the time being in force are summarized below:-

Section 17(1) of the Customs Act, 1962, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry. Under this mode of self-assessment, the bill of entry was self-assessed by importer, with regard to correctness of classification, value, rate of duty, exemption notification or any other relevant particular having bearing on correct assessment of duty on import.

As per the provisions of Section 46(4) of the Customs Act, 1962, the importer while presenting a Bill of Entry shall at the foot thereof 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, present to the proper officer the invoice, if any, relating to the imported goods.

Section 110 of the Customs Act, 1962, provides for Seizure of goods, documents and things. - (1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

Section 111 of the Customs Act, 1962, provides for Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation:

111(m)-any goods which do not correspond in respect of value or in any other particular with the entry made under this Act.

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; (ti) 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;

(iti) 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 (iti, 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 (i) and (ii, 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.

12. Valuation: Determination of Value

a. Importer has imported Sola- Panel/Photovoltaic Module vide Bill of Entry No. 5263009 dated 28.03.2023. Further, during investigation it has been noticed that the goods were mis-classified to avail the duty exemption under Notification No. 024/2005 dated 01.03.2005. Importer in his statement dated 18.04.2022 has also accepted that the imported goods covered under subject Bill

of Entry is rightly classifiable under CTI 85414300. Therefore, value declared in the subject Bill of Entry in respect of imported goods is liable to be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, The value of the same cannot be determined under the provisions of Rule 3(1) of the said rules and therefore same are liable to be determined by following the provisions of Rule 4 to Rule 9 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 sequentially.

b. As per Rule 4 of the 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, subject to certain conditions and parameters. In order to arrive at the value of the goods under Rule 4, the import data of goods imported at or about the same time as the impugned goods, obtained from the ICES, was examined. However, details of the identical impugned goods are not available for comparison.

c. Further, Rule 5 of the CVR, 2007 stipulates that, subject to the provisions of rule 3, 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.

The import data of the similar goods mentioned in Panchanama dated 12.04.2022 imported during the contemporary period was analysed from the import database. On perusal of Import data, it is seen that value of goods similar to impugned goods were available for comparison. Similar items as mentioned above were imported from China into India in comparable quantity in contemporaneous period by some importers wherein value is ranging from Rs. 8,534/- to Rs. 12,120/- per piece whereas Importer has declared per pcs price of impugned goods is Rs. 12,458/. Hence, on comparison with value of declared items by Importer M/s. Himdweep Newgen Solutions Private Limited, it appears that declared value of impugned goods is fair. Hence, the value declared by the importer for declared goods may be accepted in terms of Rule 5 of CVR, 2007.

13. Accordingly, the duty has been calculated based on declared assessable value.

The calculation of re-determined duty for bill of entry no. 5263009 dated 28.03.2023 is shown in following Table-III.

Table III

Description of goods	Declared Assessable Value	BCD-40%	SWS-10%	IGST-18%	Total Duty
Mono 600W 2172x1303x35M M (QS 600-120MH10)(Solar Panel/ Photo voltic Module)	4,48,48,468.8	1,79,39,387.52	17,93,938.752	1,16,24,723.11	3,13,58,049.38

Duty paid by the importer					80,72,724.4
Differential Duty					2,32,85,324.98

14. As it appears from the above, that the importer has mis-declared the imported goods in terms of their classification so as to evade the Custom Duty by availing notification benefit of Notification No. 024/2005 dated 01.03.2005 and hence, the goods covered under bill of entry no. 5263009 dated 28.03.2023 appeared to be liable for confiscation under Section 111(m) of the Customs Act, 1962 and for such act of omission and commission in rendering the goods liable for confiscation as aforesaid, the importer is liable for penalty under Section 112(a) of the Customs Act, 1962.

15. Custom Broker, M/s. Perfecto Logistics has not verified the classification of Impugned goods so that the benefit of notification could be availed of. It appears that the Custom Broker have not done due diligence before filing the said bill of entry. If the Custom Broker had verified the details from open source/Custom Tariff and guided their importer properly, this import without proper classification would not have taken place. Custom Broker has not done their work with utmost efficiency and made the goods liable for confiscation under Section 111 (m) of the Customs Act, 1962 and made themselves liable for penal action under Section 112(a) of the Customs Act, 1962.

16. Duty calculation has been shown in Table-III for bill of entry no 5263009 dated 28.03.2023 as per the declared value. The re-determined duty comes to Rs. 3,13,58,049.38/- (Rupees Three Crore Thirteen Lac Fifty-Eight Thousand Forty-Nine and Thirty-Eight Paise Only). Accordingly, the differential duty is Rs. 2,32,85,324.98/-(Rupees Two Crore Thirty Two Lac Eighty Five Thousand Three Hundred Twenty Four and Ninety Eight Paise Only).

Personal Hearing and Importer submission

17. Shri Inderdeep Singh Khurana, Director of M/s. Himdweep Newgen Solution Pvt. Ltd., vide letter dated 15.05.2023 and 16.08.2023 stated that they don't want any Show Cause Notice (SCN) or Personal Hearing in the case. Accordingly, in terms of first provision of Section 124 of the Customs Act, 1962, written notice has not been given to Importer.

18. Due to change in the adjudicating authority, personal hearing was given to the importer and said CHA on dated 04.03.2024, however, no one attended the same. Personal hearing was again given to M/s Perfecto Logistics (Customs House Agent) on dated 05.08.2024 and 08.07.2024 which was again not attended by any one.

19. Importer vide letter dated 16.08.2024 inter alia has requested for another date of personal hearing in the matter. Personal hearing was given to the said importer and CHA on dated 27.09.2024 vide letter dated 23.08.2024. Shri Inderdeep Singh Khurana, Director of M/s. Himdweep Newgen Solution Pvt. Ltd., appeared in the personal hearing on dated 27.09.2024 and

submitted written submission vide letter dated 28.09.2024 and further requested to not adjudicate the case for further three months. He informed that he is having some legal disputes with the buyer in respect of said consignment and arbitrator has been appointed.

20. Due to change in adjudicating authority personal hearing was given on dated 24.07.2025, 13.08.2025 and 04.09.2025. The importer took adjournment in the first two instances and the third hearing was attended by Shri Inderdeep Singh Khurana, Director of M/s. Himdweep Newgen Solution Pvt. Ltd on dated 04.09.2025. He requested to keep the adjudicating proceeding pending as his dispute with the buyer in respect of the subject consignment is under arbitration proceeding. He further gave a written submission dated 04.09.2025 wherein he inter alia re-iterated that the dispute regarding the subject goods is at an advance stage under arbitration proceedings with arguments scheduled on 04.10.2025 and 05.10.2025. He further informed that, once the arbitrators decide, then only they can decide if imported material is to be re-exported or to be supplied to M/s RD Power, the end user in India.

21. The said CHA M/s Perfecto Logistics vide letter dated 04.09.2025 inter alia submitted that they have filed documents as per invoice and documents provided by the importer and they were unaware about the mis-classification and hence requested not to penalise them.

Discussion and Findings

22. I have gone through the Investigation Report, facts of the case, submissions by the importer in the case. The main issues to determine before me are as follows:

22.1 Whether the goods covered under the BE No. 5263009 dated 28.03.2023, declared under CTI 85413099 are correctly classifiable under 85414300 with the relevant duty structure

22.3 Whether the goods covered under the BE No. 5263009 dated 28.03.2023 having declared assessable value Rs 4,48,48,468.80/- liable for confiscation u/s 111(m) of the Customs Act, 1962.

22.4 Whether the importer and the Customs Broker are liable to be penalised under section 112 of the Customs Act, 1962.

23. Now I proceed to decide the issues sequentially. I find that the importer, M/s. Himdweep Newgen Solutions Private Limited (IEC-AAGCH6142M), filed BE No. 5263009 dated 28.03.2023 through Customs Broker M/s. Perfecto Logistics having CB No. AAVFP5498ECH001 for clearance of **Solar Panel or Photovoltaic Module** having description as "Mono 600W 2172x1303x35MM (QS 600-120MH10)". On examination of subject consignment, total quantity and description of the goods were found as declared; however, the total weight of the cargo was found to be **lower than** the gross declared weight.

24. The classification of any goods is determined with the aid of General Rules of Interpretation(GRI) along with the aid of **Explanatory Notes**. The relevant tariff heading of the Customs Tariff Act, 1975 has been reproduced below for ease of reference: -

85.41- *Semiconductor devices (for example, diodes, transistors, semiconductor-based transducers); photosensitive semiconductor devices, including photovoltaic cells whether or not*

assembled in modules or made up into panels; light-emitting diodes (LED), whether or not assembled with other light-emitting diodes (LED); mounted piezoelectric crystals.

8541.30 - Thyristors, diacs and triacs, other than photosensitive devices

-Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes (LED)

8541.43 - - Photovoltaic cells assembled in modules or made up into panels

25. From plain reading of the above mentioned Tariff heading and in light of General Rule of Interpretation (Rule 1), I find that the subject goods, **Solar Panel or Photovoltaic Module** are squarely covered under subheading 8541 43 and thus rightly classifiable under CTI 85414300.

26. I find that the importer mis-classified the goods under CTI 85413090 instead of correct CTI 85414300 to wrongly avail the benefit of Notification No. 24/2005 dated 01.03.2023 which makes BCD-Nil under CTI 85413090 whereas CTI 85414300 attracts duty structure of BCD-40%+SWS- 10% and IGST- 18%. The importer as well as the Customs Broker in their statement accepted the fact that the imported goods are correctly classifiable under CTI 85414300 instead of declared CTI 85413090.

27. I find that the total duty on the subject goods after reclassification under CTI 85414300 comes out to be Rs. **3,13,58,049.38** and total duty paid by the importer is Rs. **80,72,724.4**. I further find that the importer, by his act of omission and commission evaded the **differential duty of Rs. 2,32,85,325/-**, as detailed in Table-III, by way of mis-declaration and mis-classification of the impugned goods.

28. I find that the importer imported the goods improperly by way of mis-declaration and mis-classification to avail wrong notification benefits. Hence, I am of the considered view that due to said mis-declaration, the importer rendered the impugned goods liable for confiscation under **Section 111(m)** and I hold the same. Further, I am of the considerate view that due to said act of omission and commission for rendering the said goods liable for confiscation the importer has rendered themselves liable for **penalty under Section 112(a)** of the Customs Act, 1962 and I hold the same.

29. I observe that the said importer has requested multiple adjournment in the case on the ground that some legal dispute with the buyer is going on. As there are no timeframe in which such disputes are bound to get finality, I am of the considered view that his request vide written and oral submission on dated 04.09.2025 to keep the present adjudication proceeding in abeyance till said dispute attains finality does not merit consideration as the Customs proceedings are time bound.

30. I observe that Shri Subhash Gulab Bhosale, G-Card Holder and power of attorney holder of the Custom Broker, M/s. Perfecto Logistics, vide statement dated 03.05.2023, stated that they prepared the checklist as per discussion with importer and after approval of said checklist they have filed the Bill of Entry No. 5263009 dated 28.03.2023. Further, the said CB, vide letter dated 04.09.2025 inter alia submitted that they have filed documents as per invoice and documents

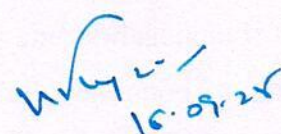
provided by the importer and they were unaware about the mis-classification and hence requested not to penalise them. I find that the investigation agency has not provided any evidence to establish the involvement of the said Customs Broker in the said mis-classification of goods. I further observe that CBIC' Instruction no. 20/2024 dated 03.09.2024 provided that *"implicating Customs Brokers as co-noticee in a routine manner, in matters involving interpretation of statute, must be avoided unless the element of abetment of the Customs Brokers in the investigation is established by the investigating authority"*. Thus, from the facts of the case, I am of the considered view that there are no evidence to establish that the said Customs Broker was involved in said fraud. Hence, I refrain from imposing any penalty on the said Customs Broker.

31. In view of the above, I pass the following order-

Order

- (i) I order for re-assessment of the BE No. 5263009 dated 28.03.2023, by reclassifying the goods under CTI 85414300 in place of CTI 8541 3090 and importer to pay the differential duty arising out of such re-assessment.
- (ii) I order for confiscation of the impugned goods covered under Bill of Entry No. 5263009 dated 28.03.2023 having assessable value of Rs. 4,48,48,469/- (Rupees Four Crore Forty-Eight Lakhs Forty Eight Thousands and Four Hundred Sixty Nine Only) under Section 111(m) of the Custom Act, 1962.
- (iii) I give the importer M/s. Himdweep Newgen Solution Pvt. Ltd., an option to redeem the goods covered under BE No. 5263009 dated 28.03.2023 on payment of Redemption Fine of Rs. 45,00,000/- (Rupees Forty-Five Lakhs Only) under Section 125 of the Custom Act, 1962.
- (iv) I impose penalty of Rs. 23,00,000/- (Rupees Twenty-Three Lakhs Only) on the importer, M/s. Himdweep Newgen Solution Pvt. Ltd. (IEC-AAGCH6142M), under Section 112(a) of the Customs Act, 1962.

32. 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.



(MAZID KHAN)

Joint Commissioner of Customs,
Appraising Group- VA, JNCH, NS-V

To:

1. **M/s. Himdweep Newgen Solutions Pvt. Ltd.** (IEC-AAGCH6142M),
Flat No. 452, Arun Vihar, Sector 29, Noida,
Uttar Pradesh 201301

2. M/s Perfecto Logistics (CB No. AAVFP5498ECH001)

Copy to:

1. The Asst./Dy. Commissioner of Customs, CRAC, JNCH
2. The Asst./Dy. Commissioner of Customs, CAC, JNCH
3. Notice Board (CHS Section).
4. Office Copy.
5. CHA, M/S

