



सत्यमेव जयते

भारत सरकार/ Government of India
वित्त मंत्रालय/ Ministry of Finance
आयुक्त सीमा शुल्क एनएस-II का कार्यालय,
केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन
न्हावा शेवा, तालुका-उरण, जिला - रायगढ़, महाराष्ट्र 400-
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
CENTRALIZED ADJUDICATION CELL,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA
SHEVA,
DIST- RAIGAD, MAHARASHTRA-400707



F.No. : S/10-30/2022-23/JC/NS II/CAC/JNCH

F.No. : S/10-307/20216-17/ADC/NS IV/CAC/JNCH

S/40-772/2012 DMC-JNCH

आदेशकीतिथि : 10.09.2025

SCN

SCN No. 428/2016/DMC

जारी किए जाने की तिथि 10.09.2025

Order Passed by: डॉ. चितरंजन प्रकाश वाघ
अतिरिक्त आयुक्त, सीमा शुल्क
एनएस-II, जेएनसीएच.

Dr. Chittaranjan Prakash Wagh
Additional Commissioner of Customs,
(NS-II), JNCH, NHAVA SHEVA

आदेशसंख्या 25-26/ : ADC/NS-II/Lic/CAC/JNCH

Order No. : 793/25-26/ADC/NS-II/Lic/CAC/JNCH

DIN NO. : 793

DIN- 20250978 NT 0000444 B9B

Name of Party : M/s Empower Gensets Pvt.Ltd (IEC No. 3107012700)

मूल आदेश

Order-In-Original

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।

1. This copy is granted free of charge for the use of the person to whom it is issued.

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 में संलग्न फॉर्म सी.ए1 में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इस की एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।

2. An appeal against this order lies with the Commissioner of Customs (Appeals), Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad under Section 128 (1) of the Custom 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 appeared in Custom (Appeals) Rule, 1982. The appeal should bear a court fee stamp of ₹ 2.00 paisa paid 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 ₹ 2.00 paisa only as prescribed under Schedule 1, item 6 of the Court Fees Act, 1870.

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।

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.

This is a denovo adjudication proceeding in terms of Order-in-Appeal No. 23 to 25 (DEEC Monitoring Cell)/2020 (JNCH)/Appeal-I dated 04.03.2020 passed by the Commissioner of Customs(Appeals), Mumbai Customs Zone-II, JNCH against Three Order-in-Original Nos.(1) 795/2018-19/ADC/NS-II/CAC/JNCH dated 09.10.2018; (2) 472/2017-18/ADC/NS-II/CAC/JNCH dated 27.12.2017 and (3) 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018 passed by then Additional Commissioner of Customs (NS-IV), JNCH, Nhava Sheva to M/s Empower Gensets Pvt. Ltd (IEC-3107012700), Whereby the Commissioner of Appeal vide Order-in-Appeal No.23 to 25(DEEC Monitoring Cell)/2020 (JNCH)/Appeal-I dated 04.03.2020 set aside the Three Order-in-Original Nos.(1) 795/2018-19/ADC/NS-II/CAC/JNCH dated 09.10.2018; (2) 472/2017-18/ADC/NS-II/CAC/JNCH dated 27.12.2017 and (3) 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018 and the matter was back to remanded the original adjudicating authority for fresh decision with direction to re-hear the appellant and consideration of reply submitted by the appellant thereafter re-determine the issue fresh.

1.BRIEF FACT OF THE CASE

1.1 M/s Empower Gensets Pvt. Ltd (IEC-3107012700)declared IEC address as S. No. 36/1, Pisoli Road, Near Furtect Furniture,Piosoli, Taluka Haveli, Pune 411 060, Maharashtra(hereinafter referred to as "the importer") have obtained exemption from payment of Customs Duty in respect of clearance of imported goods in terms of Notification No.96 /2009-Cus dated 11.09.2009 under Advance Authorisation No. 3110054375 dated 22.05.2012 (herein after referred to as "License") for duty saved amount of Rs. 30,25,152/-(Rupees Thirty Lakhs Twenty Five Thousand One Hundred Fifty Two only).

1.2 The importer M/s Empower Gensets Pvt. Ltd (IEC-3107012700), had cleared imported goods of assessable value of Rs. 1,04,85,044/-(Rupees One Crore Four Lakhs Eighty FiveThousand Forty Four only)under Advance Authorisation No.3110054375 dated 22.05.2012 in terms of Customs Notification No. 96 /2009-Cus dated 11.09.2009 at concessional rate of duty. The importer has executed Bond dated 29.05.2012 which was accepted by the Assistant Commissioner of Customs and they had also given an undertaking to fulfil the conditions of the Bond, Advance Authorisation and the relevant, Custom Notification at the time of registration of the license at Nhava Sheva port.

1.3 Further, as per the conditions of the said Customs Notification No. 96 /2009-Cus dated 11.09.2009, License Condition and undertaking given in the Bond, the importer was required to produce proof of fulfilment of export obligation within the period as prescribed in the said notification.

1.4 Further, as per the provision of Section 143 of the Customs Act, 1962, the said imported goods were allowed clearance by the proper officer on execution of bond by the importer wherein the importer bounded themselves to discharge liability in certain manner, which they have failed to do so by not submitting Export Obligation Discharge Certificate (EODC). Thus the importer appeared to have not complied with the mandatory conditions of Customs Notification No. 96 /2009-Cus dated 11.09.2009 ,License Condition and undertaking given in the Bond.

1.5 In view of above, a show cause notice No. 428/2016 DMC dated 30.11.2016 was issued to the Importer wherein it has been alleged that the importer M/s Empower Gensets Pvt. Ltd (IEC-3107012700) is liable to pay customs duty amounting to Rs. 30,25,152/- (Rupees Thirty Lakhs Twenty Five Thousand One Hundred Fifty Two only) in respect of the said imported goods along with interest at the applicable rate in terms of the said notification read with conditions stipulated in the said Notification read with the conditions of the Bond executed by the Importer and the conditions of the said License. It is also alleged that the imported goods were not used for intended purpose for which the exemption from duty was claimed, therefore, the same are liable for confiscation under Section 111(o) of the Customs Act, 1962. It is also proposed that the importer is liable for penalty under section 112(a) of the Customs Act, 1962 for their act of commission or omission which render the goods liable for confiscation.

1.6 Therefore the Importer M/s Empower Gensets Pvt. Ltd were called upon to show cause to the Additional Commissioner of Customs, Nhava Sheva IV, having his office at Jawaharlal Nehru Customs House, Nhava Sheva. Tal.Uran.Dist. Raigad, Maharashtra-400707 as to why:-

(i) The imported goods of Assessable Value of Rs. 1,04,85,044/- (Rupees One Crore Four Lakhs Eighty Five Thousand Forty Four only). should not be held liable for confiscation under section 111 (o) of the Customs Act, 1962 read with conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification 96/2009-Cus dated 11.09.2009 (and /or relevant Customs Notification issued/amended and applicable from time to time).

(ii) Duty saved amount of Rs. 30,25,152/- (Rupees Thirty Lakhs Twenty Five Thousand One Hundred Fifty Two only) along with applicable interest (from the date of clearance of goods to the date of payment of duty) should not be recovered in terms of conditions of Bond executed under section 143 of the Customs Act 1962 read with Customs Notification No. 96/2009-Cus dated 11.09.2009 read with condition of Advance Authorization.

(iii) Penalty should not be imposed on the importer under section 112(a) of the Customs Act 1962 for the acts of omission and commission mentioned above.

(iv) Bond furnished by the importer should not be enforced for recovery of duty, interest, penalty and redemption fine, if any.

1.7. Following the principle of natural justice, Personal Hearing was granted to the importer fixed on 22.09.2017, 12.10.2017, 01.11.2017 and 18.12.2017. However in spite of many opportunities given to the importer, they failed to appear for personal Hearing. Personal Hearing Memo were also sent to another address of importer ((i.e. Empower Gensets Pvt. Ltd S. No. 32/13, Shed No. 3, Kavita Warehousing, Kondhava Pisoli Road, Pune (MH) — 411 048), Further no written submission had been filed by the importer.

1.8. The said SCN No. 428/2016 DMC dated 30.11.2016 was adjudicated by Additional Commissioner of Customs, (NS-IV), JNCH vide Order-in- Original No. 487/2017-

18/ADC/NS-II/CAC/JNCH dated 03.01.2018/-(actual amount of duty forgone comes Rs. 27,10,644/- as informed by AC/DMC vide letter/Annexure-I dated 22.12.2017) whereby ordered that:

(i) I hold that the imported goods of Valued at Rs. 1.04,85.044/-(Rupees One Crore Four Lakhs Eighty Five Thousand Forty Four only) are liable for confiscation under section 111 (o) of the Customs Act, 1962. Since the goods had already been cleared against bond executed by the Importer. I impose fine of Rs. 25,00,000/-(Rupees Twenty Five Lakh only) on the Importer under Section 125 of the Customs Act, 1962.

(ii) I Ordered to recover of the Duty saved/forgone amount of Rs. 27,10,644 (Rs. Twenty Seven Lakhs Seventy Ten Thousand Six Hundred Forty Four Only) along with applicable interest in terms of conditions of Bond executed read with Customs Notification No. 96/2009-Cus dated 11.09.2009.

(iii) I impose a penalty of Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand only) under section 112(a) of the Customs Act, 1962.

(iv) I order that the Bond furnished to be enforced for recovery of Duty, Interest, Penalty and Redemption Fine.

1.9 The Importer preferred an appeal before Commissioner Appeal, JNCH vide Appeal No. 04/2019 dated 17.01.2019 against the said Order-in-Original No. 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018. The Commissioner Appeal, JNCH vide Order- in- Appeal No. 23 to 25(DEEC Monitoring Cell)/2020 (JNCH)/Appeal-Idated 04.03.2020 passed an order as under:

The Commissioner Appeal find that the main contention of the Appellant that due to change in management and address of the Company they had not received any of the SCN/PH Memos/OIOs from Customs being their address has been changed, which was updated by them with Registrar of Companies as well as in IEC. The Appellant further submitted that they had received copies of impugned O-in-Os from CGST Pune Commissionerate and as soon they received the said copies initiate action for submission of relevant documents to DGFT and payment of appropriate Customs Duty saved along with applicable interest.

CBEC vide Circular No.16/2017 Cus dated 20.05.2017 stipulates that in cases where the Licence holders/Authorization Holders have applied for EODC, the matter may be kept in abeyance till the same is decided by DGFT. Since in the instant case the Appellant has submitted EODC against one licence and EODCs against two Advance Authorizations are pending with the Addl. DGFT, Pune, the impugned Orders Nos.(1) 795/2018-19/ADC/NS-II/CAC/JNCH dated 09.10.2018; (2) 472/2017-18/ADC/NS-II/CAC/JNCH dated 27.12.2017 confirming duty of and imposing penalty is not sustainable in the law at this stage. Further, as far as O-in-O No. 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018 where the Appellant has submitted copy of EODC is required to be scrutinized and get satisfied that the Appellant has really fulfilled the Export Obligation and within the stipulated period or otherwise.

Since the decision of the Addl. DGFT, Pune on the issue of EODC in respect of the two Advance Authorization Nos. (1) 3110061793 dated 30.12.2013 and (2) 3110052947 dated 14.02.2012 is still pending consideration and in one case appellants have claimed the EODC has been granted, the impugned Order in Original is pre-matured and therefore required to be set aside and remand back the matter to OA for a fresh consideration.

In view of above, the Commissioner of Appeal set aside the Orders-in-Original

Nos.(1)795/2018-19/ADC/NS-II/CAC/JNCH dated 30.08.2018, (2) 472/2017-18//ADC/NS-II/CAC/JNCH dated 27.12.2017, & (3) 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018, passed by the Addl. Commissioner of Customs, NS-II, JNCH, Nhava Sheva and remand the matter back to the Original Authority(AO) for fresh decision. The OA shall pass an appropriate order after due consideration of reply submitted by the appellant and allowing it an opportunity of being heard, in compliance of principles of natural justice, shall also be granted.

Accordingly, the Appeal Nos. 43/2019, 44/2019 & 04/2019 filed by the appellant M/S Empower Gensets Pvt. Ltd. is disposed off by way of remand in above terms.

2. Replies/Written Submission and Record of Personal Hearing

In line of Commissioner Appeal order and Following the principle of natural justice, effort has been made to trace out the correct address of the Importer. In this regard, during the verification of Advance Authorisations status with DGFT site, a mobile number 9823595848 was mentioned there. On calling to this number, the person again provide the mobile number 9833068385 in the name of Shri Sanath Kumar, for further communication in respect of this noticee. Shri Sanath Kumar provided the correct address as "Empower Gensets Pvt.Ltd, C/o Powerica Limited, 1102, Kotibhaskar Business Court, Opp. Karishma Society, Karve Road, Kothrud, Pune-411038(MH) and an email sanath_empower@powericaltd.com. Hence letter was issued at the new address to the Importer with a request to appear before Adjudicating Authority for personal hearing on 26.06.2025, 04.09.2025. Shri Sanath Kumar, Senior Manager-Commercial, attended personal hearing on 26.06.2025 and 04.09.2015 in virtual mode. They stated that they have already completed the EODC under Advance Authorisation No. 3110052947/14.02.2012 and 3110054375/22.05.2012 and have submitted the Redemption letter. In respect of Advance Authorisation No. 3110061793/30.12.2013 they submitted that export obligation has completed 100% and all related documents submitted with DGFT Pune. The EODC is under process and redemption letter not received yet. They are continuously follow up the matter with DGFT, Pune since 2021.

3. DISCUSSIONS AND FINDINGS

3.1 The subject SCN was adjudicated in first round adjudication vide Order- in-Original No. 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018 passed by then Addl. Commissioner of Customs, NS-IV, JNCH. The Importer preferred an appeal before Commissioner Appeal, JNCH vide Appeal No. 04/2019 dated 17.01.2019 against the said Order-in-Original No.487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018.The Commissioner Appeal vide Order- in- Appeal No.23 to 25(DEEC Monitoring Cell)/2020 (JNCH)/Appeal-I dated 04.03.2020, set aside the Orders-in-Original Nos.(1)795/2018-19/ADC/NS-II/CAC/JNCH dated 30.08.2018, (2) 472/2017-18//ADC/NS-II/CAC/JNCH dated 27.12.2017, & (3) 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018, passed by the Addl. Commissioner of Customs, NS-II, JNCH, Nhava Sheva and remand the matter back to the Original Authority(AO) for fresh decision. The OA shall pass an appropriate order after due consideration of reply submitted by the appellant and allowing it an opportunity of being heard, in compliance of principles of natural justice, shall also be granted. In compliance with the order of Commissioner of Appeal the matter is now being taken for De-novo adjudication.

3.2 I find that a corrigendum to Order - in- Appeal No.23 to 25(DEEC Monitoring Cell)/2020 (JNCH)/Appeal-I dated 04.03.2020 was issued vide F. No. S/49-Appeals

07/2024-25/Misc/JNCH dated 02.09.2025 in respect of page no. 5, at serial no. 12 of the said OIA, the order-in original has inadvertently mentioned as 772/2017-18/ADC/NS-II/CAC/JNCH dated 30.01.2018, the same may be read as 487/2017-18/ADC/NS-II/CAC/JNCH dated 30.01.2018.

3.3 I find that the Importer was issued personal hearing letter dated 14.10.2024, 24.10.2024, 05.11.2024 and 07.03.2025 at the address (i) M/s Empower Gensets Pvt. Ltd, Show Room No. 1 & 2, Vartak Heritage, 100 ft. DP Road, Karve Nagar, Erwande, Pune- 411 052; and (ii) M/s Empower Gensets Pvt. Ltd, at S.No. 36/1, Pisoli Road, Near furniture, Pisoli, Tal-Havel, Dist-pune, MH-411060. However the said letters returned with remark "address incomplete".

Further during the verification of Advance Authorisation status with DGFT site, a mobile number 9823595848 was mentioned there. On calling to this number, the person again provide the mobile number 9833068385 in the name of Shri Sanath Kumar, for further communication in respect of this Importer. Shri Sanath Kumar provided the new address as "Empower Gensets Pvt. Ltd, C/o Powerica Limited, 1102, Kotibhaskar Business Court, Opp. Karishma Society, Karve Road, Kothrud, Pune-411038(MH). He also provided email ID "sanath_empower@powericaltd.com" for further communication.

3.4 I have carefully gone through the facts of the case, available records and written submission from the Importer and direction given by the Commissioner of Appeal. Further in compliance to the provisions of section 28(8) and 122(A) of the Customs Act, 1962 and in terms of principles of natural justice, as per the direction of the Commissioner of Appeal, fresh opportunity for personal hearing was given to the Importer on 26.06.2025, 04.09.2025 and representative of the said Importer appeared along with submission on virtual mode. Hence the principles of natural justice have been followed during the adjudication proceeding. Accordingly, I proceed to decide the case.

3.5 I find that the importer M/s Empower Gensets Pvt. Ltd (IEC- 3107012700) have obtained exemption from payment of Duty against clearance of imported goods in terms of Customs Notification No. 96/2009-Cus dated 11.09.2009 against Advance Authorisation No. 3110054375 dated 22.05.2012 for duty saved amount of Rs. 27,10,644/- (such actual amount of duty forgone comes Rs. 27,10,644/- as informed by AC/DMC vide letter/Annexure-I dated 22.12.2017 and mentioned in the previous OIO No. 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018). It is alleged in the Show Cause Notice that the Importer could not produce EODC certificate within the period as prescribed, hence the importer is liable to pay Duty saved amount of Rs. 30,25,152/- (Rupees Thirty Lakhs Twenty Five Thousand One Hundred Fifty Two only) /- (actual amount of duty forgone comes Rs. 27,10,644/- as informed by AC/DMC vide letter/Annexure-I dated 22.12.2017 and mentioned in the previous OIO No. 487/2017-18/ADC/NS-II/CAC/JNCH dated 03.01.2018) along with applicable interest. It also alleged in SCN that the imported goods were not used for intended purpose for which the exemption from payment of duty was claimed, therefore, aforesaid goods are liable for confiscation under section 111 (o) of the Customs Act, 1962 read with conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification 96/2009-Cus dated 11.09.2009 (and /or relevant Customs Notification issued/amended and applicable from time to time). It therefore appeared that Importer for the acts of omissions and commissions mentioned above has rendered themselves liable for penal action under Section 112 (a) of the Customs Act, 1962.

4. In view of the above, I find that the issues to be decided are:
- (i) Whether the imported goods of value at Rs. 1,04,85,044/- (Rupees One Crore Four Lakhs Eighty Five Thousand Forty Four only) should be held liable for confiscation under Section 111(o) of the Customs Act, 1962 read with relevant Notifications as amended.
 - (ii) whether the duty saved amount of Rs. 27,10,644/- along with applicable interest should be recovered in terms of conditions of Bond executed under section 143 of the Customs Act 1962 read with Customs Notification No. 96/2009-Cus dated 11.09.2009.
 - (iii) Whether penalty should be imposed on the importer under Section 112(a) of the Customs Act, 1962.
 - (iv) Whether Bond furnished by the importer should be enforced for recovery of duty, interest, penalty and Redemption Fine, if any.
5. I find that the importer had imported goods of value of Rs 1,04,85,044/- (Rupees One Crore Four Lakhs Eighty Five Thousand Forty Four only) under Advance Authorisation No. 3110054375 dated 22.05.2012 in terms of Customs Notification No. 96/2009-Cus dated 11.09.2009 at concessional rate of duty for duty saved amount of Rs 27,10,644/-.
6. I find that the importer executed Bond dated 29.05.2012 and had given an undertaking to fulfil the conditions of the Bond, Advance Authorisation and the relevant, Custom Notification at the time of registration of the license at Nhava Sheva port.
7. I find that as per the provisions of Section 143 of the Customs Act, 1962, the said imported goods were allowed clearance by the proper officer on execution of bond by the importer wherein the importer bounded themselves to discharge liability in certain manner, which they have failed to do so by not submitting export obligation discharge certificate by not fulfilling the export obligation. Thus the importer appeared to have not complied with the mandatory conditions of Customs Notification No. 96/2009-Cus dated 11.09.2009 and conditions of the Bond. thus goods are liable for confiscation under section 111(o) of the Customs Act, 1962 and thereby importer have rendered themselves liable to penalty under section 112(a) of the Customs, Act, 1962 read with Section 143 of the Customs Act, 1962.
8. I find that the importer has submitted Regularization letter dated 12.02.2021 against Advance Authorization No. 3110054375 dated 22.05.2012 issued by Deputy Director General of Foreign Trade, DGFT, Pune at the time of Personal Hearing. In the said Regularisation Letter dated 12.02.2021 in respect of Advance Authorisation No. 3110054375 dated 22.05.2012 issued by Mr. Pravin Nalawade (Deputy Director General of Foreign Trade) DGFT, Pune, it is stated that Export Obligation met in full value as well as in quantity term, in proportion to import made. Consequently, the case has been redeemed in terms of Para 4.26 of Handbook of Procedures 2004-09.
9. I find that the said Regularisation Letter dated 12.02.2021 in respect of Advance Authorisation No. 3110054375 dated 22.05.2012 when enquired with the official website of DGFT in the respect of View Authorisation/ Transmission details, it is showing the **Authorization status as "Closed"**. Therefore, importer has fulfilled condition of Customs Notification No. 96/2009-Cus dated 11.09.2009. As such Customs duty benefit under Customs Notification No. 96/2009-Cus dated 11.09.2009 is applicable in case of imported

goods imported by M/s. Empower Gensets Pvt. Ltd (IEC- 3107012700) under Advance Authorization No. 3110054375 dated 22.05.2012. Thus, there is no customs duty demand. In absence of Customs duty demand, charges levelled against Authorisation Holder in Show Cause Notice No. 428/2016 DMC dated 30.11.2016 the demand notice is not sustainable as per the above findings and do not sustain hence required to be dropped.

10. I find that Customs duty benefit under Customs Notification No.96/2009-Cus dated 11.09.2009 is applicable in case of goods imported by M/s. Empower Gensets Pvt. Ltd (IEC-3107012700) under Advance Authorization No. 3110054375 dated 22.05.2012. Further, on receipt of closure/redemption letter from DGFT, imported goods under Advance Authorization No. 3110054375 dated 22.05.2012 are not liable for confiscation under 111(o) of Customs Act, 1962. In absence of confiscation, question of imposing redemption fine under section 125 of Customs Act, 1962 doesn't arise.

11. Further when the recovery of duty saved amount is not sustainable, the question of recovery of applicable interest and imposition of penalty under Section-112(a) of the Customs Act, 1962 as proposed in the Show Cause Notice, does not arise.

12. In view of the above, I pass the following order.

ORDER

(i). I hereby drop all the proceedings initiated against M/s. Empower Gensets Pvt. Ltd (IEC-3107012700) vide the Show Cause Notice No. 428/2016 DMC dated 30.11.2016.

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

Digitally signed by
Wagh Chaitan Prakash (Prakash Wagh)
Date: 10-09-2025 14:41:55
Commissioner of Customs
NS-II, JNCH, Nhava Sheva.

To.

M/s Empower Gensets Pvt. Ltd (IEC- 3107012700)
C/o Powerica Limited,
1102, Kotibhaskar Business Court, Opp. Karishma Society,
Karve Road, Kothrud, Pune-411038(MH) *EM9869070851N*
sanath_empower@powericaltd.com

Copy To:

1. The Commissioner of Customs, NS-II, JNCH, Nhava-Sheva
2. The DC/ CRRC, JNCH
3. The DC/ Review Cell (CRAC), JNCH
4. The DC EPSMMC Cell, JNCH.
5. The AC/DC of EDI, JNCH for uploading on website

- 6. Notice Board, JNCH, Nhava-Sheva.
- 7. Master File/ Office Copy.

उप आयुक्त सीमाशुल्क/Dy. Commissioner of Customs
सी.एच.एस. अनुभाग
C.H.S. SECTION
11 SEP 2025
जवाहरलाल नेहरू सीमाशुल्क भवन, न्हवा शेवा,
Jawaharlal Nehru Custom House, Nhava Sheva

प्राप्त किया/RECEIVED
केंद्रीय राजस्व वसूली कक्ष
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11 SEP 2025
जवाहरलाल नेहरू सीमाशुल्क भवन, न्हवा शेवा
Jawaharlal Nehru Custom House, Nhava Sheva
ता.उरण-Tal.Uran, जिला रायगड-Dist. Raigad-400707.

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TAL. URAN, DIST. RAIGAD
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