



ऑफिस ऑफ द कमिशनर ऑफ कस्टम्स
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V
जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,
ताल-उरण, डिस्ट-राइगड, महाराष्ट्र-४००७०७.
TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400 707.

प्राप्ति किया/RECEIVED
ई.डी.आई.विभाग/EDI Section

09 JUN 2025

जवाहरलाल नेहरू सीमाशुल्क गृह
Jawaharlal Nehru Custom House
न्हावा शेवा/ Nhava Sheva

F. No.: S/10-614/2024-25/ADC/GR V/NS-V/CAC/JNCH Date of Order: 06.06.2025
Date of issue: 06.06.2025

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

DIN: 20250678NX000000BC20

Order-In-Original No. 281/2025-26/ADC/Gr V/NS-V/CAC/JNCH
(Arising out of SCN No. 595/2024-25/ADC/Gr. V/ NS-V/JNCH dated 24.06.2024)

Noticee: **M/s Renew Services Private Limited**

मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क 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, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र - 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क(अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र कास्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टांप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- 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, 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.

The adjudication proceedings in the present case are drawn to adjudicate the Show Cause Notice No. 595/2024-25/ADC/Gr. V/ NS-V/JNCH dated 24.06.2024 [herein after referred to as 'the SCN'] issued vide Group-V file no. S/26-Misc-157/2023-24/Gr.V/JNCH [herein after referred to as 'the SCN'] issued to Noticee M/s Renew Services Private Limited. The brief facts of the case extracted from SCN are as under:

BRIEF FACTS OF THE CASE: -

M/s. Renew Services Private limited had imported 'Casting for Wind Operated Electricity Generator', (herein after referred to as 'subject goods'), classified under chapter heading 84 through Customs Broker vide the Bill of Entry no. 4846552 dated 28-07-2021.

2. As the CRA officers has observed that the Notification No. 42/2017-Customs (ADD) dated 30.08.2017 envisaged levy of Anti-Dumping Duty (ADD) on 'Castings for Wind Operated Electricity Generator' falling under CTH 84834000, 85030010 or 85030090 of the first schedule to the Customs Tariff Act, 1975, originating in or exported from the People's Republic of China and Imported to India at the rate of an amount equivalent to the difference between the quantum of anti-dumping duty and the quantum of anti-subsidy/countervailing duty payable, if any. The analysis of Bills of Entry in the system revealed that the producer and exporter of the aforesaid consignment was M/s. Dalian Huarui Special Transmission Equipment Co. Ltd, which is different from the name mentioned at Sr. No. 1 of the said Notification dated 30.08.2017. Adoption of the incorrect Serial Number of the table in the Notification resulted in short levy of ADD an amount of Rs. 5,73,921/- (Rupees Five Lakh Seventy-Three Thousand Nine Hundred and Twenty-One Only).

3. Anti-Dumping Duty was brought in vide Notification No. 42/2017-Customs (ADD) dated 30.08.2017 on 'Castings for Wind Operated Electricity Generator' originating in, or exported from the People's Republic of China for Castings for Wind Operated Electricity Generator. The relevant portion of the Notification No. 42/2017-Customs (ADD) dated 30.08.2017, under which the Anti-Dumping Duty was to be paid on the subject goods is reproduced in Table-I as below: -

Table-I:

| Sl. No. | Sub-heading or tariff item | Description of goods | Country of Origin | Country of Export | Producer | Exporter | Duty amount as % of Land |
|---------|----------------------------|----------------------|-------------------|-------------------|----------|----------|--------------------------|
| | | | | | | | d |

| | | | | | | | |
|---|---|---|----------|-------------|--|--|------------|
| 1 | 8483 40 00, 8503 00 10 or 8503 00 90 | Castings for Wind Operated Electricity Generators | China PR | China PR | Dalian Huarui Heavy Industry Casting Co. Ltd | Dalian Huarui Heavy Industr y Casting Co. Ltd | 18.48 % |
| 2 | -do- | -do- | China PR | China PR | Zhejiang Jiali Wind Power Technology Co. Ltd. | Zhejian g Jiali Wind Power Technol ogy Co. Ltd. | 6.27% |
| 3 | -do- | -do- | China PR | China PR | Jiangsu Sinojit Wind Energy Technology Co., Ltd | Jiangsu Sinojit Wind Energy Technol ogy Co. Ltd., or Tecton e HK, Ltd | 14.44 % |
| 4 | -do- | -do- | China PR | China PR | Changzhou Sinojit Wind Energy Tech. Co. Ltd | -do- | 14.44 % |
| 5 | -do- | -do- | China PR | China PR | Jiangyin Henghu a Machinery Co., Ltd Jiangyin City | -do- | 14.44 % |
| 6 | -do- | -do- | China PR | China PR | Jiangyin Qixing Technology Co., Ltd. Jiangyin City | -do- | 14.44 % |
| 7 | -do- | -do- | China PR | China PR | Jiangyin Changling | -do- | 14.44 % |

| | | | | | | | |
|----|------|------|----------|----------|---|--|---------|
| 8 | -do- | -do- | China PR | China PR | Nantong Hongde Mechanical Co. Ltd | Nantong Hongde Mechanical Co. Ltd | 18.64 % |
| 9 | -do- | -do- | China PR | China PR | KOIZUMI Machinery co. Ltd | -do- | 18.64 % |
| 10 | -do- | -do- | China PR | China PR | Jiangsu Faw Foundary Co., Ltd. | Jiangsu Faw Foundary Co., Ltd. | 28.83 % |
| 11 | -do- | -do- | China PR | China PR | Yeong Guan Energy Tech. Group Company Limited | Ningbo Yeong Shang Casting Iron Co. Ltd, or Yeong Chen Asia Pacific Co., Ltd | 15.46 % |
| 12 | -do- | -do- | China PR | China PR | Dongguan Yeong Guan Mould Factory Co., Ltd. | -do- | 15.46 % |
| 13 | -do- | -do- | China PR | China PR | Jiangsu Bright Steel Fine Machinery Co., Ltd | -do- | 15.46 % |
| 14 | -do- | -do- | China PR | China PR | Ningbo Lu Lin Machine Tool Foundry Co., Ltd | -do- | 15.46 % |
| 15 | -do- | -do- | China PR | China PR | Ningbo Yeong Shang | -do- | 15.46 % |

| | | | | | Co., Ltd. | | |
|----|------|------|----------|----------|--|-----|---------|
| 17 | -do- | -do- | China PR | China PR | Any other combination than S.No. 1 to 16 | | |
| 18 | -do- | -do- | China PR | Any | Any | Any | 35.92 % |
| 19 | -do- | -do- | Any | China PR | Any | Any | 35.92 % |

Note – (i) Castings for Wind Operated Electricity Generators for the purpose of the present notification implies "Castings for wind operated electricity generators also known as castings for windmill or wind turbine, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators". (ii) The Anti-Subsidy/countervailing Duty is already in place on Castings for wind operated electricity generators, whether or not machined, in raw, finished or sub-assembled form, or as a part of a subassembly.

(ii) The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette, and shall be payable in Indian currency. Explanation. – Landed value of imports for the purpose of this notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

4. The above notification imposes definitive anti-dumping duty on the subject goods, the description of which is specified in column (3) of the Table above, falling under Chapter heading of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate of an amount equivalent to the difference between the quantum of anti-dumping duty calculated as per column (8) and the quantum of anti-subsidy/countervailing duty payable, if any.

5. The importer's supplier is not listed in Sr. No. 1 to 17 of the aforementioned ADD notification No. 42/2017-Customs (ADD) dated 30.08.2017 and nor listed in F. No. IV (26)201/2019/6954, dated 26.11.2019;

TABLE-II

Amount in Rs.

| BE No. | BE Date | Landed Value | ADD Levied @18.48% | ADD Applicable @35.92% | Short Levy of ADD |
|---------|------------|--------------|--------------------|------------------------|-------------------|
| 4846552 | 28.07.2021 | 32,90,833/- | 6,08,146/- | 11,82,067/- | 5,73,921/- |

7. It appears that the Importer has not paid the applicable Anti-Dumping Duty leviable under the Notification No. 42/2017-Customs (ADD) dated 30.08.2017, for the goods imported vide Bill of entry No. 4846552 dated 28-07-2021.

8. It is settled law that *the Notification has to be read as a whole and the conditions are to fulfilled in total. If any of the condition laid down in the Notification is not fulfilled the importer is not entitled to the benefit of that Notification. The goods imported under the country benefits and they would be entitled for the exemption of the Notification of 42/2017-Cus (ADD) dated 30.08.2017 against import of "Casting for Wind Operated Electricity generator" from China PR on the fulfillment of conditions of said notification only which they failed to fulfill. Hence, it appears that the said benefit availed is liable to be denied.*

9. Relevant legal provisions of the Customs Act, 1962 applicable in instant matter are reproduced below for ease of reference:

9.1 After the introduction of self-assessment vide Finance Act, 2011, the onus is on the Importer to make true and correct declaration in all aspects including Classification and calculation of duty, but in the instant case the subject goods have been mis-stated and Anti-Dumping Duty has not been paid correctly. Section 17(1) Assessment of duty, reads as: *An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*

9.2 Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded) reads as:

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any wilful mis-statement; or

been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

9.3 SECTION-46. Entry of goods on importation, subsection 46(4) reads as:

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.

9.4 Section 111 (Confiscation of improperly imported goods etc.) reads as: *The following goods brought from a place outside India shall be liable to confiscation (m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act.....;*

16.5 Section 112 (Penalty for improper importation of goods etc.) reads as:

“Any person,-

(a) who in relation to any goods does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act 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 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 percent of the duty sought to be evaded or five thousand rupees, whichever is higher.....”

9.5 SECTION 114A. Penalty for short-levy or non-levy of duty in certain cases. - *Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.*

10. Acts of omission and commission by the Importer:

10.1 As per section 17(1) of the Act, “An importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.” However, in the present case, the importer, for the purpose of evasion of applicable Anti-Dumping duty, has suppressed the fact that the Anti-Dumping Duty was leviable vide Notification No. 42/2017-Customs (ADD) dated 20.02.2017.

Seventy-Three Thousand Nine Hundred and Twenty-One Only) appears to be recoverable from the Importer under the provisions of the Section 28(4) of the said Act, along with applicable interest as per Section 28AA of the said Act.

10.2 It appears that the Importer has given a declaration under section 46(4) of the Act, for the truthfulness of the content submitted at the time of filing Bill of Entry. However, the applicable Anti-Dumping Duty vide Notification No. 42/2017-Customs (ADD) dated 30.08.2017 on 'Castings for Wind Operated Electricity Generator' on subject goods was not paid by the Importer at the time of clearance of goods. It also appears that the Importer has submitted a false declaration under section 46(4) of the Act. By the act of presenting goods in contravention to the provisions of section 111(m), it appears that the Importer has rendered the subject goods liable for confiscation under section 111(m) of the Act. For the above act of deliberate omission and commission that rendered the goods liable to confiscation. Accordingly, the Importer also appears liable to penal action under Section 112(a) and/ or 114A of the Customs Act, 1962.

11. Therefore, the importer M/s. Renew Services Private limited was called upon to Show Cause vide SCN No. 595/2024-25/ADC/NS-V/CAC/JNCH dated 24.06.2024 as to why:

- i. Anti-Dumping Duty of Rs. 5,73,921 /- (Rupees Five Lakh Seventy-Three Thousand Nine Hundred and Twenty-One Only) as applicable vide Notification No. 42/2017-Customs (ADD) dated 30.08.2017 should not be recovered on the aforesaid goods under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962;
- ii. The goods valued at Rs. 32,90,833/- (Thirty-Two Lakh Ninety Thousand Eight Hundred Thirty-Three) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- iii. Penalty should not be imposed under Section 112(a) of the Customs Act, 1962;
- iv. Penalty should not be imposed under Section 114(A) of the Customs Act, 1962.

PERSONAL HEARING

12. In order to comply the principal of natural justice, opportunity of personal hearing in the matter was provided to the noticee vide letters F. No. S/10-328/2024-25/ADC/Gr.V/ NS-V/CAC/JNCH dated 27.09.2024 & 14.10.2024 to appear before the adjudicating authority on 09.10.2024 & 24.10.2024 against the subject show cause notice. Shri Sandip Pansare, Deputy Manager, Renew Power Private Limited appeared on 24.10.2024 before the adjudicating authority. The details of personal hearing are as follows:

- He made written submissions dated 23.10.2024.
- He stated that both are group Companies, so there is a misunderstanding.

12.1 Since, the adjudicating authority changed, opportunity of personal hearing was again provided to the noticee vide letters dated 07.05.2025 & 19.05.2025 to appear before the adjudicating authority on 16.05.2025 & 27.05.2025 against the subject show cause notice. Shri Ayush Vashishta, Executive-SCM and Shri Ankit Garg, Engineer-SCM appeared before the adjudicating authority through Webex on 27.05.2025. The details of personal hearing are as follows:

- They informed that they have already made the payments and they would send all the documents regarding payment through email.

WRITTEN SUBMISSIONS

13. The authorized representative of the importer during the PH on 24.10.2024 submitted written submissions dated 23.10.2024 which are as follows:

13.1 We would like to clarify that ReNew Services Private Limited is now known as ReNserv Global Private Limited (hereinafter referred to as "ReNew" or "Company"). ReNew is a leading player in India's renewable energy sector, committed to driving the nation's transition towards clean energy sources such as wind and solar power. Through its extensive portfolio of projects, ReNew plays a pivotal role in reducing carbon emissions and promoting sustainable development. The company prioritizes community welfare and employs cutting-edge construction techniques to ensure the safe and efficient execution of its initiatives. With a strong focus on innovation and sustainability, ReNew continues to lead the way towards a greener, more sustainable future. We had revised the Bill of Entry based on clarification from our supplier regarding the separate values of the casting and non-casting parts of the Gear Box. The revised Bill of Entry was submitted to customs authorities and reflects the segregation of the casting parts, which fall under the scope of Anti-Dumping Duty (ADD) as per Notification No. 42/2017, dated 30.08.2017.

13.2 We would like to bring to your attention the Order-In-Original No. 156/2021-22/ADC/Gr-V/NS-V/CAC/JNCH dated 02.09.2021 passed by Shri S.K.H. Meshram, Additional Commissioner of Customs, JNCH, in connection with the same Bill of Entry No. 4846552, dated 28.07.2021. The matter involved the classification of casting parts for the Gear Box, imported for the maintenance of wind turbines. In that instance, the Company was subject to additional duty based on a reassessment of the declared value of casting and non-casting parts, and accordingly, an amount of 28,05,703/- has been paid. A revised bill of entry and a copy of the e-receipt are annexed herewith for your reference.

Ltd. and Castings by Dalian Huarui Heavy Industry Casting Co. Ltd., both of which are wholly-owned subsidiaries of the DHHI Group. We have attached the relevant clarification from the DHHI Group to confirm this structure. With this clarification, we believe that the importer's supplier falls under the Sr. No. 1 to 17 of the ADD notification No. 42/2017-Customs (ADD) dated 30.08.2017. Accordingly, the applicable ADD has already been paid on the goods imported by ReNew. Therefore, there is no question of any short levy or misclassification in this instance. With respect to the imposition of penalties under Sections 112(a) and 114A of the Customs Act, 1962, we respectfully submit that there is no question of any penalty being applicable in this case, as our supplier falls under St. No. 1 to 17 of the ADD Notification No. 42/2017-Customs (ADD), dated 30.08. 2017. Therefore, the issue of any short levy or misclassification does not arise, and penalties under Sections 112(a) and 114A are unwarranted. We hope this clarification resolves the matter satisfactorily, and we kindly request that no further ADD and penalties be imposed. In the event the explanation is not accepted, we respectfully request an opportunity for a personal hearing before any further action is taken.

DISCUSSIONS AND FINDINGS

14. I have gone through the facts of the case and material on records before me. I find that the subject SCN alleges that the notice has imported "Castings for Wind Operated Electricity Generator" classifying them under Chapter Heading 84834000 from China vide Bill of Entry mentioned in Table-II and that as per Notification No. 42/2017-Customs (ADD) dated 30.08.2017, Anti-dumping duty @35.92% is applicable on the "Castings for Wind Operated Electricity Generator" falling under CTH 84834000 originating in or exported from China and imported to India.

15. I find that the subject Show Cause Notice proposes recovery of differential Anti-dumping duty of Rs. 5,73,921/- (Rupees Five Lakhs Seventy-Three Thousand Nine Hundred Twenty-One only) under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962 and Penalty under Section 112(a) and/or 114A of the Customs Act, 1962 read with the Section 28 of the Customs Act, 1962. The SCN also proposes confiscation of goods having assessable value of Rs. 32,90,833/- (Rupees Thirty-Two Lakhs Ninety Thousand Eight Hundred Thirty-Three only).

16. Now, coming to the relevant notification no. 42/2017- Customs (ADD) dated 30.08.2017 which is reproduced as below:

| Sl. No. | Sub-heading or tariff item | Description of goods | Country of Origin | Country of Export | Producer | Exporte r | Duty amount as % of |
|---------|----------------------------|----------------------|-------------------|-------------------|----------|-----------|---------------------|
|---------|----------------------------|----------------------|-------------------|-------------------|----------|-----------|---------------------|

| 1 | 2 | 3 | 4 | 5 | 7 | 8 | 9 |
|---|---|---|----------|-------------|--|--|------------|
| 1 | 8483 40 00, 8503 00 10 or 8503 00 90 | Castings for Wind Operated Electricity Generators | China PR | China PR | Dalian Huarui Heavy Industry Casting Co. Ltd | Dalian Huarui Heavy Industr y Casting Co. Ltd | 18.48 % |
| 2 | -do- | -do- | China PR | China PR | Zhejiang Jiali Wind Power Technology Co. Ltd. | Zhejian g Jiali Wind Power Technol ogy Co. Ltd. | 6.27% |
| 3 | -do- | -do- | China PR | China PR | Jiangsu Sinojit Wind Energy Technology Co., Ltd | Jiangsu Sinojit Wind Energy Technol ogy Co.Ltd., or Tecton e HK, Ltd | 14.44 % |
| 4 | -do- | -do- | China PR | China PR | Changzhou Sinojit Wind Energy Tech. Co. Ltd | -do- | 14.44 % |
| 5 | -do- | -do- | China PR | China PR | Jiangyin Henghu a Machinery Co., Ltd Jiangyin City | -do- | 14.44 % |
| 6 | -do- | -do- | China PR | China PR | Jiangyin Qixing Technology Co., Ltd. | -do- | 14.44 % |

| | | | | | | | |
|----|------|------|----------|----------|---|---|---------|
| | | | | | City, Jiangsu | | |
| 8 | -do- | -do- | China PR | China PR | Nantong Hongde Mechanical Co. Ltd | Nantong Hongde Mechanical Co. Ltd | 18.64 % |
| 9 | -do- | -do- | China PR | China PR | KOIZUMI Machinery co. Ltd | -do- | 18.64 % |
| 10 | -do- | -do- | China PR | China PR | Jiangsu Faw Foundary Co., Ltd. | Jiangsu Faw Foundary Co., Ltd. | 28.83 % |
| 11 | -do- | -do- | China PR | China PR | Yeong Guan Energy Tech. Group Company Limited | Ningbo Yeong Shang Casting Iron Co. Ltd , or Yeong Chen Asia Pacific Co., Ltd | 15.46 % |
| 12 | -do- | -do- | China PR | China PR | Dongguan Yeong Guan Mould Factory Co., Ltd. | -do- | 15.46 % |
| 13 | -do- | -do- | China PR | China PR | Jiangsu Bright Steel Fine Machinery Co., Ltd | -do- | 15.46 % |
| 14 | -do- | -do- | China PR | China PR | Ningbo Lu Lin Machine Tool Foundry Co., Ltd | -do- | 15.46 % |

| | | | | | | | |
|----|------|------|----------|----------|--|------|---------|
| | | | | | Co. Ltd. | | |
| 16 | -do- | -do- | China PR | China PR | Yeong Chen Asia Pacific Co., Ltd. | -do- | 15.46 % |
| 17 | -do- | -do- | China PR | China PR | Any other combination than S.No. 1 to 16 | | |
| 18 | -do- | -do- | China PR | Any | Any | Any | 35.92 % |
| 19 | -do- | -do- | Any | China PR | Any | Any | 35.92 % |

Note – (i) Castings for Wind Operated Electricity Generators for the purpose of the present notification implies "Castings for wind operated electricity generators also known as castings for windmill or wind turbine, whether or not machined, in raw, finished or sub-assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators". (ii) The Anti-Subsidy/countervailing Duty is already in place on Castings for wind operated electricity generators, whether or not machined, in raw, finished or sub-assembled form, or as a part of a subassembly.

(ii) The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette, and shall be payable in Indian currency. Explanation. – Landed value of imports for the purpose of this notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act.

17. It is settled law that the Notification has to be read as a whole and the conditions are to be fulfilled in total. However, I find that as per the import documents, the supplier of the Goods in the impugned BE is M/s Dalian Huarui Special Transmission Equipment, China and the supplier mentioned at Sr. No. 1 of the said notification is M/s Dalian Huarui Heavy Industry Casting Co. Ltd. Therefore, I find that it is crystal clear that both the companies being separate legal identity are different.

18. Therefore, I find that the Anti-dumping duty @35.92% is applicable on the impugned goods as per Notification No. 42/2017-Customs (ADD) dated 30.08.2017 which is recoverable from the importer. I also find that the importer has paid ADD

have only paid the ADD @18.48% on the Landing Value at the time of import as per Sr. No. 1 of the said Notification dated 30.08.2017; however, as discussed above, ADD @35.92% is applicable on the said impugned goods.

20. Now coming to the question as to whether the impugned goods are liable for confiscation. I find that Section 111(m) provides for confiscation even in cases where goods do not correspond to any other particulars in respect of which the entry is made under this act. I have to restrict myself only to examine the words. "in respect, any other particular with the entry made under this act" would also cover the case of mis-declaration by the Noticee. Hence, Section 111(m) can be invoked.

21. As the importer had engaged in willful mis-statement and suppression of fact, resulting in short levy and short payment of Anti-dumping duty, I find that the confiscation of the imported goods invoking Section 111(m) is justified & sustainable. However, I find the goods imported vide bills of entry as mentioned in Table-II are not available for confiscation, but I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorized by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing the payment of the redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (i)."

22. I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same have not been challenged

that the decision of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), which has been passed after observing the decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), is squarely applicable in the present case. Accordingly, I observe that the present case also merits the imposition of a Redemption Fine.

23. As discussed above, I find that M/s Renew Services Pvt. Ltd., has evaded customs duty of Rs. 5,73,921/- (Rupees Five Lakh Seventy-Three Thousand Nine Hundred and Twenty-One Only) under Section 28(4) of the Customs Act, 1962). The subject goods valued at Rs. 32,90,833/- (Thirty-Two Lakh Ninety Thousand Eight Hundred Thirty-Three) are liable to be confiscated under section 111(m) of the Customs Act, 1962.

24. Further, since the demand of duty is sustainable in the instant case, the interest being accessory to the principal, the same is liable to be paid in accordance with Section 28AA of the Customs Act, 1962.

25. Now coming to the issue of penalties, I find that the impugned notice proposes a penalty under Section 112(a) and/or 114A of the Customs Act, 1962. In this regard, I find that the importer has evaded legitimate Anti-dumping duty. I find that in the self-assessment regime, it is the bounden duty of the importer to correctly assess the duty on the imported goods.

26. In the instant case, the willful non-payment of ADD by the importer of such repute having access to all legal aid, tantamount to suppression of material facts and willful mis-statements. The "mens rea" can be deciphered only from "actus-reus". Thus, not paying the applicable ADD by the said Importer by taking a chance to clear the goods, amply points towards their "mens rea" to evade the payment of applicable duty.

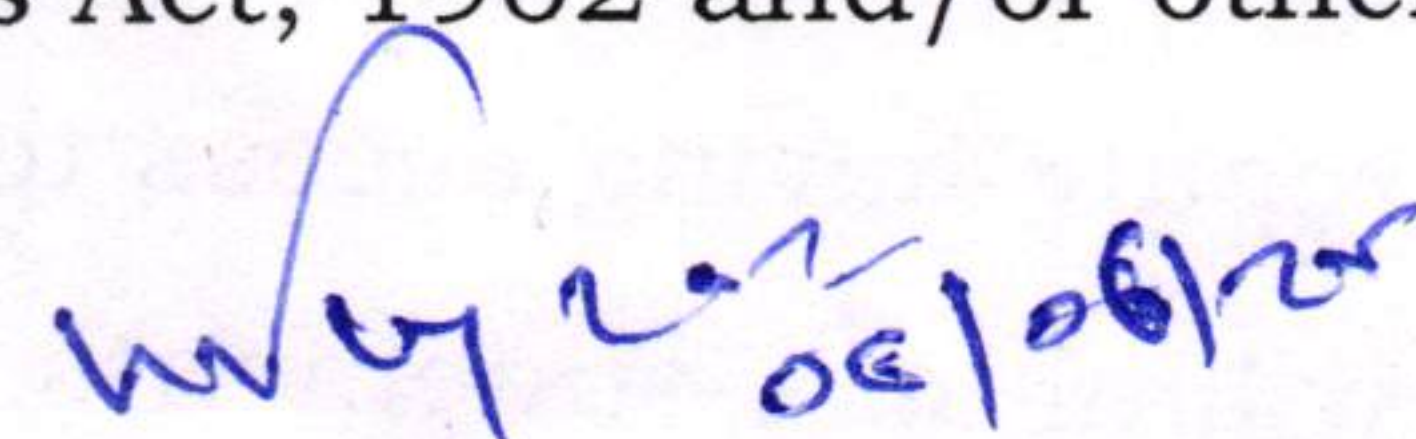
27. Thus, I find that the extended period of limitation under Section 28(4) of the Customs Act, 1962 for the demand of duty is rightly invoked in the present case. Therefore, penalty under Section 114A is rightly proposed in Impugned SCN and I find the importer is liable for a penalty under Section 114A of the Customs Act, 1962 for suppression of facts.

28. In view of the above facts, I pass the following order:

28(4) along with applicable interest under Section 28AA of the Customs Act, 1962.

- ii. I order to confiscate under Section 111(m) of the Customs Act, 1962 the imported goods valued at Rs. 32,90,833/- (Thirty-Two Lakh Ninety Thousand Eight Hundred Thirty-Three) covered under Bill of Entry as mentioned in Table-II. However, since the same stands released, I impose Redemption Fine of Rs. 3,30,000/- (Rupees Three Lakhs Thirty Thousand only) under Section 125(1) of the Customs Act, 1962 upon M/s Renew Services Private Limited.
- iii. I impose penalty equal to equivalent to differential duty of **Rs 5,73,921/- (Rupees Five Lakh Seventy-Three Thousand Nine Hundred and Twenty-One Only) plus applicable interest**, as per para (i) above, under Section 114A of Customs Act, 1962 on M/s Renew Services Private Limited. However, such penalty would be reduced to 25% of the total penalty imposed under Section 114A of the Customs Act, 1962 if the amount of duty as confirmed above, the interest and the reduced penalty is paid within 30 (thirty) days of communication of this Order, in terms of the first proviso to Section 114A of the Customs Act, 1962.
- iv. I do not impose any penalty on Importer under Section 112 (a) of Customs Act, 1962 since penalty under Section 114A of the Customs Act, 1962 is already imposed.

29. 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.


(Mazid Khan)

Joint Commissioner of Customs,
NS-V, JNCH

To,
M/s. Renew Services Private limited,
ReNew Hub, Commercial Block-1, Zone-6,
Golf Course Road, DLF City Phase-V,
Gurugram – 122009.

Copy to:

- i. The DC/AC, Group V, NS-V, JNCH.
- ii. The DC/AC, CRAC (Import), JNCH.
- iii. The DC/AC, CRRC, JNCH