



सीमाशुल्क आयुक्त का कार्यालय, (एन.एस.-IV)
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-IV),
न्हावा-शेवा, जवाहरलालनेहरूसीमाशुल्क भवन,
NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE,
ता. उरण, जिला-रायगड, महाराष्ट्र-400707
TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA – 400 707.

DIN: 20250678NY0000000E74

Date of Order: 09.06.2025

Date of Issue: 09.06.2025

F. No.: S/10-662/2024-25/ADC/Gr.VA/NS-V/CAC/JNCH

SCN No. 2462/2023-24/ADC/Gr. VA/NS-V/CAC/JNCH

SCN Date: 22.01.2024

Passed By: Shri. Raghavendra Singh

Additional Commissioner of Customs, NS-IV

Order-In-Original No. - 286/2025-26/ADC/Gr. VA/NS-V /CAC/JNCH

Name of the Party/ Noticee- M/s Y-COM Technology (IEC – 0814011802)

मूल आदेश

- 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 का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, 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

BRIEF FACTS

M/s. Y-COM Technology (IEC – 0814011802) having address as B- 201, Safal Apartment, NR. Parisharam Tower, Mirambika School, Rd. Naranpura, Ahmedabad, Gujrat, 380013 imported goods having description as **“Electronic Magnetic Lock and Parts (U Bracket)”** under the CTH 85051900 and 85059000 respectively and paid BCD @7.5% whereas the imported goods attract BCD @ 20%.

2. On scrutiny of the import data, it was observed that goods covered under CTH 83014090 and 83016000 were cleared by declaring lower rate of BCD at 7.5% rate instead of correct BCD of 20%. From the Bills of Entry, it can be seen that the importer has paid BCD, SWS & IGST @ 7.5 %, 10% and 18% respectively.

3. The total assessable value in the BEs, of the items is ₹ 32,36,559.34/- and short levy of BCD amounted to ₹ 5,25,132/- as described in Annexure-‘A’ to the Show Cause Notice and the same was recoverable from the Importer along with applicable interest and penalty.

4. In view of the above, the importer, M/s. Y-COM Technology (IEC – 0814011802) were called upon to show cause as to why

- Differential/short paid Duty amounting to ₹ 5,25,132/- should not be demanded under Section 28(4) of the Custom Act, 1962
- Interest on delayed payment of Custom Duty should not be recovered from the Importer under section 28AA of the Customs Act. 1962.
- The said subject goods imported vide Bills of Entry as detailed in Annexure-‘A’ of the Show Cause Notice having assessable value of ₹ 32,36,559.34/- should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- Penalty should not be imposed on the importer under Section 112(a) of the Customs Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.
- Penalty should not be imposed under Section 114A of Customs Act, 1962 for short levy of duty.

5. Further the Competent Authority i.e. Commissioner of Customs (NS-IV), by exercising his powers conferred under the first Proviso to section 28(9) of Customs Act, 1962, on 02.01.2025, extended the period of adjudication in the subject SCN by one year up to 20.01.2026.

PERSONAL HEARING AND WRITTEN SUBMISSIONS

6. In order to comply the principal of natural justice, opportunity of personal hearing in the matter were provided to the noticee vide F. No. S/10-662/2024-25/ADC/NS-V/CAC/JNCH to appear before the adjudicating authority on 22.04.2025, 07.05.2025 and 20.05.2025 against the subject show cause notice. However, neither anyone attended the personal hearing nor submitted any written submission. I find that ample opportunities of personal hearing were granted to the noticee.

7. I find that the importer has been given enough opportunity to submit their reply/defense submission against the Show Cause Notice. However, neither any additional submission to the Show Cause Notice has been submitted by them nor any of their representatives turned up for the said submission. Therefore, I have no option but to proceed further to decide the case ex-parte on the basis of available records.

DISCUSSION AND FINDINGS

8. I have gone through the facts of the case, and material available on record. I find that

the Customs Act, 1962 and penalty under Section 112(a) and 114A of the Customs Act, 1962. It is also proposed that, the imported goods totally valued at **Rs. 32,36,559/- (Rupees Thirty Two Lakh Thirty Six Thousand Five Hundred and Fifty Nine only)** should be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

9. I find that during scrutiny of the online Bills of Entry, it was observed that M/s Y-COM Technology has imported consignments of "Electronic Magnetic Lock and Parts (U Bracket)" vide Bill of Entry as mentioned in annexure -A. The imported goods i.e. "Electronic Magnetic Lock and Parts" were classified under CTH 85051900 and 85059000. It was alleged in the SCN that instead of correct CTH 8301 attracting BCD 20%, the importer misclassified the goods under CTH 8505 resulting in a short levy of duty of **Rs. 5,25,132/- (Rupees Five Lakh Twenty Five Thousand One Hundred and Thirty Two only)**. I find that the fundamental issue to be decided in the matter is whether the "Electronic Magnetic Lock and Parts (U Bracket)" imported by the importer vide Bills of entry as mentioned in annexure-A is classifiable under tariff heading 85051900, 85059000 or 83014090, 83016000.

10. I find that the CTH claimed by the importer for the goods imported i.e “Electronic Magnetic Lock and Parts” was 85051900 and 85059000 which is reproduced below:

HS CODE (1)	ITEM DESCRIPTION (2)	UNIT (3)	BASIC (4)	EFFECTIVE (5)	PRE. (6)	IGST (7)	SWS (8)	TOTAL (9)	POLICY (10)	REMARKS (11)
8505	Electro-magnets; Permanent magnets and articles intended to become permanent magnets after magnetisation; electro-magnetic or permanent magnet chucks, clamps and similar holding devices; Electro-magnetic couplings, clutches and brakes; Electro-magnetic lifting heads									
	- Permanent magnets and articles intended to become permanent magnets after magnetisation:									
8505 11	-- Of metal									
8505 11 10	--- Ferrite cores	kg.	7.50	7.50	---	18.00	0.75	27.735	Free	
8505 11 90	--- Other	kg.	7.50	7.50	---	18.00	0.75	27.735	Free	
8505 11 90	N50 (i) Magnet Resin (Strontium Ferrite compound/before formed, before magnetization);	kg.	7.50	2.50	---	18.00	0.25	21.245		Ntfn 50/2017-Cus- Sl No.253 (upto 31.03.2024)
	(ii) Neodymium Magnet (before Magnetization) for use in the manufacture of Brushless Direct Current (BLDC) motors									
8505 19 00	-- Other	kg.	7.50	7.50	---	18.00	0.75	27.735	Free	
8505 20 00	- Electro-magnetic couplings, clutches and brakes	kg.	7.50	7.50	---	18.00	0.75	27.735	Free	
8505 90 00	- Other, including parts	kg.	7.50	7.50	---	18.00	0.75	27.735	Free	

11. I further find that CTH suggested by SCN was 8301 which is reproduced below:

[illegible]

From the above, it is apparent that Electro-magnets and Permanent Magnets are classifiable under CTH 8505 and Locks of any kind are classifiable under CTH 8301. As the imported items are Electronic magnetic Locks and their Parts, therefore, Electronic magnetic Lock will be correctly classifiable under CTI 83014090 and "Parts of Electronic magnetic Lock" are correctly classifiable under CTI 83016000.

12. On scrutiny of the import data, it was observed that "Electromagnetic Lock" were classified under CTI 85051900 and "Parts of Electromagnetic Lock" were classified under CTI 85059000 by the importer who paid BCD @7.5% & IGST @18%. Whereas the goods "Electromagnetic Lock" are correctly classifiable under CTI 83014090 and "Parts of Electromagnetic Lock" are correctly classifiable under CTI 83016000 wherein BCD @20% and IGST @18% in both. Clearly the importer had resorted to misclassification with an intention to evade payment of appropriate custom duty.

13. Further, I have gone through the explanatory notes to Chapter 83 wherein it is *inter alia* stated that:

This heading covers fastening devices operated by a key (e.g., locks of the cylinder, lever, tumbler or Bramah types) or controlled by a combination of letters or figures (combination locks).

It also includes electrically operated locks (e.g., for street doors of blocks of flats or for lift doors). These locks may be operated, e.g., by insertion of a magnetic card, by entering the combination data on an electronic keyboard, or by radio wave signal.

The heading therefore covers, *inter alia* :

- (A) Padlocks of all types for doors, trunks, chests, bags, cycles, etc., including key-operated locking hasps.
- (B) Locks for doors or gates, letter boxes, safes, boxes or caskets, furniture, pianos, trunks, suit-cases, handbags, dispatch-cases, etc., for automobiles, railway-rolling-stock, tramcars, etc., for lifts, shutters, sliding doors, etc.
- (C) Clasps and frames with clasps, incorporating locks.

The heading also covers :

- (1) Base metal parts of the articles mentioned above clearly recognisable as such (e.g., cases, bolts, striking plates and sockets, thread escutcheons, face-plates, wards, mechanisms and cylinder barrels).
- (2) Base metal keys for the articles mentioned above, finished or not (including roughly cast, forged or stamped blanks).

The heading also includes special railway coach compartment keys, skeleton keys, etc.

14. On perusal of both CTH headings and above explanatory notes, I find that subject goods are rightly classifiable under CTI 83014090 and CTI 83016000 therefore "Electronic Magnetic Lock and Parts" should be classifiable under CTH 8301 more appropriately instead of CTH 8505, as was done by the importer.

15. Thus, the importer wrongly evaded Customs duty amounts to **Rs. 5,25,132/- (Rupees Five Lakh Twenty Five Thousand One Hundred and Thirty Two only)** in respect of the Bills of entry as detailed in Annexure-A to the Show Cause Notice by paying lower BCD@ 7.5%, instead of BCD@ 20%. On account of the importer's aforesaid act of willful mis-statement and suppression of facts, the customs duty so evaded is required to be demanded in terms of Section 28 (4) of the Customs Act, 1962. Further, the interest at the prescribed rate as applicable is also liable to be recovered from them in terms of Section 28AA of Customs Act, 1962.

16. Relevant legal provisions for recovery of duty that appears to be evaded are reproduced here for the sake of brevity which are applicable in this instant case:

duty amount has not been paid correctly. **Section 17 (Assessment of duty)**, subsection (1) 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.'

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

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

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing. '

16.3 Section 46 (Entry of goods on importation), subsection (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.'

16.4 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 or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;'

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, or

- (i) *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;*
- (ii) *in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher.'*

16.6 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.'

17. Whereas, consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in customs clearance. Section 17 of the Customs Act, effective from 08.04.2011 [CBEC's (now CBIC) Circular No 17/2011 dated 08.04.2011] provides for self-assessment of duty on imported goods by the Importer himself by filing a bill of entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the Importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the Importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the Importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods

18. Therefore, in view of the above facts, it appears that the importer has deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to ₹ **5,25,132/-** (as detailed in Annexure-'A'). Therefore, the differential duty, so not paid, is liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

19. Section 111(m) of Customs Act, 1962 provides for confiscation of the goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54.

20. It appears that the Importer has failed to comply with the conditions mentioned above; therefore, it also appears that the imported goods are liable for confiscation under Section 111(m) and/or 111 (o) of the Customs Act, 1962. It further appears that the Importer for the acts of omission and commissions mentioned above has rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act, 1962.

intent to evade the applicable duty and the by their aforesaid acts of omission and commission appears to have rendered the impugned goods liable for confiscation under Section 111 (m) of the Customs Act, 1962. However, I find the goods imported vide bills of entry as detailed above 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 by any of the parties in operation. Hence, I find that any goods improperly imported as provided in any sub-section of Section 111 of the Customs Act, 1962 are liable to confiscation and merely because the importer was not caught at the time of clearance of the imported goods, can't be given differential treatment. In view of the above, I find 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. Now coming to the issue of penalties, I find that the impugned notice proposes a penalty under Section 112(a) and 114A of the Customs Act, 1962 on the notice firm. In this regard, I find that the importer has wrongly evaded legitimate customs 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. In the instant case wrongly availed the benefits of IGST notification by the importer of such repute having access to all legal aid, tantamount to suppression of material facts and wilful mis-classification. The "mens rea" can be deciphered only from "actus-reus". Thus, providing the suppression of fact and claiming undue benefit by the said Importer taking a chance to clear the goods by misclassifying it, amply points towards their "mens rea" to evade the payment of duty. Thus, I find the Importer is liable for a penalty under Section 114A of the Customs Act, 1962.

83016000 of schedule-I of the Customs Tariff Act, 1975 along with the applicable duties of Customs and interest as deliberated and discussed above.

(ii) I order to confirm the demand of differential duty of **Rs. 5,25,132/- (Rupees Five Lakh Twenty Five Thousand One Hundred and Thirty Two only)** on the impugned goods imported vide Bills of Entry under Section 28(4) of Customs Act, 1962, from M/s. Y-COM Technology

(iii) I order to recover applicable interest on the amount of **Rs. 5,25,132/- (Rupees Five Lakh Twenty Five Thousand One Hundred and Thirty Two only)** under Section 28AA of the Customs Act, 1962 from M/s. Y-COM Technology.

(iv) I order to confiscate the impugned goods having assessable value of **Rs. 32,36,559/- (Rupees Thirty Two Lakh Thirty Six Thousand Five Hundred and Fifty Nine only)** under Section 111(m) of the Customs Act, 1962, but since the same have already been cleared, hence I impose a redemption fine of **Rs. 6,00,000/- (Rupees Six Lakh only)** under Section 125 of the Customs Act, 1962 upon M/s. Y-COM Technology

(v) I order to impose penalty of **Rs. 5,25,132/-** on M/s. Y-COM Technology, under Section 114A of Customs Act, 1962. However, I give an option to M/s. Y-COM Technology to pay 25 % of **Rs. 5,25,132/- (Rupees Five Lakh Twenty Five Thousand One Hundred and Thirty Two only)** provided the importer has paid the Duty and Interest demanded above within thirty days from the date of the communication of this order. Further the option to pay such reduced penalty shall also be paid within a period of thirty days of communication of this order.

(vi) Since penalty under Section 114 has already been imposed, I refrain from imposing penalty under Section 112 (a) of Customs Act, 1962.

25. 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 other law for the time being in force in the Republic of India.

(RAGHAVENDRA SINGH)
Additional Commissioner of Customs,
CAC, NS-V, JNCH

To,

M/s. Y-COM Technology (IEC – 0814011802)
B- 201, Safal Apartment, NR. Parisharam Tower,
Mirambika School, Rd. Naranpura,
Ahmedabad, Gujrat, 380013

Copy to: -

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