OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V)
सीमाशुल्कआयुक्त (एनएस - V) काकार्यालय
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
TALUKA – URAN, DISTRICT - RAIGAD, MAHARASHTRA -400707
तालुका - उरण, जिला - रायगढ़ , महाराष्ट्र 400707

DIN – 20250978NX0000020064 **Date of Order: 04.09.2025**

F. No. S/10-189/2024-25/CC/Gr.VA/NS-V/CAC/JNCH **Date of Issue: 04.09.2025**

SCN No.: 1772/2024-25/Commr/GR.VA/CAC JNCH

SCN Date: 07.03.2025

Passed by: Sh. Anil Ramteke

Commissioner of Customs, NS-V, JNCH

Order No: 187/2025-26/COMMR/NS-V/CAC/JNCH

Name of Noticee: M/s Stralite Electrodrives Private Limited (IEC: ABECS9706K)

ORDER-IN-ORIGINAL
मूल - आदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि:शुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D'Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम 1962 की धारा 129 (ए) के तहत इस आदेश के विरुद्ध सी.ई.एस.टी.ए.टी., पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच), 34, पी. डीमेलो रोड, मस्जिद (पूर्व), मुंबई - 400009 को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal: -

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - सीए3, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

Time Limit - Within 3 months from the date of communication of this order.
समय सीमा - इस आदेश की सूचना की तारीख से 3 महीने के भीतर

Fee -फीस-

(a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.

(क) एक हजार रुपय जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये या

उस से कम है।

(b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 Lakh.

(ख) पाँच हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये से अधिक परंतु 50 लाख रुपये से कम है।

(c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.

(ग) दस हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 50 लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favor of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति – क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीय कृत बैंक द्वारा सहायक रजिस्ट्रार, सी.ई.एस.टी.ए.टी., मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, 1962, सीमाशुल्क (अपील) नियम, 1982, सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, 1982 का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्ति का 7.5 % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, 1962 की धारा 129 E के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Subject: Adjudication of Show Cause Notice No. 1772/2024-25/COMMR/Gr.VA/NS-V /CAC/ JNCH dated 07.03.2025 issued to M/s Stralite Electrodrives Private Limited (IEC: ABECS9706K) – reg.

1. BRIEF FACTS OF THE CASE

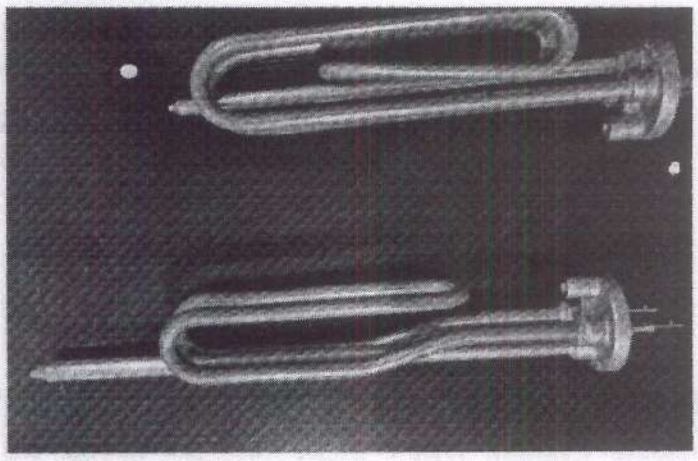
1.1 A SCN No. **1772/2024-25/COMMR/Gr.VA/NS-V /CAC/ JNCH dated 07.03.2025 issued to M/s Starlite Electrodrives Private Limited (IEC: ABECS9706K)** having IEC ABECS9706K and registered office at 6, M.I.D.C., Satpur, Nashik – 422007 [*hereinafter referred to as **SEPL** or **the importer** or **the company***] as intelligence gathered by the officers of the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit (MZU), Goa Regional Unit (GRU), indicated that M/s Starlite Electrodrives Private Limited, was importing 'Heating Element (part of water heater)' under CTI 85169000 which covers parts of storage water heater. The subject imports were made through Nhava Sheva Sea port (INNSA1) and Mumbai Air Cargo (INBOM4) by paying Basic Customs Duty (BCD) @10% of Assessable Value (AV), Social Welfare Surcharge (SWS) @10% of BCD and IGST @18% of (AV+BCD+SWS) (total effective duty @30.98% of AV). Intelligence suggested that by virtue of Section Note 2(a) of Section XVI of Customs Tariff, the heating element or heating resistor are rightly classifiable under CTI 85168000 i.e., Electric heating resistors. According to Note 2(a) of Section XVI of Customs Tariff:

"Subject to Note 1 to this Section, note 1 to Chapter 84 and note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified accordingly to the following rules:

a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.2, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;"

1.2 In view of the this, it appeared that "heating element" being imported by SEPL, was rightly classifiable under CTI 85168000. The applicable BCD for CTI 85168000 is 20% of AV (total effective duty @43.96% of AV). Thus, it appeared that SEPL was liable to pay differential BCD (@10% of the assessable value), differential SWS (@10% of differential BCD) and differential IGST {@18% of differential (BCD+SWS)} (total effective differential duty @12.98% of AV), for subject heating elements imported and cleared under CTI 85169000.

1.3 Sample picture of the Heating Element being importer by SEPL, is as follows :



1.4 To gather further evidence(s) relevant to possible mis-declaration (mis-classification) in import of subject "Heating Element" by SEPL, statements of the officials of SEPL were recorded under the provisions of Section 108 of the Customs Act, 1962.

a) In his statement dated 29.08.2024, Dr. Arvind Didwania, Director, SEPL, inter-alia, stated that:

i) He joined Starlite Electrodrives Private Limited in 2021, as Director, and since then he is working as Director of the company.

ii) Shri Ravindra Subhash Chander Bharati is another Director of the company.

iii) Both the directors are responsible for overall functioning of the company.

iv) The company is in business of manufacturing Water Heater, BLDC (Brush Less Direct Current) Motor.

v) They manufacture Water Heaters for Ariston Group of India Private Limited, Voltas Limited, V-Guard Industries Ltd., Polycab India Ltd. and Crompton Greaves Consumer Electrical Limited.

vi) They procure raw material for water heater from domestic market as well as by import from China, Dubai and Italy.

vii) Heating Element, Mg (Magnesium) Rod, Thermostat Capillary and Safety valve are main items imported for manufacturing of water heaters.

viii) Heating element being imported by them is used in water heater being manufactured by them. It can only be used in water heater and cannot be used directly.

ix) As per their understanding heating element being imported by them is a part for manufacturing storage water heater and they are classifying it under CTI 85169000 as part of water heater.

x) Both directors of the company are final authority to decide classification of a particular item to be imported by the company.

xi) No other part of water heater is attached to the subject heating element at the time of import.

xii) On being asked about the sample copies of documents submitted by him in relation to Bill of Entry no. 9257109 dated 16-12-2023 wherein related Invoice and Packing list mention HS code 85168000 for item Heating Element, he stated that they were not aware about this fact and he came to know about this when he was asked about the same.

xiii) Customs official had raised query regarding use of subject heating element imported vide Bill of Entry no. 9257109 dated 16-12-2023 and they submitted their reply certifying that the material heating element will be used for manufacturing of Electric water heater.

xiv) On further being asked about the sample copies of documents submitted by him in relation to Bills of Entry nos. 4588028 dated 19-07-2024 and 3996776 dated 14-06-2024 wherein respective Bill of Lading and Air waybill mention HS code 85168080 for item 'Part of water heater – Heating Elements' and 'Heating Elements Thermostats' respectively, he stated that they were not aware about this fact and he came to know about this when asked about the same.

xv) After going through the section note 2(a) of section XVI of the Customs Tariff and the item description covered by CTI 85168000 and on being asked about the correct classification of heating element in light of these, he stated that as per his knowledge, electric heating resistor is to be used directly for heating water but they are not using heating element directly for heating water. The heating element is used with storage water heater for heating water. So, they are classifying the heating element under CTI 85169000 as part of water heater.

xvi) On being specifically asked, if any item is covered by item description "Electric heating resistors" and the same item is also part of water heater, then what will be the correct classification for that item, he stated that the correct classification of such item will be as 'Electric heating resistor' and not as part of water heater.

xvii) On being asked about the work of heating element and principle on which it works, he stated that heating element heats water and he was not aware about the principle on which it functions and he undertook to submit his reply related to principle of functioning of heating element after consulting with their technical team.

xviii) He was shown Explanatory notes to CTH 8516 and the relevant portions in respect of "Electric heating resistors" and after going through those and on being asked about the applicability of those explanatory notes on the heating element being imported by M/s Starlite Electrodrives Private Limited, he stated that the heating element being imported by them is not covered by those because their heating element is not being used directly and it is used with storage water heater. So, being classified as part of water heater.

xix) On being specifically pointing out that as per those explanatory notes to CTH 8516, "*wire bars, rods and plates which are cut to length or size and formed to a shape identifiable as a heating resistor element are to be classified as Electric Heating Resistors*", he stated that as per his understanding heating elements being imported by them are not to be used directly and these are used only in water heater and classifiable under CTI 85169000. However, he would discuss with his technical team, whether these heating elements being imported by them are correctly classifiable under CTI 85168000 i.e., as Electric Heating Resistors and undertook to submit the decision after the discussion by 10th September 2024.

b) In his next statement dated 24.09.2024, Dr. Arvind Didwania, Director, SEPL, inter-alia stated that:

i) He was shown his earlier statement dated 29.08.2024 and he confirmed that the same was recorded as per his say.

ii) He was shown definitions of 'heating element' and 'heating resistor' as per IEC 60050 - International Electrotechnical Vocabulary Commission which were also referenced in para 7 and para 11 of their letter dated 10.09.2024 and which states that:

heating element –part, removable or not, used for conversion of electric energy into heat, consisting of a heating resistor and accessories

heating resistor -part of heating element removable or not, used for conversion of electric energy into heat

After going through these definitions and on being asked about the use of heating element and heating resistor, he stated that heating resistor controls conversion of electric energy and heating element converts electric energy with heating resistor.

iii) This electric energy is converted into heat.

iv) On being specifically asked that based on the definitions as per IEC 60050 - International Electrotechnical Vocabulary Commission is it not the fact that use of heating element as well as of heating resistor is for conversion of electric energy into heat, he stated that heating element and heating resistor is not same due to the reason that heating element converts heat with support of heating resistor so heating resistor is a part of heating element.

v) As per his knowledge the heating element is used for conversion of electric heat through heating resistor. On being asked if this does not indicate that in principle, output or use of heating element is same as that of heating resistor, which is conversion of electric energy into heat, he stated that he was not aware about this.

vi) On being specifically referring to para 10 and para 12 of their letter dated 10.09.2024 [*RUD-7*], and on being asked which are the parts and accessories of which a heating element comprises, he stated that the parts of heating element are heating resistor, magnesium and exterior tube.

vii) As per his knowledge, heating resistor converts electricity into heat.

viii) He did not know about the function of magnesium.

ix) Exterior tube supports heat conversion.

x) On being again specifically referring to para 10 and para 12 of their letter dated 10.09.2024 [*RUD-7*] and on being asked about the terms such as insulation, leads, terminals etc., he stated that these are the accessories of heating element. On being asked about the use of these accessories, he stated that electricity is supplied through leads and terminals and he did not know about the use of insulation.

xi) Mr. Rohit Rajendra Borse, Assistant Manager (Quality) of their company, is their authorized technical person who can explain technical aspects related to heating element and its functioning.

xii) On being specifically referring to para 15 of their letter dated 10.09.2024 [*RUD-7*], and on being asked whether in the heating element being imported by them, heating resistor is assembled with required insulation and electric connections, he stated that they are importing heating element having heating resistor with required insulation and not with electric connections.

xiii) On being specifically asked about the use of 'leads and terminals' which he mentioned as accessories of heating element, he stated that he was not aware about the use of those accessories and that Mr. Rohit Rajendra Borse, Assistant Manager (Quality) of their company, is their authorized technical person who can explain the use of these accessories.

xiv) On being specifically referring to para 16 of their letter dated 10.09.2024 [*RUD-7*], and on being asked about the parts/accessories other than heating resistor, insulation and electric connections forming the heating element imported by them, he stated that they are importing heating element and that heating element cannot be classified under tariff item 85168000, the heating element is a part of water heater so, the correct tariff item is 85169000.

xv) On being repeating the question that what are the parts/accessories other than heating resistor, insulation and electric connections, which comprises heating element imported by them, he stated that they are importing heating element and not heating resistor, insulation and electric connections. On once again repeating the question that what are the parts/accessories of heating element being imported by them in addition to heating resistor, insulation and electric terminals, he stated that they are importing the part of water heater as heating element and not as heating resistor. Again, on being specifically referring to para 16 of their letter dated 10.09.2024 [*RUD-7*] which, inter-alia, states that *"When resistors are assembled with parts other than simple insulted former and electrical connections, they are to be classified as parts of the machines or apparatus in question*" and on being asked, whether he is trying to avoid to state what are the parts/accessories of heating element which is being imported by them (other than heating resistor, insulation and electric connections), he stated that they are importing the heating elements, not separate part of resistor, insulation and electric connections.

xvi) On being asked whether there is any other part/accessory of heating element other than heating resistor, magnesium and exterior tube, as mentioned by him, he stated that other accessories of heating element are insulation, leads and terminals etc. and that the product image is already extracted at para 12 of their letter dated 10.09.2024.

xvii) On being asked about what does he understand by General Rules of Interpretation in relation to classification of any item, he stated that the classification of goods imported into India is determined based on General Rules of Interpretation set out in Tariff. On being asked what are the other rules or notes which are the basis of classification of goods imported into India, he stated that he is not aware about other rules and notes which are the basis of classification of goods imported into India.

xviii) On being referred to para 21 of their letter dated 10.09.2024 and on being asked about its contents, he stated that the para 21 is clear and relevant portion of section notes to section XIV are provided in that para.

xix) On being referring to note 2(a) to Section XVI mentioned in para 21 of their letter dated 10.09.2024 [*RUD-7*] and on being asked about its applicability in classification of heating element being imported by them, he stated that it is mentioned for clarity of tariff, as per section note the heating elements is not included by any heading of tariff.

xx) On being specifically asked about whether heating element is not includable under tariff item description 'electric heating resistor' which is for CTI 85168000, he stated that electric heating resistor is not a heating element. Heating element is part of water heater so they classify it under CTI 85169000.

xxi) On being again asked whether the heating element is not includable under CTI 85168000 i.e., as electric heating resistor in light of the fact that it comprises of heating resistor along with accessories such as isolation/insulation, leads and terminals etc. {as submitted by them in para 12 of their letter dated 10.09.2024 and also in light of the fact that when resistors are assembled with parts other than simple insulated former and electric connections only then they are to be classified as parts of the machines or apparatus (para 16 of their letter dated 10.09.2024), he stated that in para 16 clearly mentioned that they are to be classified as part of machine or apparatus in question. Resistors fitted with other parts, forming a different part altogether cannot merit classification as a resistor. Accordingly, heating element is part of water heater due to the heating element not used in other than specified water heater. So, they consider CTI 85169000 and classify it as part of water heater.

xxii) On being specifically asked as clearly mentioned in para 16 of their letter dated 10.09.2024, what is the criterion for not classifying a heating resistor as part of the apparatus, he stated that the heating element is not Resistor as it is fitted with other parts as already mentioned above so does not merit classification as a resistor. On repeating the question about other parts (other than insulation and electric connections) of heating element, he stated that other parts as already stated earlier are Magnesium and Exterior tube etc. and the composition of Heating elements photos already extracted in para 8 of their letter dated 10.09.2024. On being specifically asked whether these parts/accessories are other than insulations and electric connections, he stated that other part as already stated earlier are Magnesium and Exterior tube etc. and the composition of Heating elements photos already extracted in para 8 of their letter dated 10.09.2024.

xxiii) On being referred to para 24 of their letter dated 10.09.2024 and on being asked about guiding rules and notes for classification of 'assembly of components', he stated that as per note 2(a) to section XVI the parts of goods included in any chapter heading 84 or 85 are to be classified in their respective headings. Heating Element is not specifically covered by any heading of tariff as it is not a single component like a heating resistor but an assembled component, therefore, section note 2(a) cannot be applied for classification of the product. Heating element is solely suitable for use of water heater manufacturing therefore applying section 2(b), the imported heating element will be classified as part of water heater under heading 8516 specifically under tariff item 85169000. On being specifically pointing out that he is just quoting the para from the submission made vide letter dated 10.09.2024 and not giving the specific answer to the specific questions, he stated that he had already given the reply of this question in para 24 of letter dated 10.09.2024. On being specifically mentioning that the question is "what is the guiding rules and notes for classification of 'assembly of components' as per Customs tariff", he stated that the rule 2(b) to section XVI is basis for classification of assembled components which are solely or principally suitable for use in manufacturing of product.

xxiv) On being asked about the content of section note 2(b) to section XVI of Customs tariff, he stated that this note states that 'other parts if suitable for use solely or principally with a particular kind of machine or with a number of machines'. On being asked how this is related to classification of 'assembly of components', he stated that as assembly of components related are used solely and principally directly in product. On being asked whether this answer stating 'as assembly of components related are used solely and principally directly in product' is complete, he confirmed that this was his complete answer.

xxv) On being specifically asked about the rule or note which is their basis for classification of heating element under CTI 85169000, he stated that the heating element is used for only water heater and the part of water heater are classified under CTI 85169000. On being reiterated and asked about the related rule and notes which forms the basis of their classification of heating element under CTI 85169000, he stated that it is already clearly mentioned in tariff as part of water heater under CTI 85169000. On being asked whether heating element is specifically mentioned under CTI 85169000, he stated that heating element is not specifically mentioned but heating element is part of water heater and CTI 8516900 is for parts of water heater. On being again specifically asked about the applicable and governing rules and notes for classification of parts of items covered under chapter heading 8516 of Customs Tariff, he stated that the heating element is solely suitable for use of water heater, therefore on applying section note 2(b), the imported heating element will be classified as part of water heater under heading 8516. On being asked which section note 2(b), he stated that as per his understating the section note 2(b) of tariff note. On being asked about the content of this section note 2(b), he stated that it says that parts which are solely or principally suitable for use with a particular machine, are to be classified under the same heading as particular machine. On being asked whether there is any other applicable rule or note for classification of heating element under CTI 85169000, he stated that there is no other applicable note or rule in relation to classification of heating element under CTI 85169000. On being specifically asked whether the said Section note 2(b) of section XVI of Customs tariff is the only basis for their classification of heating element under CTI 85169000, he stated that he was not aware about any other rule or note applicable for classification of heating element under CTI 85169000.

xxvi) On being referred to Summons dated 13.09.2024, wherein, it is specifically mentioned to 'Explain the relevant rules and notes in relation to classification of Heating Element by Starlite Electrodrives Pvt. Ltd.' and on being asked why he was unable to explain all the relevant rules and notes in relation to classification of Heating Element by them even after it was specifically mentioned in the summons dated 13.09.2024, he stated that except his earlier submissions vide email letter dated 10.09.2024, discussion on 29th August 2024 {his statement dated 29.08.2024 and their letter dated 28.08.2024 (part of RUD-1), he was not aware about other rules and notes. On referring to this submission and pointing out about his evasive answers in the statement, and on being asked whether he was not serious about the investigation being conducted or he was taking the investigation in a casual manner, he stated that he was totally serious in this matter and had replied properly to all questions.

xxvii) On being again specifically referring to summons dated 13.09.2024, wherein, it was specifically mentioned to 'Explain the relevant rules and notes in relation to classification of Heating Element by Starlite Electrodrives Pvt. Ltd.' and in spite of this specific mention not being able to mention all relevant rules and notes, and on being asked about the authorized person of the company who can explain all the rules and notes which are basis of classification of heating element under CTI 85169000 by the company, he stated that according to him, his reply and submitted letters were sufficient for classification of heating element under CTI 85169000.

xxviii) On being again asked about the authorized person of the company who could explain **all the rules and notes** which are basis of classification of heating element under CTI 85169000 by the company, he stated that he had already given sufficient explanation of classification of heating element under CTI 85169000. On being again asked if there is any other official of the company who is specialized in the classification rules or he was the most specialized person in the matter of classification, he stated that no other official in the company was specialized in the classification matters.

xxix) On being referred to para 39 of their letter dated 10.09.2024 and on being asked about the exact query raised by official of Indian Customs in the three Bills of Entry 8952214 dated 27.11.2023, 9257109 dated 16.12.2023 and 9749523 dated 20.01.2024, mentioned in the Annexure-1 to the letter dated 10.09.2024, he stated that the reply letter to Customs regarding query already submitted on 29th Aug. 2024 at the time of tender statement and that day he was submitting one sample copy of email received from Customs. It was specifically pointed out that the sample copy of email submitted by him that day was an auto generated email from icegate (from email id no-reply@icegate.gov.in) intimating that a query had been raised in relation to Bill of entry no. 9257109 dated 16.12.2023 and that email did not contain the content of query raised by Customs. After pointing out this and on being asked about the exact query raised by Customs officials in relation to those three Bills of entry, he stated that at that time specified query raised by Customs were not available due to query were raised online and at that time the link given in email was not showing queries so they did not have the queries.

c) In his statement dated 25.09.2024, Shri Rohit Rajendra Borse, Assistant Manager (Quality), SEPL, inter-alia stated that:

i) He can understand, read, write and speak Marathi, Hindi and English languages.

ii) In May 2023, he joined SEPL as Assistant Manager (Quality) and was working at the same company and at same designation.

iii) As Assistant Manager (Quality), he looks after inward quality control, in-process quality control, outgoing quality control and handles customer complaints in relation to quality of storage water heater being manufactured by SEPL.

iv) He is qualified to state and describe the technical aspects of parts of product being manufactured by SEPL.

v) On being asked about the raw material required for manufacturing of storage water heater, he stated that enamel tank, heating element, plastic parts, Magnesium anode or Mg anode, power cord, wire harness are raw material required for manufacturing of storage water heater.

vi) Heating element and Mg anode are being imported and other parts are being procured domestically.

vii) Heating element is the part of water heater which comprises of nichrome wire also called heating resistor having insulation and exterior tube on it, flange, terminals and one thermostat pocket.

viii) On being asked about the definition of heating element, he stated that heating element is the part of water heater which convert electric energy into heat.

ix) On being asked about the definition of heating resistor he stated that heating resistor is the part of heating element used for conversion of electric energy into heat.

x) On being asked if it is right to say that function of both, heating element as well as that of heating resistor is for conversion of electric energy into heat, he stated that yes, the function of both is same but heating resistor works as regulator.

xi) Role of different parts of heating element are:

nichrome wire/heating resistor, converts electric energy into heat;

insulation material is Magnesium powder which is used as insulation material between nichrome wire and exterior tube;

exterior tube works as outer casing of nichrome wire and insulation material;

flange is the mounting plate;

terminals are for connection of electric supply

thermostat pocket is an exterior tube provisioned for putting thermostat sensor inside it.

xii) It is right to say that heating element is an assembly of heating resistor with insulation and electric connections.

xiii) It is correct that heating resistor is the part in a heating element which does the ultimate work of a heating element which is to convert electric energy into heat.

1.5 Heating element, its classification under ITC-HS and applicability of related provisions in the present case:

i) A heating element is a device used for conversion of electric energy into heat, consisting of a heating resistor and accessories. Heat is generated by the passage of electric current through a resistor through a process known as Joule heating. Joule heating (also known as resistive, resistance, or Ohmic heating) is the process by which the passage of an electric current through a conductor produces heat. Whenever an electric current flow through a material that has some 'Resistance' (i.e., anything but a superconductor), it creates heat. Electric current through the element encounters resistance, resulting in heating of the element. The amount of heat generated depends upon the resistance, current and the voltage. In the design of heating elements, to be operated on standard current and voltage, the resistance is the main factor.

ii) As per International Electrotechnical Vocabulary by International Electrotechnical Commission definitions of heating resistor and heating element [*part of RUD-6*], are as follows:

heating resistor -	part of heating element removable or not, used for conversion of electric energy into heat

heating element - part, removable or not, used for conversion of electric energy into heat, consisting of a heating resistor and accessories

Thus, as per these definitions, use of heating resistor as well as that of heating element is conversion of electric energy into heat. Further, the accessories of a heating element, other than hearing resistor, are insulation, lead and terminals. These accessories are nothing more than insulation and means for electric connections. So, it appears that it can be stated that a **heating element is a heating resistor assembled with insulation and electric connections.**

iii) Classification of heating elements in light of explanatory notes to section XVI and to CTH 8516 of Customs Tariff:

a) Electric heating resistors are specifically mentioned under CTI 85168000 of the Customs Tariff. The relevant portion of CTH 8516 detailing the CTI and related description of goods covered, is as follows:

85.16 - Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 85.45.

8516 79 90	---	Other
8516 80 00	-	Electric heating resistors
8516 90 00	-	Parts

1.6 Heating elements being imported by SEPL, as part of water heaters, are covered under section XVI (Chapter 84 and Chapter 85) of the Customs Tariff. Section Note 2 of the section XVI of the Customs tariff deals with the classification of 'parts', and states as follows:

XVI

2.- Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules :

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings;

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17, and parts which are suitable for use solely or principally with the goods of heading 85.24 are to be classified in heading 85.29;

(c) All other parts are to be classified in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate or, failing that, in heading 84.87 or 85.48.

1.7 The section note 2(a) of section XVI of Customs Tariff clearly states that "*Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.2, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings*" so, as CTI 85168000 specifically covers Electric heating resistors, it appears that heating elements are includable under CTI 85168000 (being heating resistors with insulation and electric connections) and therefore appears classifiable under CTI 85168000.

b) The General Explanatory Notes of section XVI of the Customs tariff, related to 'parts' are as follows:

XVI

(II) PARTS
(Section Note 2)

In general, parts which are suitable for use solely or principally with particular machines or apparatus (including those of heading 84.79 or heading 85.43), or with a group of machines or apparatus falling in the same heading, are classified in the same heading as those machines or apparatus subject, of course, to the **exclusions** mentioned in Part (I) above. Separate headings are, however, provided for :

(A) Parts of the engines of heading 84.07 or 84.08 (heading 84.09).

(B) Parts of the machinery of headings 84.25 to 84.30 (heading 84.31).

(C) Parts of the textile machines of headings 84.44 to 84.47 (heading 84.48).

(D) Parts of the machines of headings 84.56 to 84.65 (heading 84.66).

(E) Parts of the office machines of headings 84.70 to 84.72 (heading 84.73).

(F) Parts of the machines of heading 85.01 or 85.02 (heading 85.03).

(G) Parts of apparatus of headings 85.19 or 85.21 (heading 85.22).

(H) Parts of apparatus of headings 85.25 to 85.28 (heading 85.29).

(IJ) Parts of apparatus of heading 85.35, 85.36 or 85.37 (heading 85.38).

The above rules do **not** apply to parts which in themselves constitute an article covered by a heading of this Section (**other than** headings 84.87 and 85.48); these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine. This applies in particular to :

(1) Pumps and compressors (headings 84.13 and 84.14).

(2) Filtering machinery and apparatus of heading 84.21.

(3) Lifting and handling machinery (heading 84.25, 84.26, 84.28 or 84.86).

(4) Taps, cocks, valves, etc. (heading 84.81).

(5) Ball or roller bearings, and polished steel balls of a tolerance not exceeding 1 % or 0.05 mm, whichever is less (heading 84.82).

(6) Transmission shafts, cranks, bearing housings, plain shaft bearings, gears and gearing (including friction gears and gear-boxes and other speed changers), flywheels, pulleys and pulley blocks, clutches and shaft couplings (heading 84.83).

(7) Gaskets and similar joints of heading 84.84.

(8) Electric motors of heading 85.01.

(9) Electrical transformers and other machines and apparatus of heading 85.04.

(10) Electric accumulators assembled into battery packs (heading 85.07).

(11) Electric heating resistors (heading 85.16).

These related explanatory notes to section note 2(a), also specifically mention that "*parts which in themselves constitute an article covered by a heading of this Section (other than* *headings of 84.87 and 85.48); those in all cases classified in their own appropriate heading even if specifically designed to work as part of a specific machine. This applies in particular to:*

(1) Pumps and compressors (heading 84.13 and 84.14)
(2) ...

...

(11) Electric heating resistors (heading 85.16).

c) The Explanatory Notes for CTH 8516 in respect of "Electric heating resistors", which have been assigned a specific tariff item 85168000, are as follows:

85.16

(F) ELECTRIC HEATING RESISTORS

With the **exception** of those of carbon (**heading 85.45**), all electrical heating resistors are classified here, irrespective of the classification of the apparatus or equipment in which they are to be used.

They consist of bars, rods, plates, etc., or lengths of wire (usually coiled), of special material which becomes very hot when current is passed through it. The material used varies (special alloys, compositions based on silicon carbide, etc.). They may be obtained in the form of individual components by a printing process.

Wire resistors are usually mounted on insulating formers (e.g., of ceramics, steatite, mica or plastics) or on soft insulating core (e.g., of glass fibres or asbestos). If not mounted, wire of this kind is classified here **only** if cut to length and coiled or otherwise formed to a shape identifying it as a heating resistor element. The same applies to bars, rods and plates which, to be classified here, **must** be cut to length or size ready for use.

Resistors remain classified here even if specialised for a particular machine or apparatus, but if assembled with parts other than a simple insulated former and electrical connections they are classified as parts of the machines or apparatus in question (e.g., base plates for smoothing irons and plates for electric cookers).

The heading also **excludes** defrosters and demisters. These consist of a resistance wire mounted in a frame for fitting to the windscreen (**heading 85.12**).

These notes also use word 'heating resistor element' for heating resistors. Further, these explanatory notes related to 'ELECTRIC HEATING RESISRTORS' specifically mention that resistors remain classified under CTI 85168000, even if specialized for a particular machine or apparatus and that only if these are assembled with parts other than a simple insulated former and electrical connections, these are classified as parts of that machine or apparatus. For making this clear, these explanatory notes specifically mention the items like base plates for smoothing irons and plates for electric cookers as **these items form the part of the whole apparatus both structurally and functionally**. In such cases, when heating resistor is assembled (or more precisely integrated) with another part (base plates/plates for example) of the apparatus (smoothing iron/electric cooker), then it is considered as parts of the apparatus and will be classified as part of the apparatus. For better understanding and detailed examination, the parts of automatic electric iron are illustrated in the following picture:

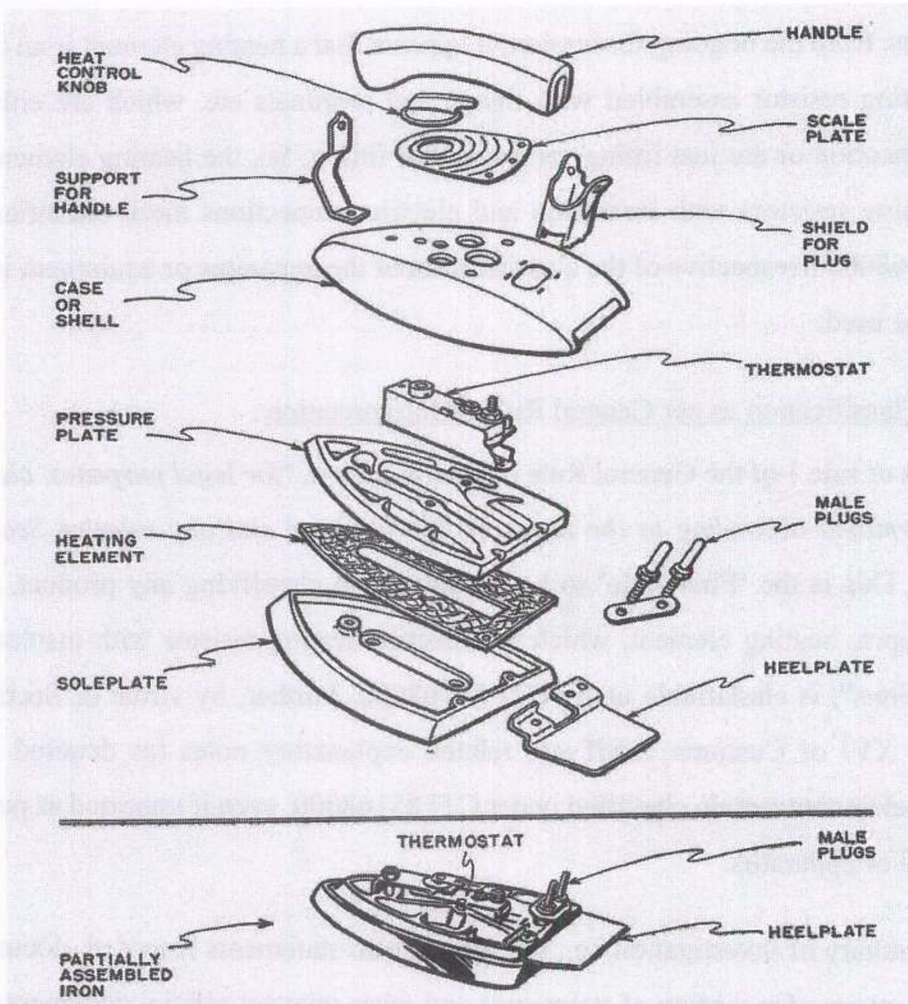


Fig. 208. Parts of automatic electric iron. (Dominion Electric Corporation.)

When the heating resistor is **assembled with** base plate (also called sole plate), an integral part of iron, then it becomes sub-part of the base plate and becomes classifiable as part of iron. It is pertinent to clarify that the condition for classifying as part of smoothing iron is that the heating resistor is to be assembled with or more precisely embedded in base plate and the by doing so, item will be described as '*base plate with heating element/resistor*' and '*not as heating element/resistor with base plate*' i.e., base plate is main part and the heating element/resistor is sub-part of the base plate assembly.

Also, following are sample pictures of '*Plate for electric cooker having embedded Heating resistor/element*':

Form the pictures, it can be seen that heating element/resistor is molded in the plate i.e., it is an integral part of the plate. As explained earlier in case of base plate of electric iron, similarly, in this case, heating resistor is assembled with plate of electric cooker i.e., the item is 'electric cooker plate with heating element/resistor' and not 'heating element/resistor with plate of electric cooker' and thereby the item stands classifiable as part of electric cooker.

d) Thus, from the ongoing discussion, it appears that a heating element is an insulated electric heating resistor assembled with flange and terminals etc. which are either for electrical connection or are just fittings or means for fitting. So, the heating elements being electric heating resistors with insulation and electric connections merit classification under CTI 85168000 irrespective of the classification of the apparatus or equipment in which they are to be used.

iv) <u>Tariff Classification as per General Rule of Interpretation</u> :

In terms of rule 1 of the General Rule of Interpretation, "*for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes*." This is the 'First Rule' to be considered in classifying any product. As discussed in paras supra, heating element, which is "Electric heating resistor with insulation and electric connections", is classifiable under CTI 85168000. Further, by virtue of Section Note 2(a) of Section XVI of Customs Tariff and related explanatory notes (as detailed in paras supra), heating elements remain classified under CTI 85168000, even if imported as part of a particular machine or apparatus.

1.8 Summary of investigation i.e., revelation from statements recorded, documents submitted during the course of recording of statements and other relevant official documents/information:

i) The importer is importing 'Heating Element' as part of water heater under CTI 85169000.

ii) Reasons for classification of heating elements under CTI 85169000 as stated/mentioned by Dr. Arvind Didwania, Director, SEPL are as under:

a) The heating element is used with storage water heater for heating water. So, they are classifying the heating element under CTI 85169000 as part of water heater.

b) As per his knowledge, electric heating resistor is to be used directly for heating water but they are not using heating element directly for heating water.

c) Resistors fitted with other parts, forming a different part altogether cannot merit classification as a resistor. Accordingly, heating element is part of water heater which has no use other than in specified water heater. So, they consider CTI 85169000 and classify it as part of water heater.

iii) It is also stated/mentioned by Dr. Arvind Didwania, Director, SEPL that:

a) No other part of water heater is attached to the subject heating element at the time of import.

b) If any item is covered by item description 'Electric heating resistors' and the same item is also part of water heater, then the correct classification of such item will be as 'Electric heating resistor' and not as part of water heater.

c) Heating element and heating resistor are not same because heating element converts heat with support of heating resistor, so, heating resistor is a part of heating element. Parts of heating element are heating resistor, magnesium and exterior tube.

iv) Shri Rohit Rajendra Borse, Assistant Manager (Quality), SEPL, who is competent authorized technical person of SIPL to explain technical aspects related to heating element and its functioning, confirmed that it is right to say that heating element is an assembly of heating resistor with insulation and electric connections.

v) Vide their letter dated 10.09.2024, importer itself, inter-alia, submitted that:

a) Product is classifiable by application of Rule 1 of General Rule of Interpretation. As per Rule 1 of the GRI, classification of the imported products shall be determined according to the terms of the headings any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the remaining Rules of the GRI (para 4.B and para 19 of the letter dated 10.09.2024).

b) Heating resistor is subset of a heating element, and that -
Heating Element = Heating Resistor + Insulation + Leads + Terminals (para 10 of the letter dated 10.09.2024).

c) From the perusal of HSN explanatory notes to heading 8516, it is clear that it covers mere resistors with insulation. When resistors are assembled with parts other than insulated former and electric connections, they are to be classified as parts of the machines or apparatus in question. Resistors fitted with other parts, forming a different part altogether cannot merit classification as a resistor (para 16 of the letter dated 10.09.2024).

d) As per section note 2(a) to section XVI, parts which are goods included in any of the Headings of chapter 84 or 85 are to be classified in their respective headings. Heating element is not specifically covered by any headings of the tariff, as it is not a single component like a heating resistor, but is an assembly of components. Therefore, section note 2(a) cannot be applied for classification of the product (para 24 of the letter dated 10.09.2024).

e) As per section note 2(b) to section XVI, parts which are solely or principally suitable for use with a particular machine, are to be classified under the same heading as the particular machine.

f) The heating element is solely suitable for use in a water heater. The heating element will be used for manufacturing the water heaters. Therefore, on applying section note 2(b), the imported heating element will be classified as part of water heater under heading 8516, specifically under tariff item 85169000 (para 26 of the letter dated 10.09.2024).

g) The Customs department at port of import has duly examined a few shipments and allowed clearance of the same under Tariff item 85169000 based on the end use certificate given. Past shipments have also been subject to examination by the department and the same have been cleared by the department. Therefore, it is clear that the classification adopted by the company for heating element under tariff item 85169000 has been examined and accepted by the department also (paras 4.E, 39 and 40 of the letter dated 10.09.2024). -

vi) From the submission of the importer vide their letter dated 10.09.2024, discussed in previous para, it is apparent that importer knows that heating element is assembly of heating resistor with insulation, lead and terminals i.e., heating element is insulated heating resistor having means for electrical connections. Still, they are of the opinion that heating element is not covered under CTI 85168000 i.e., 'electric heating resistors' and so section note 2(a) of section XVI of the Customs Tariff is not applicable in this case. This appears to be contradictory submission. It appears that their submission regarding applicability of section note 2(b) of section XVI of the Customs Tariff, is solely based on the fact that the imported heating element is to be used for manufacturing of water heater and is without giving proper consideration to the explanatory notes (which are specifically related to parts and to electric heating resistors) of section XVI and CTH 8516 of the Customs Tariff. Further, the fact that Customs authorities examined a few shipments and accepted the classification of the importer, does not bar examination of the classification of the imported item by competent authorities.

vii) As per the Explanatory Notes for 'electric heating resistors' mentioned in para 1.5 (iii) supra, when heating resistor is assembled with other parts of the apparatus, *giving specific examples of base plate of smoothing iron and plate of electric cooker i.e., when heating element is assembled with base plate of smoothing iron or plate of electric cooker and imported in that form, then only it can be classified as part of that apparatus i.e., smoothing iron or electric cooker as in these examples*. However, in the present case, as admitted by Dr. Arvind Didwania, Director, SEPL in his statement dated 29.08.2024, the imported item is not assembled with any other specific integral part of the water heater for which the same is being imported, so, it appears that the imported heating element merits classification under CTI 85168000 i.e., as Electric heating resistors.

viii) Thus, it appears that in the present case the importer heating element is an insulated heating resistor assembled with lead and terminals etc. which are either for electrical connection or are just fittings or means for fitting. **With or without these, the imported item is covered by the criterion for classification of an item under CTI 85168000 i.e., for classification as electric heating resistor**. So, the heating elements being imported by SEPL are electric heating resistors with insulation and electric connections and merit classification under CTI 85168000, irrespective of the classification of the apparatus or equipment in which they are to be used.

1.9 The relevant provisions of law relating to import 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 were mentioned in the subject SCN. The same are not reproduced in this Order in Original for the sake of brevity.

(i) Section 2 - Definitions

(ii) Section 46 - Entry of goods on importation

(iii) Section 17 - Assessment

(iv) Section 111 - Confiscation of improperly imported goods etc.

(v) Section 112 - Penalty for improper importation of goods etc.

(vi) Section 124 - Issue of show cause notice before confiscation of goods, etc.

(vii) Section 28 - Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded

(viii) Section 125 - Option to pay fine in lieu of confiscation

1.10 Calculation of differential duty for import period from 1st March 2023 to 20th January 2025 (detailed calculation sheet attached to this IR as **RUD-9 to the subject SCN**):

Customs Location Code	No. of Bills of Entry	Assessable Value in Rs.	Differential BCD (@10% or 12.5% of AV as applicable) in Rs.	Differential SWS (@10% of Diff. BCD) in Rs.	Differential IGST {@18% of differential (BCD+SWS)} in Rs,	Total differential duty liability in Rs.
INNSA1	22	9,45,34,844.08	94,53,484.41	9,45,348.44	18,71,789.91	1,22,70,622.76
INBOM4	20	1,26,93,470.62	₹ 12,74,462.07	1,27,446.21	2,52,343.49	16,54,251.77
Total	**42**	**10,72,28,314.70**	**1,07,27,946.48**	**10,72,794.65**	**21,24,133.40**	**1,39,24,874.53**

1.11 The importer had cleared the said goods by mis-classifying the same under CTH 85169000 with BCD @ 10% instead of classifying the goods under correct CTH 85168000 with BCD @ 20% resulting in short levy of legitimate Customs duty amounting to **₹ 1,39,24,875/- (Rupees One Crore Thirty-Nine Lakhs Twenty-Four Thousand Eight Hundred and Seventy-Five Only).** Therefore, the said goods having the total assessable value of **₹ 10,72,28,315/- (Rupees Ten Crore Seventy-Two Lakhs Twenty-Eight Thousand Three Hundred and Fifteen Only)** appear to be liable for confiscation under section 111(m) of the Customs Act, 1962.

1.12 Jurisdictional Customs Commissionerate: The differential duty liability related to import through Nhava Sheva Sea port is more than differential duty liability related to import through Mumbai Air Cargo Complex. So, in light of section 110AA of the Customs Act, 1962 (read with Notification No. 28/2022-Customs (N.T.) dated 31st March 2022), Commissioner of Customs, NS-V, JNCH, is the competent authority for issuance of Show Cause Notice under the related provisions of the Customs Act, 1962. Accordingly, the Investigation Report was forwarded to the office of the Commissioner of Customs, NS-V, Nhava Sheva, for further necessary action under Section 28(1), read with Section 124 and Section 110AA of the Customs Act 1962.

1.13 Pre-notice Consultative letter dated 06.02.2025 in terms of the proviso to clause (a) of sub-section (1) of the Section 28 of the Customs Act, 1962 was issued to **M/s Starlite Electrodrives Private Limited (IEC-ABECS9706K).** However, no reply was received from the importer.

1.14 Therefore, **M/s Starlite Electrodrives Private Limited (IEC-ABECS9706K)** having its registered office at 6, M.I.D.C., Satpur, Nashik – 422007 was hereby called upon to show cause to the **Commissioner of Customs (Import), NS-V**, Jawaharlal Nehru Custom House, Nhava Sheva, Raigad, Maharashtra – 400 707 **(Adjudicating Authority),** as to why,

a) Short payment of customs duty to the tune of **₹1,39,24,875/-** should not be demanded under section 28(1) of the Customs Act, 1962, along with applicable interest in terms of 28AA of the act ibid.

b) The goods imported vide bills of entry as detailed in RUD-9 having assessable value amounting to **₹10,72,28,315/-** should not be held liable for confiscation under section 111(m) of the Customs Act 1962.

c) Penalty should not be imposed on importer under section 112(a) of the Customs Act, 1962.

PERSONAL HEARING AND WRITTEN SUBMISSIONS

2. There is one Noticee in the subject SCN namely, M/s Starlite Electrodrives Private Limited.

2.1 In compliance with the provisions of Section 28(8) read with Section 122A of the Customs Act, 1962, and in terms of principle of natural justice, the Noticee was granted opportunities for personal hearing (PH) in terms of Section 28(8) read with Section 122A of the Customs Act, 1962.

2.2 An opportunity for PH was granted to the Noticees on 14.08.2025. In response of the PH, Shri Bharath Menon, Advocate and Shri Kedar Kokatay, Advocate in behalf of the Noticee appeared before me through video conferencing on 17.08.2025. During the PH, they reiterated the submissions dt. 26.05.2025 that:

i) the imported goods are heating elements used in a water heater. The same comprise of a heating resistor (resistive wire) along with other components such as: a) Male Faston S.Bat. B.T; b) Loctite Resin Esp 108; c) Fast-On Cover/Protection; d) Cut Sheath/Pocket; e) Copper Tube; f) Lower Terminal; g) Spiral Wire 0,50 DSD: h) Upper Terminal; j) MgO Insulation; k) Flange Ø48 Dzr-Cw602n.

ii) As stated above, the imported goods are used in water heaters which comprise of primarily an insulated tank, a thermostat, the Heating Element, safety valves and anode rod.

iii) the relevant extract of Tariff Heading 8516 is reproduced below:

8516	***ELECTRIC INSTANTANEOUS OR STORAGE WATER HEATERS AND IMMERSION HEATERS; ELECTRIC SPACE HEATING APPARATUS AND SOIL HEATING APPARATUS; ELECTRO-THERMIC HAIR-DRESSING APPARATUS (FOR EXAMPLE, HAIR DRYERS , HAIR CURLERS, CURLING TONG HEATERS) AND HAND DRYERS; ELECTRIC SMOOTHING IRONS; OTHER ELECTRO-THERMIC APPLIANCES OF A KIND USED FOR DOMESTIC PURPOSES; ELECTRIC HEATING RESISTORS, OTHER THAN THOSE OF HEADING 8545***

8516 10 00	*-*	*Electric instantaneous or storage water heaters and immersion heaters*
	-	*Electric space heating apparatus and electric soil heating apparatus :*
		*****
	-	*Electro-thermic hair-dressing or hand-drying apparatus :*
8516 40 00	*-*	*Electric smoothing irons*
8516 50 00	*-*	*Microwave ovens*
8516 60 00	*-*	*Other ovens; cookers, cooking plates, boiling rings, griller and roasters*
	-	*Other electro-thermic appliances:*
		******
8516 80 00	*-*	***Electric heating resistors***
8516 90 00	***-***	***Parts***

iv) the Department has proposed to re-classify the imported goods under Tariff Item 8516 80 00 as "Electric heating resistors". However, it is submitted that the has wrongly construed the definition of 'heating resistor' and 'heating element' to make an assumption that both the goods are identical. The imported goods incorporate heating resistors along with various other parts such as a copper tube, flange, resin, etc.

v) further, it becomes clear from the technical literature and images of the imported goods that the heating resistors are merely a part which when combined along with other components becomes a 'heating element'. Thus, it is submitted that heating resistor is merely a part of the imported goods.

vi) the Department has proposed to re-classify the imported goods under Tariff Item 856 80 00 as they have alleged that the imported goods are heating resistors and hence should be classified under their respective heading rather than parts of water heaters in accordance with Section Note 2(a) of Section XVI of the Customs Tariff. Further, the Department has placed reliance on HSN Explanatory Notes to Heading 8516.

vii) as per the HSN Explanatory Notes to Heading 8516 [Ref S. No. 2, Compilation], heating resistors coupled with insulated former and electrical remain to be classified as 'heating resistors'. If the heating resistors are assembled with parts other than simple insulated former and electrical connections, then they are to be classified as parts of those machines or apparatus in question.

viii) as already mentioned, the imported goods incorporate heating resistors along with a copper tube, flange and a resin. These are not mere simple insulated formers or electrical connections. Thus, it is submitted that the imported goods are not merely a heating resistor and have additional components which makes them correctly classifiable under Tariff Item 8516 90 00 as parts of a water heater.

ix) the Noticee places reliance on the HSN Explanatory Notes of Heading 8516. It has been held in decisions at Ref S. No. 3, Compilation, that HSN Explanatory Notes are a safe guide for classification of a commodity and interpretation of Customs Tariff.

x) as per the HSN Explanatory Notes, it is clear that immersion water heaters and storage water heaters comprising of heat insulated tanks along with immersion Heating Elements are separate types of heaters that are covered under Heading 8516.

xi) the imported goods are flange type heating elements which are for fitment in a storage water heater. The heating element is not attached with any insulated handle, nor is it capable of being directly connected to a power outlet for direct use in water heating. Thus, the imported goods cannot be classifiable as an immersion heater or as a heater on its own. In light of the aforesaid, the imported goods are classifiable under Tariff Item 8516 90 00 as parts of water heaters of Heading 8516.

xii) further, the US Customs Authorities vide Cross Ruling Nos. NY N300064 [Refer Sr. Nos. 4 and 5 of Compilation] classified similar goods incorporating heating resistors under Tariff Sub-heading 8516 90 as 'parts'.

xiii) it is submitted that even if the Supplier had classified the imported goods under Tariff item 8516 80 00, the onus to correctly classify the imported goods at the time of importation into India is on the Importer. The classification adopted by the supplier is not binding nor does it have a bearing on the same. This stand has been reiterated in numerous judicial decisions rendered by Indian courts.

xiv) the Noticee has not mis-declared the description of the imported goods. The various particulars entered in the bills of entry viz. description, value and all other material particulars are not disputed or found to be un-true. Hence, for mere classification dispute, the imported goods are not liable to confiscation under Section 111(m) [Refer Sr. No. 6

& 7 of the compilation]. Consequently, penalty under Section 112(a) is also not liable to be imposed [Refer Sr. No. 8 & 9 of the compilation].

xv) interest also cannot be recovered since duty demand itself is not sustainable. [Ground L of Reply to the SCN].

xvi) In view of the above, they prayed that the present show cause notice be dropped.

DISCUSSION AND FINDINGS

3. I have carefully gone through the entire records of the case, the subject SCN dated 07.03.2025, the relied upon documents, evidence/material on record, facts of the case, as well as written and oral submissions made by the Noticee/authorized representative on behalf of the Noticees in response to the subject SCN.

3.1 In compliance to provisions of Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunity for Personal Hearing (PH) was granted to the Noticee on 14.07.2025. Accordingly, the PH on 14.07.2025 was held before me. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the submission / contention made by the Noticees/representative and facts of the case.

3.2 On a careful perusal of the Show Cause Notice and case records, I find that following main issues are involved in the case which are required to be decided: -

i. Whether the goods declared as 'Heating Element (part of water heater)' are classifiable under CTI 85168000 attracting BCD@20%, SWS@10% & IGST@18% in place of declared CTI85169000 attracting BCD@10%, SWS@10% & IGST@18%.

ii. Whether the goods imported vide Bills of Entry as mentioned in Annexure-11 to the subject SCN, valued at Rs. 10,72,28,315/- (Rs. Ten Crore Seventy Two Lakh Twenty Eight Thousand Three Hundred Fifteen Only) are liable for confiscation under Section 111(m) of the Customs Act, 1962.

iii. Whether the noticee/importer are liable for penalty under Section 112(a) of the Customs Act, 1962.

4. After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually for analysis in light of facts, circumstances of the case, provision of the Customs Act, 1962 and nuances of various judicial pronouncements.

4.1 Whether the goods declared as 'Heating Element (part of water heater)' are classifiable under CTI 85168000 attracting BCD@20%, SWS@10% & IGST@18% in place of declared CTI85169000 attracting BCD@10%, SWS@10% & IGST@18%.

4.1.1 The primary issue for determination in the present proceedings is whether the goods imported by the noticee, declared as Heating Elements (part of water heater), merit classification under Customs Tariff Item (CTI) 85169000 as claimed by the importer, or under CTI 85168000 as alleged in the Show Cause Notice.

4.1.2 The imported goods are heating elements designed for use in water heaters. A heating element is nothing but an electric heating resistor housed within a protective assembly (tube, insulation, flange, etc.) for functional and safety reasons. The essential function of the imported goods is resistance-based heat generation—which squarely falls within the scope of "Electric Heating Resistors" under Tariff Item 8516 80 00.

4.1.3 The Noticee has tried to create a distinction between "heating resistor" and "heating element". However, as per Section Note 2(a) to Section XVI, a machine part that is covered under a specific heading must be classified in its specific heading, even if it is designed for use in a particular machine. Since heating resistors are specifically covered under Heading 8516 80 00, classification under 8516 90 00 (Parts) is not applicable.

4.1.4 The HSN Explanatory Notes to Heading 8516 clarify that electric heating resistors remain classified under 8516 80 00, even if presented with insulating formers and electrical connectors. The additional components such as flange, copper tube, MgO insulation, resin, etc., are standard constructional requirements of heating resistors to enable safe and efficient operation. These do not change the essential character of the goods as heating resistors.

4.1.5 The contention of the Noticee that "since additional parts like copper tube and flange are present, the goods cannot be resistors" is misplaced. Such additional fittings are merely ancillary supports and do not alter the essential nature of the article. The primary function remains resistance-based heat generation. Hence, it cannot be treated as a generic "part" of a water heater under 8516 90 00.

4.1.6 The reliance placed on US Customs rulings (e.g., NY N300064) is not binding on Indian Customs Tariff classification. Indian classification must follow the HSN-based tariff and binding judicial precedents in India, not foreign rulings. Moreover, in several global rulings (including EU classification opinions), heating elements with resistors are classified under 8516 80 00.

4.1.7 The argument that the heating element "cannot function independently" is incorrect. The tariff classification is not dependent on standalone usability, but on the essential character of the goods. By generating heat through resistance, the imported goods are functionally and commercially recognized as heating resistors.

4.1.8 As per settled law, specific entries prevail over general ones. Tariff Item 8516 80 00 specifically covers electric heating resistors. Tariff Item 8516 90 00 covers residual "parts" not elsewhere specified. Therefore, classification under 8516 80 00 must prevail.

4.1.9 Regarding confiscation and penalty, the Noticee's claim that "mere classification dispute cannot invite penalty" is not sustainable. Courts have consistently held that if an importer deliberately misclassifies goods under a residual heading (parts) to avail a lower duty rate, such action amounts to mis-declaration under Section 111(m). The importer, being an experienced business entity, cannot plead ignorance of the correct classification.

4.1.10 Further, the starting point of analysis is Section Note 2(a) to Section XVI of the First Schedule to the Customs Tariff Act, 1975, which lays down as under:

"Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:
(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all cases to be classified in their respective headings."

4.1.11 The above statutory note makes it obligatory that where a good is specifically described in a heading of Chapter 84 or 85, it must be classified in that heading itself, irrespective of whether it is intended to be used as a "part" of another machine or apparatus.

4.1.12 In the instant case, the imported goods are heating elements, which essentially consist of:

(i) A heating resistor that converts electrical energy into heat through Joule heating.

(ii) Ancillary components such as insulation, leads, and terminals that allow safe functioning and electrical connection.

4.1.13 It is not disputed that CTI 85168000 specifically covers Electric heating resistors. Thus, prima facie, the subject goods fall within this heading.

4.1.14 The HSN Explanatory Notes to Heading 85.16 provide authoritative interpretative guidance. The relevant extracts are reproduced below:

(i) "Electric heating resistors remain classified here even if they are specialized for a particular machine or apparatus (for example, resistor elements for water heaters, hair dryers, etc.)."

(ii) "They remain classified here when consisting of the resistor itself together with a simple insulated former and electrical connections."

(iii) "However, when they are assembled with other parts of the machine or apparatus (e.g., soleplates of smoothing irons, plates for electric cookers), they are classified as parts of those machines or apparatus."

4.1.15 The above guidance clarifies beyond doubt that electric heating resistors retain their independent classification under Heading 8516, even when designed specifically for a water heater, unless they are structurally and functionally integrated with other parts of that apparatus.

4.1.16 In the present case, the goods imported by the noticee are standalone heating resistors with insulation and connecting terminals. They are not integrated with the tank or body of the water heater. Hence, they cannot be considered as "parts" of the water heater under 85169000; instead, they fall squarely under 85168000.

4.1.17 The above interpretation is supported by judicial pronouncements:

(i) In Commissioner of Customs v. Vikram Solar Ltd. [2019 (366) ELT 253 (Tri.–Del.)], the Tribunal held that where a product has an independent tariff heading, it must be classified under that heading and not as a "part" of another machine.

(ii) In Commissioner of Customs v. Tata Power Solar Systems Ltd. [2022 (380) ELT 321 (Tri.–Bang.)], the Tribunal reiterated that a specific tariff entry prevails over a general entry for "parts," even if the product is meant exclusively for a particular apparatus.

(iii) The principle was also affirmed by the Hon'ble Supreme Court in CCE v. Insulation Electrical (P) Ltd. [2008 (229) ELT 389 (SC)], wherein it was held that functional integration with another apparatus does not alter classification when a specific heading exists.

4.1.18 For clarity, the comparative duty incidence under both claimed and correct classifications is presented below:

Classification	BCD Rate	Effective Total Duty (BCD + SWS + IGST)	Remarks
85169000 (as declared by importer)	10%	30.98% of AV	Lower duty claimed
85168000 (as held correct)	20%	43.96% of AV	Higher correct duty

It is therefore, evident that misclassification under CTI 85169000 resulted in short payment of customs duty to the extent of 12.98% of the assessable value.

4.1.19 In view of the clear mandate of Section Note 2(a) to Section XVI, the interpretative guidance of the HSN Explanatory Notes, and the judicial precedents cited above, I hold that the goods in question in the subject SCN are correctly classifiable under CTI 85168000 – Electric heating resistors, and not under 85169000 as claimed by the noticee.

4.1.20 Therefore, the goods have been rightly proposed to be classified under Tariff Item 8516 80 00, and the reply of the Noticee is devoid of merit. The demand of duty, along with applicable interest and penal consequences, is legally sustainable.

4.2 Whether the goods imported vide Bills of Entry as mentioned in Annexure-11 to the subject SCN, valued at Rs. 10,72,28,315/- (Rupees Ten Crore Seventy Two Lakh Twenty Eight Thousand Three Hundred Fifteen Only) are liable for confiscation under Section 111(m) of the Customs Act, 1962.

4.2.1 The SCN proposes confiscation of the impugned goods imported vide Bills of Entry listed in Annexure-11 to the subject SCN, having total assessable value of at Rs. 10,72,28,315/- (Rupees Ten Crore Seventy Two Lakh Twenty Eight Thousand Three Hundred Fifteen Only) under the provisions of Section 111(m) of the Customs Act, 1962.

4.2.2 Section 111(m) of the Customs Act, 1962 states that 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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of Section 54;

4.2.3 Section 111(m) deals with any and all types of mis-declaration regarding any particular of Bill of Entry. Therefore, the declaration of the importer herein by mis-classification of the impugned goods, amounts to mis-declaration and shall make the goods liable to confiscation.

4.2.4 I have already held in foregoing paras that the subject goods should be appropriately classifiable under CTI 8516 80 00. Accordingly, I find that acts of omission and commission on part of the Importer has rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

4.2.5 I find that the subject goods imported vide Bills of Entry listed in Annexure-11 to the subject SCN, valued at Rs. 10,72,28,315/- (Rupees Ten Crore Seventy Two Lakh Twenty Eight Thousand Three Hundred Fifteen Only) should be confiscated under section 111(m) of the Customs Act, 1962.

4.3 Whether the noticee/importer are liable for penalty under Section 112(a) of the Customs Act, 1962.

4.3.1 As discussed above, I find that the subject Bills of Entry as mentioned in Annexure-11 to the subject SCN were self-assessed by the importer M/s Starlite Electrodrives Private Limited. Thus, the importer, by their various acts of omission and commission discussed above, have rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and thereby made themselves liable for penalty under Section 112(a) ibid. Accordingly, I agree with the proposal made in the subject SCN and hold that penalty should be imposed on the Noticee, M/s Starlite Electrodrives Private Limited under Section 112(a) of the Customs Act, 1962.

5. In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

(i) I confirm the demand of differential duty of **Rs. 1,39,24,875/- (Rupees One Crore Thirty Nine Lakh Twenty Four Thousand Eight Hundred Seventy Five Only)**, short levied/short paid on the goods imported by M/s Starlite Electrodrives Private Limited vide Bills of Entry as mentioned in Annexure-11 to the subject SCN, under Section 28(1) of the Customs Act, 1962, along with applicable interest under Section 28AA ibid.

(ii) I order confiscation of the imported goods covered by Bills of Entry mentioned in Annexure-11 to the subject SCN, valued at **Rs. 10,72,28,315/- (Rupees Ten Crore Seventy Two Lakh Twenty Eight Thousand Three Hundred Fifteen Only)**, in terms of provisions of Section 111(m) of the Customs Act, 1962. I also impose a Redemption Fine of **Rs. 50,00,000/- (Rupees Fifty Lakh Only)** on M/s Starlite Electrodrives Private Limited in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

(iii) I impose a penalty of Rs. **13,92,487/- (Rupees Thirteen Lakh Ninety Two Thousand Four Hundred Eighty Seven Only)** in respect of goods covered under Bills of Entry as mentioned in Annexure –11 to the subject SCN under Section 112(a) of the Customs Act, 1962, on M/s Starlite Electrodrives Private Limited

6. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

Ahamteke 4/9/25

(अनिल रामटेके / ANIL RAMTEKE)

सीमा शुल्क आयुक्त / Commissioner of Customs

एनएस-V, जेएनसीएच / NS-V, JNCH

To:

M/s Starlite Electrodrives Private Limited (IEC-ABECS9706K)
6, M.I.D.C., Satpur, Nashik – 422007

Copy to:

1. The Joint Director, DRI Mumbai Zonal Unit, 13, Sir Vithaldas Thackersey Marg, New Marine Lines, Mumbai- 400020
2. The Additional Commissioner of Customs, Mumbai III (Import), Air Cargo Complex, Sahar, Andheri (East), Mumbai- 400099
3. The Addl. Commissioner of Customs, Group VA, JNCH

4. AC/DC, Chief Commissioner's Office, JNCH
5. AC/DC, Centralized Revenue Recovery Cell, JNCH
6. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
7. EDI Section
8. Office copy