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 – 20250978NX000000F017	**Date of Order:15.09.2025**
F. No. S/10-14/2022-23/COMMR/NS-V/CAC/JNCH	**Date of Issue: 15.09.2025**
SCN No.: 140/2022-23/COMMR/NS-V/CAC/JNCH	
SCN Date: 04.05.2022	
Passed by: Sh. Anil Ramteke **Commissioner of Customs, NS-V, JNCH**	
Order No:193/2025-26/COMMR/NS-V/CAC/JNCH	
Name of Noticees:M/s. AVS LIGHTING SOLUTIONS (IEC-0516959786)	

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 उदगृहीत 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. 140/2022-23/Commr./NS-V/CAC/JNCH dated 04.05.2022 issued to M/s AVS Lighting Solutions (IEC – 0516959786) and Others– reg.

1. BRIEF FACTS OF THE CASE

1.1 A SCN No. **140/2022-23/Commr./NS-V/CAC/JNCH dated 04.05.2022 issued to** M/s AVS Lighting Solutions (IEC – 0516959786) having office address at C-1336 First Floor, Sudershan Park, Moti Nagar, Delhi, 110015, hereinafter referred to as 'importer', imported the goods having description "MCPCB-Metal Core Printed Circuit Board" to be used in the manufacturing of LED lights, with different dimensions and product codes during the period 2018-2019 and classified the same under Customs Tariff heading 85340000 i.e. printed circuits and availed the zero basic customs duty benefits under Notification 24/2005-Cus dated 01.03.2005 (Sr. no. 22) . However, the goods MCPCB is a type of PCB with metallic base and do not conform to the Chapter Note 6 of Chapter 85 that read as *"For the purposes of heading 8534, "printed circuits" are circuits obtained by forming on an insulating base"* and appears to be classifiable under CTI 94059900 i.e. parts of LED light not elsewhere classified.

1.2 Summons no. RK/1024/2019-20 dated 27.12.2019 and RK/1174/2019-20 dated 11. 02.2020 were issued to Shri Varun Khanna, Partner & Director of M/s AVS Lighting & Solutions under Section 108 of the Customs Act, 1962. In his statement recorded on 19.02.2020 under the said Section, Shri Varun Khanna, inter alia, stated that he had fully understood the matter relating to the classification of Metal Core Printed Circuit Boards (MCPCB). He confirmed that he had seen the sheet of imports made by them and agreed that they are for FR-4 and MCPCB. He further admitted that by classifying MCPCB under an incorrect CTH, they had become liable to duty payment. Shri Varun Khanna stated that he needed to verify the exact quantity of MCPCB imported by them, but agreed that the description had not been correctly declared as MCPCB and acknowledged liability to penal action for this failure. He also assured that, after verification of the data provided, he would pay the duty leviable in respect of MCPCB imported by the firm without payment of duty.

1.3 Further, in response to Summons dated 10.06.2021, the advocate on behalf of the importer, vide his letter dated 19.06.2021, submitted that the importer had discharged a duty liability of ₹90,841/- in respect of 9 Bills of Entry wherein MCPCB had actually been imported, along with applicable interest amounting to ₹19,808/-. He further requested closure of the proceedings in terms of Section 28 of the Customs Act, 1962.

1.4 Further, Summons No. JNCH/SIIB(I)/H-CELL/SV-469/21-22 dated 20.07.2021, JNCH/SIIB(I)/H-CELL/SV-959/21-22 dated 13.10.2021 and JNCH/SIIB(I)/H-CELL/NSMJ-13/2022 dated 04.01.2022 were issued to the importer, Sh. Varun Khanna, Partner of M/s AVS Lighting Solutions, in his statement recorded under Section 108 of the Customs Act, 1962 on 04.01.2022 , stated inter alia that he would pay the duty liable only on MCPCB as already stated in his previous statement; that after verification of the data of actual imports of MCPCB, he would pay the differential duty and justify with documents and samples in the case of FR-4 PCBs; that he submitted samples of LED bulbs of various wattages having FR-4 PCB along with their sales invoices duly authenticated by him. He further submitted that they manufacture non-guarantee and non-warranty LED bulbs which are very low priced; that they do not use MCPCB, which are very expensive, and instead use FR-4 PCBs, which are cheaper; that they import plain PCBs with LEDs, bridge diodes, electrolytic capacitors and polyester capacitors, which could be verified from records.

The importer also submitted a write-up explaining the difference between FR-4 PCB and MCPCB.

1.5 Vide F.no. SG/INV-37/19-20/H-cell/SIIB(I)-JNCH in the similar matter of MCPCB, Summons were issued to Dr. Kishore Chatterjee, Professor, Department of Electrical Engineering, IIT Powai on 02.06.2020 & 30.06.2020 under section 108 of the Customs Act, 1962. In response on 30.06.2020, he stated that he stands by his above-mentioned technical opinion dt. 28.12.2019 and also forwarded the technical opinion on MCPCB along with payment for the said technical opinion. Later, the statement of Dr. Kishore Chatterjee was recorded on 24.08.2020 under section 108 of the Customs Act, 1962 through video conferencing and subsequently, he sent the written statement duly signed on official E-mail ID of SIIB(I). In the said statement, he inter-alia stated that:

i. The layer of aluminium (or its alloy) can be interpreted as the 'base' of the MCPCB.
ii. The catalogue/data sheets of manufacturers of MCPCB generally follow this particular interpretation.

1.6 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 46 - Entry of goods on importation

(ii) Section 17 - Assessment

(iii) Section 110 -Seizure

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

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

(vi) Section 114 - Penalty for short-levy or non-levy of duty in certain cases

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

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

1.7 The importer classified the goods viz MCPCB under CTI 8534 0000. However, CTI 8534 0000 is specific for printed circuits as re-produced below:

Chapter 85: -

Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles

CTI 8534 0000: -

Printed Circuits:

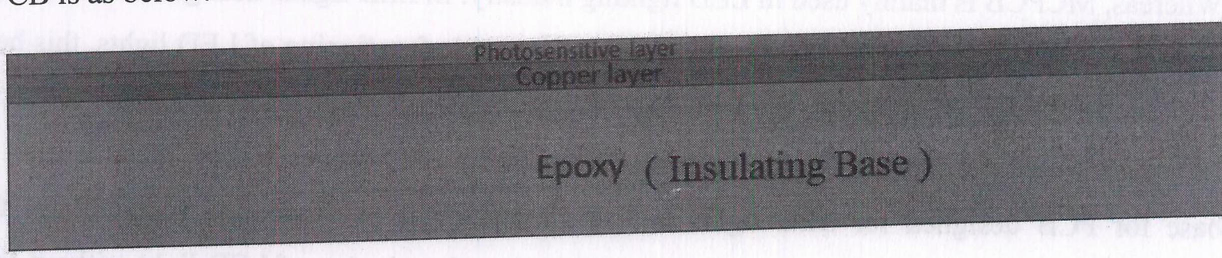
Further, Note 6 of Chapter 85 is produced below: -

"For the purposes of heading 8534, "printed circuits" are circuits obtained by forming on an insulating base, by any printing process (for example, embossing, plating-up, etching) or by the "film circuit" technique, conductor elements, contacts or other printed components (for example, inductances, resistors, capacitors) alone or interconnected according to a pre-established pattern, other than elements which can produce, rectify, modulate or amplify an electrical signal (for example, semi-conductor elements).

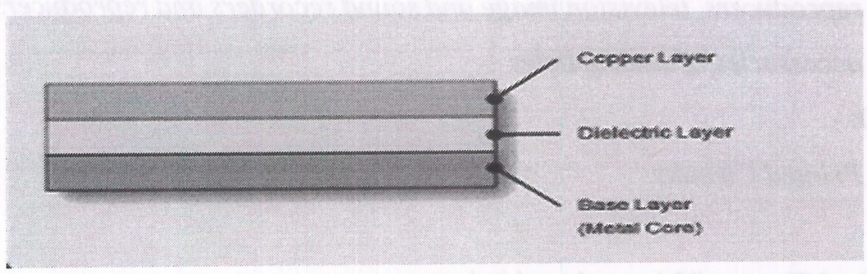
The expression "printed circuits" does not cover circuits combined with elements other than those obtained during the printing process, nor does it cover individual, discreet resistors, capacitors or inductances. Printed circuits may, however, be fitted with non-printed connecting elements.

Thin- or thick-film circuits comprising passive and active elements obtained during the same technological process are to be classified in heading 8542".

1.8 As per the Chapter Note 6 of Chapter 85, it is evident that only those Printed Circuits that are formed on an insulating base should fall under CTI 8534 0000. For the purpose of base for printed circuits in PCB (printed circuit board), there are many insulating materials (e.g. Epoxy, ceramic, FR-4, fiber glass etc.) on which the circuits are formed by different printing processes (e.g. embossing, plating-up, etching). In PCB, the base act as a physical layer or platform to provide physical strength and structure/shape as well as to hold the components. The basic PCB consists of 2 layers i.e. circuit layer and base layer (insulating material). The basic layout of simple PCB is as below: -



1.9 In MCPCB (metal core printed circuit board), as evident from the websites of MCPCB manufacturers i.e. www.bestpcbs.com, www.raypcb.com, www.sfcircuits.com, www.optimatech.net, www.pcbway.com that the MCPCB is made up of metal base. Generally, aluminum/copper is used as metal in MCPCB and these metals are conductor and not insulating as required by Chapter Note 6 of Chapter 85 mentioned above. As the base used in MCPCB is made of conductor, it will not fulfill the criteria of Chapter Note 6 of Chapter 85. Hence, it appears that MCPCB cannot be classified under CTI 8534 0000. The basic layout of simple MCPCB is as below: -



Here, MCPCB consist of 3 layers i.e. a metal base on which circuit needs to be formed but to make the circuit electrically non-conducting in respect of metal base, a very thin di-electric material is used to separate two metallic layers to avoid electric failure of circuit. Further, the thickness of above mentioned 3 layers, as mentioned in the submission by Dr. Kishore Chatterjee. Professor, IIT Powai, are as follows:

i. The copper circuit : 35 micrometer to 140 micrometer.
ii. The di-electric : 38 micrometer to 150 micrometer.
iii. The metallic layer of aluminum or its alloy: 1000 micrometer to 3200micrometer

It is not practically possible to separate the circuit and di-electric layer from the metal layer but assuming that if metallic layer removed from the MCPCB without changing the thickness of other 2 layers then the circuit cannot be used in practical application, like in this case, it cannot be used as part of LED fixture or light.

1.10 Further, the naming of different types of PCB i.e. FR-4 PCB, Cem-PCB, MCPCB etc. is done on the basis of the material used for making the base of PCB. In FR4-PCB, base is made-up of FR4 material. In Cem-PCB, base is made-up of ceramic material. In MCPCB, base is made-up of metal.

1.11 Further, PCB has wide area of application and is used in all the electronic equipment. Whereas, MCPCB is mainly used in LED lighting industry. In LED lights, heat generation is very high due to the use of LED (light emitting diode). For stable functioning of LED lights, this heat needs to be dissipated otherwise the LED light might stop functioning after some time or life of LED light might get shorten due to high temperature in the LED casing. Hence, metal is used as base for PCB designed for LED lights and this metal helps in dissipating (conducting) the generated heat through it and help in stable and longtime functioning of LED light without fail. Comparatively, LED light made up of simple PCB has short life-span as compared to LED light made up of MCPCB.

1.12 The goods Metal Core Printed Circuit Board (MCPCB) have been wrongly classified by the importer M/s AVS Lighting Solutions under HSN 8534 0000 which is specific for the "printed circuit" formed on insulating base and the goods MCPCB has conducting/metallic base which is different from the insulating base. Hence, it appears that MCPCB is appropriately classifiable under Tariff Heading 94059900 (parts of LED light not elsewhere classified). Further, text "MCPCB" has specific entry against CTH 9405 in schedule II (Sr. No. 227) of the Notification No 1/2017-Integrated Tax (Rate) dated 28.06.2017. Further, it has been clarified in 'Explanation' under the said Notification no. 1/2017 ibid that the harmonised system of nomenclature (HSN) under the notification have been drawn with the HSN code incorporated under the Schedule of the Customs Tariff Act, 1975 and it reads as under –

Explanation – For the purposes of this Schedule-

(i) ……………………..

(ii) ……………………………………..

(iii) *"Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).*

(iv) *The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.*

Therefore, CTH 9405 appearing in the said Notification no. 01/2017 ibid has same coverage and meaning as that of Chapter Heading 9405 of the Customs Tariff.

1.13 In view of above statements, technical submission of professor, IIT Powai and information available online on MCPCB manufacturer websites, it appears that:

i. MCPCB (metal core printed circuit board) is a 3 layer PCB i.e. circuit layer, metal layer and di-electric layer to separate circuit and metal layer.

ii. MCPCB is a type of PCB having metal as a base.

iii. In trade parlance or manufacturers of MCPCB generally follow this interpretation of metal as base of MCPCB as evident from the submission of professor, IIT Powai.

1.14 Analysis of Statements, documents & Evidences show that: -

i. The importer has misclassified the goods viz. MCPCB in CTI 85340000 with a malafide intention to claim benefit of notification 24/2005-Cus dated 1.3.2005 are MCPCB (Metal Core Printed Circuit Board).

ii. The description of the items declared as Printed Circuit Boards, LED MCPB imported by the importer in the year 2018 as per table 1. These items have also been classified in CTI 85340000 which were rightly classifiable in 9405.

iii. Therefore, it is evident that the importer has misdeclared the goods as Printed Circuit Boards which are actually Metal Printed Circuit Boards. It is clearly evident, that the importer has willfully misdeclared the same as Printed Circuit Boards with a malafide intention to classify them under CTI 85340000 to claim undue benefit of Notification 24/2005-Cus dated 01.03.2005 (Sr. no. 22).

iv. Further, it is evident that the importer has also misclassified Metal Printed Circuit Boards under CTI 8534000 to claim undue benefit of Notification 24/2005-Cus dated 01.03.2005 (Sr. no. 22). Whereas, Metal Printed Circuit Boards are rightly classifiable under 94054090 as discussed above.

v. In terms of Section 46 (4) of Customs Act, 1962, the importer is required to make a right declaration in the Bills of Entry submitted for assessment of Customs duty. In the instant case, it appears that the goods cleared vide the Bills of Entry mentioned in "Annexure-A" were cleared by them by wilfully and deliberately indulging themselves in mis-classification of goods in CTH 8534, and mis-declared them as PCBs instead of MCPCBs and cleared the goods without payment of duty with the sole intention to evade duty by claiming undue benefit of Notification 24/2005-Cus dated 01.03.2005 (Sr. no. 22).

vi. Hence, it appears that the Importer by the aforesaid act of wilful mis-statement in respect of classification, mis-declaration of description of goods as Printed Circuit Boards have contravened the provisions of Section 46 (4) of the Customs Act, 1962 in as much as they have not made the correct declarations in the Bills of Entry filed and self-assessed by them. The onus of making true and correct declaration in all aspects relating to the imported goods after introduction of self-assessment lies with the importer but they have failed to do in respect of the impugned Bills of Entry with intent to evade customs duty.

vii. As discussed above the importer has mentioned the description of the goods as 'PCBs' instead of 'MCPCBs' knowingly and wilfully and cleared goods without payment of duty with the sole intension to evade duty by claiming undue benefit of notification 24/2005-cus dated 1.3.2005. The importer has imported the goods viz. MCPCBs, thereby rendered goods liable for confiscation under section 111(m) of the Customs Act, 1962.

viii. Since the investigation has elucidated that the importer has imported *'MCPCBs' by mis-declaring the goods as 'PCBs'* and misclassified the same under CTH 8534 instead of 9405 in respect of the Bills of Entries mentioned at Annexure-1 with an intention to avoid Customs Duty. Therefore, duty which had escaped at the time of import is recoverable under Section 28(4) of Customs Act, 1962 along with interest under Section 28AA of Customs Act, 1962.

ix. In view of the above, it is evident that with malafide intention the importer has been evading Customs Duty over a long period of time causing loss to Government Revenue which the importer have been doing knowingly and wilfully so as to maximize monetary gains by evading customs duty. The present investigation being carried out by the SIIB (Import) has brought such violations to the notice of the Customs authorities. Therefore, it appears that M/s. AVS Lighting Solutions, has been deliberately contravening the provisions of the Customs Act, 1962 as brought out in the foregoing paras which shows *mens rea* on their part. They had been mis-declaring and misclassifying the goods imported over a substantial period of time in a planned systematic manner. Thus, it appears that the extended period of limitation under Section 28(4) of the Customs Act, 1962 is invokable in the instant case.

x. Since on the basis of the facts and circumstances mentioned herein above, it appears that the importer has knowingly and deliberately indulged themselves in wilful mis-statement and alleged suppression of facts with regard to description, classification and notification Sr. No etc., with an intent to evade the applicable Customs Duty and the importer 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 and therefore, they appear to be liable to pay penalty under Section 112 (a) or 114A and/or 114AA of the said Customs Act ibid.

xi. As discussed herein above, it appears that the evasion of duty amounting to Rs. 85,61,477/- in respect of the past B/Es as detailed in Annexure-A above 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 by invoking extended period of demand. 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.

xii. Since, short payment of duty of Rs. 85,61,477/- as per Annexure-A is on account of the aforesaid acts of willful mis-declaration, the Importer is liable to pay penalty under Section 114A of the Customs Act, 1962 in addition to applicable duty and interest as discussed above.

xiii. As discussed in above, M/s AVS Lighting Solutions, has been wilfully misclassifying and mis-declaring the goods with a malafide intention to evade payment of proper duties of Customs and accordingly for their act of evading duty due to willful mis-statement and suppression of facts, it appears that M/s AVS Lighting Solutions have rendered themselves liable to penal action under Section 112 (a), 114A, and 114AA of the Customs Act, 1962.

xiv. As the impugned goods are not corresponding with the declarations made in the impugned Bills of Entry mentioned in annexure-A to the subject SCN above in as much as the true and correct description goods has not been declared in the said Bills of Entry and the classification and wrongly claiming the benefit of notification no. 24/2005-Cus dated 1.3.2005. Therefore, on account of the aforesaid mis-declaration in the Bills of Entry, the impugned goods appear to be liable for confiscation under Section 111 (m) of the Customs Act, 1962.

1.15. The duty structure for the period from 2018-2019 payable is mentioned below:

Period	Duty payable		
	BCD*	SWS	IGST
01.02.2018 to 31.01.2020	20%	10%	12%

BCD- Basic Customs Duty, SWS- Social Welfare Surcharge, IGST- Integrated Goods & Services Tax

During the course of investigations, the importer had made payments (other charges) as detailed below;

S.No.	Challan No.	Challan Date	Amount
1	HC-300	20.03.2020	Rs. 1,10,649/-

1.16. Therefore, M/s. AVS Lighting Solutions having office address at C-1336, First Floor, Sudershan Park, Moti Nagar, Delhi, 110015 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,

i. The declared CTI 8534 0000 of goods in respect of Bills of Entry as detailed in Annexure-A to the subject SCN should not be rejected and should not be classified under CTI 9405 9900 with applicable rate of duty.

ii. The goods imported in respect of Bills of Entry as detailed in Annexure-A to the subject SCN and totally valued at Rs. 4,59,30,671/- should not be confiscated under Section 111 (m) of the Customs Act, 1962

iii. Differential duty of Rs. 85,61,477/- along with interest should not be demanded from them under Section 28(4) & 28AA of Customs Act, 1962.

iv. An amount of Rs. 1,10,649/- paid by importer should not be appropriated against the above demand.

v. Penalty should not be imposed on M/s AVS Lighting Solutions under Section 112 (a)/114A, and 114AA of the Customs Act, 1962.

1.17 Further, Shri Varun Khanna, Director/Partner of M/s. AVS Lighting Solutions, residing at SU-123 Pitam Pura, Delhi 110088 was also 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, penalty should not be imposed on Shri Varun Khanna under Section 112(a)/114A, and 114AA of the Customs Act, 1962.

1.18 Furthermore, Shri Atul Aggarwal, Director of M/s. AVS Lighting Solutions, residing at House No. 51, First Floor, State Bank Nagar, Paschim Vihar, Delhi 110063 was also 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, penalty should not be imposed on Shri Varun Khanna under Section 112(a)/114A, and 114AA of the Customs Act, 1962.

1.19 Further, Shri Sanchit Chugh, Director of M/s. AVS Lighting Solutions, residing at QP-21, Pitam Pura, Delhi, 110088 was also 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, penalty should not be imposed on Shri Varun Khanna under Section 112(a)/114A, and 114AA of the Customs Act, 1962.

1.20 During the course of adjudication of the subject SCN, it was noticed that department appeal in a similar matter, in the case of Commissioner of Customs *Vs* Crompton Greaves Consumer Electricals Ltd. was pending before the Hon'ble Supreme Court of India, and accordingly, in term of clause (a) of sub section (9A) of Section 28 of the Customs Act, 1962, the Competent Authority transferred the subject SCN to Call Book on 05.04.2023. The above decision of the Competent Authority was duly conveyed to the noticees vide letter F. No. S/10-14/2022-23/CC/NS-V/CAC/JNCH dated 05.04.2023.

1.21 Further, after dismissal of the department appeal in the case of Commissioner of Customs *Vs* Crompton Greaves Consumer Electricals Ltd. by the Supreme Court of India, the Adjudication Authority intimated to the noticees about the decision of the Competent Authority for transfer of the subject SCN out of Call Book for further Adjudication vide letter F. No. S/10-14/2022-23/CC/NS-V/CAC/JNCH dated 08.05.2025 and granted the opportunity of PH in virtual mode on 05.08.2025 & 01.09.2025.

PERSONAL HEARING AND WRITTEN SUBMISSIONS

2. There are four noticees in the subject SCN namely, M/s AVS Lighting Solutions, Shri Varun Khanna, Director of M/s AVS Lighting Solutions, Shri Atul Aggarawal, Director of M/s AVS Lighting Solutions and Shri Sanchit Chug, Director of M/s AVS Lighting Solutions.

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 Notices were 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 05.08.2025 but the Noticees did not attend the same. Further, an opportunity for PH was granted to the Noticee on 01.09.2025. In response of the PH, Shri Varun Khanna, Partner/Director of M/s AVS Lighting Solutions, appeared before me through virtual conference on behalf of the Noticees, He submitted that:

i. Copy of the Show Cause Notice (SCN) was not available with them, and therefore requested that another copy of the same may kindly be provided.

ii. He further undertook to file a written reply to the SCN by 05.09.2025. In addition, he stated that an amount of ₹1,10,649/- has already been paid by the Noticees, and on this basis, he requested that all the allegations raised in the SCN may be dropped.

2.3 Further, Shri Varun Khanna, Director of M/s AVS Lighting Solutions, has submitted a reply dated 11.09.2025, the extract of which is reproduced below:

i. the impugned goods (MCPCB) are correctly classifiable under CTH 85340000 by the Noticees.

ii. The categories of 'printed circuits' covered under CTH 8534 have been explained in Chapter Note 6 of CTH as follows-

"6. For the purposes of heading 8534, "printed circuits" are circuits obtained by forming on an insulating base, by any printing process (for example, embossing, plating-up, etching) or by the "film circuit" technique, conductor elements, contacts or other printed components Cor example, inductances, resistors, capacitors) alone or interconnected according to a pre-established pattern, other than elements which can produce, rectify, modulate or amplify an electrical signal (for example, semi-conductor elements).

The expression "printed circuits" does not cover circuits combined with elements other than those obtained during the printing process, nor does it cover individual, discreet resistors, capacitors or inductances. Printed circuits may, however, be fitted with nonprinted connecting elements."

iii. He also placed reliance on Hon'ble Supreme Court Order dt. 29.11.2024 in Civil Appeal Diary No. 28888/2024 in the case of Commissioner of Customs *Vs* Crompton Greaves Consumer Electricals Ltd, dismissing the appeal filed by department on the ground of delay as well on merits, against Final Order No. A/86026-86065/2023 dt. 28.06.2023 passed by Hon'ble CESTAT, Mumbai wherein, it has been held that MCPCB is correctly classifiable under CTH 8534 and not under CTH 9405.

iv. In view of the above, he requested that the Show Cause Notice be discharged, and the proposed fine and penalties on the Noticees may kindly be dropped

DISCUSSION AND FINDINGS

3. I have carefully gone through the entire records of the case, the subject SCN dated 04.05.2022, the relied upon documents, evidence/material on record, facts of the case, as well as written and oral submissions made by the Noticees/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 Noticees on 05.08.2025 & 01.09.2025. Accordingly, the PH on 01.09.2025 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 I find that following issues emerges for decision in this case:

a. Whether the goods declared as "MCPCB" are classifiable in CTI 9405 40 90 attracting BCD @ 20%, SWS@10% & IGST@12% in place of declared CTI 8534 00 00 with claimed benefit of Notification no. 24/2005-Cus dated 01.03.2005.

b. Whether the goods are liable for confiscation under Section 111(m) and

c. Whether the noticee(s)/importer are liable for penalty under Section 112(a)/114A and 114AA of the Customs Act, 1962.

3.3 It is alleged in the Show Cause Notice that the Noticee(s)/importer has wrongly classified the goods i.e. MCPCB under CTI 8534 00 00 and proposed to classify the same in CTI 9405 40 90.

3.4 I find that Chapter 85 deals in "***Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles***"

CTI 8534 0000 *Printed Circuits:*

3.5 Further, I find that Chapter 94 deals in "Furniture; Bedding, Mattresses, Mattress Supports, Cushions and similar Stuffed Furnishings; Luminaires and Lighting Fittings, not elsewhere specified or included; illuminated Signs, Illuminated Name-Plates and the like; Prefabricated Buildings"

CTI 9405 4090 --- *Other*

3.6. I find that the Hon'ble CESTAT, Mumbai Bench vide its order No. A/85876/2022 dated 09.09.2022 in a similar matter of M/s Crompton Greaves Consumer Electricals Ltd. Vs Commissioner of Customs, Nhava Sheva has opined that the impugned imported goods i.e. MCPCB is rightly classifiable under CTI 8534 0000. The relevant portion of the said CESTAT order dated 09.09.2022 is reproduced as under: -

7. The lower authorities have taken the two rival entries and applied rule 3(c) of the General Rules for the Interpretation of the Import Tariff which is relevant at the heading, and not to the descriptions at the tariff item level. The provisions for interpretation required identification of the heading at the four digit level for the purposes of comparison between two rival claims. That sought by the appellant herein is 'printed circuits.

corresponding to heading 8534 of the First Schedule to Customs Tariff Act, 1975 while that adopted by the assessing authority is

'lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having permanently fixed light source, and parts thereof not elsewhere specified or included'

corresponding to heading 9405 of First Scheduled to Customs Tariff Act, 1975. The specificity of description in the claimed classification is not anywhere matched by the description within which the assessing authorities have sought to place the impugned goods. Moreover, it is clear from the description that 'parts', if at all finding fitment within heading 9405 of First Schedule to Customs Tariff Act, 1975, should not be specified or included elsewhere. In the light of the specific description, notwithstanding the addition of a metallic layer which does not find elaboration in the rival heading too, rule 3 (a) of the General Rules for the Interpretation of Import Tariff offers the solution without having to proceed further.

8. In re Hindustan Ferodo Ltd, it has been held that

3. It is not in dispute before us, as it cannot be, that the onus of establishing that the said rings fell within Item 22F lay upon the Revenue. The Revenue led no evidence. The onus was not discharged. Assuming therefore, that the Tribunal was right in rejecting the evidence that was produced on behalf of the appellants, the appeal should, nonetheless, have been allowed.'

and in HPL Chemicals Ltd v. Commissioner of Central Excise, Chandigarh [2006 (197) ELT 324 (SC)], the Hon'ble Supreme Court has held that

'29. This apart, classification of goods is a matter relating to chargeability and the burden of proof is squarely upon the Revenue. If the Department intends to classify the goods under a particular heading or sub-heading different from that claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof. In the present case the said burden has not been discharged at all by the Revenue. On the one hand, from the trade and market enquiries made by the Department, from the report of the Chemical Examiner, CRCL and from HSN, it is quite clear that the goods are classifiable as "Denatured Salt" falling under Chapter Heading No. 25.01. The Department has not shown that the subject product is not bought or sold or is not brown or is dealt with in the market as Denatured Salt. Department's own Chemical Examiner after examining the chemical composition has not said that it is not denatured salt. On the other hand, after examining the chemical composition has opined that the subject matter is to be treated as Sodium Chloride.'

9. We take note from our analysis supra that the onus devolving on the assessing authorities has not been discharged in accordance with the law as held. The classification adopted by the assessing authorities fails in the face of the specific entry which the respondent herein has not been able to demonstrate as having been excluded from the claimed description. Consequently, we set aside the impugned order and allow the appeal.

3.7. Here, I find that against the above order of CESTAT dated 09.09.2022, an appeal was filed by the department before Hon'ble Supreme Court of India, wherein the Hon'ble Supreme Court of India vide its Order dated 29.11.2024 in Civil Appeal Diary No. 28888/2024 dismissed the departmental appeal on the ground of delay as well as on merits by stating that they saw no good ground to interfere with the impugned order passed by the CESTAT, Mumbai. I also find that the said order dated 29.11.2024, passed by Hon'ble Supreme Court of India has been accepted by the department.

3.8. I observe that the matter has attained finality vide said Hon'ble Supreme Court order dated 29.11.2024 in Civil Appeal Diary No. 28888/2024 and the impugned goods MCPCB are to be classified under CTI 8534 00 00. Therefore, I am of considered view that the demand of differential duty of Rs. 85,61,477/- under Section 28(4) along with interest under Section 28AA of the Customs Act, 1962 raised vide said SCN dated 04.05.2022 against the Noticee(s)/importer is not sustainable. Since there is no liability of short payment of duty and interest thereon, on the part of Importer, the question of confiscation of goods under Section 111(m) and penalties on the Noticee(s)/importer under Section 112(a)/114A and 114AA do not arise.

4. In view of the discussion and findings above, I pass the following order:

ORDER

I **drop** the proceeding initiated under the impugned Show Cause Notice No. **140/2022-23/Commr./NS-V/CAC/JNCH dated 04.05.2022 issued to M/s AVS Lighting Solutions (IEC – 0516959786) and Others.**

5. This Order is issued without prejudice to any other action that may be taken in respect of the above goods and/or the persons/firms mentioned in the notice under the provisions of the Act and/or any other law for the time being in force, in the Republic of India.

15/7/25

(अनिल रामटेके / Anil Ramteke)
आयुक्त/Commissioner of Customs
एनएस-V, जेएनसीएच/NS-V, JNCH

To,

1. M/s. AVS Lighting Solutions
C-1336 First Floor, Sudershan Park,
Moti Nagar, Delhi, 110015

2. Shri Varun Khanna, Director of M/s. AVS Lighting Solutions,
SU-123 Pitam Pura, Delhi 110088

3. Shri Atul Aggarwal, Director of M/s. AVS Lighting Solutions,
House No. 51, First Floor, State Bank Nagar,
Paschim Vihar, Delhi 110063

4. Shri Sanchit Chugh, Director of M/s. AVS Lighting Solutions,
QP-21, Pitam Pura, Delhi, 110088

Copy to:

1. The Addl. Commissioner of Customs, Group VA, JNCH
2. AC/DC, Chief Commissioner's Office, JNCH
3. AC/DC, Centralized Revenue Recovery Cell, JNCH
4. The Dy. Commissioner of Customs, SIIB (I), JNCH
5. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
6. EDI Section
7. Office copy