सत्यमेव जयते	**सीमाशुल्कआयुक्तकाकार्यालय(एनएस-V)** **OFFICE OF COMMISSIONER OF CUSTOMS (NS-V)** **जवाहरलालनेहरूकस्टमहाउस,न्हावा-शेवा** **JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA** **ताल-उरण,जिला- रायगढ़, महाराष्ट्र-400 707** **TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707**	

F. No.:S/26-Misc-327/2025-26/Gr. VA/JNCH Date of Order: 03/12/2025
S/10-Adj-385/2025-26/Gr. VA/ JNCH Date of issue: /12/2025

DIN No.: 20251278NX000000B76D

Passed by: Shri GVSS SHARMA

Assistant Commissioner of Customs , (NS-V), JNCH, Nhava Sheva.

Order No.1469 /2025-26/AC/Gr.VA/NS-V/CAC/JNCH

Name of Party/Noticee: M/s Envision Energy India Pvt. Ltd.

मूलआदेश

1. यह प्रति जिस व्यक्तिको जारी की जाती है, उसके उपयोग के लिए नि: शुल्कदीजाती है।

2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमा शुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमा शुल्क (अपील)नियमावली, 1982 के अनुसार फॉर्म सी.ए.1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूपमें 1.50 रुपये मात्र का स्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इसपर न्यायालय फीस के रूपमें 1.50 रुपये का स्टांप भी लगाया जायेगा जैसाकि न्यायालय फीस अधिनियम 1970 कीअनुसूची 1, मदके अंतर्गत निर्धारित किया गया है।

3. इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्तिके संबंध में विवाद होने पर शास्तिका भुगतान करेगा|

ORDER-IN-ORIGINAL

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

2. An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Sheva, Tal: Uran, Dist.: Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.

3. Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s Envision Energy India Pvt. Ltd. (earlier M/s Envision Wind Power Technologies India Pvt. Ltd.) having registered office 1302 Tower 3 Indiabulls Finance Centre, Senapati Bapat Marg, Elphinstone Road (West)-400013 from Envision Energy Co. Ltd., China (previously known as Envision Energy (Jiangsu) Co. Ltd., China) (hereinafter referred to as 'the supplier') imported various consignments of components for manufacture of wind turbine equipment during the period relevant to this proceeding. As the importer had a declared relationship with the foreign supplier, the assessments of these **45 Bills of Entry** were kept **provisional** under Section 18(1) of the Customs Act, 1962 pending completion of Special Valuation Branch (SVB) enquiry.

2. The case was referred to the Special Valuation Branch, Mumbai by the Deputy Commissioner of Customs, Gr. VA, ACC Sahar, vide F. No. S/ 3-404/2016-17/Gr-VA/ACC dated 02.09.2016 and Deputy Commissioner of Customs, Gr. VA INCH vide F. No. S/26-Misc/279/Gr.VA/JNCH for value investigation and the determination of assessable value in terms of Rule 3 (3) of the Customs Act 1962 read with the Customs Valuation (Determination of value of Imported Goods) Rules 2007. The case was registered in SVB; Mumbai vide DOV registration No. DOV0010374 under F. No. S/9- 160-GATT/2016-17 GVC dated 04.01.2017.

3. The Investigation Report of Special Valuation Branch, Mumbai dated 31.08.2021 concluded the following:

4.1 The present investigation in case of the import by M/s. Envision Wind Power Technologies India Pvt. Ltd. from its supplier Envision Energy (Jiangsu) Co. Ltd., China it is established that they are related in terms of Rule 2 (2) (viji) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

4.2 The price of the imported goods is at arm's length as the circumstances surrounding the sale of imported goods indicates that the said relationship has not influenced the value of the goods imported by the importer from its related suppliers. Thus, the **transaction value is acceptable** for the purpose of assessment in terms of Section 14 of Customs Act, 1962 read with Rule 3(3)(b) (iii) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

4.3 Importer vide letter dated 15.04.2021 informed that the company has executed wind farm project amounting to a total capacity of 232.50 megawatts (MW) till date in India as detailed below:

Sl. No.	Customer Name	No. of WOEGs	Capacity utilization
1	Sprng Alt Energy Private Limited	79	197.50 MW
2	ReNew Wind Energy (Varekarwadi) Private Limited	14	35 MW
	Total	**93**	**232.50 MW**

4.4 Addition of Licensing fee/Royalty @ 6% in the Invoice value is required to be made once the Importer completes its target of aggregate volume of installation of wind projects achieves 1 Gigawatt in India to arrive at the transaction value under Rule 10(1) of the CVR, 2007. In this regard importer may be directed to inform Customs Authority at ports of Import once it achieves target of 1 Gigawatt Wind power projects.

4.5 The assessing groups to resort to usual check, scrutiny and verification of the declared value. However, if contemporaneous imports at higher prices are noticed or there exist reasons to doubt the value, assessing group may evaluate the value of the imported goods under appropriate provision of the Customs Act, 1962.

4.6 The SVB, Mumbai, concluded its enquiry recording that the importer and the overseas supplier were related, but that the **transaction value were acceptable** in terms of **Rule 3(3)(b)** of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The SVB, however, noted that under the **Technology License Agreement dated 31.03.2021**, royalty of **6%** would become payable **only upon achievement of 1 GW aggregate project installations**. Until that threshold was attained, no royalty accrued, and therefore there was no basis for loading the invoice value at that stage.

5. The Show Cause Notice dated 09.09.2025 was issued to the importer that proposed to finalize the provisional assessments by adding royalty in the value under

Rule 10(1), alleging that SVB IR had recommended that royalty would become includible @ 6% in the Invoice value once the Importer completes its target of aggregate volume of installation of wind projects and achieves 1 Gigawatt in India.

6. The SCN accordingly proposed loading of the assessable value, recovery of differential duty under Section 18(2), and levy of interest under Section 18(3).

7. LEGAL PROVISIONS

The relevant provisions of Customs law, Rules and Regulations relevant in the instance case are summarized below:

a. ***Section 46(4) of the Customs Act, 1962,*** *the importer while presenting a Bill of Entry shall make and subscribe to a declaration as to the truth of the contents of such Bill of Entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.*

b. ***Section 18. Provisional assessment of duty.*** *-[1] [(1) Notwithstanding anything contained in this Act but without prejudice to the provisions of section46[2] [and section50],-*

(a) where the importer or exporter is unable to make self-assessment under sub-section (1) of section17 and makes a request in writing to the proper officer for assessment; or

(b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test; or

(c) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary to make further enquiry; or

(d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry,

[14] [the proper officer may assess the duty leviable on such goods, provisionally,] if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed or re-assessed as the case may be, and the duty provisionally assessed.]

[3] [(1A) Where, pursuant to the provisional assessment under sub-section (1), if any document or information is required by the proper officer for final assessment, the importer or exporter, as the case may be, shall submit such document or information within such time, and the proper officer shall finalise the provisional assessment [14] [in such manner], asmaybeprescribed.]

[15] [(1B) The proper officer shall finalise the duty provisionally assessed, within two years from the date of such assessment under sub-section (1):

Provided that the Principal Commissioner of Customs or the Commissioner of Customs may, on sufficient cause being shown and for reasons to be recorded in writing, extend the said period to a further period of one year:

Provided further that in respect of any provisional assessment pending under sub-section (1) as on the date on which the Finance Bill, 2025 receives the assent of the President, the said period of two years shall be reckoned from the date on which the said Finance Bill receives the assent of the President.

(1C) Where the proper officer is unable to assess the duty finally within the time specified under sub-section (1B) for the reason that–

(a) an information is being sought from an authority outside India through a legal process; or

(b) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or

(c) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or

(d) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or

(e) the importer or exporter has a pending application before the Settlement Commission or the Interim Board,

09.09.2025"), regarding the provisional assessment of Bills of Entry (BEs) under Section 18 of the Customs Act, 1962.

2. As per the SCN, we have been asked to show cause as to why the 45 provisionally assessed BEs (listed in Annexure-B to the SCN) should not be finalized by loading the assessable value of the imported goods, based on the findings of the SVB Investigation Report (Annexure-A to the SCN), and why the differential duty should not be recovered under Section 18(2) of the Customs Act, 1962, along with interest under Section 18(3) of the said Act.

3. In this regard, the Investigation Report dated 31.08.2021 issued by the Commissioner of Customs (Imports-II), SVB, NCH, Mumbai, in para 9, states that an addition of Licensing Fees/Royalty @ 6% would be required, once the importer achieves the target of 1 GW of aggregate wind project installations, in order to determine the transaction value under Rule 10(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 ("CVR, 2007").

4. The SVB IR dt.31.08.2021 was based on the Technology Transfer License Agreement dt.31.03.2021 entered into between Envision Energy India Pvt Ltd (EEIPL - formerly: Envision Wind Power Technologies India Pvt Ltd) and Envision Energy Ltd, China (formerly: Envision Energy (Jiangsu) Co. Ltd, China).

5. In reference to the above, we wish to inform that as on date Envision Energy India Pvt Ltd (EEIPL)is not liable for addition of 6% or any other royalty amount in the Transaction Value (TV) under rule 10(1) of CVR, 2007 for the following developments and reasons that have since taken place

6. As per Section 8 of the Technology Transfer License Agreement dated 31.03.2021 between EEIPL and Envision Energy (Jiangsu) Co. Ltd., China (now EECL, China), royalty payments were to commence only after achieving a threshold of 1 GW of wind project installations

7. However, the said Agreement dt.31.03.2021 was amended vide "Addendum to Technology License Agreement dt.16.03.2022 (copy attached as Enclosure-2). The Royalty Payments clause Section 8 of original 'Technology Transfer License Agreement dt.31.03.2021'was amended vide "Addendum dt.16.03.2022", to the effect that,- "Royalty shall not be required to be paid by EEIPL to Envision Energy, China upto 31.03.2024". Thus the royalty payment terms having been amended, the addition of 6% to our TV under rule 10(1) of CVR, 2007 was not to come into effect upto 31.03.2024.

8. This Addendum dt.16.03.2022 was immediately submitted with the office of the Commissioner of Customs (Imports-II), Special Valuation Branch, New Customs House, Mumbai vide our letter dt.25.04.2022 (copy attached as Enclosure-3).

9. Subsequently, the Technology Transfer License Agreement dt.31.03.2021 was again amended for second time vide "Second Addendum to Technology License Agreement dt.20.03.2024" (copy attached as Enclosure-4). It said that,- "the manner of payment of royalty and the period from which royalty shall be payable shall be mutually agreed upon by the parties on a later date".

10. The second Addendum dt.20.03.2024 was also immediately submitted to the office of the Commissioner of Customs (Imports-II), SVB, New Customs House, Mumbai vide our letter dt.28.03.2024 (copy attached as Enclosure-5)

11. Further, an "Amended and Restated Technology License Agreement dt.06.09.2024" (copy attached as Enclosure-6)was entered into by EEIPL and EEIC. This Agreement has the License of Technology clause 3.1, to the effect that,- "it grants non-exclusive, perpetual, royalty free royalty (for below 5 MW

contract products) and royalty bearing (for 5MW and above contract products)…". The company has only made products of less than 5 MW capacity so far. Hence No Royalty is payable from India to China at this stage.

12. This Agreement dt.06.09.2024 was also been submitted SVB, NCH, Mumbai vide our letter dt.29.10.2024 (copy attached as Enclosure-7). Furthermore, a Re-affirmation Agreement dt.10.10.2024 has also been entered into by the parties (copy attached at Enclosure-8).

13. In view of the foregoing para 12 supra, there is no requirement of any addition of Royalty 6% to our Transaction Value under rule 10(1) of CVR, 2007.

14. FURTHER, IT IS CERTIFIED THAT NO ROYALTY HAS BEEN PAID BY ENVISION INDIA TO ENVISION CHINA SINCE INCEPTION OF COMPANY IN 2016 TILL DATE.

15. A Chartered Engineer certificate dated 27.06.2025 is enclosed at Enclosure-9, to the effect that, Envision India has not paid any Royalty to Envision China since the date of its inception in 2016 till date.

16. The SVB Investigation Report dated 31.08.2021 concluded that the declared invoice values of goods imported from Envision Energy Co. Ltd., China and M/s Jiangyin Envision Asset Management Co. Ltd., China, are acceptable under Rule 3(3)(b) of the Customs Valuation Rules, 2007. Accordingly, re- assessment of the subject BEs may be carried out based on declared transaction value."

Vide the said letter, the imported also requested that they may granted an opportunity for Personal Hearing in the matter.

PERSONAL HEARING

9. Following the Principles of Natural Justice, Virtual Personal Hearing was conducted on 21.11.2025 before the Assistant Commissioner of Customs, Gr. VA, NS-V, JNCH.

10. During the hearing, Shri Vipul Sonawane, authorized representative of the company, appeared and reiterated the submissions made vide letters dated 24.10.2025 and e-mail dated 18.11.2025. He stated that under the amended licensing arrangements, royalty was not payable for products below 5 MW capacity, and all their products in India were below this threshold. He confirmed that no royalty had been paid during the impugned period, as supported by the CA certificate. He requested that the provisional Bills of Entry be finalised at the declared transaction value.

DISCUSSION AND FINDINGS

11. I have carefully gone through the entire case record, including the SVB Investigation Report dated 31.08.2021, issued under the SVB file bearing DOV reference *F. No. S/9-160 GATT/2016-17/GVC*, the Show Cause Notice dated 09.09.2025, the written submissions dated 24.10.2025 and the follow-up submissions dated 18.11.2025, the Technology License Agreement dated 31.03.2021 , the Addendum dated 16.03.2022 , the letter dated 25.04.2022 submitting the same before SVB , the Second Addendum dated 20.03.2024, the letter dated 29.10.2024 intimating the Second Addendum and the Amended & Restated Technology License Agreement dated 06.09.2024 to SVB , and the Reaffirmation Agreement dated 10.10.2024. I have further examined the Chartered Accountant's Certificate dated 27.06.2025 issued by Shri Yusuf M.K. as well as the Virtual Personal Hearing Record dated 21.11.2025.

12. Before analysing the valuation issues, it is essential to explicitly record that this adjudication has been undertaken in continuation of, and with full regard to, the SVB DOV file F. No. S/9-160 GATT/2016-17/GVC, which forms the foundational

the proper officer shall inform the importer or exporter concerned, the reason for non-finalisation of the provisional assessment and in such case, the time specified in sub-section (1B) shall apply not from the date of the provisional assessment but from the date when such reason ceases to exist.]

(2) When the duty leviable on such goods is assessed finally [4] [or reassessed by the proper officer] in accordance with the provisions of this Act, then -

(a) in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty [5] [finally assessed or re-assessed, as the case may be,] and if the amount so paid falls short of, or is in excess of [6] [the duty [7] [finally assessed or re-assessed, as the case may be,]], the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be;

(b) in the case of warehoused goods, the proper officer may, where the duty [8] [finally assessed or re-assessed, as the case may be,] is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.

[9] [(3) The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the final assessment order [10] [or re-assessment order] under sub-section (2), at the rate fixed by the Central Government under section [11] [28AA] from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.]

[12] [(4) Subject the sub-section (5), if any refundable amount referred to in clause (a) of sub-section (2) is not refunded under that sub-section within three months from the date of assessment, of duty finally [13] [or re-assessment of duty, as the case may be,] there shall be paid an interest on such un-refunded amount at such rate fixed by the Central Government under section27A till the date of refund of such amount.]

[12] [(5) The amount of duty refundable under sub-section (2) and the interest under sub-section (4), if any, shall, instead of being credited to the Fund, be paid to the importer or the exporter, as the case may be, if such amount is relatable to:

(a) the duty and interest, if any, paid on such duty paid by the importer, or the exporter, as the case may be, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(b) the duty and interest, if any, paid on such duty on imports made by an individual for his personal use;

(c) the duty and interest, if any, paid on such duty borne by the buyer, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(d) the export duty as specified in section26;

(e) drawback of duty payable under sections74 and 75.]

C. Customs Valuation (Determination of value of Imported goods) Rules, 2007

Rule 10. Cost and services . -

(1) In determining the transaction value, there shall be added to the price actually paid or payable for the imported goods, -

(a) the following to the extent they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods, namely:-

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one for customs purposes with the goods in question;

(iii) the cost of packing whether for labour or materials;

(b) The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely: -

(i) materials, components, parts and similar items incorporated in the imported goods;

(ii) tools, dies, molds and similar items used in the production of the Imported goods;

(iii) materials consumed in the production of the imported goods;

(iv) engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods;

(c) royalties and license fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of the sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller;

(e) all other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not included in the price actually paid or payable.

Explanation .- *Where the royalty, license fee or any other payment for a process, whether patented or otherwise, is includible referred to in clauses (c) and (e), such charges shall be added to the price actually paid or payable for the imported goods, notwithstanding the fact that such goods may be subjected to the said process after importation of such goods.*

[(2) For the purposes of sub-section (1) of section14 of the Customs Act, 1962 (52 of 1962) and these rules, the value of the imported goods shall be the value of such goods, and shall include -

(a) the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation;

(b) the cost of insurance to the place of importation:

Provided *that where the cost referred to in clause (a) is not ascertainable, such cost shall be twenty per cent of the free on board value of the goods:*

Provided *further that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (b) is ascertainable, the cost referred to in clause (a) shall be twenty per cent of such sum:*

Provided *also that where the cost referred to in clause (b) is not ascertainable, such cost shall be 1.125% of free on board value of the goods:*

Provided *also that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (a) is ascertainable, the cost referred to in clause (b) shall be 1.125% of such sum:*

Provided *also that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed twenty per cent of free on board value of the goods:*

Provided *also that in the case of goods imported by sea or air and transshipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded .*

Explanation - *The cost of transport of the imported goods referred to in clause (a) includes the ship demurrage charges on charted vessels, lighterage or barge charges.]*

(3) Additions to the price actually paid or payable shall be made under this rule on the basis of objective and quantifiable data.

(4) No addition shall be made to the price actually paid or payable in determining the value of the imported goods except as provided for in this rule.

WRITTEN SUBMISSIONS

8. In response to the said SCN, the importer submitted a letter dated 24.10.2025 vide e-mail and inter alia stated that:

"1. This is with reference to Show Cause Notice No. 84/2025-26/AC/Gr.VA/NS-V/CAC dated 09.09.2025 (received by us on 14.10.2025), issued under F.No. S/10-229/25-26/Adj/AC/GrVA/NS-V/CAC/JNCH (hereinafter referred to as "the SCN dated

valuation determination in respect of the importer. The findings, reasoning, and transactional analysis contained in the SVB Investigation Report dated 31.08.2021 therefore stand directly integrated into this Order-in-Original, and this order is to be read in *para materia* with the said SVB report, as both relate to the same series of imports, the same parties, and the same licensing framework.

13. The following issues arises before me for adjudication:

(i) Whether royalty/licensing fee had accrued or become payable during the period of import of the 45 Bills of Entry.

(ii) Whether such royalty, if any, constituted a condition of sale of the imported goods under Rule 10(1)(c) of the CVR, 2007.

(iii) Whether the amendments to the Technology License Agreements affected the SVB findings.

(iv) Whether the declared transaction value can be accepted for the purpose of finalization under Section 18(2) of the Customs Act, 1962.

14. The first issue which arises for determination is whether, on the facts and documents now on record, any royalty or licence fee has accrued or has become payable by the importer to the related foreign supplier during the period relevant to the 45 provisionally assessed Bills of Entry. The SVB IR had originally noted that under the Technology License Agreement dated 31.03.2021, royalty at the rate of 6% would become due only after the importer achieved a threshold of 1 GW aggregate wind project installations in India, and that this threshold had not been reached as on the date of the IR. The subsequent question is whether later developments, in the form of addenda and the amended agreement, have altered this position adversely to revenue or, conversely, have further deferred or extinguished any royalty obligation.

15. From a plain reading of the original Technology License Agreement dated 31.03.2021 between the importer and Envision Energy (Jiangsu) Co. Ltd., China, it is evident that the royalty clause was not structured as an immediate, fixed and unconditional obligation. It was contingent upon the achieving of a cumulative installation threshold of 1 GW. The SVB IR recorded that only 232.50 MW had been installed at that point, and therefore, as on 31.08.2021, no royalty had yet accrued. This finding of SVB was not challenged either by the department or by the importer and thus forms a starting point for the present analysis.

16. The situation then evolved with the Addendum dated 16.03.2022. This Addendum, which the importer duly filed with SVB vide their letter dated 25.04.2022 , explicitly amended the royalty clause to the effect that "royalty shall not be required to be paid by EEIPL to Envision Energy, China upto 31.03.2024." This amendment has two clear legal implications. First, even if the 1 GW threshold had been achieved before 31.03.2024 (which is not the case on record), the obligation to pay royalty would still stand contractually suspended until that date. Secondly, it shows that the parties themselves had consciously postponed the economic incidence of royalty, reinforcing the position that, for the period up to 31.03.2024, no royalty was, in fact, payable.

17. The Second Addendum dated 20.03.2024, again placed before SVB through the importer's communication dated 29.10.2024, further modified the position by stating that the manner of payment of royalty and the period from which royalty shall be payable would be "mutually agreed upon by the parties at a later date." This language indicates that even post 31.03.2024, the parties had not crystallised a binding obligation as to when and how any royalty would be payable. In other words, there was not only a deferment but also an element of uncertainty, making any assertion of an accrued royalty liability during the impugned period even more remote.

18. Subsequently, the parties entered into an Amended and Restated Technology License Agreement dated 06.09.2024, which was again submitted to the SVB by the importer vide letter dated 29.10.2024. This agreement, inter alia, provides that for contract products below 5 MW, the licence of technology is on a non-exclusive, perpetual and royalty-free basis, whereas royalty is envisaged only for $\geq$ 5 MW contract products. The importer has consistently asserted that, so far, they have manufactured and dealt only in products below 5 MW. This assertion was reiterated during the Virtual Personal Hearing on 21.11.2025 and has not been rebutted by any contrary material from the department side. Thus, even on the latest contractual framework, there is no royalty incidence on the actual product line to which the impugned imports relate.

19. The Reaffirmation Agreement dated 10.10.2024, placed on record, essentially confirms that the change in name of the Indian entity does not impact the subsistence or enforceability of the rights and obligations under the Technology License Agreement and its amendments. This document is relevant to show continuity of parties, but it does not create any new financial obligation that would impact the customs valuation of the imported goods.

20. I now turn to the Chartered Accountant's Certificate dated 27.06.2025 issued by Shri Yusuf M. K., which was submitted by the importer. The certificate records that the CA has perused the Balance Sheet, Profit & Loss Account and various Technology Transfer License Agreements of the importer, as well as para 9 of the SVB Investigation Report. After tracing the original agreement of 31.03.2021 and the subsequent Addendum of 16.03.2022, the Second Addendum of 20.03.2024, and the Amended & Restated Technology License Agreement of 06.09.2024, the CA reiterates that all these developments cumulatively lead to the conclusion that the company is not yet liable for the addition of 6% or any other royalty amount in the transaction value under Rule 10(1). The certificate goes on to specifically certify that Envision Energy India Pvt. Ltd. "has **NOT** paid any amount as royalty to Envision Energy Ltd., China since the date of inception of the company in 2016, till date."

21. From a revenue perspective, a CA certificate is not, by itself, conclusive evidence in the nature of a statutory finding; however, it is an important corroborative document, especially where the assertions in the certificate are fully consistent with the contractual record and with the findings of SVB. In the present case, the CA has relied on the company's audited financial statements and the very same licensing agreements that are on the record of the department. No discrepancy between the CA's recital of contractual clauses and the actual documents has been pointed out.

Further, there is no material from the department's side challenging the veracity of the statement that no royalty has, in fact, been paid since 2016. In absence of any contrary evidence, the CA certificate reinforces the conclusion that royalty has neither accrued nor been discharged in respect of the impugned imports.

21. The next question is whether, independent of actual payment, any royalty is includible in the assessable value as a matter of law under Rule 10(1)(c) or Rule 10(1)(e) of the CVR, 2007. For royalty to be includible under Rule 10(1)(c), two conditions must be simultaneously satisfied: firstly, that the royalty or licence fee relates to the imported goods; and secondly, that the buyer is required to pay such royalty "as a condition of the sale" of the goods being valued. The phrase "condition of sale" has consistently been interpreted to mean that, but for the agreement to pay such royalty, the sale of the goods would not have taken place, or the price would have been different.

22. In the present case, the record does not disclose any clause in the Technology License Agreement, or in its various addenda, which makes payment (or eventual payment) of royalty a pre-condition for the supply of the imported components, or which links the royalty quantum directly and inextricably to the supply of the goods under the impugned Bills of Entry. The royalty construct, as originally framed, was contingent upon project-level output (1 GW threshold), and, through subsequent amendments, it was first suspended, then made subject to future mutual agreement, and ultimately rendered inapplicable to < 5 MW products. Thus, the causal and legal nexus required under Rule 10(1)(c) between the sale of imported goods and the obligation to pay royalty is not established.

23. As regards Rule 10(1)(e), this provision covers any other payment "as a condition of sale" of the imported goods, whether made to the seller or to a third party. For the same reasons as discussed above, there is no evidence of any other payment—present or deferred—being stipulated as a condition for the sale of the imported goods. No flow-back of proceeds or any indirect compensatory arrangement has been alleged or evidenced in the case records.

24. It is also relevant to note that the SVB Investigation Report itself had, after examining the relationship and the pricing, accepted the declared transaction value under Rule 3(3)(b). The role of SVB is precisely to examine whether the relationship has influenced the price and whether any adjustments under Rule 10 are called for. In this case, SVB had clearly held that the relationship had not influenced the price, and that royalty would arise, if at all, only upon achievement of 1 GW and subject to further intimation to customs. The subsequent amendments and the CA certificate do not contradict but rather reinforce that position, by showing that even the contingent royalty was further deferred or rendered inapplicable for the product range actually imported.

25. I also take note of the fact that the importer has, at each stage, voluntarily disclosed the various contractual amendments to the SVB and to the assessing authorities, as seen from their letters dated 25.04.2022 and 29.10.2024 . There is no allegation of suppression, misdeclaration or non-disclosure in the SVB record or in

the present SCN. In a provisional assessment under Section 18, once all relevant documents have been brought on record and examined, and when there is no positive material suggesting that the declared value does not represent the price actually paid or payable, there is no legal basis to artificially load the value.

26. On the cumulative appreciation of (i) the original SVB findings, (ii) the subsequent contractual amendments, (iii) the CA certificate confirming non-payment of royalty and tracing the contractual history and (iv) the oral submissions during PH, I conclude that no royalty has accrued, no royalty has been paid, and royalty has not been shown to be a condition of sale of the imported goods. Consequently, no loading of value is permissible under Rule 10(1)(c) or Rule 10(1)(e), and the transaction value declared in respect of the 45 provisionally assessed Bills of Entry remains acceptable under Rule 3 of the CVR, 2007.

27. Accordingly, I pass the following order:

i. I order to finalize the provisional assessments of the 45 Bills of Entry listed in Annexure-B to the SCN dated 09.09.2025, at the declared transaction value, without any loading towards royalty or licence fee under Section 18(2) of the Customs Act, 1962

ii. Since no variation in value arises, I order that no differential duty becomes payable andconsequentially no interest is leviable during the relevant period under Section 18(3).

iii. I drop the proposalfor adding Royalty amount made in the Show Cause Notice No. 841/2025-26/AC/Gr.VA/NS-V/CAC/JNCH dated 09.09.2025.

28. This order is issued without prejudice to any other action that may be taken against the noticee or persons or imported goods under the provisions of the Customs Act, 1962 or any other law for the time being in force in India.

(GVSS SHARMA) 3/12/25
Assistant Commissioner of Customs
Group VA, NS-V, JNCH

To,

M/s. Envision Energy India Pvt. Ltd., EM726637037IN
office 1302 Tower 3 Indiabulls Finance Centre, Senapati Bapat Marg, Elphinstone Road (West)-400013

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