



BHARAT  
SARKAR

भारतसरकार/ Government of India  
वित्तमंत्रालय / Ministry of Finance  
कार्यालय/ Office of

**आयुक्त सीमाशुल्क-(एनएस-1)**

**Commissioner of Customs-(NS-I)**

Jawaharlal Nehru Custom House (JNCH)

Nhava Sheva, Tal: Uran, Dist: Raigad, Maharashtra-400 707



INDIAN  
CUSTOMS

F.No.S/26-Misc-146/2024-25/Gr.I&IA

Date of Order: 03.12.2025

S/110-Adj-111/2025-26/GR.I&IA

Date of Issue: 04.12.2025

SCN NO.576/2024-25/DU GR.I &IA/NS-I/CAC/JNCH

Date: 21.06.2024

Order passed by: Atul Choudhary, Deputy Commissioner of Customs, Gr. I, NS-I, JNCH, Nhava Sheva.

Order-in-Original No.: 1472/2025-26/AC/Gr. I&IA/NS-I/CAC/JNCH

DIN: 20251278NW0000555604

Name of Party/Noticee: M/s Tree of Life Private Limited (IEC: 308018869)

### मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त) अपील, जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता.उरण, जिला - रायगढ़, महाराष्ट्र- 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील (नियमावली, 1982 के अनुसार फॉर्म सी.ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- 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 शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

### ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeals), Jawaharlal Nehru Custom House, Sheva, Taluka : 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 annexed to the Customs (Appeals) Rules, 1982. The appeal should bear a Court Fee stamp of Rs.2.00 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. 2.00 only as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1870.
- 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**

Whereas, M/s Tree of Life Private Limited (IEC: 308018869) having address at Office No. 304, 3rd floor, Quantum tower, Rambaug, S. V. Road, Malad west, Mumbai suburban, Maharashtra-400064 (hereinafter referred to as 'the importer') had cleared their imported items viz "Hunter's gaurment baked pretzos- Honey mustard (160 GRM x12 pcs x 275 CTN) (Bakery Product) etc." (hereinafter referred to as the subject goods) vide Bills of Entry as mentioned in Annexure-A and the same were cleared through Customs by classifying them under CTH 1905. IGST paid on the said items was @ 5% under serial number 99 & 100 of Schedule — I of Notification No. 01/2017 Integrated Tax (Rate) dated 28.06.2017 (as amended from time to time).

2. The appropriate IGST on the subject items is 18% as per Sr. No. 16 of Schedule-III of the said Notification. The relevant part of the Notification No. 01/2017 is as under:

Serial No Schedule	Duty %	CTH	Descriptions of Goods
100-I	5	1905	Rusks, toasted bread and similar toasted products
16-III	18	1905	Pastry, cakes, biscuits and other bakers' wares, whether not containing cocoa; communion wafers, empty cachets a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products (other than pizza bread, kharka, rusks, toasted bread and similar toasted product

3. From the description of the goods declared in the respective Bills of Entry, it appears that the goods in question are not eligible for IGST payment @ 5% under serial number 99 & 100 of Schedule — I of IGST Notification No. 01/2017 (as amended from time to time), which clearly & specifically is allowed for goods mentioned against the said bill of entry i.e. "*Rusks, Toasted bread and similar toasted products*". Therefore, the goods imported by the Importer attract levy of IGST @18% under Sr. No. 16 of Schedule-III of Notification No. 01/2017. The details of description of goods, Bills of Entry, applicability of corrected IGST amount, are as per Annexure-A mentioned below:

**Annexure -A**

Sr. No.	B/E No.	Date	Importer Name	Imported Goods Descriptio	CTH	Assessabl Value in Rs.	Assessed IGST @ 5% in Rs.	Applicab IGST @ 18% in Rs.	Different IGST am in Rs.
1.	3779352	24.06.19	M/s Tree of Life Private Limited	Hunter's Gourment  Baked Pretzos -	1905	213692.8	14210.6	51158.16	36947.56



				Honey Mustard (160 GRM x 12 pcs x 275 CTN) (Bakery Product)					
2.	9051387	05.10.20	M/s Tree of Life Private Limited	Hunter's Gourment Baked Pretzos – Pizza-(160 GRM x 12 PCS x 320 CTN) (BAKERY PRODUCT	1905	257594	17130	61668	44538
<b>Total</b>						<b>471286.3</b>			<b>81485.56</b>

4. Since the applicability of IGST @ 18% as per Sr. No. 16 of Schedule III of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 on "*All goods i.e., waffles and wafers other than coated with chocolate or containing chocolate; biscuits; Pastries and cakes [other than pizza bread, waffles and wafers coated with chocolate or containing chocolate, papad, bread]etc.*" is very clear and specific, it appears that the Importer had willfully mis-declared the subject goods by way of wrong IGST Schedule for the purpose of importing the same, declaring IGST @5% under serial number 99 &100 of Schedule- I instead of 18% as per Sr. No. 16 of Schedule-III of IGST Notification No. 01/2017-Integrated Tax(Rate) dated 28.06.2017 (as amended) thereby paying lower duty than applicable and thus the provisions of Section 28 (4) are invokable in this case.

5. Accordingly, a Consultative Letter No. 964/2021-22/C1 vide F. No. S/2-Audit-Gen-310(09)/2019-20/JNCH (Pt. V) dated 31.05.2021 was issued to the importer for payment of short levied duty along with applicable interest and penalty. Vide the aforementioned Consultative letter, the Importer was advised to pay the Differential IGST along with interest and penalty in terms of Section 28(4) of the Customs Act 1962. The importer was further advised to avail the benefit of lower penalty in terms of Section 28(5) of the Customs Act, 1962, by early payment of short paid IGST duty and interest along with penalty@ 15%. However, the importer has not responded till date.

**6. Acts of omission and commission by the Importer:**

6.1 As per section 17 (1) of the Act, "An Importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the



duty, if any, leviable on such goods." Thus, in this case the importer had self-assessed the Bills of Entry and appears to have short levy of IGST due to wrong selection of IGST Schedule. As the importer got monetary benefit due to said act, it is apparent that the same was done deliberately by the importer with an intention to avail undue benefit of wrong IGST Schedule on the said goods in the Bills of Entry during self-assessment. Therefore, differential IGST amount is recoverable from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the said Act.

**6.2** It appears that the Importer has given a declaration under section 46(4) of the Act, for the truthfulness of the content submitted at the time of filing Bill of Entry, However, the applicable IGST rate on the subject goods was not paid by the Importer at the time of clearance of goods. It also appears that the Importer has submitted a false declaration under section 46(4) of the Act. By the act of presenting goods in contravention to the provisions of section 111(m), it appears that the Importer has rendered the subject goods liable for confiscation under section 111(m) of the Act. For the above act of deliberate omission and commission that rendered the goods liable to confiscation. Accordingly, the Importer also appears liable to penal action under Section 112 (a) /or 114A of the Customs Act, 1962.

**7.** From the foregoing, it appears that the Importer had availed benefit of wrong IGST Schedule which was not actually available for the said goods; that the Importer has submitted a false declaration under section 46(4) of the said Act. Due to this act of omission of Importer, there has been loss to the government exchequer equal to the differential duty.

**8.** Therefore, in terms of Section 124 read with Section 28(4) of the Customs Act, 1962 **M/s. Tree of Life Private Limited (IEC: 308018869)** was called upon to show cause to **The Deputy Commissioner of Customs**, NS-1, JNCH, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra - 400707, within 30 days of the receipt of the notice, as to why:

- i. The IGST rate claimed under serial number 99 & 100 of Schedule I of IGST levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended) for the subject goods should not be rejected and IGST rate under Schedule III — Sr. No. 16 of said Notification should not be levied.
- ii. Differential IGST amount of **Rs. 81,486/-** with respect to the items covered under Bill of entry as mentioned in Annexure-A to this notice should not be demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.



iii. The subject goods as detailed in Annexure-A to this notice having a total assessable value of **Rs. 4,71,286.3/-** should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.

iv. Penalty on the duty should not be recovered under the provisions of section 28(5) of the Customs Act, 1962.

v. Penalty should not be imposed on the importer under Section 112 (a) and /or 114 A of the Customs Act, 1962.

**9.** *After the introduction of self-assessment vide Finance Act, 2011, the onus is on the Importer to make true and correct declaration in all aspects including Classification and calculation of duty, but in the instant case the subject goods have been misclassified and IGST amount has not been paid correctly.*

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

**10.1** *Section 17(1) Assessment of duty, reads as: An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*

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

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

- (a) collusion; or*
- (b) any wilful mis-statement; or*
- (c) suppression of facts,*

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

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

*(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-*



- i. that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or
- ii. that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5).

### **10.3 SECTION 28AA- Interest on delayed payment of duty**

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,-

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]

### **10.4 SECTION 46- Entry of goods on importation, subsection 46(4) reads as:**

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, <sup>13</sup> [and such other documents relating to the imported goods as may be prescribed].

### **10.5 Section 111- (Confiscation of improperly imported goods etc.), subsection 111(m) reads as:**

(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 3 [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 ];

### **10.6 Section 112- (Penalty for improper importation of goods etc.), subsection 112 (a) reads as:**

Any person, -

- (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or



**10.7 SECTION 114A- Penalty for short-levy or non-levy of duty in certain cases.**

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has <sup>2</sup> [\*\*\*\*] been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under <sup>3</sup> [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined: <sup>4</sup> [ **Provided** that where such duty or interest, as the case may be, as determined under <sup>3</sup> [sub-section (8) of section 28], and the interest payable thereon under section <sup>5</sup> [ 28AA ], is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

**Provided** further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :

**Provided** also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

**Provided** also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section <sup>5</sup> [ 28AA ], and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect :

**Provided** also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114 .

**EXTENSION OF TIME LIMIT**

11. Show Cause Notice in the subject matter had been issued on 21.06.2024. The last date for adjudication of the case was 20.06.2025, which has been extended by the competent authority for 06 months up to 19.12.2025, in light of provision of Section 28(9) of Customs Act-1962.

**PERSONAL HEARING AND WRITTEN SUBMISSIONS**

12. In order to comply with the Principals of Natural Justice, the noticee was given opportunities for Personal Hearing on 05.08.2024, 20.08.2024 and 12.11.2025 with prior intimation. However, no one appeared for the personal hearing. I, therefore, proceed to decide the case ex-parte on the basis of available record.

**DISCUSSION AND FINDINGS**

13. I have carefully gone through the records of the case and the written submissions made by the importer;

13.1 I find that the importer M/s Tree of Life Private Limited had cleared "Hunter's gaurment baked pretzos- Honey mustard (160 GRM x12 pcs x 275 CTN) (Bakery Product) etc." vide Bills of Entry as mentioned in Annexure-A under



CTH 1905. IGST paid on the said items was @ 5% under serial number 99 & 100 of Schedule — I of Notification No. 01/2017 Integrated Tax (Rate) dated 28.06.2017.

**13.2** I find that that the goods are not eligible for IGST payment @ 5% under serial number 99 & 100 of Schedule — I of IGST Notification No. 01/2017 (as amended from time to time), which clearly & specifically is allowed for goods mentioned against the said bill of entry i.e. "*Rusks, Toasted bread and similar toasted products*". Therefore, the goods imported by the Importer attract levy of IGST @18% under Sr. No. 16 of Schedule-III of Notification No. 01/2017.

**13.3** I find that a Consultative Letter No. 964/2021-22/C1 vide F. No. S/2-Audit-Gen-310(09)/2019-20/JNCH (Pt. V) dated 31.05.2021 was issued to the importer for payment of short levied duty along with applicable interest and penalty. However, the importer has not responded till date.

**13.4** I find that the differential IGST amount **Rs. 81,486/-** is recoverable from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the said Act.

**13.5** I find that the Importer has submitted a false declaration under section 46(4) of the Act and rendered the subject goods liable for confiscation under section 111(m) of the Act. For the above act of deliberate omission and commission, the Importer is liable to penal action under Section 112 (a) /or 114A of the Customs Act, 1962.

**14.** In view of the factual details of the case as discussed above, I pass the following order:

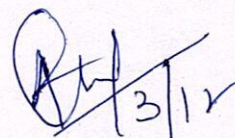
### **ORDER**

- i. I reject the IGST rate claimed under serial number 99 & 100 of Schedule I of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 for the subject goods and order to levy IGST rate under Schedule III — Sr. No. 16 of said Notification.
- ii. I order to recovery of the differential IGST amount of **Rs. 81,486/- (Eighty One Thousand Four Hundred Eighty Six Only)** with respect to the items covered under Bill of entry, mentioned in table above, as an Annexure-A, demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.
- iii. I held the subject goods as detailed in table above having a total assessable value of Rs. 4,71,286/- are liable for confiscation under Section 111(m) of the Customs Act, 1962. However, as the goods are not available for such confiscation, I impose a **redemption fine of Rs. 1,00,000/- (Rupees One Lakh Only)** under section 125 of the Customs Act, 1962 in lieu thereof.



- iv. I also impose a penalty of Rs. **20,000/- (Twenty Thousand Only)** on the importer M/s Tree of Life Private Limited (IEC: 308018869) under Section 114 A of the Customs Act, 1962.

**15.** 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.



(Atul Choudhary)  
Deputy Commissioner of Customs  
Gr I&IA, JNCH

To,

**M/S. Tree of Life Private Limited** (IEC: 308018869)

304, 3rd floor, Quantum tower,  
Rambaug, S. V. Road,  
Malad west, Mumbai suburban,  
Maharashtra-400064.

Copy to;

- 1) DC/Audit Section, JNCH, Mumbai Zone-II,
- 2) DC/CAC, JNCH (for information only),
- 3) DC/CRAC Section, JNCH,
- 4) DC/ EDI, JNCH,
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