आयुक्त,सीमाशुल्क (एनएस- V) काकार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS- V),
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
तालुका- उरण, जिला- रायगढ़, महाराष्ट्र- ४००७०७.
TALUKA– URAN, DISTRICT- RAIGAD, MAHARASHTRA – 400 707.

सत्यमेव जयते

F.No.: S/26-Misc- 884/2024-25/Gr. VA JNCH
S/10-Adj-386/2025-26 Gr. VA/ JNCH

Date of Order:04/12/2025
Date of issue: /12/2025

DIN No. : 20251278NX000082398D

Passed by: G V S S Sharma
Assistant Commissioner of Customs,
Gr. VA, (NS-V), JNCH, Nhava Sheva.

Order No.1474/2025-26/AC/Gr. VA/NS-V/CAC/JNCH

Name of Party/Noticee: M/s DRAM INDIA & CO (IEC-0912010746)

मूल आदेश

1. यह प्रतिज्ञा व्यक्तिको जारी की जाती है, और उसके उपयोग के लिए नि:शुल्क दी जाती है।

2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम, 1962 की धारा 128(1) के तहत इस आदेश की सूचना की तिथि 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 शुल्क के रूप में 1.50 रुपये मात्र का स्टांप लगाया जाएगा और साथ में यह आदेश या इसकी एक प्रति भी लगाई जाएगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय शुल्क के रूप में 1.50 रुपये का स्टांप भी लगाया जाएगा, जैसा कि न्यायालय शुल्क अधिनियम, 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।

3. इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति, अपील निर्णयित होने तक, शुल्क या शास्त्रिके संबंध में विवाद होने पर मांगे गए शुल्क का 7.5% का भुगतान करेगा, अथवा केवल शास्त्रिके संबंध में विवाद होने पर शास्त्रिका 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

A Show Cause Notice No. 1445/2024-25/AC/Gr. VA/CAC/JNCH (in short 'SCN') under Section 28(4) read with Section 124 of the Customs Act, 1962 has been issued to M/s. DRAM INDIA & CO by the Assistant Commissioner of Customs, Gr. VA, JNCH. The SCN has been placed before me for adjudication. Brief facts of the case are as enumerated below.

Whereas, M/s DRAM INDIA & CO having address As Plot No.8 Happy Enclave, Rasoolpura Sec-Bad Hyderabad, Telangana-500003 have imported goods as mentioned in annexure-A, having description as "Compatible Laptop WIFI Adapter Lapsave Brand Model No LV-UW01(Static Converters for ADP Machines & Units Thereof & Telec)" and paid IGST @ 5% as per serial no. 234B of Schedule -I of IGST levy Notification No. 01/2017 -Integrated Tax (Rate) dated 28.06.2017 *(as amended by Notification No. 12/2019-Integrated Tax (Rate) dated 31/07/2019).*

2. The subject goods had been classified under CTH 8504 4090 by paying IGST @ 5%. However, it appeared that the subject goods attract rate of IGST @ 18% from 01/08/2019 (as per Notification No. 12/2019-Integrated Tax (Rate) dated 31/07/2019). Therefore, it appeared that the subject goods were liable to be assessed at the IGST @ 18% instead of IGST @ 5%, which resulted in short payment of Customs duty.

3. The entry 234B of Schedule -I (5%) has been introduced with effect from 01.08.2019 (Notfn. No. 12/2019- Integrated Tax (Rate) dated 31.07.2019). Accordingly, certain specified goods, namely, charger or charging station for electrically operated vehicles falling under 8504 attract a lower IGST @ 5%. IGST entry I-234 B (@5%) is reproduced below:

234 B	8504	Charger or charging station for electrically operated vehicles

3.2. Goods "other than charger or charging station for electrically operated vehicles ", falling under heading 8504, attract a higher IGST rate @ 18% under serial No. 375 of Schedule- III (18%), as amended by (Notfn. No. 12/2019- Integrated Tax (Rate) dated 31.07.2019). The description of this entry is given below:

375	8504	Electrical Transformer, Static converters (for example, rectifiers) and inductors other than charger or charging station for electrically operated vehicles	18%

4. The total assessable value of the BE items so imported was Rs. 1,26,518/- and it appeared that a short levy of duty amounting to Rs. 16,447/- (as detailed in Annexure- 'A') is recoverable from the Importer along with applicable interest and penalty.

5. In view of the above, a Consultative letter was issued to the importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty along with applicable interest and penalty. However, no reply or submission is given by importer in this regard.

5. Relevant Legal Provisions:

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 this case the subject goods have been mis-classified and IGST amount has not been paid correctly.

5.1 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.

5.2 *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.

5.3 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.

5.4 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, and such other documents relating to the imported goods as may be prescribed.

5.5 Section 111 (Confiscation of improperly imported goods etc.) *reads as: The following goods brought from a place outside India shall be liable to confiscation …… (m) Any goods which do not correspond in respect of value or in any other particular with the entry made under this Act……;*

5.6 Section 112 (Penalty for improper importation of goods etc.) *reads as:*
"Any person,-
(a)who in relation to any goods does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act shall be liable,-
(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is greater;
(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten percent of the duty sought to be evaded or five thousand rupees, whichever is higher……"

5.7 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 been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

5.8 SECTION 114AA. Penalty for use of false and incorrect material. –
If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

5.9 SECTION 117. Penalties for contravention, etc., not expressly mentioned. *- Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one lakh rupees.*

Acts of omission and commission by the Importer

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

7. Therefore, in view of the above, it appeared that the importer has deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to Rs. 16,447/-. Therefore, the differential duty, so not paid, is liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

8. In view of the above, the importer, **M/s. DRAM INDIA & CO** were called to show cause to the Assistant Commissioner of Customs, Gr. VA, JNCH, Nhava-Sheva, Distt. Raigad, Maharashtra-400707 within 30 days of the receipt of this notice as to why:

(i) Differential/short paid Duty amounting to Rs. 16,447/- for the subject goods imported vide Bills of Entry as detailed in Annexure-'A' should not be demanded under Section 28(4) of the Custom Act, 1962.

(ii) In addition to the duty short paid, interest on delayed payment of Custom Duty should not be recovered from the Importer under Section 28AA of the Customs Act. 1962.

(iii) The subject goods imported vide Bills of Entry as detailed in Annexure-'A' having assessable value of Rs. 1,26,518/- should not be held liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962.

(iv) Penalty should not be imposed on them under Section 112(a) of the Customs Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.

(v) Penalty should not be imposed under Section 114A of Customs Act, 1962 for short levy of duty.

Personal Hearing and Written Submissions

9. In order to comply with the principal of natural justice, personal hearing in the matter was offered to the importer vide letter F. No. S/26-Misc-884/2024-25/Gr. VA JNCH to appear before the adjudicating authority on 12.11.2025/14.11.2025/17.11.2025 to present their case in respect of the subject show cause notice. However, no one appeared on behalf of M/s. **DRAM INDIA & CO** for the personal hearing, nor sought for any extension of time and accordingly, I proceed to adjudicate the case *ex-parte* based on the records available in the file.

Discussion and Finding

10. I have carefully gone through the facts of the case, available records and evidences referred to above.

11. On perusal of facts of the case, I find that the following issues are involved, which are required to be decided in the present proceedings i.e. whether

(i) The subject goods are liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962.

(ii) The differential duty amounting to Rs. 16,447/- should be demanded and confirmed in terms of Section 28(4) of the Customs Act, 1962.

(iii) The applicable interest on the amount specified above should be recovered from them in terms of Section 28AA of the Customs Act, 1962.

(iv) Penalty should be imposed on them under Section 112(a) and /or 114A of the Customs Act, 1962.

12. The entry 234B of Schedule -I (5%) has been introduced with effect from 01.08.2019 (Notfn. No. 12/2019- Integrated Tax (Rate) dated 31.07.2019). Accordingly, certain specified goods, namely, charger or charging station for electrically operated vehicles falling under 8504 attract a lower IGST @ 5%. IGST entry I-234 B (@5%) and Goods "other than charger or charging station for electrically operated vehicles ", falling under heading 8504, attract a higher IGST rate @ 18% under serial No. 375 of Schedule- III (18%), as amended by (Notfn. No. 12/2019- Integrated Tax (Rate) dated 31.07.2019).

13. I find that the subject goods are classifiable @ 18% under serial No. 375 of Schedule- III, instead of IGST @ 5% under IGST entry serial no. 234 B of Schedule-I, as the goods are not Charger or charging station for electrically operated vehicles.

14. I find that the total assessable value of the items so imported is **Rs. 1,26,518/-** and there is a short payment of duty amounting to **Rs. 16,447/-**, which is recoverable from the Importer along with applicable interest and penalty.

15. I also find that, the importer has deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to Rs. 16,447/- and the same is recoverable from the importer under Section 28 (4) along with applicable interest under Section 28AA of the Customs Act, 1962.

16. With regard to the proposal of imposition of penalty under section 114A/112(a), I find that the Importer has submitted a wrong declaration under Section 46(4) of the Act and accordingly I find that, the importer is liable for a penalty under Section 114A, further for the same reason, I find that, the subject goods are liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962. In this regard, the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), has held as under: -

"22. We must also bear in mind that for improper importation of the dutiable goods or the prohibited goods, the importer is liable to be proceeded against under Section 112 of the Act by subjecting him to a penalty. Therefore, the fine proposed to be imposed under Section 125 of the Act is directed against the goods, in addition to the one that was already provided for under Section 112 of the Act. The fine contemplated is for redeeming the goods, whereas, the importer is sought to be penalised under Section 112 for doing or omitting to do any act which rendered such goods imported by him, liable to be confiscated under Section 111 of the Act and for that act or omission, the appellant is liable to be penalised."

Following the above case law, I hold that the subject goods are liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962 despite the fact that the goods are not physically available now.

17. In view of the above, I pass the following order.

Order

(i) I hold that the subject goods having assessable value of **Rs. 1,26,518/- (Rupees One Lakh Twenty Six thousand Five Hundred Eighteen Only)** are liable for confiscation under the provisions of Section 111(m) and 1111(o) of the Customs Act 1962. I impose a redemption fine of **Rs. 13,000- (Rupees Thirteen Thousand Only)** under Section 125 of the Customs Act, 1962 even though goods are not physically available.

(ii) I confirm the demand of differential duty amounting to **Rs. 16,447/- (Rupees Sixteen Thousand Four Hundred Forty Seven Only)** under Section 28(4) of the Customs Act, 1962 on the impugned goods.

(iii) I confirm the demand of interest under Section 28AA of the Customs Act,1962 on differential duty mentioned in (ii) above at the applicable rates.

(iv) I impose a penalty of **Rs. 16,447/- (Rupees Sixteen Thousand Four Hundred Forty Seven Only)** and applicable interest thereon, on M/s DRAM INDIA & CO

under Section 114A of the Customs Act,1962. If such duty is paid from thirty days from the date of the communication of this order, the amount of penalty liable to be paid shall be 25% of the duty, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of the order.

(v) As penalty has already been imposed under Section 114A of the Customs Act,1962, I refrain from imposing penalty under Section 112(a) of the said act.

(G.V.S.S. Sharma)
Assistant Commissioner of Customs
Gr-VA, NS-V, Nhava Sheva, JNCH

To,
M/s. DRAM INDIA & CO (IEC-0912010746)
Plot No.8 Happy Enclave,
Rasoolpura Sec-Badhyderabad,Telangana, 500003

Copy to:-

1. The Asstt./Dy. Commissioner of Customs, D1 Circle/Audit JNCH.
2. The Asstt./Dy. Commissioner of Customs, CAC, JNCH.
3. The Asstt./Dy. Commissioner of Customs, CRAC, JNCH.
4. Office copy
5. Notice Board (for display).

Sr. No.	BE Number	BE Date	Description of goods	Total Assessable Value - Assessed	Total Duty - Assessed	IEC Name	IEC Code	IGST Amount - Assessed	CTH 4 Digit	BCD Notification SerialNumber	BCD Notification Number	Cess @ 10%	IGST @ 18%	Difference in IGST
1	5996179	Dec 9, 2019	COMPATIBLE LAPTOP WIFI ADAPTER LAPSAVE BRAND MODEL NO LV-UW01 (STATIC CONVERTERS FOR ADP MACHINE & UNITS THEREOF & TELEC	126,517.54	6,325.9	DRAM INDIA & CO	0912010746	6,325.9	8504	4	025/2005	0	22773.16	***16,447***

Verified
Mohit Singh
Pl, Circle-01