

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.



F.No.: S/26-Misc-925/2024-25/Gr. VA JNCH

S/10-Adj-391/2025-26 Gr. VA/ JNCH

Date of Order: **49**12/2025 Date of issue: /12/2025

DIN No.: 2025 12 78 MX 000005 68E1

Passed by: G V S S Sharma

Assistant Commissioner of Customs, Gr. VA, (NS-V), JNCH, NhavaSheva.

Order No. \479/2025-26/AC/Gr. VA/NS-V/CAC/JNCH

Name of Party/Noticee: M/s DANIELI INDIA LIMITED (IEC- 297005286)

मूल आदेश

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 भृगतान 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. 1491/2024-25/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. DANIELI INDIA LIMITED 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, DANIELI INDIA LIMITED having address at TECHNOPOLIS, 5TH FLOOR, B-WING, BLO PLOT NO. 4, SECTOR V SALT LAKE 700091, have imported goods having description such as "DISPLAY/Module" under CTH 8531 2000 (as detailed in Annexure-A) and importer has availed BCD exemption vide Notification No. 24/2005-customs dated 01.03.2005. However, on scrutiny it appeared that the impugned goods imported were the parts for electrical sound or visual signalling and not Complete Apparatus which falls under CTH 85319000 and attracts 10% duty.

2. The relevant extract of CTH 8531 of the Custom Tariff is reproduced herein below:

8531- ELECTRIC SOUND OR VISUAL SIGNALLING APPARATUS (FOR EXAMPLE, BELLS, SIRENS, INDICATOR PANELS, BURGLAR OR FIRE ALARMS), OTHER THAN THOSE OF HEADING 8512 OR 8530

8531 10 - Burglar or fire alarms and similar apparatus:

8551 10 - Burgian or	10%
8531 10 10 Burglar alarm u	10%
8531 10 20 Fire alarm u 8531 10 90 Other u	10%
8531 10 90 Other u	crystal uFree - devices
(LCD) or light-emitting diodes (LED)	10%
8531 80 00 - Other apparatus u	10%
8531 80 00 - Other apparatus u	clature reads as

2.1 Relevant Explanatory Notes to the Harmonized System of nomenclature reads as below:

"With the exception of signaling apparatus used on cycles or motor vehicles (heading 85.12) and that for traffic control on roads, railways, etc. (heading 85.30), this heading covers all electrical apparatus used for signaling purposes, whether using sound for the transmission of the signal (bells, buzzers, hooters, etc.) or using visual indication (lamps, laps, illuminated numbers, etc.),

Static signs, even if lit electrically (e.g., lamps, lanterns, illuminated panels, etc.) are not regarded as signaling apparatus. They are therefore not covered by this heading but are classified in their own appropriate headings (headings 83.10, 94.05, etc.). Indicator panels and the like. These are used (e.g., in offices, hotels and factories) for calling personnel, used (e.g., in offices, hotels and factories) whether a room is free ornot. They include:

- (1)Room indicators. These are large panels with numbers corresponding to a number of rooms. When a button is pressed in the room concerned the corresponding number is either lit up or exposed by the falling away of a shutter or flap.
- (1) Number indicators. The signals appear as illuminated figures on the face of a small box; in some apparatus of this kind the calling mechanism is operated by the dial of a telephone. Also clock type indicators in which the numbers are indicated by a hand moving

round a dial.

(2)Office indicators, for example, those used to indicate whether the occupant of a particular office is free or not. Some types are merely a simple "come in "or "engaged "sign illuminant at will by the occupant of the office.

(3) Lift indicators. These indicate, on an illuminated board, where the lift is and whether it is

going up or down.

(4) Engine room telegraph apparatus for ships.

(5) Station indicating panels for showing the times and platforms of trains.

(6) Indicators for race courses, football stadiums, bowling alleys, etc.

The heading also excludes:

- Switches and switch panels, whether or not incorporating simple indicating lights(heading 85.36 or 85.37).
- Fire alarms incorporating smoke detectors containing a radioactive substance (heading 90.22).
- LCD displays are only classified under this heading when they do not meet the criteria for a monitor (heading 84.71), video monitor (heading 85.28) or a television receiver (heading 85.28)"
- On conjoint reading of the above notes, it appeared that only the complete 2.2 apparatus used for electrical sound or visual signalling are to be classified under CTH 8531. Parts of these apparatus are covered under CTI 85319000. Those signalling apparatus incorporating LCD/LED displays merits classification under CTH 8531 2000 with the BCD exemption to the said goods. Other Parts, other apparatus, Monitors/displays used as inputs for further processing are to be classified in their respective headings.
- 2.3 In the instant case, the importer had availed BCD exemption vide Notificationno. 24/2005customs dated 01.03.2005 by claiming the goods under CTH 8531 2000 which is for the complete apparatus used for electrical sound or visual signalling. However, it appeared that the goods imported were the parts for electrical sound or visual signalling and not Complete Apparatus are covered under CTH 85319000 which attracts 10% duty. From the above, it appeared that the said exemption Notification is applicable to Complete apparatus used for electrical sound or visual signalling, whereas the goods imported were the parts of electrical sound or visual signalling. Therefore, they were ineligible of benefit of Notification No. 24/2005-customs dated 01.03.2005.
- 3. In view of the above, a Consultative letter was issued for the Bills of Entry (detailed in Annexure-A of valued of Rs. 7,180/- to the Importer advising for payment of the same along with applicable interest and penalty. However, no reply or submission is given by importer in this regard.
- 4. The total assessable value of the BE items so imported was Rs. 55,317/- and it appeared that a short levy of BCD amounting to Rs. 7,180/- is recoverable from the Importer along with applicable interest and penalty.

Relevant Legal Provisions: 5.

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.

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.

Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or 5.2

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.

SECTION 28AA- Interest on delayed payment of duty 5.3

(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.

SECTION 46. Entry of goods on importation, subsection 46(4) reads as:

- 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.
- Section 111 (Confiscation of improperly imported goods etc.) reads as: The following 5.5 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....;

Section 112 (Penalty for improper importation of goods etc.) reads as: 5.6

(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

- Whereas, consequent upon amendment to the Section 17 of the Customs Act, 1962 vide 6. 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 selfassessment, 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 selfassessment 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 facts, it appeared that the importer had deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct CTH in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to ₹ 7,180/-. 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 interestat the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

- In view of the above, the importer, M/s. DANIELI INDIA LIMITED were called to 8. 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: The imported goods should not be classified with the machine of which the (i) imported good is a part, or CTH 8531 9000. Differential/short paid Duty amounting to ₹7,180/- for the subject goods imported (ii) vide Bills of Entry as detailed mentioned above should not be demanded under Section 28(4) of the Custom Act, 1962. In addition to the duty short paid, interest on delayed payment of Custom Duty (iii) should not be recovered from the Importer under Section 28AA of the Customs Act. 1962. The said subject goods imported vide Bills of Entry as detailed mentioned above (iv) having assessable value of ₹ 55,317/- should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962. Penalty should not be imposed on them under Section 112(a)/114A of the Customs (v) Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above. Personal Hearing and Written Submissions In order to comply with the principal of natural justice, personal hearing in the matter 9. was offered to the importer vide letter F. No. S/26-Misc-925/2024-25/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 DANIELI INDIA LIMITED 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 imported goods should be classified under CTH 8531 9000 so the subject goods are liable for confiscation under Section 111(o) of the Customs Act, 1962.
 - (ii) The differential duty amounting to Rs. 7,180/- 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. I find that the importer had imported goods having description as "Operator Panel" under the CTH 85312000, whereas I find that the imported goods appropriately classifiable under CTH 85319000.

13. The relevant extract of CTH 8531 of the Custom Tariff is reproduced herein below:

8531- ELECTRIC SOUND OR VISUAL SIGNALLING APPARATUS (FOR EXAMPLE, BELLS, SIRENS, INDICATOR PANELS, BURGLAR OR FIRE ALARMS), OTHER THAN THOSE OF HEADING 8512 OR 8530

8531 10 - Burglar or fire alarms and similar apparatus:

8531 10 10 Burglar alarm u	10%
8531 10 20 Fire alarm u	
8531 10 90 Other u	10%
8531 20 00 - Indicator panels incorporating liquid cry devices (LCD) or light-emitting diodes (LED)	
8531 80 00 - Other apparatus u	10%

13.1 Relevant Explanatory Notes to the Harmonized System of nomenclature reads as below:

"With the exception of signaling apparatus used on cycles or motor vehicles (heading 85.12) and that for traffic control on roads, railways, etc. (heading 85.30), this heading covers all electrical apparatus used for signaling purposes, whether using sound for the transmission of the signal (bells, buzzers, hooters, etc.) or using visual indication (lamps, laps, illuminated numbers, etc.),

Static signs, even if lit electrically (e.g., lamps, lanterns, illuminated panels, etc.) are not regarded as signaling apparatus. They are therefore not covered by this heading but are classified in their own appropriate headings (headings 83.10, 94.05, etc.). Indicator panels and the like. These are used (e.g., in offices, hotels and factories) for calling personnel, indicating where a certain person or service is required, indicating whether a room is free ornot. They include:

- (7) Room indicators. These are large panels with numbers corresponding to a number of rooms. When a button is pressed in the room concerned the corresponding number is either lit up or exposed by the falling away of a shutter or flap.
- (8) Number indicators. The signals appear as illuminated figures on the face of a small box; in some apparatus of this kind the calling mechanism is operated by the dial of a telephone. Also clock type indicators in which the numbers are indicated by a hand moving round a dial.
- (9)Office indicators, for example, those used to indicate whether the occupant of a particular office is free or not. Some types are merely a simple "come in "or "engaged "sign illuminant at will by the occupant of the office.
- (10) Lift indicators. These indicate, on an illuminated board, where the lift is and whether it is going up or down.
- (11) Engine room telegraph apparatus for ships.
- (12) Station indicating panels for showing the times and platforms of trains.
- (13) Indicators for race courses, football stadiums, bowling alleys, etc. The heading also excludes:
 - a. Switches and switch panels, whether or not incorporating simple indicating lights(heading 85.36 or 85.37).
 - b. Fire alarms incorporating smoke detectors containing a radioactive substance (heading 90.22).

- c. Operator Panels are only classified under this heading when they do not meet the criteria for a monitor (heading 84.71), video monitor (heading 85.28) or a television receiver (heading 85.28)"
- 13.2 On perusal of the aforementioned notes together, I find that CTH 8531 is applicable to the entire equipment utilized some of these devices' parts. Signaling devices that use LCD or LED displays are eligible for CTH 8531 2000 categorization, which exempts the aforementioned products from the benefit of BCD. Monitors and displays utilized as inputs for additional processing, as well as other parts and equipment, should be classified in their respective headings.
- 14. I find that, the importer has deliberately mis-classified the goods under CTH 8531 2000 to avail duty exemption. However, the goods are rightly classifiable under CTH 85319000 attracting 10% BCD. Thus the importer has wilfully misclassified the goods to evade the duty of Rs. 7,180/- is liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 along with applicable interest under section 28AA of the Customs Act, 1962
- 15. It is on record that the consultative letter was issued to importer to clarify the issue raised by the department and in case of agreement with the observation/finding of the department, the importer was advised to pay the differential duty of Rs. 7,180/- along with applicable interest and penalty. However, no reply or submission is given by importer in this regard.
- 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/112(a). Further for the same reason, I find that, the subject goods are liable for confiscation under Section 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(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.

<u>Order</u>

(i) I hold that the subject goods are classifiable under CTH 8531 9000 and the subject goods having assessable value of Rs. 55,317/- (Fifty Five Thousand Three Hundred Seventeen Only) are liable for confiscation under the provisions of Section 111(o) of the Customs Act 1962. I impose a redemption

- fine of Rs. 6,000/- (Rupees Six 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. 7,180/- (Rs. Seven Thousand One Hundred Eighty 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. 7,180/- (Rs. Seven Thousand One Hundred Eighty Only) and applicable interest thereon, on M/s DANIELI INDIA LIMITED 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. DANIELI INDIA LIMITED (IEC- 297005286),

TECHNOPOLIS, 5TH FLOOR, B-WING, BLO PLOT NO. 4, SECTOR V SALT LAKE 700091

Copy to:-

- 1. The Asstt./Dy. Commissioner of Customs, E2 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).

Annexure-A

IEC Name	BE Number	BE Date	Item no.	Full Item Description	Assessable Value Amount		Duty applicable @ 30.98	Differenti al duty
DANIELI INDIA LIMITED 0297005286	6252403 GR 5A	27-12- 2019		OPERATOR PANEL MT8073IE OPERATOR PANEL M	55316.76	9957	17137.132	7180
				Total	55316.76	9957	17137.132	7180

