

 <p>BHARAT SARKAR</p>	<p><b>सीमाशुल्क आयुक्तकाकार्यालय (एनएस-1)</b>  <b>OFFICE OF COMMISSIONER OF CUSTOMS (NS-1)</b>  <b>जवाहरलालनेहरूकस्टमहाउस, न्हावा.शेवा</b>  <b>JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA</b>  <b>ताल-उरण, जिला- रायगढ़, महाराष्ट्र-400 707</b>  <b>TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707</b></p>	 <p>INDIAN CUSTOMS</p>
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F. No: S/26-Misc-68/2024-25 Gr. IIG/JNCH

Date of Order: 03.09.2025

S/10-Adj-254 /2025-26/Gr. IIG/JNCH

Date of issue: 03.09.2025

SCN No.: 1037/2024-25/AC/Gr.IIG/NS-I/JNCH

Date of SCN: 05.09.2024

**Passed by: Raj Kumar Mishra**

**Asstt. Commissioner of Customs, Gr.II-G (NS-I), JNCH, NhavaSheva.**

द्वारा पारित : राज कुमार मिश्रा

सहायक आयुक्त, सीमाशुल्क, ग्रुप II-G, एनएस-1, जेएनसीएच

**Order No. 873/2025-26/AC/Gr.IIG/NS-I/CAC/JNCH**

**आदेशसंख्या 873/2025-26/AC/Gr.IIG/NS-I/CAC/JNCH**

Name of Importer/Party/Noticee: **M/s. PARKIN GEMS (IEC No.ACNPV6583G)**

### मूलआदेश

- यहप्रतिजिसव्यक्तिकोजारीकीजातीहै, उसकेउपयोगकेलिएनिःशुल्कदीजातीहै।
- इसआदेशकेविरुद्धअपीलसीमाशुल्कअधिनियम1962 कीधारा128 (1) केतहतइसआदेशकीसंसूचनाकीतारीखसेसाठदिनोंकेभीतरसीमाशुल्कआयुक्त (अपील), जवाहरलालनेहरूसीमाशुल्कभवन, न्हावाशेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707 कोकीजासकतीहै।अपीलदोप्रतियोंमेंहोनीचाहिएऔरसीमाशुल्क(अपील) नियमावली, 1982 केअनुसारफॉर्मसी.ए. 1 संलग्नकमेंकीजानीचाहिए।अपीलपरन्यायालयफीसकेरूपमें1.50 रुपयेमात्रकास्टांपलगायाजायेगाऔरसाथमेंयहआदेशयाइसकीएकप्रतिलगायीजायेगी।यदिइसआदेशकीप्रतिसंलग्नकीजा तीहैतोइसपरन्यायालयफीसकेरूपमें1.50 रुपयेकास्टांपभीलगायाजायेगाजैसाकिन्यायालयफीसअधिनियम1970 कीअनुसूची1, मद6 केअंतर्गतनिर्धारितकियागयाहै
- इसनिर्णययाआदेशकेविरुद्धअपीलकरनेवालाव्यक्तिअपीलअनिर्णीतरहनेतक, शुल्कयाशास्तिकेसंबंधमेंविवादहोनेपरमाँगेगयेशुल्कके7.5%का, अथवाकेवलशास्तिकेसंबंधमेंविवादहोनेपरशास्तिकाभुगतानकरेगा।

### **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 (Appeal), Jawaharlal Nehru Custom House, NhavaSheva, 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 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.
- 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 PARKIN GEMS (IEC No.ACNPV6583G) situated at PARKIN GEMS13 GURU KRIPA COOP, HSG MALBAR HILLMULUND COMULUND, MAHARASHTRA 400082 (hereinafter referred to as 'Importer') had imported 'PAPER GIFT BAG (884 DOZ), PAPER GIFT BAG (1939 DOZ) (herein after referred to as 'subject goods'), classified under CTH 481940000 vide the Bills of Entry as detailed in **Table A**.

**Table-A**

Sr. No.	IEC Name	BE with date	CTH	Item description	Total Assessable Value – Assessed	Differential IGST Payable
1.	PARKIN GEMS	4829611 dated 09.09.2019	48194000	PAPER GIFT BAG (884 DOZ)	64,355.21	4286.07
2.				PAPER GIFT BAG (1939 DOZ)	56,463.69	3760.45
					<b>1,20,818.9/-</b>	<b>8,046.52/-</b>

2. During the course of Post Clearance Audit of Bills of Entry, it has been noticed that importer has paid the IGST @ 12% on the subject goods imported by declaring that the said goods are 'PAPER GIFT BAG (884 DOZ), PAPER GIFT BAG (1939 DOZ)' classifying the same under CTH 48194000. However, the concessional rate of IGST @12% is applicable only for the packages which are corrugated in nature. The non-corrugated other-wise known as card board packages are not eligible for concessional rate of IGST @ 12%. It is also noticed that the description provided in the B/Es does not indicate clearly whether the goods are made up of corrugated paper or not.

3. The broad description of CTH 4819 is

- 48.19 - **“Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; Box files, letter trays, and similar articles of paper or paperboard of a kind used in offices, shops or the like”.**
- 4819.10 - Cartons, boxes and cases, or corrugated paper or paperboard
- 4819.20 - Folding cartons, boxes and cases, of non-corrugated paper or Paperboard
- 4819.30 - Sacks and bags, having a base of a width of 40 cm or more
- 4819.40 - Other sacks and bags, including cones
- 4819.50 - Other packing containers, including record sleeves
- 4819.60 - Box files, letter trays, storage boxes and similar articles, of a kind used in offices shops, or the like.

4. The description provided in the Bills of Entry does not indicate clearly whether the goods are made up of corrugated paper and in order to avail the benefit of lower IGST, its onus is on



the importer to prove beyond doubt that the subject goods qualify for such benefit. In absence of such information the subject goods are liable to be classified under CTH 48192090.

5. There are various types of paper packages presently being used by the industry for packing of various goods. Some of the paper packages are as under:

**a. Paperboard boxes**

Paperboard is a paper-based material that is lightweight, yet strong. It can be easily cut and manipulated to create custom shapes and structures. These characteristics make it ideal to be used in personalized packaging. It is made by turning fibrous materials that come from wood or from recycled waste paper into pulp, and then bleaching it. Paperboard packaging comes in various grades, each suitable for different packaging requirements. SBS (or solid bleached sulphate) paperboard can be used for packing cosmetics, medicines, milk and juice, cosmetics, frozen food and more. Choosing kraft, or CUK (coated unbleached kraft) paperboard packaging are for those who prefer the natural and environmentally-friendly look of recycled paper, which can be used for similar packaging applications. Kraft is often seen to be less resistant to moisture, making it less suitable for food-related products, or frozen-goods packaging. With the right combination of design options, paperboard packaging can look high-end, without high-end pricing.

**b. Corrugated boxes**

It consists of 3 layers of paper, an outside liner, an inside liner and a corrugated medium (also known as fluting). The corrugated medium that gives it strength and rigidity. The main raw material that is used to construct the corrugated board is most recycled paper, made on large high-precision machinery known as corrugators. These types of boards can re-used and recycled again and again as a source of pulp fibre. Corrugated boards are of different types, single faced, double faced (single wall), twin wall, and triple wall. They can be used to make packaging with different characteristics, performances, and strength. The board is cut and folded into different sizes and shapes to become corrugated packaging. Other applications of corrugated board packaging include retail packaging, pizza delivery boxes, small consumer goods packages, and so forth.

**c. Rigid boxes**

This is the type of box used to package iPhones or those luxury retail products such as Rolex, Tiffany & Co and Marc Jacobs. This type of cardboard material is called a rigid box. A rigid box is made out of highly condensed paperboard that is 4 times thicker than the paperboard used in the construction of a standard folding carton. The easiest real-world example of rigid boxes are the boxes that hold Apple's iPhones and iPads, which are 2-piece setup rigid boxes. Compared to paperboard and corrugated boxes, rigid boxes are definitely among the most expensive box styles. The rigid boxes usually do not require dies that are expensive or massive machinery and are often hand-made. Their non-collapsible nature also gives them a higher volume during shipping, which easily incurs higher shipping fees. These boxes are commonly used in merchandising cosmetics, jewellery, technology, and high-end luxury couture. It is easy to incorporate features such as platforms, windows, lids, hinges, compartments, domes, and embossing in a rigid box.



#### **d. Chipboard packaging**

Chipboard packaging is used in industries such as electronic, medical, food, cosmetic, and beverage. A chipboard basically is a type of paperboard that is made out of reclaimed paper stock. It can be easily cut, folded, and formed. It is a cost-effective packing option for your products. It comes in various densities and strength is determined by how high the density of the material is. If you want images to be directly printed onto the chipboard, you can treat the chipboard with bleach sulphate, and with CCNB (Clay Coated News Back) which makes the material even more durable.

6. From the above, it is very clear that there are various packages including the corrugated packages/boxes. However, it is onus on the part of the importer to declare correct description of the goods while filing the Bill of Entry in order to claim the benefit as provided by the Government. In the absence of the complete description, it would be construed that the goods were non-corrugated and the complete description was not given by the importer for the purpose of getting the concessional rate of duty thereby misdeclaration of the goods. A carton is a box or container usually made of liquid packaging board, paperboard and sometimes of corrugated fibreboard. Many types of cartons are used in packaging. Sometimes a carton is also called a box. A packing box also appears to be a carton box. In the instant case there is possibility of a carton to be corrugated and non-corrugated, unless complete description is given in the Bill of Entry, it would not be possible to decide whether it is corrugated carton/box or not. In the absence of such description, it appears that it is non-corrugated carton and the same attracts IGST @18% and the importer declared such a way to get benefit of concessional rate of duty. But the importer has paid the IGST @12% thereby short paid the IGST and the same is recoverable from them under the provisions of the Customs Act, 1962.

7. In view of the above findings, a consultative letter (CL) No. NS-IV/649/2021-22/A-3 vide F. No. S/2-Audit-Gen-300/2018-19/JNCH/A-3/PART FILE/649/2021-22 was issued in the month of 07-2021 to the importer advising for payment of the aforesaid amount of Differential Duty along with applicable interest and penalty. **In this regard, no written submission/clarification/letter has been received in this office from the importer.**

8. The impugned goods of the importer are nothing but non-corrugated carton boxes otherwise known as card board boxes used for packing. But the importer has paid the IGST @12% as if the goods were corrugated boxes and classified the same under CTH 48194000 with an intention to get the benefit of the IGST Notification No.01/2017 dated 28.06.2017. In absence of information the goods viz., whether the carton boxes are corrugated in nature and on the basis evidence available with the department, it appears that the impugned goods are non-corrugated carton boxes or packages and thus appear to be classifiable under CTH 481920 as "Folding cartons, boxes and cases, of non-corrugated paper or paper board" and are liable for IGST @ 18%.

9. The CTH-4819 is a general CTH, whereas the CTH 48192090 is more specific for the subject goods. Hence, the subject goods 'PAPER GIFT BAG (884 DOZ), PAPER GIFT BAG



(1939 DOZ),’ merit classification in the CTH- 48192090 as per General Rules for the Interpretation 3(a) of Customs Tariff Schedule, which states as under:

*“the heading which provides the most specific description shall be preferred to headings providing a more generic description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the item in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.”*

In view of above, subject goods are eligible for IGST @ 18% and not 12%.

10. In view of the above, the impugned goods of the importer are nothing but ‘Empty Box’. But the importer has paid the IGST @12% as if the goods were corrugated boxes with an intention to get the benefit of the IGST Notification No.01/2017 dated 28.06.2017. In the absence of information of the goods viz., whether the carton boxes are corrugated in nature and on the basis of evidence available with the department, it appears that the impugned goods are classifiable under CTH 481920 as “Folding cartons, boxes and cases, of non-corrugated paper or Paperboard” and are liable for IGST @ 18%. Thus, the importer has short paid the duty amounting to **Rs. 8046.52/-** and same is recoverable from the importer U/s 28 (4) of the Customs Act 1962 along with applicable interest U/s 28AA and penalty under Section 112(a) and/or 114A of the Customs Act, 1962 read with the Section 28 of the Customs Act, 1962 by invoking extended period of limitation and the subject goods appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962.

11. 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 more specifically the RMS facilitated Bill of Entry, to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty



applicable in respect of the imported goods. In other words, the onus on the importer in order to prove that they have classified the goods correctly by giving the complete description of the goods. Incomplete description of the goods declared is nothing but suppression of information with intent to get financial benefit to claim the benefit of the Notification. In view of the above, it is very clear that the onus to give correct declaration and make correct classification of the goods being imported is on the importer only.

**12.** In order to classify the goods correctly, completion of the description is required. In the instant case, the importer has not given complete description of the packing material imported by them whether the same are corrugated in nature or not. However, this condition of corrugated is very significant here to decide whether the importer is eligible the concessional rate of IGST. As seen from the description given in the Bills of Entry, it is beyond doubt that they have not given information regarding the packing material are corrugated in nature. As detailed above, it is the responsibility of the importer to give correct and complete description of the goods being imported in the Bills of Entry as the insufficient description of the goods may lead to mis-declaration as explained in the above paras. The mis-classification of the impugned goods on account of insufficient information about the nature of the goods has led to short payment of duty by the importer as detailed in the above paras. It appears that the mis-declaration and mis-classification of the impugned goods was done by the importer intentionally in order to get pay IGST at reduced rate thereby to get financial benefit. Thus, the importer has suppressed the facts, thereby mis-classified the impugned goods leading to short payment of IGST.

**13.** Now, therefore, the Importer M/s PARKIN GEMS, (IEC No.ACNPV6583G) situated at PARKIN GEMS13 GURU KRIPA COOP, HSG MALBAR HILLMULUND COMULUND,MAHARASHTRA400082 was issued a Show Cause Notice no 1037/2024-25/AC/Gr.IIG/NS-I/JNCH dt. 05.09.2024 asking them, as to why:

- (a) The subject goods should not be confiscated under Section 111(m) of the Customs Act, 1962;
- (b) The differential duty amounting to **Rs. 8046.52** as detailed in the Table-A should not be demanded and recovered from them in terms of section 28(4) of the Customs Act, 1962.
- (c) The applicable interest on the amount specified above should not be recovered from them in terms of section 28AA of the Customs Act, 1962.
- (d) Penalty should not be imposed on them under section 112(a) of the Customs Act, 1962.
- (e) Penalty should not be imposed on them under section 114AA of the Customs Act, 1962.

#### **PERSONAL HEARING AND WRITTEN SUBMISSIONS**

**14.** The noticee was given opportunities for Personal Hearing on 30.04.2025, 15.05.2025, and 10.06.2025 with prior intimation. However, the importer neither submitted any reply to the SCN nor any



one appeared for the personal hearing on the scheduled dates. However, the importer had been given sufficient opportunities in compliance of principle of natural justice however the importer did not avail the same. I, therefore, in terms of Section 122A of the Customs Act, 1962 proceed to decide the case ex-parte on the basis of available record.

### DISCUSSION AND FINDINGS

15. I have carefully gone through the facts of the case. I find that the issue involved in the case is whether the importer has correctly classified the subject goods under CTH 48194000 and claimed IGST @12%, or, as proposed by the impugned notice, the goods having description "PAPER GIFT BAG (884 DOZ), PAPER GIFT BAG (1939 DOZ)" merit classification under 48192090 attracting IGST at the rate of 18%. I find that CTH 48194000 covers "Other sacks and bags, including cones". As is evident from the declared description the imported goods are not Other sacks and bags, including cones and are, therefore, the goods do not eligible for lower rate of IGST i.e., 12%. I find that the impugned goods attract IGST rate @ 18%. Consequently, I hold that the importer has evaded payment of IGST amounting to **Rs. 8046.52 (Rounded off to Rs. 8047/-) (Rupees Eight Thousand Forty Seven Only)** as indicated in Table-A.

16. Consequent upon amendment to the section 17 of the Customs Act, 1962 vide Finance Act, 2011; 'Self-assessment' has been introduced in Customs clearance. 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.

17. In view of the facts as stated above, I hold that the importer has wilfully mis-declared, mis-stated and mis-classified the impugned goods, thereby evading payment of applicable IGST resulting in a loss of Government revenue of **Rs. 8046.52 (Rounded off to Rs. 8047/-) (Rupees Eight Thousand Forty Seven Only)** and in turn accruing monetary benefit to the importer. Since the importer has wilfully mis-stated, mis-represented and suppressed the facts with an intention to evade applicable duty, provisions of Section 28(4) are invokable in this case. As the IGST, as applicable, so evaded, is recoverable under section 28(4) of the Customs Act, 1962. Interest on delayed payment of the same is also recoverable from the importer under the provisions of section 28AA of the Customs Act, 1962. In addition, the importer has rendered himself liable for penalty under section 114A of the Customs Act, 1962.

18. I find that by wilfully stating an incorrect classification for claiming a lower rate of IGST, the importer has rendered the impugned goods liable for confiscation under section 111(m) of the Customs Act, 1962, and therefore also have rendered themselves liable for penalty under section 114A of the Customs Act, 1962. Further, I find that the said goods are not available for confiscation. However, I rely on the ratio laid by the Hon'ble Madras High court decision in the case of M/s Visteon Automotive System India Limited [2018(9) G.S.T.L. 142 (Mad.)] wherein Hon'ble High Court held that physical availability does not have any significance for imposition of redemption fine under Section 125 of the Customs Act, 1962. I am, therefore, inclined to impose a redemption fine in lieu of confiscation under Section 125 of the Act. I find that the importer is also liable for penalty under section 114A of the act. Further, as penalty under section 114A is imposable, penalty under section 112a is avoided.





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

**ORDER**

- i. I reject the claimed classification of the impugned goods under CTH 48194000 of the First Schedule to the Customs Tariff Act, 1975 and order their classification under CTH 48192090 in respect of BE No. 4829611 dated 09.09.2019.
- ii. I reject the levy of IGST @12% under the Bill of Entry No. 4829611 dated 09.09.2019 and order to levy IGST @18% applicable under Sr. No. III of 153A of IGST Notification NO. 01/2017 for both the BEs as mentioned here.
- iii. I order recovery of differential IGST of **Rs. 8047/-) (Rupees Eight Thousand Forty Seven Only) on M/s. PARKIN GEMS (IEC No.ACNPV6583G)** under section 28(4) of the Customs Act, 1962 along with applicable interest under section 28AA ibid.
- iv. I hold the goods valued at Rs. 1,20,819/- (Rupees One Lakh Twenty Thousand Eight Hundred Nineteen only) 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. 12,000/- (Rupees Twelfth Thousands only)** under section 125 of the Customs Act, 1962 in lieu of confiscation.
- v. I impose a penalty equal to the sum of **Rs. 8047/-) (Rupees Eight Thousands Forty Seven Only)** and applicable interest on the importer, **M/s PARKIN GEMS (IEC No.ACNPV6583G)**, under section 114A of the Customs Act, 1962. However, such penalty would be reduced to 25% of the total penalty imposed under section 114A of the Customs Act, 1962 if the amount of duty as confirmed above, the interest and the penalty is paid within 30 (thirty) days of communication of this order, in terms of first proviso to Section 114A of the Customs Act, 1962. Since penalty has been imposed under section 114A of the Customs Act, 1962.
- vi. I refrain from imposing penalty under Section 112 as the penalty is imposed under section 114A of the Customs Act, 1962. I also refrain from imposing penalty under Section 114AA on the importer.

20. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons/ firms concerned, or any other person, if found involved under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

  
(Raj Kumar Mishara)  
Assistant Commissioner of Customs  
Appraising Group-IIG, JNCH, NS-I

To,

**M/s PARKIN GEMS (IEC No.ACNPV6583G)** EM 986912240IN, dt. 05/09/2025  
PARKIN GEMS13 GURU KRIPA COOP,  
HSG MALBAR HILLMULUND COMULUND,  
MAHARASHTRA 400082

Copy to:

1. The Deputy Commissioner of Customs, CRAC, JNCH.
2. The Deputy Commissioner of Customs, Central Adjudication Cell, JNCH.



3. Notice Board
4. Office Copy

