



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



DIN NO. 2025/078NW 0000555047

F.No.S/26-Misc-1143/2024-25/Gr.1&1A/JNCH

Sl-10-Adj- 99/2025-26 /GRT & IA/JNCH

Date of Order: **28.10.2025**

Date of Issue: **29.10.2025**

SCN No.: 896/2024-25/AC/CAC/Gr.I /NS-I/JNCH

Date of SCN: 06.08.2024

Passed by: Atul Choudhary

Deputy Commissioner of Customs, Gr. I&IA, NS-I, JNCH, Nhava Sheva.

Order No. **1312**/2025-26/AC/Gr. I&IA/NS-I/CAC/JNCH

Name of Party/Noticee: M/s NARANG ACCESS Pvt. Ltd. (IEC No. 0310023491)

मूलआदेश

- यहप्रतिजिसव्यक्तिकोजारीकीजातीहै, उसकेउपयोगकेलिएनिःशुल्कदीजातीहै।
- इसआदेशकेविरुद्धअपीलसीमाशुल्कअधिनियम1962 कीधारा128 (1) केतहतइसआदेशकीसंसूचनाकीतारीखसेसाठदिनोंकेभीतरसीमाशुल्कआयुक्त (अपील), जवाहरलालनेहरूसीमाशुल्कभवन, न्हावा-शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707 कोकीजासकतीहै।अपीलदोप्रतियोंमेंहोनीचाहिएऔरसीमाशुल्क(अपील) नियमावली, 1982 केअनुसारफॉर्मसी.ए. 1 संलग्नकमेंकीजानीचाहिए।अपीलपरन्यायालयफीसकेरूपमें1.50 रुपयेमात्रकास्टांपलगायाजायेगाऔरसाथमेंयहआदेशयाइसकीएकप्रतिलगायीजायेगी।यदिइसआदेशकीप्रतिसंलग्नकी जातीहैतोइसपरन्यायालयफीसकेरूपमें1.50 रुपयेकास्टांपभीलगायाजायेगाजैसाकिन्यायालयफीसअधिनियम1970 कीअनुसूची1, मद6 केअंतर्गतनिर्धारितकियागयाहै।
- इसनिर्णययाआदेशकेविरुद्धअपीलकरनेवालाव्यक्तिअपीलअनिर्णीतरहनेतक, शुल्कयाशास्तिकेसंबंधमेंविवादहोनेपरमाँगयेशुल्कके7.5% 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, 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.
- 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. Narang Access Pvt. Ltd. (IEC: 0310023491)** situated at Narang Access Private Limited, Hall No. 3, Sarkar Heritage, Kane and B.J. Road, Band Stand, Bandra West, Maharashtra-400050 (hereinafter referred to as 'Importer') had imported 'Packing Box' (herein after referred to as 'subject goods'), classified under CTH 48191010, 48191090 vide the Bills of Entry as detailed in Annexure to the Audit report.

2. During the course of Post Clearance Audit, it has been noticed that the importer has paid the IGST @ 12% on the subject imported goods declared as 'EMPTY CARTON BOX, EMPTY CARTON BOX WITH TAPE, COLOR CARTON BOX,' and classified under CTH 48191010, 48191090. 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 fibre board. 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/556/2021-22/A-3 vide F. No. S/2-Audit-Gen-300/2018-19/JNCH/A-3/PART FILE/556/2021-22 was issued in the month of 06-2021 to the importer advising for payment of the Differential Duty along with applicable interest and penalty as detailed in Annexure to the Audit Report. **In this regard, no written submission/ clarification / letter has been received in this office from the importer.**

8. It appears that the impugned goods of the importer are nothing but non-corrugated carton boxes other-wise 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 48191010, 48191090 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 481920 is more specific for the subject goods. Hence, the subject goods 'EMPTY CARTON BOX, EMPTY CARTON BOX WITH TAPE, COLOR CARTON BOX,' 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, it appears that 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. 2635.35/-** 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. 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 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. In view of the above findings, the SCN was issued under Section 28 read with Section 124 of the Customs Act, 1962, the Importer **M/s. Narang Access Pvt. Ltd. (IEC: 0310023491)** situated at Narang Access Private Limited, Hall No. 3, Sarkar Heritage, Kane and B.J. Road, Band Stand, Bandra West, Maharashtra-400050 was called upon to Show Cause to the Deputy/Assistant Commissioner of Customs, Group-1, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka- Uran, District – Raigad, Maharashtra-400707, within 30 days of the receipt of this notice, 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. 2635.35** as detailed in the Annexure 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 114A of the Customs Act, 1962.

14. It was also advised that the Importer may avail the benefit of reduced penalty @15% of duty and interest so specified in this notice in terms of Section 28(5) of the Customs Act, 1962 by payment of duty and interest within 30 days of receipt of this notice, failing which Importer may be subject to higher penalty equal to the duty and interest so determined.

15. EXTENSION OF TIME LIMIT

Show Cause Notice in the subject matter had been issued on 06.08.2024. The last date for adjudication of the case was 05.08.2025, which has been extended by the competent authority for 3 months up to 05.11.2025, in light of provision of Section 28(9) of Customs Act-1962.

PERSONAL HEARING AND WRITTEN SUBMISSIONS

16. In order to comply with the Principles of Natural Justice, the noticee was given opportunities for Personal Hearing on 23.10.2024, 30.10.2024, 06.11.2024 and 13.10.2025 with prior intimation. However, no one appeared for the personal hearing. Further, an email dated 13.10.2025 received from the CA Manish Uchlani attached with the letter dated 13.10.2025 from the importer M/s NARANG ACCESS Pvt. Ltd.. Vide the said letter, it has been informed that they accept the demand raised and ready to pay the differential duty payable along with the interest and penalty as applicable.

17. RELEVANT LEGAL PROVISIONS:

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

17.2. 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.

17.3. Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded):

(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 per cent 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).

17.4. 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.

17.5. SECTION 46. Entry of goods on importation. -

(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].

(4A) The importer who presents a bill of entry shall ensure the following, namely:-

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it;

and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]

17.6. SECTION 111. Confiscation of improperly imported goods, etc. -

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 or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

17.7. SECTION 112. Penalty for improper importation of goods, etc. -

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, 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 the 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 per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

17.8. 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 :

Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 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 :

DISCUSSION AND FINDINGS

18. 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 48191010, 48191090 and claimed IGST @12%, or, as proposed by the impugned notice, the goods having description 'non-corrugated carton boxes or packages' merit classification under 48192090 attracting IGST at the rate of 18%. I find that CTH 48191010 and 48191090 covers "Cartons, boxes and cases, or corrugated paper or paperboard". As is evident from the declared description the imported goods are not Cartons, boxes and cases, of corrugated paper or paper board 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. 2635.35/- (Rupees Two Thousand Six Hundred Thirty Five and Thirty Five Paise Only)** as detailed in **Annexure to the Audit report.**

19. 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.

20. 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. 2635.35/- (Rupees Two Thousand Six Hundred Thirty Five and Thirty Five Paise 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 112(a) and under section 114A of the Customs Act, 1962.

21. 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 112(a)(ii) of the Customs Act, 1962. However, as penalty is being imposed under Section 114A of the Customs Act, 1962, no penalty is being imposed under Section 112(a), *ibid*.

22. Further, I find that the said goods are not available for confiscation. I am, therefore, inclined to impose a redemption fine in lieu of confiscation under Section 125 of the Act. Towards this 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.

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

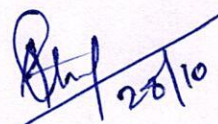
ORDER

- i. I **reject the claimed classification** of the impugned goods under CTH 48191010 and 48191090 of the First Schedule to the Customs Tariff Act, 1975 and order to classify under CTH 48192090 with levy of IGST @18% as per applicable Sr. No III-153A of IGST Notification No. 01/2017 dated 28.06.2023.
- ii. I order to recovery of differential IGST of **Rs. 2635.35/- (Rupees Two Thousand Six Hundred Thirty Five and Thirty Five Paise Only)** under section 28(4) of the Customs Act, 1962 along with applicable interest under section 28AA *ibid*.
- iii. I held the goods valued at **Rs. 39,571.35/- (Rupees Thirty Nine Thousand Five Hundred Seventy One and Thirty Five Paise Only)** 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. 5000/- (Rupees Five Thousand Only)** under section 125 of the Customs Act, 1962 in lieu thereof.

- iv. I impose a penalty Rs. 5000/- (**Rupees Five Thousand Only**) and applicable interest on the importer, **M/s. Narang Access Pvt. Ltd. (IEC: 0310023491)** under **section 114A** of the Customs Act, 1962. Since penalty has been imposed under section 114A, I refrain from imposing penalty under Section 112(a) 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 reduced penalty is paid within 30 (thirty) days of communication of this Order, in terms of the first proviso to Section 114A of the Customs Act, 1962.

24. 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

Encl: Annexure

To

M/s. Narang Access Pvt. Ltd. (IEC: 0310023491),
Narang Access Private Limited, Hall No. 3, Sarkar Heritage,
Kane and B.J. Road, Band Stand, Bandra West,
Maharashtra-400050.

Copy to;

- 1) DC/CAC, JNCH (for information only),
- 2) DC/CRAC Section, JNCH,
- 3) DC/Assessment Group – I/IA/IB, JNCH,
- 4) DC/ EDI, JNCH,
- 5) Notice Board (for display),
- ✓ 6) Office Copy.

BE Number	BE Date	CTH 8 Digit	Item Description 1	Total Assessable Value - Assessed	Differential GST Payable	IEC Name
5590014	07/11/2019	48195090	SCAT. ACQ. FRI. FB INDIA CL 16 (12 x 750 ML) (PROMOTIONAL MAT	4,740.66	315.68	NARANG ACCESS PRIVATE LIMITED
5590014	07/11/2019	48195090	SCAT. ACQ. NAT. FB INDIA 16 (12 X 750 ML) (PROMOTIONAL MATER	13,273.84	884.01	NARANG ACCESS PRIVATE LIMITED
5590014	07/11/2019	48195090	SCAT. ACQ. NAT. FB INDIA 16 (24 x 250 ML) (PROMOTIONAL MATER	11,014.45	733.59	NARANG ACCESS PRIVATE LIMITED
5590014	07/11/2019	48195090	SCAT. ACQ. FRI. FB INDIA CL 16 (24 x 250 ML) (PROMOTIONAL MAT	10,542.4	702.07	NARANG ACCESS PRIVATE LIMITED
				39571.35	2635.3542	

Annexure - A

28/03/20

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