
 <p>सत्यमेव जयते</p>	<p>सीमाशुल्कआयुक्त का कार्यालय(एनएस-V) OFFICE OF COMMISSIONER OF CUSTOMS (NS-V) जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA ताल-उरण, जिला- रायगढ़, महाराष्ट्र-400 707 TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707</p>	
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F. No. S/26-Misc-1178/2024-25/Grp.VA/JNCH  
S/10-Adj-07/2025-26/Gr. VA, JNCH  
.05.2026

Date of Order: .05.2026  
Date of issue:

DIN: 202605784X0000003840

Passed by : Shri Mazid Khan

Additional Commissioner of Customs, Gr. VA, (NS-V), JNCH, Nhava Sheva

Order No. 171(L) /2025-26/ADC/Gr. VA/NS-V/CAC/JNCH

Name of Party/Noticee: M/s. Option Sales Pvt. Ltd. (IEC-AAACO9185H/O)

### मूल आदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5%का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

**ORDER-IN-ORIGINAL**

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**

1. M/s. **Option Sales Pvt. Ltd.** (IEC-AAACO9185H/O) (hereinafter referred to as *the importer*), having registered address at SCF No. 111, Sector-28 Market, Faridabad, Haryana-121008, filed **Bill of Entry No. 8173412 dated 04.02.2025** through their Customs Broker M/s Yusen Logistics (India) Private Limited for clearance of goods declared as “Lithium-Ion Cell (Inv. No. TES-A 11042-2410-XCS-001-0)” having declared assessable value of **Rs. 21,03,381.59/-** and duty paid thereon **Rs. 6,61,628/-**, supplied by M/s Trina Energy Storage Solutions (Jiangsu) Co. Ltd., China.
2. The subject Bill of Entry was selected for examination by the RMS with open and examine 100% order. On examination, the goods were physically examined and found as per declaration. However, it was observed by the examining officer that the imported goods are **Lithium-Ion Battery Cells**, for which **Battery Waste Registration Certificate** is required prior to import clearance. It appeared that these goods are being imported in violation of Battery Waste Registration Certificate as the importer did not possess the same under Rule 4 of Battery Waste Management Rules, 2022. Ministry of Environment, Forest and Climate Change vide SO 3984(E) dated 22.08.2022 has notified under rule 3(1) (u) importer of Battery as well as equipment containing Battery will be

called 'Producer'. The Importer/producer has to obtain registration from CPCB (Battery Waste Registration Certificate) to carry out import activities related to battery.

3. Further, as per observations of the docks officer, the imported goods appeared to attract **BIS registration under IS 16046 (Part-2):2018** as per Ministry of Electronics and Information Technology S.O. 1248 (E) dated 18.03.2021. The examining officer has asked the importer for providing BIS certificate, however the same was not provided by the Importer, and the marking of IS was also not found on the imported goods. When asked about the BIS certificate, CHA representative informed that in this regard the importer has already submitted a letter on E-sanchit that these batteries will not be used in portable applications. However, upon reviewing similar products on open-source information on internet, it was found that similar LiFePO<sub>4</sub> battery cells are being sold in the market with BIS certification from foreign manufacturers. When the BIS certificate of the foreign manufacturer (Jiangxi Ganfeng Battery Technology Co. Ltd.) was checked using the BIS registration number mentioned on the battery cell available in the online market, it was found that a similar 280AH Lithium Iron Phosphate (LiFePO<sub>4</sub>) cell is being manufactured by foreign manufacturer under a valid BIS license. In the light of above, these goods appeared to fall under the purview of above mentioned IS standard. In this regard, importer in his letter dated 14.02.2025 informed that the imported batteries will be used non-portable, high- capacity industrial applications (i.e. energy storage systems, electric vehicles & stationery backup power). However, on seeing the photos of imported goods, it is observed that the imported goods can also be used in portable applications. Also, the importer is a trader and not a manufacturer who can ascertain the use of the goods in portable condition only. From the above, it appeared that the imported goods attract mandatory registration under IS 16046 (part-2):2018. The importer does not have valid BIS registration certificate for the imported goods.
4. It was also noticed that the imported goods were packed in cartons wrapped in plastic packaging. As per the Plastic Waste Management (PWM) Rules, 2016, as amended, a person who imports plastic packaging product or products with plastic packaging or carry bags or multi-layered packaging or plastic sheets or like; is required to obtain a Central Pollution Control Board (CPCB) certificate under the Extended Producer Responsibility (EPR) for plastic waste management. The goods in instant case appeared to be imported in violation of Plastic Waste Management Rules, 2016 as amended as Importer did not possess registration certificate under rule 13(2) of plastic waste management rules.

5. A letter dated 15.04.2025 was issued to the importer offering an opportunity of personal hearing. However, no one appeared on the scheduled date.

6.1 In view of the above, a **Show Cause Notice No. 388/2025-26/JC/GR-VA/NS-V/CAC JNCH** dated 26.06.2025 was issued to the importer as to why :

- Imported goods vide BoE No. 8173412 dated 04.02.2025 having declared total assessable value of Rs. 21,03,381.59/- and duty paid thereon Rs. 6,61,628/- shall not be held liable for confiscation under Section 111 (d) of Customs Act, 1962 for the various violation as stated above.
- Penalty should not be imposed under section 112 (a) of Customs Act, 1962 for omission and commission, in rendering the goods liable for confiscation, as stated above.

#### 7. Verification of applicability of BIS: -

7.1 *The Government of India, vide its various Quality Control Order as amended from time to time made variety of products under compulsory certification (Scheme-I) (ISI mark Scheme) envisage that goods or articles specified in the column (2) of the Schedule of that order shall conform to the corresponding Indian Standard given in the column (3) of the said Schedule and shall bear the 'Standard' Mark under a license from the Bureau of Indian Standards as per Scheme-I of Schedule-II of Bureau of Indian Standards (Conformity Assessment) Regulations, 2018, provided that nothing in the Order shall apply in relation to goods or articles, as specified in the column (2) of the said Schedule meant for export which conform to the specification required by the foreign buyer and to goods or articles, for which the Central Government has issued specific exemption letter based on reasons to be recorded in writing.*

7.2 Therefore, it appears that the goods viz. **Lithium-Ion Battery Cells** vide the impugned bill of entry fall under the purview of BIS provisions under **IS 16046 (Part-2):2018** as per Ministry of Electronics and Information Technology S.O. 1248 (E) dated 18.03.2021 which are tabulated as under: -

#### SCHEDULE

S. No.	Goods or articles	Indian Standard	Title of Indian Standard
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(1)	(2)	(3)	(4)
20.	Sealed Secondary Cells/Batteries containing Alkaline or other non acid Electrolytes for use in portable applications	IS 16046 : Part 1 : 2018	Secondary Cells and Batteries Containing Alkaline or Other Non-Acid Electrolytes — Safety Requirements for Portable Sealed Secondary Cells and for Batteries Made from Them for Use in Portable Applications Part 1 Nickel Systems
		IS 16046 : Part 2 : 2018	Secondary Cells and Batteries Containing Alkaline or Other Non-Acid Electrolytes — Safety Requirements for Portable Sealed Secondary Cells and for Batteries Made from Them for Use in Portable Applications Part 2 Lithium Systems

No license in this regard was submitted by the Importer/CB. Thus, the goods are liable for confiscation under section 111(d) of the Customs Act 1962. Further the goods are Prohibited without the production of the valid BIS License.

#### 8. Verification of applicability of Battery Waste Management Rules' 2022 :

8.1 The said Battery Waste Management Rules' 2022 have been published by the Ministry of Environment, Forest and Climate Change vide SO 3984(E) dated 22.08.2022 has defined under rule 3(1) (u) importer of Battery as well as equipment containing Battery will be called 'Producer'.

8.2 As per the Battery Waste Management Rules, 2022 :

- (1) These rules shall apply to –
- (i) Producer, dealer, consumer, entities involved in collection, segregation, transportation, re-furbishment and recycling of Waste Battery;
  - (ii) all types of batteries regardless of chemistry, shape, volume, weight, material composition and use.

(2) These rules do not apply to Battery used in, --

(i) equipment connected with the protection of the essential security interests including arms, ammunitions, war material and those intended specifically for military purposes;

(ii) equipment designed to be sent into space.

**8.3** Further, The Importer/producer has to obtain registration from CPCB (Battery Waste Registration Certificate) to carry out import activities related to battery.

**9.** Verification of applicability of the Plastic Waste Management (PWM) Rules, 2016 :

**9.1** The said Plastic Waste Management Rules' 2016 have been published by the Ministry of Environment, Forest and Climate Change vide G.S.R. 320 (E) dated 16.03.2016 as amended on 27.03.2018 and mandatory registration has been notified under rule 13(2) of the said Plastic Waste Management Rules'2016 which is as under:

**“...13. Registration of producer, recyclers and manufacturer,**

1. No person shall manufacture carry bags or recycle plastic bags or multi-layered packaging unless the person has obtained a registration from the State Pollution Control Board or the Pollution Control Committee of the Union Territory concerned, as the case may be, prior to the commencement of production;

2. Every producer or brand-owner shall, for the purpose of registration or for renewal of registration, make an application in Form-I to

i. “The concerned State Pollution Control Board or Pollution Control Committee of the Union territory, if operating one or two States or Union Territories”; or

ii. “The Central Pollution Control Board, if operating in more than two States or Union Territories.....”

**9.2** A Certificate of registration is required in compliance of Rule 13 (2) of Plastic Waste Management Rules, 2016.

**10. Legal provisions relevant to the instant case are:**

The relevant provisions of law relating to import and valuation of goods in general, the policy and rules relating to imports, the liability of the goods to confiscation and the persons concerned are liable to penalty for illegal importation under the provisions of the customs act, 1962 and the other laws for the time being in force are summarized as below: -

**10.1 As per the provisions of Section 46 – Entry of goods on importation -**

*(4) of the customs act, 1962, the importer while presenting a bill of entry shall at the foot thereof 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, present to the proper officer the invoice, if any, relating to the imported goods.*

**10.2 Section 17(1) of the Customs Act, 1962, provides for self-assessment of duty on imported goods by the importer himself by filing a bill of entry. Under this mode of self-assessment, the bill of entry was self-assessed by importer, with regard to correctness of classification, value, rate of duty, exemption notification or any other relevant particular having bearing on correct assessment of duty on import.**

**10.3 Section 111 of the Customs Act, 1962, provides for confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable to confiscation**

*(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force.*

**10.4 Section 112(a) Penalty for improper importation of goods, etc.**

*(i) Any person, 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.*

*(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*

**10.5 Section 124 Issue of show cause notice before confiscation of goods, etc.**

*No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person -*

(a) is given a notice in <sup>1</sup>[writing with the prior approval of the officer of Customs not below the rank of<sup>2</sup>[an Assistant Commissioner of Customs], informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

**Provided** that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

<sup>3</sup>[**Provided** further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.]

#### **10.6 Section 125. Option to pay fine in lieu of confiscation :**

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods <sup>1</sup> [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

<sup>2</sup> [**Provided** that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of **section 28** or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, <sup>3</sup> [no such fine shall be imposed]:

**Provided** further that] , without prejudice to the provisions of the proviso to sub-section

(2) of **section 115**, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

*(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.*

## **RECORD OF PERSONAL HEARING AND WRITTEN SUBMISSIONS**

### **11. Personal Hearing**

**11.1** A personal hearing was held on 28.01.2026, attended by Shri Abhishek Sharma, Head of Distribution and Authorized Representative of the importer, who reiterated the written submission dated 07.01.2026.

### **12. Submissions of the Importer :**

**12.1** The importer, submitted a letter dated 04.08.2025 in reply of the SCN as mentioned in para 7 of this Order, and submitted that:

- As per the Battery Waste Management Rules (S.O. 3984(E)), the term "Producer" includes any entity that makes and sells batteries (even refurbished ones) under its own brand; sells batteries under its brand, even if they are made by others; imports batteries or equipment that contain batteries.
- M/s Option Sales Pvt Ltd has imported Lithium Ferrous Phosphate (LFP) cells, which are not complete batteries, from M/s Trina Energy Storage Solution (Jiangsu) Co. Ltd. These cells will be sold to local Indian battery manufacturers who are already registered on the EPR portal for Battery Waste Management.
- As per Draft Battery Waste Management Rules, 2020 (S.O.770(E)), published in February 2020, as per Table 2 in the draft (page #13), the rules are mainly meant for consumer-type batteries (like those used in cameras, laptops, mobile phones, etc.), which are considered portable batteries.
- For BIS certification, they referred to the MNRE order S.O. 492(E) dated 27th January 2025, which states that the order will come into effect 180 days from the publication date, i.e., from 27th July 2025.
- For EPR registration for plastic waste, since M/s Option Sales Pvt Ltd is a Micro Enterprise, they are exempted from EPR registration under the current rules.

- They have registered M/s Option Sales Pvt Ltd on the EPR portal for battery waste management on 24th June 2025, and were waiting for CPCB approval.
- Our humble request to the authorities is as follows :
  - a. The existing Battery Waste Management Rules are mainly framed with normal LFP cells (used in mobile phones, laptops) and tubular batteries in mind, which typically have a life of 3 to 6 years,
  - b. However, the prismatic LFP cells that we have imported are designed for long-term industrial use, with a lifecycle of around 12,000 cycles ( which is over years).
  - c. These rules may not be directly applicable to this type of long-life, industrial-grade cell.

**12.2** The importer submitted a letter dated 11.08.2025 and inter alia stated that :

1. *Applicability of BIS: There are two official memorandums, we are not violating both*

I. *As per IS 16046 (PART 2): 2018 SECONDARY CELLS AND BATTERIES CONTAINING ALKALINE OR OTHER NON-ACID ELECTROLYTES - SAFETY REQUIREMENTS FOR PORTABLE SEALED SECONDARY CELLS, AND FOR BATTERIES MADE FROM THEM, FOR USE IN PORTABLE APPLICATIONS PART 2 LITHIUM SYSTEMS - Note 2: EESS (Electrical Energy Storage Systems) and UPS, which use batteries over 500Wh of electric energy are exclude. In the present case we are importing 280Ah LFP cells, which is having DC voltage of 3.2V, the energy 896Wh, which is more than 500Wh.*

II. *As per MNRE order S.O. 492(E) dated 27th January 2025 (in reference to IS 16270: 2023 Secondary Cells and Batteries for Solar Photovoltaic Application) which clearly states that the order will come into effect 180 days from the publication date, i.e., from 27th July 2025. So, when the goods had arrived and assessment was done, there was no need for BIS certificate.*

2. Applicability of Plastic Waste Management – 2016- For EPR registration for plastic waste, since M/s Option Sales Pvt Ltd is a Micro Enterprise, they are exempted from EPR registration under the current rules.
3. Regarding Battery E Waste Management – We recently got the certificate from CPCB. Same has been attached for your perusal.

**12.3** The importer submitted a letter dated 07.01.2026 regarding submission of Battery Waste Management Certificate wherein they submitted the Certificate from Central Pollution Control Board (CPCB) as Producer of Waste / used Battery bearing No. 70565687 dated 02.01.2026 in line with the provisions under Battery Waste Management Rules, 2022 for disposal of Waste / Used batteries.

**12.4** The importer submitted a letter dated 29.01.2026 wherein they reiterated the same submission regarding BIS applicability as stated in letter dated 11.08.2025 and regarding plastic waste management – EPR registration, they submitted UDHYAM registration certificate as Micro enterprises and stated that they are exempted from Plastic waste-EPR registration. Further regarding battery e-waste, they have already submitted certificate from CPCB.

**12.5** The Importer submitted a letter dated 07.03.2026 regarding submission of application for registration on the portal of the Central Pollution Control Board in respect of compliance relating to plastic waste with the imported goods. Further, the importer stated that as per CPCB procedure, the issuance of the final registration certificate generally requires approximately two to three months; The imported goods consist of 'Lithium Ion Cells', which are time-sensitive products having a limited shelf life. In the event the goods remain under detention until the CPCB registration certificate is issued, there is a strong likelihood that the shelf life of the Lithium Ion Cells may expire, thereby rendering the goods commercially unusable and causing irreparable financial loss.

**12.6** The importer submitted a letter dated 23.03.2026 and stated that they had applied for registration on the portal of the CPCBG for compliance relating to plastic packaging material; that the CPCB Registration Certificate has now been issued to us, a copy of the said certificate is hereby submitted for your kind verification and record. The CPCB Certificate No. IM-10-000-03-AAACO9185H-26 dated 10.03.2026 is enclosed with the said letter.

**12.7** Importer M/s. Option Sales Pvt. Ltd. further vide letter dated 14.04.2026 have submitted that :

*".....With reference to the Personal Hearing held on 28.01.2026, we had explained the matter relating to BIS compliance, as mentioned in the Show Cause Notice (SCN) During the said hearing, your good office had taken note of our submissions and observed that the CPCB certificate for packing material was not available at that time.*

*Accordingly, we applied for the same and subsequently obtained the CPCB certificate for packing material on 10.03.2026. However, it has been observed that the issue regarding BIS compliance has again been raised, and therefore we submit the following clarification for your kind consideration.*

*The subject consignment was exported from China on 13.01.2025 and arrived at JNPT Port on 03.02 2025.*

*It has been observed by the Shed Officer that IS 16046 (Part-2): 2018, read with Ministry of Electronics and Information Technology Order S.O. 1248(E) dated 18.03.2021, requires BIS registration and that the importer has not obtained the same. In this regard, we respectfully submit that BIS certification is not applicable to the present goods, as clarified in the relevant provisions and amendments*

*As per the applicable provisions under IS 16046 (Part-2):2018, BIS registration is not required in the following cases.*

*Large-format secondary lithium cells and batteries used for industrial applications (such as stationary uses including telecom, UPS, utility switching, emergency power systems) or motive applications (such as forklifts, golf carts, AGVs, railway and marine applications)*

*Further, IS 16046 (Part-2):2018-"Secondary Cells and Batteries Containing Alkaline or Other Non-Acid Electrolytes Safety Requirements for Portable Sealed Secondary Cells and Batteries for Portable Applications (Part-2: Lithium Systems)", provides under Note 2 that*

*Electrical Energy Storage Systems (EESS) and UPS applications using batteries exceeding 500 Wh are excluded from the scope of this standard.*

*In the present case, we have imported 280 Ah LFP cells with a DC voltage of 3.2V, which corresponds to an energy capacity of 896 Wh per cell, i.e., greater than 500 Wh Therefore, the said product falls outside the scope of the above BIS standard, and consequently BIS registration is not applicable.*

*Further, as per the Ministry of New and Renewable Energy Order S.O. 492(E) dated 27.01.2025, issued with reference to IS 16270:2023 (Secondary Cells and Batteries for Solar Photovoltaic Applications), the said order shall come into effect after 180 days from the date of publication, i.e., 27.07.2025.*

*Since the subject goods had already arrived at the port on 03.02.2025 and the assessment was completed prior to the effective date, the*

*requirement of BIS certification under the said order was not applicable at the relevant time.*

*In view of the above facts and legal provisions, it is respectfully submitted that the requirement of BIS certification does not arise in the present case, and therefore the objection raised in this regard may kindly be dropped.*

*We request your good office to kindly consider the above submissions and take the same on record.....”*

### **DISCUSSION AND FINDINGS**

**13.1** I have gone through the facts of the case, the Show Cause Notice, examination report, and the written as well as oral submissions made by the importer. The issues before me for determination are as follows :

a) Whether the goods imported vide Bill of Entry No. 8173412 dated 04.02.2025, declared as “Lithium-Ion Cell”, are liable for confiscation under Section 111(d) of the Customs Act, 1962 for alleged violation of :

- Battery Waste Management Rules, 2022;
- BIS requirements under IS 16046 (Part-2):2018; and
- Plastic Waste Management Rules, 2016 as amended.

b) Whether the importer is liable for penalty under Section 112(a) of the Customs Act, 1962.

### **13.2. APPLICABILITY OF BATTERY WASTE MANAGEMENT RULES, 2022 :**

**13.2.1** I find that during examination by the docks officer, it was found that the impugned goods were imported without valid registration under Battery Waste Management Rules, 2022. Thereafter, during adjudication proceeding, the importer informed that they have received said registration (certificate no 70565667) on dt. 02.01.2026. Further, I observe that the said certificate has been received must after the date of import and the said certification cannot regularize the violation that existed at the time of import. It is a settled position of law that compliance must exist at the time of importation and post-facto compliance does not obliterate the offence.

**13.2.2** Therefore, I hold that the impugned goods were imported in clear contravention of the provisions of Battery Waste Management Rules, 2022, read with Customs Act. For the said contravention, I hold that the subject goods are liable for confiscation under Section 111 (d) of the Customs Act, 1962 and hence the importer is liable for penal action under Section 112(a)(i) of the Customs Act, 1962.

**14. BIS APPLICABILITY :**

**14.1** I find that another objection raised during the examination by the docks officer was related to applicability of BIS Act, 2016 and non-submission of requisite BIS certificate by the importer.

**14.2** I find that the importer vide their letter dated 11.08.2025 and 29.01.2026 have also submitted that for *applicability of BIS, there are two official memorandums, both have not been violated by them viz.*

*I. As per IS 16046 (PART 2): 2018 SECONDARY CELLS AND BATTERIES CONTAINING ALKALINE OR OTHER NON-ACID ELECTROLYTES - SAFETY REQUIREMENTS FOR PORTABLE SEALED SECONDARY CELLS, AND FOR BATTERIES MADE FROM THEM, FOR USE IN PORTABLE APPLICATIONS PART 2 LITHIUM SYSTEMS - Note 2: EESS (Electrical Energy Storage Systems) and UPS, which use batteries over 500Wh of electric energy are exclude. In the present case we are importing 280Ah LFP cells, which is having DC voltage of 3.2V, the energy 896Wh, which is more than 500Wh.*

*II. As per MNRE order S.O. 492(E) dated 27th January 2025 (in reference to IS 16270: 2023 Secondary Cells and Batteries for Solar Photovoltaic Application) which clearly states that the order will come into effect 180 days from the publication date, i.e., from 27th July 2025. So, when the goods had arrived and assessment was done, there was no need for BIS certificate.*

**14.3** The importer's contention regarding MNRE Order S.O. 492 (E) dated 27.01.2025 has been examined. The order, which pertains to Secondary Cells and Batteries for Solar Photovoltaic Application, stipulates an effective date of 27.07.2025 (180 days from publication). While the importer claims the goods arrived prior to this enforcement date, there is no evidence on record to establish that the subject goods are intended specifically for Solar Photovoltaic Applications. The importer failed to submit any technical literature,

documentary proof to substantiate that the impugned goods are intended to be used in only solar photovoltaic application and has no general usage. From the description of the goods and the profile of the importer, it can easily be conferred that the impugned goods has general usage and not specific and limited to the Solar photovoltaic sector. In absence of said documentary proof, I am of the considered view that the said submission is not sustainable. Consequently, I hold that the benefit of said notification is not applicable to the impugned goods.

**14.4** I find that the importer has sought exclusion under Note 2 of IS 16046 (Part 2):2018, which excludes Electrical Energy Storage Systems (EESS) and UPS using batteries over 500Wh. The subject goods are 280Ah LFP (Lithium-Ion) cells (3.2V) with an energy capacity of approximately 896Wh. However, the importer has failed to provide technical evidence or documentation to prove that these cells are designed exclusively for non-portable industrial EESS or that they do not fall under the category of "portable sealed secondary cells" as defined by the Ministry of Electronics and Information Technology (MeitY). I find that the impugned goods are Lithium Ion Cells and therefore they are not covered under the ambit of the said notification benefit. Hence, I am of the considered view that the submission of importer is not sustainable.

**14.5** Further, I find that the importer has imported the impugned goods without obtaining the mandatory BIS registration required under **IS 16046 (Part 2):2018**, as stipulated by **MeitY Order S.O. 1248 (E) dated 18.03.2021**. This constitutes a failure to comply with the Compulsory Registration Order (CRO). Hence, the act of importing goods in violation of mandatory BIS standards renders the goods liable for **absolute confiscation** under Section 111(d) of the Customs Act, 1962. Furthermore, the importer is found liable for penal action under **Section 112(a)(i)** of the Customs Act, 1962, for the omission to comply with the statutory registration requirements.

## **15. PLASTIC WASTE APPLICABILITY :**

**15.1** I find that the imported goods are packed in cartons wrapped in plastic packaging. As per the Plastic Waste Management (PWM) Rules, 2016, as amended, a person who imports plastic packaging product or products with plastic packaging or carry bags or multi-layered packaging or plastic sheets or like; is required to obtain a Central Pollution Control Board (CPCB) certificate under the Extended Producer Responsibility (EPR) for plastic waste management. The goods in instant case appeared to be imported in violation of Plastic Waste

Management Rules, 2016 as amended as Importer did not possess registration certificate under rule 13(2) of plastic waste management rules.

**15.2** The importer has submitted that they are registered as a Micro Enterprise under UDYAM and are exempt from EPR registration requirements. They have produced UDYAM registration certificate in support of their claim. I find that the requirement of EPR registration under PWM Rules applies to producers, importers and brand owners dealing in plastic packaging. However, exemption provisions for certain categories of micro and small enterprises have been provided under the prevailing regulatory framework, therefore I find that EPR registration under PWM Rules does not apply in instant case.

**15.3** Further, I find that the importer has submitted application for registration on the portal of the Central Pollution Control Board in respect of compliance relating to plastic waste with the imported goods and also the registration certificate for the Importer Under Rule 13(2) of the Plastic Waste Management Rules, 2016, as amended has been issued vide registration No. IM-10-000-03-AAAC09185H-26 dated 10.03.2026 by the Central Pollution Control Board in respect of compliance relating to plastic waste.

**15.4** I find that the importer has imported the impugned goods without obtaining prior registration for plastic waste and hence imported the goods in violation of the Plastic Waste Management (PWM) Rules, 2016. The act of omission rendered the plastic wrapping (packing material) liable for absolute confiscation under Section 111(d) of the Customs Act, 1962. Therefore, the importer is liable to penalty under Section 112(a)(i) of the Customs Act, 1962.

**16.** In view of the foregoing facts and findings, I pass the following order:

#### **ORDER**

a) I order for absolute **confiscation** of the goods covered under **Bill of Entry No. 8173412 dated 04.02.2025** having declared assessable value of **Rs. 21,03,381.59/-** for violation of the provisions of the mandatory **BIS registration** under **IS 16046 (Part-2):2018** as per Ministry of Electronics and Information Technology S.O. 1248 (E) dated 18.03.2021 and the Battery Waste Management Rules, 2022 and for violation of the provisions of the Plastic Waste Management (PWM) Rules, 2016 under Section 111(d) of the Customs Act, 1962, being goods imported in violation of law.

b) However, in exercise of the powers conferred upon me under Section 125(1) of the Customs Act, 1962, I grant the importer an option to redeem the confiscated goods upon payment of a redemption fine of Rs. 1,00,000/- (Rupees One Lakhs only), for the limited purpose of re-export to the same supplier. The said option shall be exercised within a period of 120 days from the issuance of this Order, in terms of Section 125(3) of the Customs Act, 1962, failing which the option shall lapse and become void, unless an appeal against this Order is filed and is pending before the appropriate appellate authority.

d) I impose a **penalty of Rs. 50,000/- (Rupees Fifty Thousand only)** on **M/s Option Sales Pvt. Ltd. (IEC-AAACO9185H/O)** under Section 112(a)(i) of the Customs Act, 1962 for their act of omission and commission which rendered the goods liable to confiscation.

17. 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 concerned or any other person, if found involved under the provisions of the Customs Act, 1962 and/ or any other law for the time being in force in the Republic of India.

Digitally signed by  
Mazid Khan  
Date: 25-05-2026  
16:13:47

**(MAZID KHAN)**

Additional Commissioner of Customs  
Group VA, NS-V, JNCH

To

M/s. Option Sales Pvt. Ltd. (IEC-AAACO9185H/O)  
SCF No. 111, Sector-28 Market, Faridabad,  
Haryana-121008

Copy to:

1. The AC/DC, CAC, JNCH.
2. The AC/DC, CRAC, JNCH.
3. The AC/DC, EDI, JNCH
4. The AC/DC, Disposal Section, JNCH
5. The Custodian of CFS, G.D.L.

