
 सत्यमेव जयते	सीमाशुल्कआयुक्तकाकार्यालय(एनएस-V) OFFICE OF COMMISSIONER OF CUSTOMS (NS-V) जवाहरलालनेहरुकस्टमहाउस,न्हावा-शेवा JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA ताल-उरण,जिला- रायगढ़, महाराष्ट्र-400 707 TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707	
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**F. No. CUS/643/2026-Import Docks-O/o Commissioner-Customs-Nhava Sheva-III**

S/10-Adj-<sup>10</sup>/2026-27/ADC/Gr. VA/ JNCH

Date of Order: 29-05-2026

Date of issue: .05.2026

DIN No.: 20260578NX000011AEB.

Passed by: MAZID KHAN

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

Order No: 190<sup>(4)</sup>/2026-27/ADC/Gr.VA/NS-V/CAC/JNCH

Name of Party/Noticee: M/s. Tokheim India Pvt. Ltd. (IEC No. 0304012301)

मूलआदेश

1. यह प्रति जिस व्यक्तिको जारी की जाती है, उसके उपयोग के लिए नि: शुल्कदीजाती 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 नेहरु सीमा शुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमा शुल्क (अपील)नियमावली, 1982 के अनुसार फॉर्म सी.ए.1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूपमें 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 इसपर न्यायालय फीस के रूपमें 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसाकि न्यायालय फीस अधिनियम 1970 कीअनुसूची 1, मदके अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्तिके संबंध में विवाद होने पर शास्तिका 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**

M/s Tokheim India Pvt. Ltd. (**IEC No. 0304012301**), having registered address at Building No. 2, Plot No. 66, TTC INDU Mahape MIDC, Khairne Village, NAVI THANE-400710 (hereinafter referred to as "the importer") filed Bill of Entry No. 6618520 dated 30.12.2025 for clearance of goods declared as "Electric Motors" classifiable under CTH 8501, imported from Italy under Advance Authorisation and availed the benefit of Notification No.021/2023. The goods had an Assessable Value of Rs.29,40,428.63/- and involved duty of ₹1,93,068/-. The consignment was handled through Customs Broker M/s DSV Air & Sea Pvt. Ltd. and assessed under Group 5A. The details of the Bills of Entry are given below :-

#### **Invoice-I – TABLE-I**

S. No.	CTH	Description	Quantity (Nos.)	Assessable Value (Rs.)
1	85015190	949913-019 Motor 0.74kW 3PH Star 400V - Eff2(MOTOR II 2G Ex db IIB T3 Gb V80TC4PR 4P-V.400-50 S.S.R. 24VDC THERM.PROT.+C	100	11,70,668.58/-
2	85015190	Motor 3-Phase 0.74kW 3PH Star 400V -1410 RPM. 50/60Hz. ATEX, 2300mm WM 077320-0001	100	11,46,556.63/-
			TOTAL	23,17,225.21/-

#### **Invoice-II – TABLE-II**

S. No.	CTH	Description	Quantity (Nos.)	Assessable Value (Rs.)
1.	85014090	M 949913-017 V90V2 ADPE Motor II 2G Ex db IIB T3 Gb V90MC4PR CI 1.5 Hp/1.1 kw 230V 50/60Hz ROTATION CCW-24Vdc RELAY-INTE	30	6,23,203.42/-

2. The importer declared that the consignment comprised of three types of electric motors, namely : (i) 3 Phase Squirrel Cage Induction Motor (Invoice-I, Sl. No. 1), (ii) 3 Phase Squirrel Cage Induction Motor (Invoice-I, Sl. No. 2), and (iii) 1 Phase Squirrel Cage Induction Motor (Invoice-II, Sl. No. 1).

3. On examination, it was observed that items at Sl. No. 1 and No. 2 in Invoice-I were declared under CTH 8501 5190 (other multiphase electric motors). However, as per the product catalogue, these motors were identified as squirrel cage induction motors and appeared correctly classifiable under CTH 8501 5110. Though the misclassification did not

have any impact on the applicable duty structure, it was noted that goods falling under CTH 8501 5110 are subject to compliance with IS 12615 standards.

4. It was further observed that the imported goods appeared to fall within the scope of the Energy Efficient Induction Motors – Three Phase Squirrel Cage (Quality Control) Order, 2017, which mandates compliance with IS 12615:2011. However, the importer did not produce any BIS licence or certification, and no BIS marking was found on the goods at the time of examination.
5. It was also noted that the Advance Authorisation produced by the importer did not contain any specific endorsement granting exemption from the above-mentioned Quality Control Order (QCO). As per DGFT Notification No. 71/2023 dated 11.03.2024, exemption from mandatory QCO is admissible only when such exemption is specifically endorsed on the Advance Authorisation.
6. In response to the query, the importer relied upon DGFT Public Notice No. 04/2024-25 dated 10.05.2024 to claim exemption from the mandatory QCO. However, it was observed that the said Public Notice merely supplements Notification No. 71/2023 and does not override the requirement of specific endorsement on the Advance Authorisation for availing QCO exemption.
7. In view of the above, it appeared that the goods were imported without fulfilling the mandatory requirements of the applicable QCO and without proper classification. Accordingly, the goods were considered liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962, for being imported in contravention of statutory provisions and for misdeclaration in classification.
8. In reply, the importer vide letter dated 29.01.2026 (received on 02.02.2026) submitted that the impugned goods were imported for 100% export purposes and were intended for use in fuel dispensing machines meant for export. It was contended that the goods were not intended for domestic sale and were covered under Advance Authorisation licences obtained for export production.
9. The importer further submitted that while applying for the Advance Authorisation, they selected available QCO categories such as “Electric Ceiling Fans” and “Electrical Accessories (Quality Control) Order, 2023” on the DGFT portal, as no relevant category for 3-phase induction motors was available. The importer stated that they attempted to amend the licence but faced difficulties due to the absence of the relevant QCO option.
10. The importer also informed that they had lodged a grievance with DGFT (Ref. No. 202601384780 dated 28.01.2026) regarding the issue and requested clearance of the present and future consignments pending resolution of the technical issue.
11. During the personal hearing held on 17.04.2026, the authorised representative of the importer reiterated that the issue arose due to a technical glitch on the DGFT portal, which prevented selection of the correct QCO exemption while applying for Advance Authorisation. The importer submitted evidence of correspondence with DGFT authorities highlighting the issue.
12. The importer further submitted that they required import of Energy Efficient Induction Motors (Three Phase Squirrel Cage) conforming to IS 12615:2018 for export production, and that such imports are otherwise eligible for QCO exemption. However, due to the portal limitation, they were unable to avail the exemption in the prescribed manner.
13. The importer requested that the matter be considered as a procedural lapse caused by a system-related issue and sought relaxation or manual processing of the Advance Authorisation to facilitate clearance of the goods, emphasizing compliance with the “Actual User” condition and confirming that the goods would not be diverted to the domestic market.

14. The importer also submitted copies of email communications exchanged with DGFT officials between March 2026 and April 2026, demonstrating their efforts to resolve the issue. It was specifically pointed out that the DGFT portal dropdown under "DPIIT" did not display the relevant QCO (IS 12615:2018), possibly due to incorrect database mapping with the earlier "DIPP" nomenclature.

**15. Legal Provisions under Customs Act, 1962:** *The relevant provisions of law relating to import 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: -*

**15.1 As per the provisions of Section 46(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.*

**15.2 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 particulars having bearing on correct assessment of duty on import.*

**15.3 Section 111 Confiscation of improperly imported goods, etc.**

*(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act...*

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

*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.*

**15.5 Section 114AA: Penalty for use of false and incorrect material. -**

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

**15.6 Section 125 Option to pay fine in lieu of confiscation.**

1. *Whenever confiscation of any goods is authorized 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 (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*

2. *Where any fine in lieu of confiscation of goods is imposed under subsection (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 there under, such option shall become void, unless an appeal against such order is pending....*

**15.7 Section (11) of the Foreign Trade (Development and Regulation) Act, 1992**

*i. No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.*

*ii. Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy, he shall be liable to a penalty of not less than ten thousand rupees and not more than five times the value of the goods or services or technology in respect of which any contravention is made or attempted to be made, whichever is more.*

**15.8 Foreign Trade (Regulations) Rules, 1993**

*As per Rule 11 of the Foreign Trade (Regulation) Rules, 1993, On the importation into any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or any other documents prescribed under the Customs Act, 1962, state the value, quantity, quality and description of such goods to the best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or any other documents.*

**15.9 BIS Act, 2016**

*As per Section 17 (1) of the Bureau of Indian Standards Act, 2016, No person shall manufacture, import, distribute, sell, hire, lease, store or exhibit for sale any such goods, article, process, system or service under subsection (1) of section 16—*

*a. Without a Standard Mark, except under a valid license; or*

*b. notwithstanding that he has been granted a license, apply a Standard Mark, unless such goods, article, process, system or service conforms to the relevant standard or prescribed essential requirements.*

**16. Personal Hearing**

**16.1** The personal hearing was held on 17.04.2026, where the Authorized Representative of M/s Tokheim India Pvt. Ltd. explained that the importer is facing a technical issue on the DGFT portal while applying for Advance Authorization. Specifically, the system does not allow selection of the applicable Quality Control Order (QCO) for Energy Efficient Induction Motors (IS 12615:2018), creating a procedural hurdle.

**16.2** It was submitted that the imported motors are meant solely for use in manufacturing export-oriented fuel dispensing machines and are covered under the "Actual User" condition, making them eligible for exemption from QCO requirements. However, due to a portal-related "digital bottleneck," the importer is unable to claim this exemption.

**16.3** The representative highlighted that multiple efforts were made to resolve the issue through representations and emails to DGFT authorities, including a formal request to correct the portal mapping error (linking QCO to outdated DIPP classification instead of DPIIT). Supporting documents were submitted as evidence.

**16.4** In view of these circumstances, the importer requested procedural relaxation or manual processing of the Advance Authorisation to avoid disruption of export commitments, emphasizing that the issue is technical in nature and not due to any deliberate non-compliance.

## **17. Discussion and Findings :**

**17.1** I find that the present case pertains to import of "Electric Motors" by M/s Tokheim India Pvt. Ltd. vide Bill of Entry No. 6618520 dated 30.12.2025, having an Assessable Value of ₹29,40,428.63 and duty of ₹1,93,068/-, filed under CTH 8501 and cleared under Advance Authorisation and utilised the License vide Lic. No. 0311042732 dated 01.04.2025 and 0311045830 dated 22.07.2025. The goods were imported from Italy through their Customs Broker M/s DSV Air & Sea Pvt. Ltd. and assigned to Group 5A for assessment.

**17.2** I find that the consignment comprises three types of motors, namely (i) 3 Phase Squirrel Cage Induction Motor, (ii) 3 Phase Squirrel Cage Induction Motor, and (iii) 1 Phase Squirrel Cage Induction Motor. On examination and verification of catalogue, it is evident that items at **Serial No. 1 and No. 2 in Invoice-I are specifically 3 Phase squirrel cage induction motors.**

**17.3** I find that the importer has declared the goods at Serial No. 1 and No. 2 in Invoice-I under CTH 8501 5190 as "other multiphase electric motors", whereas the catalogue and technical description indicate that the correct classification is CTH 8501 5110, which specifically covers AC motors, multi-phase, squirrel cage type. Thus, there is a misclassification in the declaration made by the importer.

**17.4** I find that although the mis-classification from CTH 8501 5190 to 8501 5110 does not result in any differential duty implication, classification has legal significance beyond rate of duty, particularly in determining applicability of allied laws, including Quality Control Orders (QCOs) and mandatory standards.

**17.5** I find that goods classifiable under CTH 8501 5110 are covered under the "Energy Efficient Induction Motors – Three Phase Squirrel Cage (Quality Control) Order, 2017" corresponding to IS 12615:2011 (now aligned to IS 12615:2018), which mandates compliance with BIS certification and marking requirements for such products.

**17.6** I find that the importer has neither produced any valid BIS licence/ certificate nor was any BIS standard marking found on the imported goods at the time of examination. Therefore, prima facie, the imported goods do not conform to the mandatory requirements prescribed under the above-mentioned QCO.

**17.7** I find that the importer has claimed exemption from the applicability of the QCO on the basis of Advance Authorisation and has relied upon DGFT Public Notice No. 04/2024-25 dated 10.05.2024. However, such Public Notices are only clarificatory in nature and issued in pursuance of DGFT Notification No. 71/2023 dated 11.03.2024.

**17.8** I find that as per DGFT Notification No. 71/2023 dated 11.03.2024, exemption from mandatory QCO requirements is not automatic but conditional, and it must be specifically endorsed on the Advance Authorisation. In the present case, no such endorsement is found on the Advance Authorisation produced by the importer.

**17.9** I find that in the absence of specific endorsement granting exemption from the QCO on the Advance Authorisation, the benefit of exemption cannot be extended to the importer merely on the basis of general provisions or subsequent Public Notices.

**17.10** I find that the importer has contended that the imported motors are intended for use in manufacture of fuel dispensing machines meant for export and are not intended for domestic sale, thereby claiming eligibility under "Actual User" condition of Advance Authorisation scheme.

**17.11** I find that the importer has further submitted that while applying for Advance Authorisation, they were unable to select the appropriate QCO category due to non-availability of the relevant option in the DGFT portal and instead selected unrelated categories such as "Electric Ceiling Fans" and "Electrical Accessories (Quality Control) Order, 2023".

**17.12** I find that the importer has claimed existence of a technical glitch in the DGFT portal, specifically a "digital bottleneck", which prevented selection of the applicable QCO (IS 12615:2018), and has produced email correspondences and grievance reference (No. 202601384780 dated 28.01.2026) to substantiate their claim.

**17.13** I find that during the personal hearing held on 17.04.2026, the authorised representative reiterated that the inability to obtain proper endorsement was due to a systemic issue in the DGFT portal, allegedly arising from incorrect mapping of QCO under "DIPP" instead of "DPIIT", thereby preventing proper selection.

**17.14** I find that the importer has requested procedural relaxation or manual intervention to allow clearance of the goods, citing that the lapse is procedural in nature and beyond their control, and that they have made bona fide efforts to rectify the issue with DGFT authorities.

**17.15** I find that notwithstanding the importer's submissions regarding procedural difficulties, the fact remains that at the time of import, the goods were neither BIS compliant nor covered by a valid exemption endorsed on the Advance Authorisation, which is a mandatory requirement under the governing notification.

**17.16** I find that import of goods in contravention of mandatory QCO without BIS certification or valid exemption constitutes violation of prohibition imposed under law, thereby attracting provisions of Section 111(d) of the Customs Act, 1962.

**17.17** I find that further, the incorrect declaration of classification under CTH 8501 5190 instead of 8501 5110, even though not impacting duty, amounts to mis-declaration in material particulars, thereby rendering the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

**17.18** I find that the importer's reliance on procedural difficulty and portal-related issues, though supported by correspondences, does not substitute the statutory requirement of compliance or exemption endorsement, and such issues are to be addressed with DGFT separately.

**17.19** I find that in view of the above facts and legal position, the imported goods are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962, for violation of QCO requirements and mis-declaration of classification, respectively.

**ORDER**

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

18.1. I hold that the goods imported by M/s Tokheim India Pvt. Ltd. (IEC No. 0304012301), vide the Bill of Entry No. 6618520 dated 30.12.2025, having an Assessable Value of Rs. 29,40,428.63/- having been imported in contravention of mandatory QCO without BIS certification or valid exemption constitutes violation of prohibition imposed under law, thereby attracting provisions of Section 111(d) of the Customs Act, 1962.

18.2. Accordingly, I order confiscation of the goods covered under **Invoice-I/Table-I** as stated above having Assessable Value of Rs. 23,17,225/- under Section 111(d) of the Customs Act, 1962. 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. 2,00,000/- (Rupees Two Lakhs only), for the limited purpose of re-export to the originating country.

18.3. 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.

18.4. I impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand Only) on M/s Tokheim India Pvt. Ltd. under Section 112(a)(i) of the Customs Act, 1962 for the reason discussed hereinabove.

18.5. I hold that the essential ingredients required for invocation of Section 114AA of the Customs Act, 1962 are not satisfied in the present case as discussed above. Accordingly, penalty under Section 114AA is not legally sustainable in the facts and circumstances of this case.

18.6. As no violation has been noticed during investigation of the goods in respect of the goods covered under Table-II/Invoice-II- Sl. No. 1 having total Assessable Value of Rs. 6,23,203.42/-. I order release of the said goods for home consumption.

19. 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: 29-05-2026  
12:38:20

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

To

M/s. Tokheim India Pvt. Ltd. (IEC No.0304012301)  
Building No. 2, Plot No. 66, TTC INDU  
Mahape MIDC, Khairne Village, NAVI  
THANE- 400710

Copy to : -