



ऑफिस ऑफ द कमिश्नर ऑफ कस्टम्स

OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V

जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा,

JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,

ताल-ऊरण, डिस्ट-राइगड, महाराष्ट्र-४००७०७.

**TAL. URAN, DIST. RAIGAD, MAHARASHTRA - 400 707.**

F. No.: S/10-169/2025-26/ADC/GrVB/NS-V/CAC/JNCH Date of Order: 29.01.2026

Date of issue: 29.01.2026

Passed By: **Shri Satish Kumar**

**Commissioner of Customs(In-situ), Gr-VB, NS-V**

DIN- 20260178NX000071717B

**Order-In-Original No. 1538/2025-26/ADC/GR.VB/NS-V/CAC/JNCH**

(Arising out of SCN No. 615/2025-26/JC/Gr.VB/NS-V/CAC/JNCH dated 11.08.2025)

**Noticee: M/s. AUTOCOMP CORPORATION PANSE PRIVATE LIMITED (IEC-3106003243)**

**मूलआदेश**

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 कास्टांप 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 स्टांप 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, Nhava 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 Case**

Whereas, M/s. AUTOCOMP CORPORATION PANSE PRIVATE LIMITED (IEC-3106003243) having address at FLAT NO.6, RUNANUBANDH APARTMENTS, MANASLANE, OFF.BHANDARKAR ROAD, PUNE, MAHARASHTRA- 411004 (hereinafter referred to as 'Importer') had cleared goods covered under CTH 8708 under Sr. No. 402 and 452E to 452O of schedule-III of IGST levy notification no. 01/2017- Integrated Tax (Rate) dated 28.06.2017. It is observed that M/s. AUTOCOMP CORPORATION PANSE PRIVATE LIMITED (IEC- 3106003243) have imported goods falling under the afore stated CTH as detailed in Annexure- 'A' through Bills of Entry no. 9521091 dated 10.11.2020.

2. Goods falling under heading 8708 attract different IGST rates, as follows, under Schedule-III and schedule-IV of IGST levy notification no. 01/2017- Integrated Tax (Rate) dated 28.06.2017-

#### Schedule- III

S. No.	Chapter/Heading/Su b- heading/Tariff item	Description of goods	IGST Rate
402	8708	Following Parts of Tractor namely: a. Rear Tractor wheel rim, b. Tractor centre housing, c. Tractor housing transmission, d. Tractor support front axle	18%

Schedule- IV

S. No.	Chapter/Heading/Sub-heading/Tariff item	Description of goods	IGST Rate
170	8708	Parts and accessories of the motor vehicles of heading 8701 to 8705 [other than specified parts of tractors]	28%

Subsequently, vide notification no. 19/2017- Integrated Tax (Rate) dated 18.08.2017, the following serial nos. and entries have been inserted w.r.t CTH 8708 in Schedule-III in the said notification no. 01/2017-Integrated Tax (Rate) dated 28.06.2017.

S. No.	Chapter/Heading/Sub-heading/Tariff item	Description of goods	IGST Rate
452E	87081010	Bumpers and parts thereof for tractors	18%
452F	87083000	Brakes assembly and its parts thereof for tractors	18%
452G	87084000	Gear boxes and parts thereof for tractors	18%
452H	87085000	Transaxles and its parts thereof for tractors	18%
452I	87087000	Road wheels and parts and accessories thereof for tractors	18%
452J	87089100	(i) Radiator assembly for tractors and parts thereof (ii) Cooling system for tractor engine and parts	18%
452K	87089200	Silencer assembly for tractors and parts thereof	18%
452L	87089300	Clutch assembly and its parts thereof for tractors	18%
452M	87089400	Steering wheels and its parts thereof for tractors	18%
452N	87089900	Hydraulic and its parts thereof for tractors	18%

4520	87089900	Fender, hood, wrapper, grill, side panel, extension plates, fuel tank and parts thereof for tractors	18%
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Subsequent to the above Notifications, it is amply clear that sr. no. 170 of schedule- IV (IV- 170) levying IGST rate of 28%, excludes the description of goods 'specified parts of tractor'. After going through the description of the BE items under deliberation, it has been observed that the goods do not appear to be specified parts of tractors as mentioned against 402 and 452E to 452O of notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017 and notification no. 19/2017- Integrated tax (Rate) dated 18.08.2017 respectively and appears to attract IGST @28% against sr. no. 170 of notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017.

**3.** On the basis of import data retrieved from ICES, Bills of Entry was analysed and scrutinised. It was observed that the goods under import are having description 'LOCK' by which it cannot be inferred that the same were meant for/Tractor Parts. From the description of goods as declared in the respective Bills of Entry in the ICES, it is not clear about the end use of the articles imported, as pointed out by NCTC in their advisory whether they are for manufacturing of tractor parts or otherwise. Therefore, the imported goods do not seem to justify clearance claiming a lower IGST rate @18% under sr. nos. 402 and 452E to 452O of notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017 and notification no. 19/2017- Integrated tax (Rate) dated 18.08.2017 respectively instead of applicable IGST rate @28% as per sr. no. 170 of the notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017. The total assessable value of the BE items so imported is ₹ 59,57,811.00/- and it appears that a short levy of IGST @10% (28%~18%) amounting to ₹ 6,94,084.74/- (as detailed in Annexure-'A') is recoverable from the Importer along with applicable interest and penalty.

**4.** In view of the above, Consultative letter No. 3729 dated 30.03.2022 vide F. No. S/2-Audit-Gen-347/2021-22/JNCH-C3 was issued to importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty along with applicable interest and penalty. However, no reply or submission is given by importer in this regard.

**5.1.** After the introduction of self-assessment vide Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including classification and calculation of duty, but in the instant case the subject goods

have been mis-classified and duty amount has not been paid correctly. Section 17 (Assessment of duty), subsection (1) 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.'*

**5.2.** Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded) reads as:

*'(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason*

*of,-*

*(a) collusion; or*

*(b) any wilful mis-statement; or*

*(c) suppression of facts,*

*by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.*

*(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).'

**5.3.** Section 46 (Entry of goods on importation), subsection (4) reads as:

*'(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.'*

**5.4.** Section 111 (Confiscation of improperly imported goods etc.) reads as:

*'The following goods brought from a place outside India shall be liable to confiscation:*

*(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;'*

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

*'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.'*

**5.6.** 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.'*

**6.** 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 center, 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 to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods

**7.** As per section 17(1) of the Act, "An Importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods." Thus, in this case the importer had self-assessed the Bills of Entry and appears to have Short paid duty due to wrong classification of the imported goods. Importer has given a declaration under section 46(4) of the Act, for the truthfulness of the content submitted at the time of filing Bill of Entry. As the importer got monetary benefit due to said act, it is apparent that the same was done deliberately by with an intention to avail undue benefit of Notification on the said goods in the Bills of Entry during self-assessment. Therefore, differential duty amount is recoverable from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the said Act.

8. Section 111(o) of Customs Act, 1962 provides for confiscation of the goods if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which condition is not observed unless the non-observance of the condition was sanctioned by the proper officer. In the present case it appears that the Importer has failed to comply with the conditions mentioned above; therefore, it also appears that the imported goods are liable for confiscation under Section 111(o) of the Customs Act, 1962.

9. It further appears that the Importer for the acts of omission and commissions mentioned above has rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act, 1962.

#### **RECORD OF THE PERSONAL HEARINGS AND WRITTEN SUBMISSION**

10. In order to comply the principal of natural justice, opportunity of personal hearing in the matter were provided to the noticee vide letters F. No. S/10-169/2025-26/ADC/GR. VB/NS-V/CAC/JNCH dated 28.11.2025 & 15.12.2025 to appear before the adjudicating authority on 10.12.2025 & 22.12.2025. The authorized representative of the importer Shri CMA Ashok Nawal appeared before me on 22.12.2025 in online mode and stated that, '*all Bill of Entry has been filed under Advance Authorization Scheme and debited from Bond and all details were mentioned and no dispute raised during the time of import and so no extended period is invocable in the case. He also stated during the personal hearing that there is no evidence to show that the subject goods are not used in tractors. The SCN has no evidence in this regard and therefore no liability arises.*' The noticee submitted copy of Advance Authorization on 22.01.2026.

11. Referring to the Show Cause Notice, the importer in their submission letter dated 26.12.2025 stated as below:

**11.1** *M/s Autocomp Corporation Panse Private Limited stated that they hold a valid Importer Exporter Code (IEC: 3106003243) and has consistently complied with the provisions of the Customs Act, 1962 and allied laws. The imports under consideration pertain to LOCK/LATCH assemblies.*

**11.2** *Noticee adhered to Section 17 (Self-assessment) of the Customs Act, 1962. Bills of Entry for No 9521091 Dt 10/11 /2020 warehousing was filed electronically through ICEGATE with necessary disclosures regarding description, classification, and applicable notifications. Supporting documents such as Invoices and packing lists were uploaded.*

**11.3** *Further, the noticee files the bill of entry for home consumption while Bills of Entry for No 9775577 dtd 01.12.2020 clearing the goods without payment of duty and debiting the same to the advance authorization number 3110067758 dtd*

11.06.2020 to the bond no 20017 45338 without payment of any duty claiming exemption of payment of custom duty, surcharge and IGST and thereby there is no duty impact.

**11.4** Noticee has redeemed the said advance authorization after fulfilment of 100% of export obligation and obtained a regularization certificate from the competent office.

**11.5** Noticee states that department issued SCN No. 615/2025-26 dated 11.08.2025 (DIN: 20250878NXOOOOOD187) alleging that the description "LOCK" in the Bills of Entry does not establish that the goods are specified tractor parts under Sr. No. 402 and 452E to 4520. The SCN proposes without understanding and going through the bill of entries and zero duty impact without application of mind.

**11.6** SCN dtd 11.08.2025 for the bill of entries dtd 10.11.2020, i.e. after the period of 2 years invoking the larger period without any allegations or evidence as to what was suppressed or what was mis-slated or mis-declared. There is no single evidence that essence of invoking larger period of limitation requires mens rea to evade payment of tax.

### **Submission**

1. In reply to the Show Cause Notice cited here in above and to support denial of any of the allegations made therein, the Noticee relies on the following grounds/information and clarifications, which are, without prejudice to and independent of each other.

2. Noticee submits that the SCN has been issued without going into the facts involved in the present case and the issuing authority has not acknowledged the clarifications made against the query raised by them. Noticee submits that the impugned SCN is issued without conducting, a provisional assessment, which is prescribed under the Customs Act, 1962 (hereinafter referred to as "the Act").

3. Noticee makes submissions on the following grounds:

A. WHETHER ANY DUTY DEMAND CAN BE ISSUED ON ANY GROUND DEMANDING THE DIFFERENTIAL DUTY WHEN THE GOODS ARE CLEARED UNDER THE SCHEME OF ADVANCE AUTHORISATION AND AFTER DISCHARGING EXPORT OBLIGATION AND REDEMPTION OF ADVANCE AUTHORISATION?

B. WHETHER THE IMPUGNED SCN ISSUED UNDER SECTION 28 OF THE CUSTOMS ACT, 1962 WITHOUT FILING APPEAL AGAINST THE ASSESSMENT DONE BY THE IMPORTER WHILE FILING OF BILL OF ENTRY IS TENABLE UNDER THE LAW?

C. WHETHER DEMAND IS BARRED BY LIMITATION?

**D. WHETHER INTEREST AND PENALTY CAN BE IMPOSABLE IN THE PRESENT CASE AND WHETHER THE CONFISCATION CAN BE MADE IN THE PRESENT CASE?**

4. At the outset, noticee states and submits that there is no liability on account of duty due to the advance authorisation scheme and as such there is no evasion of duty.

5. Ld Adjudicating Authority ought to have appreciated that bill of entry against which demand has been made under the said SCN is the bill of entry under warehousing and not for bill of entry for home consumption. He ought to have appreciated that no demand can be raised without clearing the goods for home consumption. He ought to have followed his duty to check whether bill of entry for home consumption filed against payment of duty or under the claim of exemption, if any. Failure to perform the duties without doing the due diligence is nothing but the harassment to the noticee and mockery of adjudication process.

6. Ld Adjudicating Authority ought to have appreciate the facts mentioned above.

**11.7** Noticee states and submits that the SCN needs to be withdrawn with consequential relief of cost of legal department as well as apology of harassment of raising the duty demand without application of mind and without understanding the factual position that no duty demand can be made against the bill of entry for warehouse subsequently cleared under advance authorisation of which export obligation is fulfilled, advance authorisation is redeemed and EODC is obtained.

**11.8** Noticee demands withdrawal of SCN on this ground alone.

**B. WHETHER THE IMPUGNED SCN ISSUED UNDER SECTION 28 OF THE CUSTOMS ACT, 1962 WITHOUT FILING APPEAL AGAINST THE ASSESSMENT DONE BY THE IMPORTER WHILE FILING OF BILL OF ENTRY IS TENABLE UNDER THE LAW?**

**11.9.** Noticee submits that Section 128 of the Customs Act, 1962 provides for filing of appeal before the Commissioner (Appeals) in case any person is aggrieved by any order passed under the Customs Act, 1962.

**11.10.** Noticee states that instead of filing the appeal against, the Bill of Entry (order of assessment) covered under the impugned SCN, the learned Commissioner of Customs, has issued impugned SCN under Section 28 of the Customs Act, 1962 .

**11.11.** Noticee submit that issuing SCN without following the procedure prescribed under Section 128 of the Customs Act, 1962 is bad in law.

**11.12.** Noticee further states that the learned Commissioner of Customs, cannot exercise the powers of the Commissioner (Appeal) as given under Section 128 of the Customs Act, 1962.

**11.13.** Noticee would like to reproduce below judgements in support of above submissions,

- *PRIYA BLUE INDUSTRIES LTD. Versus COMMISSIONER OF CUSTOMS (PREVENTIVE) 2004 (172) E.L.T. 145 (S.C.)*

- *ITC v. CCE, Kolkata(2019(368)ELT 216)*

**C. WHETHER DEMAND IS BARRED BY LIMITATION?**

**11.14.** Noticee states that the demand raised in the impugned Show Cause Notice dated 11.08.2025 is clearly barred by limitation under Section 28 of the Customs Act, 1962. The imports in question were made vide Bill of Entry No. 9521091 dated 10.11.2020, as detailed in Annexure A of the SCN, and the total assessable value of the goods was Rs 694084.74 on the ground that the Noticee applied an IGST rate of 18% under Sr. Nos. 402 and 452E to 452) of Notification No. 01/2017 and 19/2017, whereas the Department contends that the goods attract 28% IGST under Sr. No. 170 of Schedule IV. It is evident that the SCN has been issued almost five years after the date of import and therefore, the normal limitation period of two years under Section 28(1) has expired.

**11.15.** Noticee states and submits that bill of entry filed based on the import documents i.e. invoice, packing list, bill of landing, technical literature and checklist. No discrepancy was noticed by the department and imports were allowed.

**11.16.** Noticee stated that there is no evidence produced by the department as to what noticee has suppressed the facts or mis-stated the things or mis-declared which department has noticed now. The notice has been issued only on account of differential IGST Rate for locks and latches for tractor parts, which attracts 18% rate of duty, whereas other automobile parts attracts 28% IGST. There is no detail or documents or any evidence provided to prove that there is a malafied intension of evasion of tax and therefore, there is a willful misdeclaration or willful suppression of facts or willful misstatement. No additional evidences has been produced other than differential tax rate. Rather department failed to produce any evidence as to why such lock and latches imported by noticee has not been used as a tractor parts. In absence of any evidence provisions of section 28(4) cannot be invoked and hence total demand is hit by limitation.

**11.17.** Noticee further states that the extended period of five years under Section 28(4) can only be invoked where the short payment of duty is by reason of collusion, wilful misstatement, or suppression of facts. In the present case, the Noticee had duly declared bill particulars in the Bills of Entry, 1nLlud1r g the

correct tariff heading 87089900, detailed description of goods such as "ASM BASIC LOCK 3000 LH LC" and "ASM MEDIUM LOCK 3000 LH/RH LC," and the IGST rate applied under the, relevant notification. The Bills of Entry were self-assessed and accepted by customs without objection, and there is no allegation of concealment of value, quantity, or description. The SCN itself acknowledges that the issue arose from advisory and subsequent data analytics, not from any discovery of misdeclaration or fraud at the time of clearance. This demonstrates that the dispute pertains solely to the interpretation of the applicable IGST rate and classification under the notification, which cannot be equated with willful misstatement or suppression of facts.

**11.18.** Judicial precedents have consistently held that mere classification disputes or interpretation al differences do not justify invocation of the extended limitation period under Section 28(4). The Hon'ble Supreme Court and CESTAT have ruled that unless there is positive evidence of intent to evade duty through misrepresentation or concealment, the extended period cannot be applied. In this case, the Noticee acted in good faith, relying on the notification entries for tractor parts, and made full disclosures in the Bills of Entry. The Department's reliance on extended limitations is therefore misplaced and contrary to settled law.

**11.19.** In view of the above, the demand raised in the SCN is time-barred under the normal limitation period of two years prescribed in Section 28(1) of the Customs Act, 1962. The conditions for invoking the extended period under Section 28(4) are not satisfied, as there is no evidence of collusion, willful misstatement, or suppression of facts. Accordingly, the proposed recovery of differential IGST, interest and penc. 1lties is unsustainable and liable to be dropped on the ground of limitation.

**11.20.** Noticee relies on the following decisions: ~

*Varanasi Sangam Expressway (P) Ltd vs. Commissioner of State Tax (2025] 180 taxmann.com 796 (Allahabad)*

*RELIANCE INDUSTRIES LTD. Vs COMMISSIONER OF C. EX., MUMBAI-III; 1999 (112) E.L.T. 653 (Tribunal)*

*GARG TELECOM CO. Vs COMMR. OF C. EX., ALLAHABAD, 2010 (254) E.L.T. 378 (Tri. - Del.)*

*CENTURY DENIM Vs COMMISSIONER OF CENTRAL EXCISE, INDORE, 2009 (241) E.L.T. 135 (Tri. - Del.)*

**D. WHETHER THE IMPORTED PRODUCT IS CLASSIFIABLE AS SPECIFIED TRACTOR PARTS UNDER SR. NO. 402 AND 452E TO 4520 OF SCHEDULE-III OF IGST NOTIFICATION NO. 01/2017 (INTEGRATED TAX RATE) ATTRACTING IGST @18%, OR AS GENERAL MOTOR VEHICLE PARTS UNDER SR. NO. 170 OF SCHEDULE-IV ATTRACTING IGST @28%? 25.**

*E. WHETHER INTEREST AND PENALTY CAN BE IMPOSABLE IN THE PRESENT CASE AND WHETHER THE CONFISCATION CAN BE MADE IN THE PRESENT CASE?*

**11.21.** *In the impugned SCN, penalties under section 112 and section 114A are imposed on the Noticee.*

*SECTION 112. Penalty for improper importation of goods.*

*[Section 114A. Penalty for short-levy or non-levy of duty in certain cases.*

*Explanation. - For the removal of doubts, it is hereby declared that - (i) the provisions of this section shall also apply to cases in which the order determining the duty or interest 3 [sub-section (8) of section 28] relates to notices issued prior to the date\* on which the Finance Act, 2000 receives the assent of the President.*

*(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.*

**11.22.** *The Noticee submits that as far as section 112 of the Act is concerned the penalty cannot be levied on Noticee under this section as there is no mis-declaration of the goods or the value of the goods under the act to be liable for confiscation under section 111(m) of the Act.*

**11.23.** *The relevant portion of section 111 is reproduced below for your ready reference. "Section 111. Confiscation of improperly imported goods, etc . . . . . Section 111(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 3 [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54 ];*

**11.24.** *The Noticee submits that Noticee has duly and accurately disclosed all relevant information, including but not limited to the value and other particulars of the aforementioned goods in the bills of entry of the respective imported goods. Furthermore, a mere alleged misclassification of goods cannot be the ground for confiscation as there is no misdeclaration of any value or any other particulars of the imported goods as mentioned , under the Act.*

**11.25.** *In so far as penalty under Section 114A is concerned the Noticee hereby submits that Penalty under Section 114A is leviable in cases where importer has short paid the duties by reason of collusion or any wilful mis-statement or suppression of facts.*

**11.26.** *The relevant extract of Section 114A is reproduced below, Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has 2 {\*\*\*\*}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 3 [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:

In *Commissioner of Central Excise & Customs vs. Aicon Pharma Pvt. Ltd.*, the Court ruled that where the dispute involves bona fide interpretation of law and there is no evidence of fraud, collusion, wilful misstatement, or suppression of facts, the extended period of limitation cannot be invoked and penalty is not imposable. The Tribunal's order dropping demand beyond normal period and penalty was upheld.

**11.27.** The noticee stated the cases as below:

- a) *ROSAVAR STEELS LTD. Vs COMMISSIONER OF C. EX., COIMBATORE; 2011 (268) E.L.T. 280 (Tri. - Chennai) Penalty - Imposition of - Issue involving interpretation - In such cases, no penalty is imposable. /para 8}*
- b) *PREM FABRICATORS Vs COMMISSIONER OF C. EX., AHMEDABAD-11; 2010 (250) E.L.T. 260 (Tri. - Ahmd.) Penalty - Imposition of - Bona fide belief about eligibility to exemption and dispute involving interpretation of law - No penalty imposable under Section 11AC of Central Excise Act, 1944. [para 16]*
- c) *Hindustan Steel v/s State of Orissa reported 1978 ELT(J.159)*
- d) *AKBAR BADRUDDIN JIVANI V/S COLLECTOR OF CUSTOMS, MUMBAI*
- e) *SHREE GOBINDEO GLASS WORKS LTD V/S COMMISSIONER OF C.EX., KOLKATAT-II 2008.*

### **DISCUSSION AND FINDINGS**

**12.** I have gone through the facts of the case, material on case records, including the import documents and the submissions made by the Importer, I find that the following charges have been made in the notice:

**13.** The importer, M/s. AUTOCOMP CORPORATION PANSE PRIVATE LIMITED (IEC- 3106003243), has deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to ₹ 6,94,084.74/-. Therefore, the differential duty, so not paid, is liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

**14.** It appears that the Importer has failed to comply with the conditions mentioned above; therefore, it also appears that the imported goods are liable for confiscation under Section 111(o) of the Customs Act, 1962. It further appears that the Importer for the acts of omission and commissions mentioned above has

rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act. 1962.

**15.** Now, on a careful perusal of the Show Cause Notice and case records, I find that following main issues are involved in this case which are required to be decided:

(i) Whether the imported goods having assessable value of ₹ 59,57,811.00/- (Rupees Fifty nine lakhs fifty seven thousands eight hundred and eleven only) covered under Bills of Entry as detailed in Annexure-"A" to the notice should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962.

(ii) Whether the differential duty amounting to ₹ 6,94,084.74/- (Rupees Six lakhs ninety four thousands and eighty four only) is recoverable under Section 28(4) and the above amount which is already deposited by the Importer as duty is to be appropriated against the above said demand of duty.

(iii) Whether interest is payable under Section 28AA the above amount which is already deposited by the Importer as duty is to be appropriated against the above said demand of duty.

(iv) Whether penalty imposed on them under Section 112(a) and/or 114A of the Customs Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.

**16.** After having identified and framed the main issues to be decided, I now proceed to examine each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN; provision of the Customs Act, 1962, as well as Noticee's written and verbal submissions and documents / evidences available on record.

**17.** The importer in their submission claimed that there is no liability on account of duty due to the advance authorization scheme and as such there is no evasion of duty and cannot be any demand of duty evasion. In this regard I find that customs duty can be demanded on a Bill of Entry (BoE) for warehoused goods cleared under an Advance Authorisation (AA) if the export obligation (EO) isn't fulfilled, as the AA grants duty exemption subject to using inputs for specific exports, and failure to export means the primary condition for exemption is breached, making the duty liable, often with interest and penalties, unless specific conditions like extension or valid re-export are met. Howsoever, the importer by paying less duty has less obligation for export under advance authorization scheme. I further find that the allegation on the Importer in the instant case is of short payment of IGST. However, in this case, I find that the export obligation has been fulfilled by the Importer and there is no charge of unfulfilled export obligation or non-submission of EODC in the SCN.

**18.** I also find that IGST (Integrated Goods & Service Tax) and Compensation Cess are **exempted** on imports under the Advance Authorisation (AA) Scheme, allowing duty-free import of inputs for export products, providing significant cash flow relief by eliminating the need to pay IGST upfront and then claim refunds, though this benefit is subject to conditions like the "pre-import" requirement.

**19.** Paragraph 1 of DGFT Notification No. 16/2015-20 dated 1 July 2022 provides that,

*" 1. Integrated Tax and Compensation Cess under Advance Authorization as per Para 4.14 of FTP 2015-20 is exempted as provided in the Notification No. 37/2022-Customs dated 30th June 2022 issued by Department of Revenue."*

**20.** From the bills of entry verified in the ICES system reflecting the bill of entry no. 9521091 dated 10.11.2020, I find that the duty is shown as 'duty foregone due to EOU/DEEC/DEPB/Jobbing etc' which confirms that the bills was filed under scheme which exempts duty payment. I have also verified the License number 3110067758 dated 11.6.2020 mentioned in the EODC for the above mentioned BE. Further, as per the above mentioned DGFT Notification, I find that IGST is exempted under Advance Authorisation scheme. I also find that the instant SCN No. 615/2025-26/JC/Gr.VB/NS-V/CAC/JNCH dated 11.08.2025 does not make any charge of short fulfillment of export obligation nor there is any allegation of violation of any condition of the AA license and therefore it cannot be said that demand of any short payment of IGST is recoverable from the Importer in this case. Therefore, I find that since there is no IGST liability in the subject case of import, there is no issue of any demand of short paid IGST and accordingly, there is no issue of any demand of interest or penalty.

**21.** In view of the above discussions, I pass the following order:

**ORDER**

**I.** I hereby drop all the proceedings initiated by the SCN No. 615/2025-26/JC/Gr.VB/NS-V/CAC/JNCH dated 11.08.2025 against the Importer and close the instant case.

**22.** This order is issued without prejudice to any other action that may be taken against the said company or persons or any other companies or persons

concerned with the said goods, under the Customs Act, 1962, and /or any other law for the time being in force in the republic of India.

(डॉ. सतीश कुमार / Dr. Satish Kumar)

आयुक्त, सीमा शुल्क / Commissioner of Customs(In-situ)

ग्रुप-VB, एनएस-V, जेएनसीएच / Gr.VB, NS-V, JNCH

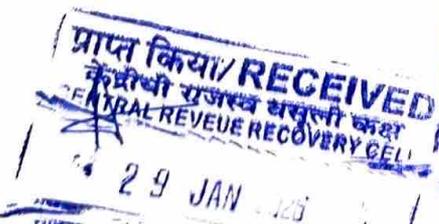
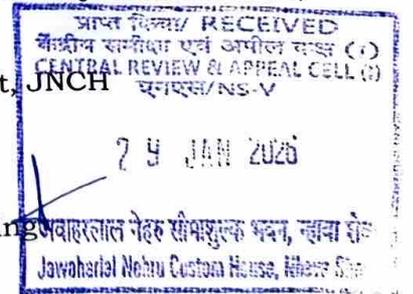
To:

**M/s. AUTOCOMP CORPORATION PANSE PRIVATE LIMITED**

**FLAT NO.6, RUNANUBANDH APARTMENTS, MANASLANE, एम7813697201N**  
**OFF.BHANDARKAR ROAD, PUNE, MAHARASHTRA- 411004**

Copy to:

1. The Asst./Dy. Commissioner of Customs, Centralised Adjudication Cell, JNCH
2. The Dy. Commissioner of Customs, Circle- C3, Audit, JNCH
3. The Dy. Commissioner of Customs, CRRC, JNCH.
4. The Dy. Commissioner of Customs, Review, JNCH.
5. The Dy. Commissioner of Customs, EDI, for uploading
6. Notice Board (CHS Section).
7. Office Copy.



29 JAN 2026