

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V)
सीमाशुल्कआयुक्त (एनएस - V) काकार्यालय
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
TALUKA – URAN, DISTRICT - RAIGAD, MAHARASHTRA -400707
तालुका - उरण, जिला - रायगढ़, महाराष्ट्र 400707

DIN – 20260178NX000000DD8C	Date of Order: 08.01.2026
F. No. S/10-19/2025-26/COMMR/Gr.V/NS-V/CAC/JNCH	Date of Issue: 08.01.2026
SCN No.: 118/2024-25/COMMR./Gr.V/NS-V/CAC/JNCH	
SCN Date: 01.05.2025	
Passed by: Sh. Anil Ramteke	
Commissioner of Customs, NS-V, JNCH	
Order No: 350/2025-26/COMMR/NS-V/CAC/JNCH	
Name of Noticee: M/s. Cranex Limited (IEC: 0588084891)	

ORDER-IN-ORIGINAL
मूल - आदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D'Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम 1962 की धारा 129 (ए) के तहत इस आदेश के विरुद्ध सी.ई.एस.टी.ए.टी., पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीजनल बेंच), 34, पी. डी.मेलो रोड, मस्जिद (पूर्व), मुंबई - 400009 को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal: -

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - सीए3, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

Time Limit - Within 3 months from the date of communication of this order.

समय सीमा - इस आदेश की सूचना की तारीख से 3 महीने के भीतर

Fee - फीस-

(a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.

(क) एक हजार रुपये जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये

या उस से कम है।

- (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 Lakh.
- (ख) पाँच हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 5 लाख रुपये से अधिक परंतु 50 लाख रुपये से कम है।
- (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
- (ग) दस हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम 50 लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favor of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति – क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीय कृत बैंक द्वारा सहायक रजिस्ट्रार, सी.ई.एस.टी.ए.टी., मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, 1962, सीमाशुल्क (अपील) नियम, 1982, सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, 1982 का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्ति का 7.5 % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, 1962 की धारा 129 E के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Subject: -Adjudication of Show Cause Notice No. 118/2024-25/COMMR./GR-V/NS-V/CAC/JNCH dated 01.05.2025 issued to M/s. Cranex Limited (IEC No.0588084891) - reg.

Brief Fact of the Case

In pursuance of the intelligence report dated 13.03.2021 approved by the Additional Director General, Directorate of Revenue Intelligence, Hyderabad Zonal Unit on 15.03.2021 regarding short payment of IGST by availing exemption vide Notification No. 84/1971-Customs, dated 11.09.1971, an inquiry was initiated against M/s. Cranex Limited (IEC No.0588084891) having registered address at 9, DDA Market, Katwaria Sarai, Opp. Qutub Hotel, New Delhi-110016 by Directorate of Revenue Intelligence, Nellore Sub-Regional Unit.

2. M/s Cranex Limited has filed 3 Bills of Entry, Bill of Entry No. 7852673 dated 08.06.2020, Bill of Entry No. 8005416 dated 26.06.2020 and Bill of Entry No. 8141987 dated 11.07.2020 for clearance of Goods (as mentioned below in Table 1) for Mumbai Metropolitan Region Development Authority that has taken up Mumbai Metro Rail Project, which is being financed by New Development Bank:

Table 1

Sr.No.	Bill of Entry No.	Bill of Entry date	Description of Goods	Assessable Value	IGST amount
1	7852673	08.06.2020	13 Passenger Glass Door (landing + Car) Model: JoymoreCenter Opening	26403384/-	4752609/-
2	8005416	26.06.2020	i. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 7.5 > h 8.5. ii. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore	38472144/-	6924986/-

			<p>Center Opening, 5.5 > h 6.5.</p> <p>iii. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 13.5 > h 14.5.</p> <p>iv. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 10.5 > h 11.5.</p> <p>v. 13 Passenger, Stainless Steel (Landing + Car) Model : Joymore Center Opening, 8.5 > h 9.5,</p> <p>vi. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 7.5>h 8.5.14.5 > h 15.5.</p> <p>vii. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 11.5 > h 12.5.</p> <p>viii. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 6.5 > h 7.5.</p>		
3	8141987	11.07.2020	i. 13 Passenger,	33079061/-	5954231/-

			Stainless Steel (Landing + Car) Model: Joymore Center Opening, 5.5 > h > 6.5. ii. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 6.5 > h > 7.5. iii. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 7.5 > h > 8.5. iv. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 9.5 > h > 10.5. v. 13 Passenger, Stainless Steel (Landing + Car) Model: Joymore Center Opening, 10.5 > h > 11.5.	
TOTAL			97954589/-	17631826/-

3. Mumbai Metropolitan Region Development Authority has taken up Mumbai Metro Rail Project, which is being financed by New Development Bank vide Loan No Agreement No. 18INo4 and eligible for exemption from payment of BCD for the imports intended to such project vide Notification No.84/1997-Customs dated 11.11.1997 as amended that states *“In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), read with sub-section (4) of section 68 of the Finance (No. 2) Act, 1996 (33 of 1996), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts all the goods imported into India for execution*

of projects financed by the United Nations or an International Organisation and approved by the Government of India, from the whole of the duty of customs leviable thereon under First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and the whole of the special duty of customs leviable under section 68 of the Finance (No. 2) Act 1996 (33 of 1996)". However, no exemption from payment of IGST levied under sub-section (7) of Section 3 of the Customs Tariff Act, 1962 has been granted for the imports made under Notification No. 84/1997-Customs dated 11.11.1997.

4. It was observed from the ISS data that M/s. Cranex Limited imported the goods by claiming BCD exemption vide Notification No.84/1997-Customs dated 11.11 1997 and in respect of IGST, they have claimed exemption vide Notification No.84/1971- Customs dated 11.09.1971 as amended that states *"In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts scientific equipments, namely, instruments, apparatus, machines or accessories therefore used for purposes of scientific research or education, and spare parts of these equipments and tools specially designed for their maintenance, checking, gauging or repair, temporarily imported by such non-profit making scientific or educational institutions as may be approved in this behalf by the Ministry of Education and to be used under the control and responsibility of such institutions for purposes of scientific research or education of non-commercial nature, from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), and from the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act,"* wherein exemption is granted for the scientific equipment, namely, instruments, apparatus, machines or accessories therefore used for purposes of Scientific research or education, and spare parts of these equipment and tools specially designed for their maintenance, checking, gauging or repair, temporarily imported by such non-profit making scientific or educational institutions as may be approved by the Ministry of Education and to be used under the control and responsibility of such institutions for purposes of scientific research or education of non- commercial nature, subject to the conditions mentioned therein.

4.1 From the above it appears that the exemption under Notification No. 84/1971 dated 11.09.1971 is available for the imports made by the entities as approved by Ministry of Education for the purposes of Scientific Research or Education, whereas the goods imported by the above named importers are for supply to Mumbai Metro Rail Project in as much as the importers are not approved educational institutions by the Ministry of Education. Thus, it

appears that M/s. Cranex Limited are liable for payment of IGST for the imports made against Bills of Entry Nos. 7852673, dt.08.06.2020; BE No: 8005416 dt 26.06.2020 and BE No; 8141987 dt 11.07.2020 and claimed the benefit of Notification No. 84/1971 dated 11.09.1971 even when they are not non-profit making scientific or educational institutions as may be approved by the Ministry of Education and to be used under the control and responsibility of such institutions for purposes of scientific research or education of non-commercial nature, subject to the conditions mentioned therein and ineligible for claiming the said IGST exemption benefit.

4.2 Accordingly, an intelligence report was filed on 13.03.2021 indicating the short payment of duties of the customs by the importer and investigation was conducted with the due approval of the Competent Authority.

5. Details of Investigation Conducted:

- A) Letter dated 17.03.2021 was sent to M/s. Cranex Limited to submit the copies of Bills of entries along with supporting documents and to respond regarding payment of differential IGST by availing exemption Notification 84/1971-Cstoms dated 11.09.1971.
- B) The importer while accepting the liability of IGST vide letter dated 23.04.2021 (copy received through mail) requested 30 days' time for collecting all the documents sought for and also informed that they had started the process of payment of applicable IGST. Further, a letter was addressed for submission of the documents and for payment of IGST vide letter F. No. DRI /HZU/NSRU-26/ENQ-03(INT-01)/2021 dated 07.06.2021. Vide mail & letter dated 12.07.2021, while furnishing the documents, the importer informed that they are willing to pay applicable duties;
- C) The documents furnished by the importer were verified and it was found that M/s. Cranex Limited have been awarded works by Mumbai Metropolitan Region Development Authority (MMRDA) in respect of Mumbai Metro Rail Project of MMRDA which is financed by New Development Bank vide Loan Agreement Number 18INO4 and the project is eligible for exemption from Basic Customs duty vide Notification No.84/1997, dated Customs dated 11.11.1997 as amended. The importer also submitted a copy of requisite certificate issued by MMRDA authorities counter signed by Secretary, Finance, Government of Maharashtra. It is also observed in respect of said Bills of Entry, IGST was not paid at the time of import and hence, the importer is liable to pay applicable IGST along with interest.
- D) Subsequently, the importer paid the differential IGST along with interest and requested for closure of proceedings vide letter dated 29.07.2022.

6. Provisions for Recovery of Short Payment of duty

SECTION 28 of the Customs Act 1962

Recovery of [duties not levied or not paid or short-levied or short-paid] or erroneously refunded. -

(1) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts, -

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied [or paid] or which has been 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:

(b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of, -

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under section

28AA or the amount of interest which has not been so paid or part-paid.

Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made there under in respect of such duty or interest:

(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section 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 ⁹[two years] shall be computed from the date of receipt of information under sub-section (2).

(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 ¹¹[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.

7.1 Thus in terms of Section 28(4) *ibid*, if any duty which has not been levied or not paid or has been short or short paid, 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

7.2 As per Section 28AA "interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty".

8. The importer paid an amount of Rs.2,08,53,971/- (IGST: Rs.1,76,31,826/-+ Interest of Rs.32,22,145/-) vide the following Challans. The details of payments made and the verification reports furnished by the respective customs are furnished hereunder:

Table 2

Sl. No	Challan No./ Date	Amount (INR)	Payment towards	Remarks
01	2035816642/30.07.2021	5092453	IGST+	IGST: Rs.

			Interest	47,52,609/-; Interest: Rs. 3,39,844/-
02	2035816629/03.08.2021	5964019	IGST+ Interest	IGST: Rs. 59,54,231/-; Interest: Rs. 9,788/-
03	2035816635/03.08.2021	8043419	IGST+ Interest	IGST: Rs. 69,24,986/-; Interest: Rs. 11,18,433/-
04	HCM-1419/16.06.2022	814454	Interest	
05	HCM-2249/28.07.2022	939626	Interest	
	Total	20853971		

The payments in respect of Sl. Nos 1, 2 & 3 were made online. The payments in respect of Sl. Nos 4 & 5 were made manually. In this regard the following documents were submitted:

- Copies of Challans mentioned above;
- annexure indicating duty liability and letter dated 29.07.2022 received from M/s. Cranex Limited requesting for closure of proceedings.

9. Waiver of Show Cause Notice:

9.1 M/s. Cranex Limited vide their letter dated 29.07.2022 informed that they paid the differential duty along with applicable interest and requested for closure. In the instant case the short payment of duty is only due to wrong claim of exemption notification 84/1971-Customs, dated 11.09.1971 and there is no mis-declaration of the item description, hence it appears that there are no grounds for invoking collusion or wilful misstatement or suppression of facts under Section 28(4) of Customs Act, 1962.

9.2 It appears that Short-Payment of IGST on imports is the result of claiming of IGST exemption by the Importer in accordance with Notification No.84/1971-Cus. dated 11.09.1971 even when they are not non-profit making scientific or educational institutions as may be approved by the Ministry of Education and to be used under the control and responsibility of such institutions for purposes of scientific research or education of non- commercial

nature, subject to the conditions mentioned therein and ineligible for claiming the said IGST exemption benefit and involve suppression of facts, collusion or wilful mis-statement with an intent to evade payment of duty. Further, it appears that the Importer has wilfully claimed wrong exemption notification as the eligible amendment notification were specifically mentioned in the letter dated 22.04.2020 written by Metropolitan Commissioner, MMRDA and countersigned by Secretary Finance, Government of Maharashtra.

10. Obligation under Self-assessment:

The importer had subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Customs Act, 1962, in all their import declarations. Further, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' had been introduced in Customs. Section 17 of the Customs Act, 1962, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make an 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 Integrated Declaration and Paperless Processing) Regulation, 2018 (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 was defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number was generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the scheme of self-assessment, it was the importer who must doubly ensure that he declared the correct classification/CTH of the imported goods, the applicable rate of duty, value, the benefit of exemption notification claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 08.04.2011, it was 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.

11. Whereas, it appears that the importer was aware of the correct nature and classification/CTH, and even the end-use of the imported goods. Despite being fully aware of the correct description/nature, classification/ CTH, and

end use of the imported goods, wrong notification benefit was claimed, to evade payment of appropriate Customs duty. Thus, by the above acts and omissions, M/s Cranex Limited (IEC-0588084891) had contravened the provisions of Section 46 of the Customs Act, 1962 and Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 read with Rules 11 & 14 of the Foreign Trade (Regulation) Rules 1993, in as much as the importer had declared wrong notification benefit to avail the IGST exemption benefit on the imported goods before the customs authorities while filing the Bills of Entry at the time of the importation of the goods. The same was done intentionally to evade the payment of applicable IGST leviable thereon under Section 12 of the Customs Act, 1962, at the rates specified in the First Schedule to the Customs Tariff Act, 1975. Therefore, they have rendered the imported goods liable to confiscation as per the provisions of Section 111 (m) and 111(o) of the Customs Act, 1962. Therefore, it appears that penalty is imposable on the importer M/s Cranex Limited (IEC-0588084891) under Section 112(a) (ii) for Bills of Entry Nos. 7852673, dt.08.06.2020; BE No: 8005416 dt 26.06.2020 and BE No; 8141987 dt 11.07.2020 of the Customs Act, 1962.

12 Statutory Provisions

The extracts of the relevant provisions of following laws relating to self-assessment, import of goods in general, the liability of the goods to confiscation and person concerned to penalty for illegal importation under the Customs Act, 1962 and other laws for the time being in force, were mentioned in the subject SCN. The same are not reproduced in this Order-in-Original for the sake of brevity:

- *Section 17- Assessment of duty leviable on any imported goods.*
- *Section 28. Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.*
- *Section 46 (Entry of goods on importation)*
- *Section 28AA — Interest on delayed payment of duty.*
- *Section 46(4)-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.*
- *Section 111(m) & (o)-Confiscation of improperly imported goods, which do not correspond in respect of value or in any other particular with the entry made under this Act.*
- *Section 112(a) & 112(b) - Penalty for improper importation of goods.*

- *Section 114A- Penalty for short-levy or non-levy of duty in 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 by reason of collusion or any wilful misstatement or suppression of facts.*
- *Section 114AA. Penalty for use of false and incorrect material.*

13. In view of the above, it appears that M/s Cranex Limited has filed 3 Bills of Entry, Bill of Entry No. 7852673 dated 08.06.2020, Bill of Entry No. 8005416 dated 26.06.2020 and Bill of Entry No. 8141987 dated 11.07.2020 for clearance of Goods (as mentioned below in Table 1) for Mumbai Metropolitan Region Development Authority. The Importer is eligible for exemption of BCD for the imports intended to such project vide Notification No.84/1997-Customs dated 11.11.1997 as amended. However, no exemption from payment of IGST has been granted for the imports made under Notification No.84/1997-Customs dated 11.11.1997. Importer has claimed exemption of IGST under Notification No.84/1971 dated 11.09.1971 which is available for the imports made by the entities as approved by Ministry of Education for the purposes of Scientific Research or Education, whereas the goods imported by the above named importers are for supply to Mumbai Metro Rail Project in as much as the importers are not approved educational institutions by the Ministry of Education. Further, it appears that the Importer has wilfully claimed wrong exemption notification as the eligible amendment notification were specifically mentioned in the letter dated 22.04.2020 written by Metropolitan Commissioner, MMRDA and countersigned by Secretary Finance, Government of Maharashtra. Thus, the goods covered under the above said 3 Bills of Entry are liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962 and M/s Cranex Limited (IEC 0588084891) is liable to be penalised under Section 112(a) and/or 114A and Section 114 AA of the Customs Act, 1962.

14. Therefore, in exercise of the powers conferred by Section 28 of the Customs Act, 1962, the importer M/s Cranex Limited (IEC-0588084891) having address at 9, DDA Market, Katwaria Sarai, Opp. Qutub Hotel, New Delhi-110016 was called upon them to Show Cause to the Commissioner of Customs, Gr.V, NS-V, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka-Uran, District – Raigad, Maharashtra - 400707, within 30 days of the receipt of this notice, as to why:

- (i) The benefit of Notification No. 84/1971-Cus dated 11.09.1971 under which the subject goods, covered by three Bills of Entry No. 7852673 dated 08.06.2020, 8005416 dated 26.06.2020 and 8141987 dated 11.07.2020, as

mentioned in Table-1 of this Notice, for import and clearance of goods, should not be rejected.

(ii) The subject goods, covered by said three Bills of Entry having total declared assessable value of Rs.9,79,54,589/- (Rupees Nine Crore Seventy-Nine Lacs Fifty-Four Thousand Five Hundred Eighty-Nine Only) should not be confiscated under Section 111(o) and 111(m) of the Customs Act, 1962;

(iii) The total differential duty amounting to Rs.1,76,31,826/- (Rupees One Crore Seventy Six Lacs Thirty One Thousand Eight Hundred Twenty Six only) in respect of by three Bills of Entry No. as mentioned in Table 1 supra, should not be recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962 from them and the duty and interest paid as per Table 2 should not be appropriated against the Differential Duty along with interest to be recovered.

(iv) Penalty should not be imposed on M/s Cranex Limited under Section 112(a) and/or 114A of the Customs Act, 1962.

(v) Penalty should not be imposed on M/s Cranex Limited under Section 114AA of the Customs Act, 1962.

Written Submission and Personal Hearing

15. M/s Cranex Limited in their submission dated 28.07.2025 contended that:

(i) The SCN alleges wrongful IGST exemption claimed by the Noticee on imports under three Bills of Entry in 2020 for the Mumbai Metro Rail Project funded by the New Development Bank. While Basic Customs Duty exemption under Notification No. 84/1997-Customs was correctly availed, the Noticee is accused of improperly claiming IGST exemption under Notification No. 84/1971-Customs, which applies only to approved scientific or educational institutions. The Notice seeks recovery of IGST with interest and proposes confiscation of goods and penalties.

(ii) The Noticee submits that the SCN dated 01.05.2025 is time-barred under Section 28(1) of the Customs Act, 1962, as imports occurred in June-July 2020 and the limitation period is two years. There was no collusion, willful misstatement, or suppression, making invocation of extended limitation under Section 28(4) unlawful.

(iii) The IGST exemption claim was made inadvertently under a bona fide misunderstanding, without any intention to evade tax. All project

documentation was disclosed, and upon notification, the Noticee voluntarily paid Rs. 2,08,53,971/- (IGST: Rs. 1,76,31,826/- + interest: Rs. 32,22,145/-) and requested closure of proceedings, demonstrating good faith.

(iv) Proposed confiscation under Sections 111(m) and 111(o) is untenable, as there was no misdeclaration in Bills of Entry, and the goods are already in use for the public-interest Metro Rail Project. The SCN itself acknowledges full payment and lack of wilful suppression, making further recovery unnecessary.

(v) Proposed penalties under Sections 112(a), 114A, and 114AA are legally untenable. The Noticee did not act fraudulently, misstate facts, or submit false documents. The differential IGST and interest were voluntarily paid before the SCN, showing transparency and bona fide conduct

16. In order to comply the Principle of Natural Justice, opportunities for personal hearing before the undersigned were granted to the noticee on 10.12.2025. In response to PH notice, Mr. Abhishek Jain, authorised representative appeared through virtual conference before me on 10.12.2025 on behalf of the Noticee M/s Cranex Limited (IEC: 0588084891). During the PH, he reiterated the submissions made vide their letter dated 28.07.2025 as under:

(i) That there is no case of any collusion, or any wilful mis-statement or suppression of facts qua the import goods on the part of the Noticee importer with respect to the clearance of Goods, and hence, in the absence of any collusion or wilful misstatement or suppression on the part of the Noticee, the invocation of extended period of limitation of five years under proviso to Section 28(4) of the Act of 1962 is also patently unlawful and the matter is governed by Section 28(1) of the Act of 1962, under which the limitation period is two years from the relevant date. As the imports were made in June-July 2020 and the SCN was issued in May 2025, therefore the notice is ex facie time-barred. Reliance is placed for this proposition on the following judgments:

- (a) 1995(76) ELT 497 (S.C) Collector of Central Excise Vs. H.M.M. Limited. (Para 2)
- (b) 2003(153) ELT 114 (Tri-Del) R. S. Industries Vs. Commissioner of Central Excise, New Delhi-I. (Para 5)
- (c) 2000(118) ELT 434 (Tribunal) Daily Thanthi Vs. Commissioner of Customs Chennai. (Para 12)
- (d) 2007 (207) E.L.T 694 (Tri- Bang.) Gowtami Textile Indus. & Sales Coprn. Vs CCE, Visakhapatnam. (Para 6)

(ii) That the claim of IGST exemption under Notification No. 84/1971-Customs dated 11.09.1971 was made under a bona fide belief and interpretational error and resemblance in the notification no., and not with any intention to mislead the authorities or evade duty.

(iii) That the Noticee correctly described the goods, declared their classification and value, and disclosed their intended end use under the Mumbai Metro Rail Project. All supporting documentation, including certifications from MMRDA and the State Finance Department, was also provided and due corporation was extended by the Noticee throughout. Therefore, there was no intention of the Noticee to mislead authorities.

(iv) That the penalty under Section 114AA of the Act, 1962, is applicable only when a person knowingly or intentionally uses any document which is false or incorrect in any material particular in the course of any proceedings under the Act. A plain reading of the provision makes it clear that a necessary precondition for its applicability is the use of a document that is materially false or incorrect, and the knowledge or intent of the person using it. In the present case, the Noticee has not submitted or relied upon any false or fabricated document. The Bills of Entry were filed accurately, with full disclosure regarding the nature, classification, and end use of the goods. Additionally, all relevant project documentation including certificates from MMRDA and countersignature from the Secretary, Finance, Government of Maharashtra were genuine and submitted in good faith to support the import under a government-approved infrastructure project. The exemption under Notification No. 84/1971-Customs dated 11.09.1971 was claimed under a mistaken but bona fide interpretation of the law, without any intention to defraud or mislead the Department.

(v) That the Noticee deposited the differential IGST and interest, the moment it was flagged that refund of Basic Custom Duty was claimed based on wrong interpretation and well before the issuance of the Show Cause Notice, which demonstrates transparency and bona fide conduct of the Noticee. Therefore, penalty u/s I 14AA of the Act of 1962 will be unjustified and is liable to be dropped.

DISCUSSION AND FINDINGS

17. I have carefully gone through the SCN, facts of the case, available records and evidences referred in the investigation. The case was examined in the light

of the evidences produced by the department, written submissions made by the noticee and applicable laws/rules.

18. On a careful perusal of the subject show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided:

18.1 Whether the benefit of Notification No. 84/1971-Cus dated 11.09.1971 under which the subject goods, covered by three Bills of Entry No. 7852673 dated 08.06.2020, 8005416 dated 26.06.2020 and 8141987 dated 11.07.2020, as mentioned in Table-1 of the Notice, for import and clearance of goods, should be rejected, or otherwise;

18.1.1 It has been observed that M/s Cranex Limited (IEC No. 0588084891) is a commercial entity engaged in the import, supply, and installation of elevator systems and related components. The company imported goods for the Mumbai Metropolitan Region Development Authority (MMRDA) under the Mumbai Metro Rail Project, which is being financed by the New Development Bank. The imports were effected vide three Bills of Entry: No. 7852673 dated 08.06.2020, No. 8005416 dated 26.06.2020, and No. 8141987 dated 11.07.2020. These goods included passenger glass doors, stainless steel elevator components, and associated apparatus, as detailed in the respective Bills of Entry.

18.1.2 I find that the goods were imported specifically for supply and installation under the Mumbai Metro Rail Project, a commercial infrastructure project aimed at expanding and upgrading metro rail services in Mumbai. The project is financed by an international funding agency, the New Development Bank, and qualifies for certain customs duty exemptions as per applicable government notifications.

18.1.3 The imported goods are eligible for Basic Customs Duty (BCD) exemption under Notification No. 84/1997-Customs, dated 11.11.1997, as amended. This notification exempts imports made for execution of projects financed by international organizations and approved by the Government of India. Accordingly, M/s Cranex Limited was entitled to import the goods without payment of BCD. However, they were not entitled to IGST exemption under Notification No. 84/1997-Customs. M/s Cranex Limited, however, claimed IGST exemption under Notification No. 84/1971-Customs, dated 11.09.1971. The said notification provides exemption only for scientific equipment imported by non-profit scientific or educational institutions

approved by the Ministry of Education, to be used for purposes of scientific research or education of a non-commercial nature.

18.1.4 Further, I find that the Notification 84/1971-Customs is strictly restricted in scope. It allows exemption from duty for instruments, apparatus, machines, accessories, spare parts, and tools specifically designed for maintenance, checking, gauging, or repair. The exemption is granted only for temporary imports by approved non-profit educational or scientific institutions and is conditional upon use for non-commercial scientific research or educational purposes.

18.1.5 In the instant case, the imported goods were intended for supply and installation under a commercial infrastructure project. These goods are elevator components and associated machinery, which are not scientific instruments or educational apparatus as contemplated under Notification 84/1971-Customs. Therefore, the goods do not fall within the scope of the notification, either in terms of nature or intended use. M/s Cranex Limited is a commercial entity and has no recognition or approval from the Ministry of Education as a non-profit scientific or educational institution. As such, the company is ineligible to claim exemption under Notification 84/1971-Customs.

18.1.6 The Department had communicated the applicable exemptions through a certificate dated 22.04.2020 issued by the Metropolitan Commissioner, MMRDA, and countersigned by the Secretary (Finance), Government of Maharashtra. This communication clearly referenced Notification 84/1997-Customs as the applicable notification for the Mumbai Metro Rail Project, which does not provide IGST exemption. Despite prior communication regarding the correct notification, M/s Cranex Limited claimed IGST exemption under Notification 84/1971-Customs. This constitutes a wilful misapplication of customs law and indicates an intent to evade IGST liability.

18.1.7 The Noticee contends that the SCN is issued beyond the two-year limitation under Section 28(1) of the Customs Act, 1962. It is pertinent to note that Section 28(4) of the Act allows for extended limitation up to five years in cases of wilful misstatement or suppression of facts. I observe that the Noticee, a commercial entity, claimed IGST exemption under Notification 84/1971-Customs despite prior communication and guidance from MMRDA dated 22.04.2020, indicating the correct exemption under Notification 84/1997-Customs. This constitutes wilful misapplication, triggering the extended limitation under Section 28(4). Therefore, the SCN is lawfully issued within the permissible extended period.

18.1.8 Notification 84/1971-Customs is explicitly limited to scientific or educational institutions, approved by the Ministry of Education, and for non-commercial purposes. M/s Cranex Limited is a commercial entity, importing elevator systems for a commercial infrastructure project. Reliance on a “number similarity” cannot override the clear language of the statute, especially when the correct exemption (Notification 84/1997-Customs) was communicated prior to import. This demonstrates gross negligence and wilful misapplication, not mere bona fide error.

18.1.9 The Noticee argues that it disclosed all documents and intended end-use. While disclosure was made, compliance with the correct legal provisions is mandatory, and disclosure does not absolve a commercial entity from claiming exemptions to which it is not legally entitled. The Department acknowledges cooperation but notes that voluntary payment of IGST and interest post-facto cannot negate the legal violation of claiming an inadmissible exemption.

18.1.10 I find that the Notification 84/1971-Customs covers scientific instruments for research/education, not commercial infrastructure components like elevator doors and machinery. The intended public use does not convert commercial goods into scientific instruments, nor does it make a commercial entity eligible for exemptions under the said notification.

18.1.11 In view of the above discussion, it is concluded that the claim for exemption under Notification No. 84/1971-Cus dated 11.09.1971, in respect of the goods imported under Bills of Entry No. 7852673 dated 08.06.2020, No. 8005416 dated 26.06.2020, and No. 8141987 dated 11.07.2020, as mentioned in Table-1 of the notice, is not admissible and is hereby rejected for import and clearance of the said goods.

18.2 Whether the subject goods, covered by said three Bills of Entry having total declared assessable value of Rs. 9,79,54,589/- (Rupees Nine Crore Seventy-Nine Lacs Fifty-Four Thousand Five Hundred Eighty-Nine Only) should be confiscated under Section 111(o) and 111(m) of the Customs Act, 1962 or otherwise;

18.2.1 As per Section 46 of the Customs Act, 1962, the importer of any goods, while making entry on the customs automated system to the proper officer, 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. He shall ensure the accuracy and

completeness of the information given therein and the authenticity and validity of any document supporting it.

18.2.2 I find that the importer while filing the Bill of Entry for the clearance of the subject goods had subscribed to a declaration as to the truthfulness of the contents of the Bill of Entry in terms of Section 46(4) of the Act and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2011 in all their import declarations. Section 17 of the Act, w.e.f. 08.04.2011, provides for self-assessment of duty on imported goods by the importer themselves by filing a Bill of Entry, in the electronic form. Section 46 of the Act makes it mandatory for the importer to make an 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 Integrated Declaration and Paperless Processing) Regulation, 2011 (issued under Section 157 read with Section 46 of the Act), the Bill of Entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic integrated declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the scheme of self-assessment, it is the importer who has to diligently ensure that he declares all the particulars of the imported goods correctly e.g., the correct description of the imported goods, its correct classification, the applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods when presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April, 2011, the complete onus and responsibility is on the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and claim correct exemption notification and pay the applicable duty in respect of the imported goods.

18.2.3 From the discussions, it is noted that the importer, M/s Cranex Limited, claimed IGST exemption under Notification No. 84/1971-Customs dated 11.09.1971, which is applicable only to non-profit scientific or educational institutions approved by the Ministry of Education for purposes of scientific research or education of a non-commercial nature. In the instant case, M/s Cranex Limited imported goods (as per Bills of Entry No. 7852673, 8005416, and 8141987) for supply to Mumbai Metro Rail Project, which is a commercial infrastructure project financed by New Development Bank. The imported goods are not intended for scientific research or educational purposes, nor are they being imported by any approved educational or research

institution. By suppressing these facts, the importer, contravened the provisions of Section 46 of the Customs Act, 1962. Therefore, I hold that the subject goods are liable for confiscation under Section 111(o) and 111(m) of the Customs Act, 1962.

18.2.4 However, I find that the goods imported are not available for confiscation, but I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited [reported in 2018 (9) G.S.T.L. 142 (Mad.)] wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act ..", brings out the point clearly. The power to impose redemption fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (iii)."

18.2.5 I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.).

18.2.6 I also find that the decision of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) and the decision of Hon'ble Gujarat High Court in case of M/s

Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.) have not been challenged by any of the parties and are in operation.

18.2.7 In view of above, I find that any goods improperly imported as provided in any sub-section of the Section 111 of the Customs Act, 1962, the impugned goods become liable for confiscation. I opine that merely because the importer was not caught at the time of clearance of the imported goods, cannot be given different treatment. Accordingly, I observe that the present case also merits imposition of Redemption Fine having held that the impugned goods are liable for confiscation under Section 111(o) and 111(m) of the Customs Act, 1962.

18.3 Whether the total differential duty amounting to Rs.1,76,31,826/- (Rupees One Crore Seventy Six Lacs Thirty One Thousand Eight Hundred Twenty Six only) in respect of by three Bills of Entry No. as mentioned in Table 1 supra, should be recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962 from them and the duty and interest paid as per Table 2 should be appropriated against the Differential Duty along with interest to be recovered or otherwise;

18.3.1 After having determined the correct IGST of the impugned imported goods, it is imperative to determine whether the demand of differential Customs duty as per the provisions of Section 28(4) of the Customs Act, 1962, in the subject SCN is sustainable or otherwise.

18.3.2 I find that, after the introduction of self-assessment vides Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including calculation of duty. Section 17(1) Assessment of duty, reads as: An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self assess the duty, if any, leviable on such goods.

18.3.3 In the instant case, M/s Cranex Limited imported goods (as per Bills of Entry No. 7852673, 8005416, and 8141987) for supply to Mumbai Metro Rail Project, which is a commercial infrastructure project financed by New Development Bank. The imported goods are not intended for scientific research or educational purposes, nor are they being imported by any approved educational or research institution. M/s Cranex Limited is a commercial entity, and there is no record or approval from the Ministry of Education recognizing it as a non-profit scientific or educational institution. Therefore, the eligibility criteria under Notification 84/1971-Customs are not fulfilled. In view of this

fact, the importer deliberately mis-declared the goods with an intention to evade IGST duty in order to get financial benefits and thus suppressed the facts with intention to evade duties of customs. Therefore, the matter falls under the purview of Section 28(4) of the Customs Act, 1962.

18.3.4 I find that, the Importer has not paid the correct duty i.e IGST by engaging in suppression of facts and with an intent to evade customs duty on the subject goods. The Importer have submitted a false declaration under section 46(4) of the Customs Act, 1962, due to this act of omission of Importer, there has been loss to the government exchequer equal to the differential duty as mentioned Table-1 above.

18.3.5 In view of the foregoing, I find that the duty demand against the importer has been correctly proposed under Section 28(4) of the Customs Act, 1962 by invoking the extended period of limitation. In support of my stand of invoking extended period, I rely upon the decision of the Tribunal:-

2013(294) E.L.T.222 (Tri.-LB): Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi [Misc. Order Nos.M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008]. It was held that :

"In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified."

18.3.6 Accordingly, the differential duty amounting to Rs.1,76,31,826/- (Rupees One Crore Seventy-Six Lacs Thirty-One Thousand Eight Hundred Twenty-Six only) in respect of by three Bills of Entry No. as mentioned in Table 1 supra, resulting from correct IGST without levy exemption notification under, is recoverable from M/s Cranex Limited under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

18.3.7 As per Section 28AA of the Customs Act, 1962, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2) of Section 28AA, whether such payment is made voluntarily or after determination of the duty under that section. From the above provisions, it is evident that regarding demand of interest, Section 28AA of the Customs Act, 1962 is unambiguous and mandates that where there is a short payment of duty, the same along with interest shall be recovered from the person who is

liable to pay duty. The interest under the Customs Act, 1962 is payable once demand of duty is upheld and such liability arises automatically by operation of law. In an umpteen number of judicial pronouncements, it has been held that payment of interest is a civil liability and interest liability is automatically attracted under Section 28AA of the Customs Act, 1962. Interest is always accessory to the demand of duty as held in case of *Pratibha Processors Vs UOI* [1996 (88) ELT 12 (SC)].

18.3.8 I have already held in the above paras that the differential duty amount of Rs.1,76,31,826/- (Rupees One Crore Seventy-Six Lacs Thirty-One Thousand Eight Hundred Twenty-Six only) as mentioned in table-1 above in respect of the Bills of Entry should be demanded and recovered from M/s Cranex Limited under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period. Therefore, in terms of the provisions of Section 28AA of the Customs Act, 1962, interest on the aforesaid amount of differential duty is liable to be recovered from M/s Cranex Limited.

18.4 Whether penalty should be imposed on M/s Cranex Limited under Section 112(a) and/or 114A and 114AA of the Customs Act, 1962 or otherwise;

18.4.1 I find that the subject Bills of Entry were self-assessed by the importer. They were having knowledge of correct description of the goods, valuation etc., However, still they wilfully undervalued the imported goods and thereby paid lower rate of duty. Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct valuation of the goods to claim the undue duty benefit at the time of clearance of the said imported goods.

18.4.2 In this regard, I observe that self-assessment has been introduced on 08.04.2011 vide Finance Act, 2011 wherein under Section 17(1) of the Customs Act, 1962 an importer is required to do self-assessment, thus placing more reliance on the importers. Further, as per the provisions of Section 46 (4) of the Customs Act, 1962, the importer of any goods is required to file a Bill of Entry before the proper officer mentioning therein the true and correct quality, quantity and value of the goods imported and subscribe to a declaration as to the truth and accuracy of the contents of such Bill of Entry. It is an admitted

fact that the benefit of nil rate of IGST on account of claim of inadmissible benefits by availing the exemption notification accrued to the importer.

18.4.3 Under the self-assessment scheme, it is obligatory on the part of importers to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. They suppressed the fact before the Customs Department regarding correct IGST of the goods to claim the undue duty benefit at the time of clearance of the said imported goods. Taking all the issues, relating to subject imports, into account and in view of my finding that goods were mis-declared by suppressing correct classification of the goods by the importer, I find that the importer M/s Cranex Limited, has by his acts of commission and omission, as discussed above, has rendered the impugned goods liable for confiscation under Section 111(o) and 111(m) of the Customs Act, 1962 and thereby made themselves liable for penalty under Section 112 *ibid*.

18.4.4 Since the improper importation of goods has resulted in short levy of Customs duty, which is recoverable under Section 28(4) of the Customs Act, 1962, the Importer is also liable for penalty under Section 114A *ibid*. However, I note that penalties under Section 112 and Section 114A are mutually exclusive. Therefore, as penalty is imposed under Section 114A of the Customs Act, 1962, no penalty is imposable under Section 112 in terms of the fifth proviso to Section 114A *ibid*.

18.4.5 Further, in the present case, I find that there was deliberate intent on the part of the importer to evade the appropriate IGST by intentionally availed wrong exemption Notification No. 84/1971-Customs, dated 11.09.1971, which provides exemption from duty only for scientific equipment, including instruments, apparatus, machines, or accessories, and their spare parts or maintenance tools, temporarily imported by non-profit making scientific or educational institutions approved by the Ministry of Education, for the purpose of scientific research or education of a non-commercial nature. The notification is specifically restricted to educational or research use under the control of such approved institutions. The imported goods are not intended for scientific research or educational purposes, nor are they being imported by any approved educational or research institution.

18.4.6 M/s Cranex Limited is a commercial entity, and there is no record or approval from the Ministry of Education recognizing it as a non-profit scientific or educational institution. Therefore, the eligibility criteria under Notification

84/1971-Customs are not fulfilled. By declaring the goods under incorrect notification, the importer knowingly made a false and misleading declaration, which directly resulted in the non-payment of the IGST that was otherwise payable. These acts, both of omission and commission, demonstrate a clear breach of legal and regulatory obligations under the Customs Act, 1962. The submission of such incorrect declarations for the clearance of goods constitutes a serious violation of customs law. In view of these facts, the importer is liable for penal action under Section 114AA of the Customs Act, 1962.

In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

(i). I hereby deny the benefit of Notification No. 84/1971-Cus dated 11.09.1971 in respect of the goods imported under Bills of Entry No. 7852673 dated 08.06.2020, No. 8005416 dated 26.06.2020, and No. 8141987 dated 11.07.2020, as specified in Table-1 of the Notice, and order that IGST shall be levied on these goods without any exemption under the said notification.

(ii). I order to confiscate the goods having a total assessable value of Rs. 9,79,54,589/- (Rupees Nine Crore Seventy-Nine Lacs Fifty-Four Thousand Five Hundred Eighty-Nine Only) as mentioned in Table-1 under Section 111(o) and 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem these goods on payment of redemption fine of Rs. 50,00,000/- (Rupees Fifty Lakh Only) under Section 125 of the Customs Act, 1962.

(iii). I confirm the demand of differential duty amounting to Rs. 1,76,31,826/- (Rupees One Crore Seventy-Six Lacs Thirty-One Thousand Eight Hundred Twenty-Six only) in respect of Bills of Entries as mentioned in Table-1 under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.

(iv). I impose a penalty of Rs. 1,76,31,826/- (Rupees One Crore Seventy-Six Lacs Thirty-One Thousand Eight Hundred Twenty-Six only) along with applicable interest on M/s Cranex Limited (IEC-0588084891), under Section 114A of the Customs Act, 1962.

(v) I impose a penalty of Rs. 20,00,000. /- (Rupees Twenty Lakh Only) on M/s Cranex Limited (IEC-0588084891), under Section 114AA of the Customs Act, 1962.

19. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/ firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.



(Anil Ramteke)

Commissioner of Customs,
NS-V, JNCH, NhavaSheva.

To,

M/s Cranex Limited (IEC-0588084891)
9, DDA market, Katwaria Sarai,
Opp. Qutub Hotel, New Delhi-110016

Copy to:

1. The Assistant Director, DRI, Hyderabad Zonal Unit,
H.No. 10-2-289/57/1 & 2, Suryavanshi Residency, II Cross Road,
Shantinagar, Masab Tank, Hyderabad-500028.
2. The Additional Commissioner of Customs, Gr.VB, JNCH
3. Deputy/Asstt. Commissioner of Customs, CRC, JNCH.
4. The Deputy Commissioner of Customs, CCO, JNCH
5. The Dy./Assit. Commissioner of Customs, PBA-CIR-B-3, Audit, JNCH
6. Notice Board (CHS Section)
7. EDI Section, JNCH
8. Office copy

