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 – 20260178NX000000DC56	**Date of Order: 15.01.2026**
F. No. S/10-178/2024-25/CC/Gr.VA/NS-V/CAC/JNCH	**Date of Issue: 15.01.2026**
SCN No.: 1621/2024-25/COMMR/GR.VA/CAC/JNCH	
SCN Date: 16.01.2025	
Passed by: Sh. Anil Ramteke	
Commissioner of Customs, NS-V, JNCH	
Order No: 361/2025-26/COMMR/Gr.VA/NS-V/CAC/JNCH	
Name of Noticee: M/s. L G Electronics India Private Limited (IEC-0596063211)	

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 नि:शुल्क 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 रीज़नल 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 रुपय 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. 1621/2024-25/COMMR./GR.VA/NS-V/CAC/JNCH dtd. 16.01.2025 issued to M/s. L G Electronics India Private Limited (IEC- 0596063211) & Othrs. – reg.

1.1. It is stated in the subject Show Cause Notice that on the basis of data analysis carried out by NS-IV(Audit), JNCH, it was observed that, M/s. L G Electronics India Private Limited (IEC- 0596063211) (hereinafter referred to as the 'Importer' or the 'importer') having address at A- 24/6, Mathura Road, Mohan Co-operative Industrial Estate, SOUTH DELHI, NEW DELHI -110044, had filed Bills of Entry as mentioned in Annexure-'A', for import and clearance of goods declared as "Computer Monitor For ADP (Automatic Data Processing) Use Only Without Tuner of different size, Monitors for use in Medical & Surgical and Computer Monitor having Size more than 32 inch. etc.", (hereinafter mentioned as 'subject goods') classifying the same under the Customs Tariff Heading (CTH) 85285200 of the first Schedule to the Customs Tariff Act, 1975, through their Customs Broker M/s. MAN LOGISTICS (INDIA) PVT. LTD (CB No: AAHCM4539JCH002), wherein IGST has been levied at the rate of 18% in terms of Sl. No. 383C and 384 of Schedule III of IGST Notification No.01/2017 dated 28.06.2017 and by availing BCD exemption under Customs Notification No. 024/2005 (Sr. No. 17) dated 01.03.2005.

1.2. During the Post Clearance Audit, it has been noticed that the Importer had paid IGST @ 18% in terms of Sl. No. 383C and 384 of Schedule III of IGST Notification No.01/2017 dated 28.06.2017 and NIL BCD in terms of Sl. No. 17 of Customs Notification No. 024/2005 (as amended) (Sr. No. 17) dated 01.03.2005 in respect of the subject goods imported and cleared vide the Bill of Entry as detailed in the Annexure-A enclosed. However, it is observed that IGST is leviable @ 28 % in terms of Sl. No. 154 of Schedule –IV of IGST Notification No.01/2017 dated 28.06.2017 in respect of the impugned goods.

1.3. It has been noticed that the impugned goods viz "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner of different size, Monitors for use in Medical & Surgical and Computer Monitor having Size more than 32 inch. etc.", etc. as mentioned in the Annexure-A, have been classified under CTH 85285200 the extract of the tariff heading 8528 is reproduced below:

"8528 MONITORS AND PROJECTORS, NOT INCORPORATING TELEVISION RECEPTION APPARATUS, RECEPTION APPARATUS FOR TELEVISION, WHETHER OR NOT INCORPORATING RADIO- BROADCASTRECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS

- Cathode-ray tube monitors:

8528 42 00-- Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471

8528 49 00 – Other

Other monitors:

8528 52 00 -- Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471

8528 59 00 –Other."

Further, the relevant Section notes and Chapter headings are outlined below:

The chapter heading 8528 covers: MONITORS AND PROJECTORS, NOT INCORPORATING TELEVISION RECEPTION APPARATUS, RECEPTION APPARATUS FOR TELEVISION, WHETHER OR NOT INCORPORATING RADIO-BROADCASTRECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS.

Note 2 to section XVI:

Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

(b) other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

(c) all other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473,

8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8487 or 8548.

(d) As per note 5(e) to section XVI, Chapter 84 notes [now Note 6(e) w.e.f. 01.01.2022], *"Machines incorporating or working in conjunction with an automatic data processing machine and performing a specific function other than data processing are to be classified in the headings appropriate to their respective functions or, failing that, in residual headings"*

1.4. Importer had paid IGST @ 18 % in terms of Sl. No. 383C and 384 of Schedule III of IGST Notification No.01/2017 dated 28.06.2017 in respect of the subject goods imported and cleared vide the Bills of Entry as detailed in the Annexure-A enclosed. The goods covered under Serial No. 383C and 384 of Schedule III of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 is given below:

Schedule-III

S.No. of Schedule-III	Chapter/ Heading/ Subheading/ Tariff item	Description of Goods	Rate
383C	8528	Television Set (Including LCD or LED Television) of screen size not exceeding (32 inches)	18%

Schedule-III

S.No. of Schedule-III	Chapter/ Heading/ Subheading/ Tariff item	Description of Goods	Rate
384	8528	Computer monitors not exceeding 32 Inches, Set Top Box for Television (TV)	18%

1.5. From the above entry at S. No. 383C of Schedule III of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 it is clear that S. No. 383C pertain to "Television Set (Including LCD or LED Television) of screen size not exceeding (32 inches)". The IGST @18% under this S. No. is applicable to Television Set (Including LCD or LED Television of screen size not exceeding 32 inches. Further at S. No. 384 of Schedule III of IGST Notification No. 01/2017- Integrated Tax (Rate) dated 28.06.2017 it is clear that S. No. 384 pertain to "Computer Monitors not exceeding 32 Inches" and "Set Top Box for Television (TV)". The IGST @18% under this S. No. is applicable to computer monitors of screen size not exceeding 32 inches.

1.6. Entry/S. Nos. 154 of Schedule-IV of Notification No. 01/2017-(Integrated Tax Rate) dated 28.06.2017 read as under:

Schedule-IV

Sl. No. of Schedule-IV	Chapter / Heading / Subheading / Tariff item	Description of Goods	Rate

154	8528	Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing apparatus [other than computer monitors not exceeding 32 inches, STB for Television and Television Set(Including LCD or LED television) of screen size not exceeding 32 Inches]	28%

1.7. Therefore, the claimed Sr. No. 383C of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017 pertains to "Television Set (Including LCD or LED television) of screen size not exceeding 32 Inches" which is different from the imported goods under Bills of Entry detailed in Annexure-A (Sr. no. 721 to 744, 746, 753 to 758, 760 to 763). Hence, the imported goods being "Monitors for use in Medical & Surgical and Computer Monitor having Size more than 32 inches are specifically covered under serial no. 154 of Schedule III of the above said IGST Notification wherein the IGST rate is 28%.

1.8. Further, the claimed Sr. No. 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017 pertains to "Computer monitors not exceeding 32 Inches, Set Top Box for Television (TV)" which is different from the imported goods under Bills of Entry detailed in Annexure-A (Sr. no. from 1 to 720, 747 to 752, 745 & 759). Hence, the imported goods being "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner of different size, Monitors for use in Medical & Surgical and Computer Monitor having Size more than 32 inches as mentioned in the description of Bills of Entry are specifically covered under serial no. 154 of Schedule IV of the above said IGST Notification wherein the IGST rate is 28%.

1.9. The total assessable value of the impugned goods under Bills of Entry (as mentioned in Annexure-A) amounting to Rs. 2,01,46,63,317/- (Rupees Two Hundred one crore Forty-Six Lakh Sixty- Three Thousand Three Hundred Seventeen only) and the Importer claim of lower rate of IGST appeared to have led to short levy of IGST amounting to 20,14,75,432/- (Rupees Twenty Crore Fourteen Lakh Seventy-Five Thousand Four Hundred Thirty-Two Only) as detailed in the Annexure-A.

1.10. Accordingly, a Consultative Letter Vide F.No. CADT/CIR/ADT/ThBA/132/2024-DC/AC-III (Consultative Letter No. 12/2024-25/C1) dated 24.04.2024 was issued to the importer for payment of short levied duty along with applicable interest and penalty (for the Bills of Entry covered in period from 01.01.2020 to 04.04.2024).

1.11. In reference to the said Consultative Letter, the Importer have voluntarily paid the differential IGST amount along with interest and penalty on the goods Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches and Monitors for use in Medical & Surgical classified under CTH 85285200 under Serial Number 154 of Schedule IV of IGST levy Notification 01/2017 IGST (rate) dated 28.07.2017 in the following manner: -

(i) They have paid differential IGST amount of Rs. 50,05,234 [Rs. 47,27,331/-(goods mentioned at Sr. No. 721 to 742, i.e. 22 entries of the Annexure-A) + Rs. 2,77,903/-(for BE 6025820 dated 28.10.2021 which was not mentioned in Annexure-A)] along with applicable interest of Rs. 9,14,439 for the goods Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches Vide Challan No. HCM456 & HCM457 both (enclosed) dated 05.01.2023 before issuance of the Consultative Letter No 12/2024-25/C1 dated 24.04.2024.

(ii) They have paid differential IGST amount of Rs. 39,65,205/- along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/- for the goods Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches and Monitors for use in Medical & Surgical (mentioned at Sr. No.315, 743 to 752, 757 and 758, i.e. 13 entries of the Annexure-A) Vide Challan No. HCM1327, HCM1328 & HCM1329 all (enclosed) dated 19.07.2024 after issuance of the Consultative Letter No 12/2024-25/C1 dated 24.04.2024.

1.12. Further, on re-examining the goods mentioned in Annexure-A, it was noticed that the goods-SURGICAL DISPLAY TO BE USED WITH AUTOMATIC DATA PROCES mentioned at Sr. No. 745,747 to 752, 757 & 758 (9 entries) of the Annexure-A for which the Importer has already paid Diff IGST (@28%) amount alongwith applicable interest and penalty, were classified under CTH 85285200 and availed benefit of Basic Customs Duty (BCD) under Notification No. 024/2005 (as amended) (Serial

no. 17) dated 01.03.2005 which exempted the item under import from payment of basic customs duty for 'All goods' covered under CTH 852842, 852852 or 852862.

1.12.1 However, after examining the classification of SURGICAL DISPLAY/Medical Display TO BEUSED WITH AUTOMATIC DATA PROCES, it was noticed that the declared CTH 85285200 is not correct and the correct classification is CTH 85285900. The relevant extraction of the tariff heading 8528 is reproduced below:

"8528 – MONITORS AND PROJECTORS, NOT INCORPORATING TELEVISION RECEPTION APPARATUS, RECEPTION APPARATUS FOR TELEVISION, WHETHER OR NOT INCORPORATING RADIO- BROADCASTRECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS

Cathode-ray tube monitors:

8528 42 00 -- Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471

8528 49 00 – Other

Other monitors:

8528 52 00 -- Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471

8528 59 00 – Other."

Illustrative examples regarding classification: - The goods of chapters 84 and 85, which are parts of any machine, for example, monitors designed for X- ray machines or any other medical apparatus, which are specifically classifiable under heading 85285900 and will remain classified under 8528 even though they work in tandem solely and principally with machines of chapter 90 (Medical apparatus or otherwise) in view of note 2(a) of section XVI.

Monitors classifiable under 85285900 are not computer monitors; thus, the said goods will fall under Sr. No. IV154 of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28 06.2017 (as amended) and attract IGST @28%.

The extract of the Customs Notification 024/2005 dated 01.03.2005 at Sr. No. 17 is below:

Sr.No.	Heading, sub heading or tariff item	Description
17	8528 42, 8528 52 or 8528 62	All goods of a kind solely or principally used in an automatic data processing system of heading 8471

1.12.2 After going through the Ntf. 024/2005 dated 01.03.2005, it is pertinent to note that the goods classifiable under CTH 85285900 are not covered under Sr. No. 17 of Ntf. 024/2005.

1.12.3 In this regard, the duty is re-determined (BCD-10%, sws-10%, IGST-28%) under CTH 85285900 to be paid by the importer for the goods- SURGICAL DISPLAY TO BE USED WITH AUTOMATIC DATA PROCES mentioned at Sr.No.745,747 to 752, 757 & 758 (9 entries in Annexure-A) having assessable value of Rs. 1,90,61,533/- (Rs. One Crore Ninety Lakh Sixty-One Thousand Five Hundred Thirty-Three only) (for which the importer has already paid Differential IGST (@28%), alongwith interest and penalty, (details are separately prepared as Annexure-B). Consequently, the importer becomes liable to pay differential duty amounting to Rs. 26,83,863.83 [BCD-Rs. 19,06,153.29, SWS- Rs.1,90,615.33 and Diff IGST amount of Rs. 5,87,095.21/- {Total Diff IGST Amt Rs. 24,93,248.33 out of which IGST Amt already paid Rs. 19,06,153.12. Therefore, Net Total Diff IGST Amt remain to be paid is Rs. 5,87,095.21 (Rs. 24,93,248.33 – Rs. 19,06,153.12)}] appears liable to be paid by the Importer in respect of Bills of Entry relating to the impugned goods as detailed in the Annexure-B (enclosed).

1.13. Further, on re-examining the goods- Medical Display of different size mentioned in Annexure-A at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 753 to 756 and 759 to 763 (17 entries) having assessable value of Rs. 3,30,12,426/- (Rs. Three Crore Thirty Lakh Twelve Thousand Four Hundred Twenty-six only) classified under 85285200 and availing benefit under Sr. no. 17, Notification No. 024/2005 (as amended)

dated 01.03.2005, it was noticed that the declared CTH 85285200 is not correct and the correct classification is CTH 85285900 as illustrated in above para. In this regard, the duty is re-determined (BCD-10%, sws-10%, IGST-28%) under CTH 85285900 to be paid by the importer for the entries as mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 753 to 756 and 759 to 763 (17 entries) of the Annexure-A (details separately prepared as Annexure-C). Consequently, differential duty amounting to Rs.79,49,392.22 (BCD-Rs. 33,01,242.64, SWS- Rs.3,30,124.26 and Diff IGST – Rs.43,18,025.32) appears liable to be paid by the Importer in respect of Bill of Entry relating to the impugned goods as detailed in the Annexure-C.

1.14. Further the goods declared as Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner of different size not exceeding 32 inches classified under CTH 85285200 as mentioned in Annexure-A (except Sr. No. 27, 44, 315, 411, 488, 489, 560, 561, 613 and 721 to 763) (763-52 =711entries) having assessable value of Rs. 189,48,16,583 (Rs. One Hundred Eighty-Nine Crore Forty-Eight Lakh Sixteen Thousand Five Hundred Eighty-Three only), no contention on duty differential to be demanded has been brought forth by the investigation/audit report provided by NS-IV(Audit) JNCH to NS-V.

1.15. In view of the forgoing paras, it appears that the goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A (placed as Annexure-B & C) i.e. SURGICAL DISPLAY/Medical Display TO BE USED WITH AUTOMATIC DATA PROCES are classified under CTH 85285200 and cleared on payment of NIL BCD, exempted under Customs Notification No. 024/2005 (Sr. No. 17) dated 01.03.2005 and lower rate of IGST at the rate of 18% in terms of Sl. No. 383C and 384 of Schedule III of IGST Notification No.01/2017 dated 28.06.2017. However, the said goods are classifiable under 85285900 which attract higher rate of duty BCD @10%, SWS @10% and IGST @28%.

1.16. The total assessable value of the goods under Bills of Entry as mentioned in Annexure-B and Annexure-C comes out to be Rs. 5,20,73,960/- (Rupees Five crore Twenty Lakh Seventy-Three Thousand Nine Hundred Sixty only). The Importer has claimed lower rate of IGST and Nil BCD in respect of these goods which appeared to have led to short levy of differential duty amounting to Rs. 1,06,33,256/- (Rs. one crore six lakh thirty-three thousand two hundred and fifty-six Only) as detailed in the Annexure-B and Annexure-C.

1.17. Acts of Omission and Commission by the importer: "Self-Assessment" in Customs was implemented w.e.f. 8.4.2011 vide the Finance Act, 2011 by suitable changes to Sections 17, 18, 46 and 50 of the Customs Act, 1962 and importers/exporters are required to declare the correct description, value, classification, notification number etc. In other words, With the introduction of the Self-Assessment scheme, the onus is on the Importer to comply with the various laws, determine their tax liability correctly and discharge the same. The Importers are required to declare the correct description, value, classification, notification number, if any, on the imported goods. Self-assessment is supported by section 17, 18 and 46 of the Customs Act, 1962 and the Bill of Entry (Electronic Declaration) Regulation, 2011. The Importer are squarely responsible for self-assessment of duty on imported goods and for filing of all declaration and related documents and confirming that these are true, correct and complete. Self-Assessment can result in assured facilitation for compliant Importers. However, delinquent Importers would face penal action on account of wrong self-assessment made with intent to evade duty or avoid compliance of conditions of notifications, Foreign Trade Policy or any other provisions under the Customs Act, 1962 or the allied Acts.

1.18. Further, it is also found that the Importer willfully/deliberately claimed lower IGST @ 18% on the impugned goods under S. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017, as against the proper IGST @ 28% under S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017 and claimed Nil BCD by availing benefit under Notification No. 024/2005 (as amended) (Serial no. 17) dated 01.03.2005, which resulted into short payment of customs duty. All the aforesaid facts, discussed above about the manner in which the Importer has availed inadmissible Notification Benefits have come to light only after Audit of the import documents of the Importer. In view of the same, it appears that in-spite of having knowledge, the Importer willfully mis-stated and suppressed these vital facts from the department and availed notification benefit which was not admissible to them. Therefore, extended period of 5 years as provided under 28(4) of the Customs Act, 1962, is applicable for recovery of the short-paid Customs duty under Section 28(4) of the Customs Act, 1962, along with applicable interest thereon, under Section 28AA of the Customs Act, 1962. Therefore, for same reasons stated hereinabove, the Importer warrants action for recovery of duty under Section

28(4) of the Customs Act, 1962, and has also rendered themselves liable for penalty under Section 114A of the Customs Act, 1962.

1.19. Therefore, it appears that:

(i) The goods mentioned in Annexure-B and Annexure-C were incorrectly exempted under Sr. No. 17 of the Customs Notification No. 24/2005 dated 01.03.2005. The subject goods attract correct BCD @ 10%. Further above-mentioned goods were cleared under Sr. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017, instead of correct IGST rate under S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017. Consequently, total differential duty amount of Rs. 1,06,33,256 (Rs. One crore six lakh thirty-three thousand two hundred and fifty-six) along with applicable interest, if any, thereon appears recoverable under Section 28(4) of the Customs Act, 1962 from the Importer.

(ii) The intention of the Importer to evade duty thereon appears to have contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, and which in turn appears to have rendered the subject goods liable to confiscation in terms of the provisions of Section 111(m) of the Customs Act, 1962 and also appears to have made the Importer liable for penal action in terms of the provisions of Section 114A of the Customs Act, 1962.

(iii) The Importer has paid differential IGST amount of Rs. 50,05,234 [Rs. 47,27,331/-(goods mentioned at Sr. No. 721 to 742 of the Annexure-A) + Rs. 2,77,903/-(for BE 6025820 dated 28.10.2021 which was not mentioned in Annexure-A)] along with applicable interest of Rs. 9,14,439 for the goods Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches before issuance of this Consultative Letter No 12/2024-25/C1 dated 24.04.2024. However, penalty is yet to be paid by the importer. However, duty demanded paid by the importer are required to be appropriated against duty demand.

(iv) The importer has paid differential IGST amount of Rs. 39,65,205/- along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/- for the goods Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches and Monitors for use in Surgical as Surgical Display mentioned at Sr. No.315, 743 to 752, 757 and 758 of the Annexure-A after issuance of this Consultative Letter. However, duty demanded paid by the importer are required to be appropriated against duty demand.

1.20. Now therefore, in terms of Section 124 read with Section 28(4) of the Customs Act, M/s. L G ELECTRONICS INDIA PRIVATE LIMITED IEC- 0596063211 having address at A-24/6, Mathura Road, Mohan Co-operative Industrial Estate, SOUTH DELHI, NEW DELHI -110044, was called upon to show cause to the Commissioner of Customs (NS-V), JNCH, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra – 400707, within 30 days of the receipt of the notice, as to why:

(i) The levy of incorrect rate of IGST @18% (S. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017) on the impugned goods as mentioned at Sr. No. 27, 44,315, 411, 488, 489, 560, 561, 613, 721 to 763 (52 entries) of the Annexure-A should not be rejected and be levied to the applicable rate of IGST @ 28% (S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017);

(ii) The differential IGST amount of Rs. 39,65,205/- with respect to the items mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A should not be demanded/recovered under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962;

(iii) The Penalty should not be imposed on the importer under Section 114A of the Customs Act, 1962 in respect of goods mentioned above at para 20(ii);

(iv) The differential IGST amount of Rs. 47,27,331/- with respect to the items mentioned at Sr. No. 721 to 742 of the Annexure-A should not be demanded/recovered under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962;

(v) The Penalty should not be imposed on the importer under Section 114A of the Customs Act, 1962 in respect of goods mentioned above at para 20(iv);

(vi) The declared CTH 85285200 of goods as mentioned in Annexure-B and Annexure-C should not be rejected and re-assessed under CTH 85285900;

(vii) The impugned goods covered under Bills of Entry at Sr. No. 721 to 742 (for which the importer has paid differential IGST amount of Rs. 47,27,331/-) and Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A (for which the importer has paid differential IGST amount of Rs. 39,65,205/-) valued at

Rs. 8,68,34,307/- (Rupees Eight crore Sixty Eight Lakh Thirty Four Thousand Three Hundred seven only) should not be held liable for confiscation in terms of provisions of Section 111(m) read with provisions of Section 46(4) and Section 46(4A) of the Customs Act, 1962;

(viii) The impugned goods covered under Bills of Entry as mentioned in Annexure-B and Annexure-C, valued at Rs. 5,20,73,960/- (Rupees Five crore Twenty Lakh Seventy-Three Thousand Nine Hundred Sixty only) should not be held liable for confiscation in terms of provisions of Section 111(m) read with provisions of Section 46(4) and Section 46(4A) of the Customs Act, 1962;

(ix) The levy of incorrect Nil BCD availed under Sr. No. 17 of the Customs Notification No. 24/2005 dated 01.03.2005 for goods mentioned in Annexure-B and Annexure-C should not be rejected and be levied to the applicable rate of BCD @10% and SWS;

(x) The Differential Duty amount of Rs. 1,06,33,256 (Rs. One crore six lakh thirty-three thousand two hundred and fifty-six) with respect to the items covered under Bills of entry as mentioned in Annexure-B and Annexure-C should not be demanded/recovered under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962; and

(xi) The Penalty should not be imposed on the importer under Section 114A of the Customs Act, 1962 in respect of goods mentioned above at para 20(x).

2. WRITTEN SUBMISSIONS OF THE NOTICEES

Written Submission of M/s. LG Electronic India Pvt. Ltd.

2.1. The Noticee No.1, M/s. LG Electronic India Pvt. Ltd., vide their letter dated 29.03.2025 has given written submission to the subject SCN through their authorised representative. M/s. LG Electronic India Pvt. Ltd in the said letter dated 29.03.2025 submitted, inter alia, as under:

Facts in Brief:

(i). The Noticee is inter alia engaged in the import of electronic items and spare parts and is a manufacturer of various consumer electronic products such as L.CD, LED television, refrigerator, washing machine, air-conditioner, microwave oven, purifiers, etc. classifiable under Chapter 85 of the Customs Tariffs Act, 1975 (hereinafter referred to as "Customs Tariff").

(ii). The Noticee vide Bills of Entry mentioned in Annexure A of the SCN filed during the period 2020 to 2024 had imported various goods like L.CD Monitor, Medical Display Monitors, Diagnostic Monitor and Surgical Display Monitors (hereinafter referred to as "impugned goods"). Illustrative copy of sample disputed BOEs along with corresponding invoices, packing list, purchase order, etc., are collectively enclosed as Annexure-2.

(iii). The Noticee at the time of import of the aforesaid monitors, discharged nil BCD by claiming benefit under SI. No, 17 of Notification No. 24/2005 dated 01.03.2005 (hereinafter referred to as "Exemption Notification") and IGST at the rate of 18% under SI. Nos, 383C and 384 in terms of Notification No, 0172017-IGST(Rate) as amended (hereinafter referred to as "Rate Notification™).

(iv) The Department in the impugned SCN has proposed to levy IGST @ 28% under S|, No. 154 of Schedule IV of Rate Notification for goods imported vide the BOEs mentioned at Sr. No. 27, 44, 315, 411, 488, 489, 560, 561, 613 and 721 10 763 of Annexure-A. (hereinafter referred to as "disputed BOEs").

(v). Further, the Department has also proposed to re-classify the Surgical Monitors, Diagnostic Monitors, Medical Display Monitors (hereinafter referred to as "impugned goods") imported vide the BOEs mentioned in Annexure-B and Annexure-C (hereinafter referred to as "disputed BOEs") under Tarif Item 8528 59 00 which attracts BCD at the rate of 10% and IGST at the rate of 28%.

Technical details of the impugned goods:

(vi). The impugned goods imported by the Noticee can be classified into two categories depending on its functioning:

a) Medical Monitors

b) Surgical Monitors

(vii). The technical details of the impugned goods are explained herein below:

a) Medical Monitors:

Medical Display Monitors and Diagnostic Monitors (hereinafter referred to as "Medical Monitors") imported by the Noticee are LED monitors, The aforesaid monitors do not have any inbuilt central processing unit i.e. it cannot function or display any images on its own without being connected to an Automatic Data Processing (ADP) machine. In other words, when connected to an ADP machine the Medical Monitors can display images on the screen, In the present case, the Noticee has imported various models of Medical Monitors which are used in the medical industry to view diagnostic images by medical professionals. The Medical Monitors are connected to a workstation having Picture Archiving and Communication Systems (PACS) software, which comprises of a central processing unit (CPU) which processes the information stored in it and transmits the data to the Computer Monitor via the cables. PACS stores and manages diagnostic images from X-ray machines, MRIs, CT scanners, ultrasounds, CR, etc. These images are usually in the DICOM (Digital Imaging and Communications in Medicine) format. The workstations usually have an in-built processor, operating system, graphic card, etc., for interpreting and re-processing the DICOM raw data acquired from different modalities by accessing the advanced processing functions. When the PACS workstation is connected to the Medical Monitors, it allows medical professionals to easily and quickly display the images for review, analysis, and diagnosis. The Computer Monitor is connected to a workstation using DVI-D, Display Port connection.

It is pertinent to note that the Medical Monitors do not have any standalone functionality. It is only when the Medical Monitors are connected to an ADP machine i.e. workstation can the monitors be used by the medical professionals to display images.

Further, as the monitors are used in the medical industry it uses [PS display which offers optimized picture quality without any colour shift. The monitors also have various sensors such as Illumination sensor, Presence sensor and Calibration sensor. Further, a few monitors also have a dual controller which helps view and review images from multiple devices, Furthermore, the monitors have HDMI and Display Port input terminals and also has upstream and downstream USB. The monitors have control buttons situated in the front panel and a few monitors also have built-in speakers. Further, the monitors can be tilted, has height adjusting mechanism, has dual controller, flicker safe to facilitate prolonged period of viewing at close proximity.

The Clinical Review Monitors are registered under the US Food & Drug Administration (FDA) as Class I medical monitor and the Diagnostic Monitors are registered as FDA as 510(k) Class II which shows that the aforesaid monitors are to be used in the medical industry.

The Noticee has always been describing the goods in question as 'Medical Display' or *Diagnostic Display" along with the size of monitor i.e. 32, 27, 19 inches at the time of importation and have been uniformly adopting the classification under Tariff Item 8528 52 00 of the Customs Tariff. The copies of sample catalogue of Diagnostic Monitor and Clinical Review Monitor and User Manual is enclosed as Annexure-3.

b) Surgical Monitors:

Surgical Monitors imported by the Noticee are LED monitors. The aforesaid monitors are designed to be fitted with other full HD surgical devices i.e. camera, which helps to transmit an instant image onto the monitor during a surgery. In other words, the aforesaid monitors are specifically designed to be uged by the medical practitioners during a surgery to provide instant real-time images.

In the present case, the Noticee has imported various models of Surgical Monitors which helps surgeons easily identify details, presenting accurate, realistic images during a procedure. The Surgical Monitors are connected to surgical camera which has an in-built processing unit and is inserted within a patient's body during surgery which transmits the data to the Surgical Monitor via the cables in the form of electronic signal. The surgical camera houses the imaging sensor, lens, light source and other electrical components which helps to capture the images and display them on the monitor.

These monitors are DICOM compliant and enables surgeons to view accurate, realistic images by maximizing compatibility. In addition, illumination sensors measure backlight brightness and automatically compensate for fluctuations in brightness caused by ambient temperature and aging for a consistently stable display.

It is pertinent to note that the Surgical Monitors are optimised for surgical environments i.e. for use in the operating room. These monitors are dustproof and water resistant. Some monitors also comprise of

mirror and rotation mode and failover input switch mode. Further, a few monitors are also anti-fingerprint and anti-reflection to reduce glare.

Further, as the monitors are used in the medical industry it uses IPS display with sRGB which enables to view accurate and realistic image and when multiple doctors take part in the surgery, the wide viewing angle of the IPS panel allows each doctor to view content on the monitor from different angles with minimal colour shift. Further, a few monitors also have a picture-by-picture (PBP) multimodality connectivity up to 4 PBP, Furthermore, the monitors have HDMI, DVI, 2G-SDI and Display Port input terminals and also have output terminals such as Display Port, DVI and 2G-SDI.

The Surgical Monitors are certified with the FDA as Registration (Class 1) which indicates that the aforesaid monitor is to be used in the medical industry.

The Noticee has always been describing the goods in question as 'Surgical Display' along with the size of monitor i.e. 32, 27, 19 inches at the time of importation and have been uniformly adopting the classification under Tariff Item 8528 52 00 of the Customs Tariff. The copies of sample catalogue of Surgical Monitor along with user manual is enclosed as Annexure-4.

Issuance of Consultative Letter dated 24.04.2024 and 06.01.2025

(viii). The Noticee was issued a Consultative Letter No. 12/2024-25/C1 (DIN No. 20240478NY000051565F) dated 24.04.2024 (hereinafter referred to as "CL"). In the CL, the Department has observed that the Noticee had discharged less IGST by availing the wrong rate of IGST and discharged lesser rate of duty. Further, it calculated the differential 1GST amounting to Rs. 20,14,75,432/- for the impugned goods mentioned in Annexure-A. In this regard, the Noticee vide letter dated 21.06.2024 submitted a reply to the Consultative Letter and also informed the Department that it had paid the differential IGST along with interest as shown in the below table. A copy of the Consultative Letter dated 24.04.2024 and reply to the Consultative Letter along with aforesaid challans are marked and enclosed as Annexure-5.

Entry No. in Annexure A	Challan / DD No. and date	Amount of duty	Amount of interest	Amount of penalty
721 to 742	HCM456 and HCM457 dated 05.01.2023	Rs. 50,05,234/-	Rs. 9,14,439/-	-
315, 743 to 752, 757, 758	HCM1327, HCM1328 and HCM1329 dated 19.06.2024	Rs. 39,65,205/-	Rs. 16,08,701/-	Rs. 5,94,781/-

(ix). It is submitted that sr. no. 721 to 742 of Annexure-A includes monitors exceeding 32 inches and thus, IGST is to be discharged at the rate of 28% under Sl. No. 154 of Schedule IV of Rate Notification. The Noticee has discharged voluntarily under challan dated 05.01.2023 before the issuance of CL.

(x). Thereafter, the Noticee received another Consultative Letter dated 06.01.2025. In the CL, the Department had observed that Surgical Monitors and Medical Monitors are classified under Tariff item 8528 59 00 and are leviable to BCD @10%, SWS @10% and IGST (@28%. Further, it calculated the differential IGST amounting to Rs. 1,06,33,256/- for the impugned goods mentioned in Annexure-B and Annexure-C. A copy of the Consultative Letter dated 06.01.2025 is enclosed as Annexure-6.

(xi) In this regard, the Noticee vide letter dated 20.01.2025 submitted a reply to the Consultative Letter informing the Department that the Medical Monitors of Annexure-C are rightly classified under Tariff Item 8528 52 00 and are exempt from BCD and IGST is levied @18%. It also informed the Department that Surgical Monitors are rightly classified under Tariff Item 8528 59 00 and discharged differential duty along with interest and penalty @15% amounting to Rs. 42,06,819 vide challan no. HCM531 and HCM65 dated 20.01.2025. A copy of the reply dated 20.01.2025 to the Consultative Letter along with challan is enclosed as Annexure-7.

Summary of Noticee's Submission:

A.1. At the outset, the Noticee submits that the impugned SCN is contrary to legal and factual position, and it is therefore liable to be dropped on this ground itself without prejudice to the following submissions which are made without prejudice to each other.

A.2 Further, the customs department issued a pre-consultative notice in terms of proviso to Section 28(1)(a) of the Customs Act and has not granted a personal hearing in terms of Regulation 3(3) of Pre-notice consultation regulations, 2018. However, the demand has been proposed in terms of Section 28(4) of the Customs Act by invoking extended period of limitation, which is completely bad in law. In the present case, having initiated pre-consultation proceeding, present show cause notice is completely bad in invoking Section 28(4) of the Customs Act.

B. **NOTICEE HAS VOLUNTARILY PAID THE DUTY ALONG WITH INTEREST AND PENALTY UNDER THE PROVISONS OF SECTION 28 OF CUSTOMS ACT. THUS, PROCEEDING TO THIS EXTENT IS LIABLE TO BE CONCLUDED AND THE IMGUGNED SCN IS LIABLE TO BE DROPPED.**

B.1 that they have paid the differential IGST along with applicable interest for monitors exceeding 32 inches under SI. No. 154 of Schedule IV of the Rate Notification before issuance of the consultative letters. Accordingly, the Appellants had requested for closure of proceedings in terms of Section 28(2) of the Customs Act, 1962.

B.2 Further, the Noticee has also paid the differential duty along with interest and penalty @15% for Surgical Monitors mentioned in Annexure-B to the SCN after issuance of the consultative letters. Accordingly, the Appellants had requested for closure of proceedings in terms of Section 28(6) of the Customs Act, 1962. However, the Department has completely disregarded these requests without any legal basis.

B.3 that the Noticee has voluntarily paid the differential duty along with applicable interest on monitors exceeding 32 inches at SI. No. 721 to 742 of Annexure A to the SCN vide challan dated 05.01.2023 before issuance of the impugned SCN. Accordingly, in terms of Section 28(2) of the Customs Act, the customs department could not have served the impugned SCN under Section 28(4) of the Customs Act. Thus, it is submitted that the issuance of the SCN to this extent is incorrect and without any authority of law, therefore, the impugnd SCN s liable to be set aside on this ground alone.

B.4. It is submitted that the Noticee has paid differential duty along with interest before issuance of the impugned SCN. Thus, no penalty or confiscation can be proposed to be imposed and the proceedings are liable to be deemed to be concluded.

B.5. Further, it is submitted that in terms of Section 28(6) of the Customs Act, when a person pays the duty along with interest and penalty @15% within 30 days from receipt of notice, then the proceeding shall be deemed to be concluded.

B.6. In this regard, the Noticee has paid the differential IGST along with interest and penalty @15% vide challan dated 19.06.2024 on Surgical Monitors and monitors exceeding 32 inches after issuance of CL dated 24.04.2024. Thereafter, the Noticee has also accepted the re-classification of Surgical Monitors under Tariff Item 8528 59 00 and paid the differential BCD and IGST along with interest and penalty @15% vide challan dated 20.01.2025. Accordingly, the proceedings to this extent are liable to be deemed concluded and thus, the impugned SCN to this extent is liable to be dropped.

B.7. Without prejudice to the above, it is submitted that Department has erred in invoking the extended period and imposing confiscation, interest and penalty on the Noticee. The same are explained in detail in the succeeding grounds and are not repeated for the sake of brevity.

B.8. In view of the above, it is submitted that the Department should have accepted the Appellant's request for closure of proceedings and was liable to conclude the proceedings in terms of Section 28(2) and 28(6) of the Customs Act. Thus, the impugned SCN to this extent is liable to be dropped and the Department shall issue a closure letter to conclude the proceedings

C. **MEDICAL MONITORS ARE CORRECTLY CLASSIFIABLE UNDER TARIFF ITEM 8528 52 00, AS OPPOSED TO TARIFF ITEM 8528 59 00 PROPOSED BY THE DEPARTMENT.**

C.1. that the classification of goods should be on the basis of:

a. Section Notes and Chapter Notes and the Interpretative Rules; and

b. HSN Explanatory Notes.

C.2. In this regard, reliance is placed on the case of the Larger Bench of the Tribunal in the matter of **Saurashtra Chemical Vs. CC - 1986 (23) ELT 283 (Tri-LB).** The above decision of the Tribunal was upheld by the **Hon'ble Supreme Court of India in 1997 (95) ELT 455 (SC).**

C.3. Also, Reliance in this regard is placed on **O. K. Play (India) Vs. CCE — 2005 (180) ELT 300 (SC), wL.M.L. Limited Vs. CC - 2010 (258) ELT 321 (SC) and Nestle India Vs. CCE - 2008 (227) ELT 631 (Tri)** [maintained by the Hon'ble Supreme Court in 2009 (237) ELT 102 (SC)] has held as under:

Medical Monitors are rightly classified under Tariff Item 8528 52 00 and hence cannot be classified under Tariff Item 8528 59 00

C.4. that the Medical Monitors do not have any standalone functionality. It is only when the Medical Monitors are connected to the workstation i.e. ADP machine, can the monitors be used by the medical professionals to display images. The workstations usually have an in-built processor, operating system, graphic card, etc., for interpreting and re-processing the DICOM raw data acquired from different modalities and transmits the image on the screen.

C.5. In the present case, Medical Monitors imported by the Noticee are LED Monitors, thus, the same not being cathode-ray monitors are to be classified as "Other Monitors".

C.6. Further, monitors which are capable of directly connecting to and designed for use with an ADP machine of Heading 84.71 are classified under Sub-heading 8528 52 and monitors which are not capable of directly connecting to and designed for use with an ADP machine are classified under Sub-heading 8528 59.

C.7. In this regard, it is pertinent to note that Medical Monitors do not have any inbuilt central processing unit i.e. it cannot function or display any images on its own without being connected to an ADP machine. The Medical Monitors are connected to a workstation i.e. ADP machine having PACS software and comprises of a CPU which processes the information stored in it and transmits the data to the Computer Monitor via the cables through the input terminal of the monitor. PACS stores and manages diagnostic images from X-ray machines, MRIs, CT scanners, ultrasounds, CR, etc. These images are usually in the DICOM format. The workstations usually have an in-built processor, operating system, graphic card, etc., for interpreting and re-processing the DICOM raw data acquired from different modalities by using the advanced processing functions. When the PACS workstation is connected to the Medical Monitors, it allows medical professionals to easily and quickly display the images for review, analysis, and diagnosis.

C.8. Further, as already submitted, Medical Monitors do not have any standalone functionality and only when connected to an ADP machine can the monitors be used by the medical professionals to display images. Thus, it can be stated that Medical Monitors in the present case, are capable of directly connecting to and designed for use with an automatic data processing machine of Heading 84.71 and are classified under Tariff Item 8528 52 00.

C.9. From perusal of the above, it is submitted that the Medical Monitors are capable of accepting a signal from PACS workstation which provides a graphical representation of the data processed. Further, the characteristics of the Medical Monitors are as follows:

a) Medical Monitors display the images which are integrated in the PACS workstation

b) They do not incorporate a channel selector or video tuner

c) The are fitted with the following connectors — HDMI, Display Port, D-Sub, DVI

d) The viewable image size of these monitors is 19, 27, 32 inches

e) They have a display pitch size suitable for close proximity viewing

f) Few of the Medical Monitors have built-in speakers

g) The have control buttons situated in the front panel

h) They cannot be operated by remote control

i) They incorporate tilt, swivel and height adjusting mechanisms, flicker safe characteristics to facilitate prolonged periods of viewing or close proximity to the monitor;

j) The monitors are connected through a cable to display data from an ADP machine of Heading 84.71

C.10. In view of the above, it is submitted that the Medical Monitors are designed for use with ADP machines and cannot function without being connected to an ADP machine. Thus, Medical Monitors merit classification under Tarif Ttem 8528 52 00.

Medical Monitors cannot be classified under Tariff Item 8528 59 00,

C.11. The impugned SCN has failed to adduce any evidence as to why the goods cannot be classified under Tariff item 8528 52 00.

C.12. As submitted in the preceding paragraphs, Medical Monitors do not have any inbuilt central processing unit i.e. it cannot function or display any images on its own without being connected to an ADP machine. They are capable of directly connecting to and designed for use with an ADP machine and thus, merits classification under Tariff Item 8528 52 00.

C.13. that the Department has not provided any reasoning as to how the impugned goods are not computer monitors. It has merely alleged that the impugned goods are not computer monitors and are classifiable under Tariff Item 8528 59 00 without providing any evidence.

C.14. The Department has nowhere in the impugned SCN disputed that the impugned goods are not capable of directly connecting to and designed for use with an ADP machine Further, it is submitted that the Noticee has not discussed the functions of the impugned goods and merely proceeded on the footing that the monitors are used with medical apparatus, thus are classifiable under Tariff Item 8528 59 00,

C.15 that the impugned goods have not been tested, examined or verified by the Department. The Department has proceeded on mere assumption to re-classify the goods under Tariff Item 8528 59 00 without providing any substantive evidence or reasoning. This clearly shows the Department has not appropriately discharge the burden of proof for changing classification of the impugned goods and proceeded with a pre-judicial mindset.

Medical Monitors are exempt from BCD in terms of the Exemption Notification and IGST is correctly levied at the rate of 18% in terms of the Rate Notification

C.16. As the Medical Monitors are rightly classified under Tariff Item 8528 52 00, the same are eligible for benefit of the Exemption Notification.

C.17. that the Noticee has correctly discharged IGST @18% of the Rate Notification for goods mentioned in Annexure-C. Relevant entry of the Rate Notification is reproduced below:

C.18. Further, due to an inadvertent error, the Noticee had mentioned the SI. No. 383C of Schedule-III of Rate Notification in some of the disputed BOEs. However, it is submitted that the Noticee has correctly discharged the IGST @18% and there is no loss to the Exchequer.

C.19. The Department in the impugned SCN has claimed IGST at the rate of 28% under SI. No. 154 of Schedule IV alleging that the impugned goods at serial number 27, 44, 315, 411, 488, 489, 560, 561, 613, 721 to 763 of Annexure -A are monitors exceeding 32 inches.

C.20. that impugned goods at the aforementioned serial numbers (except at 721 to 744) do not exceed 32 inches and thus, IGST has been correctly discharged @18%

C.21. In view of the above, it is submitted that the Noticee has rightly claimed the benefit of Exemption Notification and discharged IGST @18% for Medical Monitors, as the goods are classified under Tariff Item 8528 52 00. Thus, the SCN is liable to be dropped to this extent and the excess duty paid by the Noticee is liable to be refunded.

Specific Heading prevails over residuary Heading

C.22. that it is a well settled principle in respect of disputes regarding classification, resort must be made to the GRI.

C.23. As per Rule 3(a) of the GRI, the heading which provides the most specific description shall be preferred over the heading of the general description.

C.24. The description "Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471 is more specific description by name. The impugned goods imported by the Noticee squarely fall within the aforesaid description indicated in the Customs Tariff and in the HSN Explanatory Notes to Tariff Item 8528 52 00.

C.25. Tariff Item 8528 59 00 is a residuary entry that covers 'Other' monitors of Heading 85.28. Therefore, it is submitted that Tariff Item 8528 52 00 covering monitors designed for use with ADP machine is more specific than the residuary Tariff Item 8528 59 00.

C.26. Reliance in this regard is placed on the case of **Mauri Yeast Vs. State of UP - 2008 (225) ELT 321 (SC), and** on the case of **Dunlop India Ltd. & Madras Rubber Factory Vs. UOI - 1983 (13) ELT 1566 (SC),**

C.27. Reliance is placed on the following judgments:

a) Secure Meters Vs. CC - 2015 (319) ELT 565 (SC)

b) Collector of CE Vs. Delton Cables - 2005 (181) ELT 373 (S.C)

c) Varroc Engineering Vs. CC - 2019) (1) TMI 671 CESTAT Mumbai

d) Harman International (I) Vs. CC — 2021 (11) (TMI) 958 CESTAT Mumbai

C.28. Therefore, the Noticee submits that in light of the abovementioned submission, the impugned goods are appropriately classifiable under Tariff Item 8528 52 00.

D. **BURDEN OF PROOF LIES ON THE PARTY WHICH WISHES TO RE-CLASSIFY THE IMPUGNED GOODS UNDER A DIFFERENT HEADING. WHICH HAS EVIDENTLY NOT BEEN DISCHARGED BY THE REVENUE IN THE PRESENT CASE.**

D.1. The Noticee submits that the Department has sought to change the classification of the Medical Monitors to Tariff item 8528 59 00. However, the Department has not adduced any evidence to prove that the Medical Monitors merit classification under the aforesaid tariff item.

D.2. The Department in the impugned SCN has merely alleged that impugned goods are designed for X-ray machines or any other medical apparatus and such monitors are classifiable under Tariff Item 8528 59 00 and are not as computer monitors. Accordingly, the impugned goods will attract IGST at the rate of 28% under SI. No. 154 of Schedule IV of the Rate Notification. Further, the impugned goods are not covered under SI. No. 17 of the Exemption Notification and are liable to BCD and SWS at the rate of 10%.

D.3. In this regard, as submitted in the aforesaid paragraph, Diagnostic Monitor and Medical Display Monitor are directly connected to and designed for use with an automatic data processing machine i.e. PACS workstation and are nothing but computer monitors. Thus, the Noticee has correctly classified the Medical Monitors under Tariff Item 8528 52 00 and correctly discharged appropriate nil BCD and IGST at the rate of 18%.

D.4 that burden of proof lies upon the party, whether plaintiff or defendant, who substantially asserts the affirmative of the issue. This rule, derived from the maxim of Roman Law, *ei qui affirmat, non ei qui negat, incumbit probatio,* is adopted partly because it is but just that he who invokes the aid of the law should be the first to prove his case; and partly because, in the nature of things, a negative is more difficult to establish than an affirmative.

D.5. The phrase 'burden of proof" is used in two distinct meanings in the law of evidence, viz., the burden of establishing a case and burden of introducing evidence. The burden of establishing a case remains throughout the trial where it was originally placed; it never shifts. The burden of producing evidence may shift constantly as the evidence is introduced by one side or the other. The burden of producing evidence is also known as "onus of proof". In support of this, the Noticee place reliance on the decision of Rajendra Jagannath Parekh and Ajay Shashikant Parekh Vs, CC — 2004 (175) ELT 238 (Tri-Mum.). In that case, the Hon'ble Tribunal referred to various judgments of Hon'ble Supreme Court and observed as follows:

D.6. It is submitted that the parties, on whom "onus of proof" lies must, in order to succeed, establish a prima facie case. On the other hand, the burden of proof should be strictly discharged. In other words, one has to prove the point which he asserts on his own evidence and not by any weakness in the case of the defendant. Further, it is a settled legal position that the burden of proof never shifts. Therefore, in a matter where Revenue has raised & confirmed demand of duty by alleging short/non-levy, the burden of proof is always on the Revenue to prove such allegations/assertions and it never shifts

D.7. Reliance is placed on the cases of **Hindustan Ferrodo Ltd. Vs. CCE, Bombay - 1997 (89) ELT 16 (SC), H.P.L Chemicals Vs. CCE — 2006 (197) ELT 324 (SC), UOT Vs. Garware Nylons Limited — 1996 (87) 12 (SC), Commissioner of C. Ex., Calcutta-I Vs. Bata India Limited - 1998 (100) ELT 179 (Tribunal)** *and* **Commr. of Com. Tax, Lucknow Vs. Perfaty Wanmele India - 2018 (19) G.S.T.L. 448 (All).**

D.8. Reliance is also placed on the following cases:

a) Standard Metal Works Vs. CCE - 2004 (167) E.L.T. 297 (Tri. - Mumbai);

b) M.P. Dyechem Industries Vs. CCE - 2002 (139) E.L.T. 656 (Tri. - Del.) approved in 2002 (144) ELT A199 (SC);

c) Hindustan Lever Vs. CCE - 1985 (19) ELT 562 (Tribunal);

d) Sindhu Ganesh Bali Vs. CCE - 1985 (22) ELT 242 (Tribunal); and

e) Bhilai Engineering Vs. CCE - 2016 (344) ELT 649 (Tri. — Del).

D.9. that the Medical Monitors are correctly classifiable under Tariff Item 8528 52 00 and are not exceeding 32 inches. Thus, the Noticee has correctly discharge IGST at the rate of 18% under Sr. No. 384 of Schedule III of Rate Notification which covers computer monitors.

D.10. that since the Department has not produced any evidence to prove that the classification of the Medical Monitors is under Tariff Item 8528 59 00, thus, the impugned SCN is liable to be dropped on this ground alone.

E. **THE PRESENT DISPUTE IS LIMITED TO CLASSIFICATION, WHICH IS ALWAYS A MATTER OF BONA FIDE BELIEF. THERE IS NO MIS STATEMENT OR SUPRESSION. ACCORDINGLY. PROPOSED DEMAND BY INVOKING THE EXTENDED PERIOD OF LIMITATION IS INCORRECT AND BAD IN LAW.**

E.1. that the differential duty demand has been proposed vide SCN dated 16.01.2025 by invoking extended period of limitation in terms of Section 28(4) of the Customs Act for the imports from 17.01.2020 to 26.02.2024 on the ground that the Noticee has allegedly mis-classified the impugned goods with an intent to evade higher customs duty.

E.2. Section 28(1) of the Customs Act mandates that the proper officer shall serve notice for any short levy/non-levy within two years from the relevant date. Therefore, any demand of duty made in the present matter, in respect of imports beyond the period of two years from the relevant date, is barred by limitation and in matters of classification, extended period of limitation is not invocable. In the present case, the demand beyond 16.01.2023 for the impugned goods is barred by normal period of limitation.

E3. It is a settled law that claim to a classification is a matter of bona-fide belief and in such cases, extended period of limitation is not invokable as held by the Hon'ble Supreme Court in **Northern Plastic Vs. CC - 1998 (101) ELT 549 (SC).** This principle has consistently been applied and followed even in self-assessment regime.

E.4. With respect to the disputed BOEs, the impugned goods for which duty is demanded, were assessed by officers as well as under the RMS and cleared for home consumption. The goods were correctly described and accordingly, appropriate customs duty was paid by them. The invoices and other imports documents submitted along with the BOEs clearly declare the true and correct information regarding the nature of these goods. The customs department had assessed these consignments and after being satisfied with the declarations made and the nature of the goods, out-of-charge was granted to the goods for home clearance by approving the classification and rate of duty as declared by the Noticee.

E.5. Basis the above assessment and verification, other similar consignments were cleared without examination. This shows that the customs department was satisfied and agreed with the clarifications and declarations of the Noticee. Thus, the present proceeding is nothing but a change of opinion.

E.6. Further, the Noticee has been co-operative and has provided all the details from time-to-time and also paid the disputed IGST demand under protest, as asked by the Department. The Department was already in possession of all necessary documents, facts and information, and therefore, there is no question of wilful misstatement or suppression of facts.

E.7. The Department has alleged that the misclassification came to light after the analysis of the BOEs during the post clearance audit and thus, the Noticee has wilfully mis-stated and suppressed facts. in this regard, it is submitted that the Noticee has mentioned all the details in the disputed BOEs and thereafter, the disputed BOEs have been finally assessed. No evidence has been produced by the Department to prove that the Noticee has wilfully mis-stated or suppressed the facts. Further, assuming without accepting that the misclassification came to light after the analysis of the BOESs, it is submitted that even in that case,

normal period of limitation should be applied by the Department. Thus, the invocation of extended period of the Department is completely incorrect and without any basis.

E.8. Reliance in this regard is placed on case of **Shape Engineering Company Vs. Commissioner (Appeals-1) - 2025-TIOL-378- CESTAT-DEL**, wherein it was held that since the alleged non-compliance is only discovered during an audit, normal limitation period should have applied, making the entire demand time-barred.

Extended period cannot be invoked as the Department was always aware of the practice of the Noticee.

E.9. that the self-assessment only requires, that the importer must himself indicate the classification of the imported goods in the Bill of Entry. This does not mean that in every case of self-assessment, the department is entitled to invoke the extended period of limitation as provided in Section 28(4) of the Customs Act. Hence, the Department cannot make the self-assessment done by the Noticee as an alibi to invoke the extended period citing mis-declaration or suppression of facts as a reason.

E.10. It is a settled legal position that in case of any delay in the issuance of a show cause notice by the department, after having knowledge about the alleged transactions, extended period of limitation cannot be invoked. In other words, what has been done now could have been done at the time of assessment / or within normal period of limitation.

E.11. It is submitted that extended period cannot be invoked in cases wherein the primary facts have been disclosed in the bills of entries. In the present case, the classification, IGST rate and description of the imported goods is the disclosure of basic and primary facts and thus, suppression cannot be attributed. Accordingly, once primary facts have been disclosed, extended period of limitation is not invokable. In this regard, reliance is placed on the case of **Maruti Udyog Limited Vs. CCE, Delhi - 2002 (147) ELT 881 (Tri. — Del.),**

E.12. Para 2.7 of Chapter 3 of the CBEC Manual on Procedure for clearance of imported and export good, states that while filing an EDI bill of entry, all the necessary declarations have to be made electronically. The original documents such as signed invoice, packing list, certificate of origin, test report, technical write-up etc. are required to be submitted by the importer at the time of examination. The importer/CHA also needs to sign on the final documents before Customs clearance.

E.13. This situation did not change after introduction of 'self-assessment' in the Customs laws by Finance Act, 2011 on 08.04.2011 by amendment of Section 17 of the Act.

E.14. It is mandatory on the part of the Department to prove that the assessment of the imported goods at the time of import was obtained by mis-declaration or suppression of facts etc. — whether it is a self-assessed bill of entry or customs system assessed bill of entry or officer-assessed bill of entry. The Noticee had made all the requisite declarations at the time of assessment. These declarations have been completely ignored and disregarded while issuing the present SCN

E.15. Reliance is placed on the cases of **Midas Fertchem Impex Vs, Principal CC—2023 (1) TMI 998** and **Challenger Cargo Carriers Vs. Principal CC - 2022 (12) TMI 621**

E.16. that in the present case, the SCN has not proved any conscious or intentional act of collusion, wilful mis-statement or suppression of fact on the part of the Noticee.

E.17. The Courts have time and again held in respect of invocation of extended period of limitation under indirect tax laws that something positive other than mere inaction or failure on the part of the Noticee or conscious or deliberate withholding of information when the Noticee knew otherwise, is required before they are saddled with any liability beyond the period of normal period of limitation had to be established. Whether in a particular set of facts and circumstances there was any fraud or collusion or wilful mis-statement or suppression or contravention of any provision of any Act, is a question of fact depending upon the facts and circumstances of a particular case. Reliance is placed on the following decisions:

a) Padmini Products Vs. CC — 1989 (43) ELT 195 (SC);

b) CCE Vs. Chemphar Drugs & Liniments — 1989 (40) ELT 276 (SC);

c) Gammon India Ltd. Vs. CCE - 2002 (146) ELT 173 (Tri.), Affirmed by the Hon'ble Supreme Court in 2002 (146) ELT A313;

d) Lovely Food Industries Vs. CCE — 2006 (195) ELT 90 (Tri.);

e) Vaspar Concepts (P) Ltd. Vs. CCE - 2006 (199) ELT 711 (Tri.), Affirmed by the Hon'ble Supreme Court in 2002 (146) ELT A313.

E.18. Reliance is also placed on the decision of Hon'ble CESTAT Chennai in the case of **ETA General Vs. CC-2024 (3) TMI 994 - CESTAT CHENNALI**.

E.19. Further, it is a settled legal position that in case of any delay in issuance of a show cause notice by the department after having knowledge about the alleged transactions, extended period of limitation cannot be invoked. In support of the above contention, the Noticee relies on the case of **Orissa Bridge & Construction Corp. Vs. CCE, Bhubaneshwar -- 2011 (264) ELT 14 (SC).**

E.20. The Noticee also places reliance on the following cases wherein the Hon'ble Tribunals have held that the extended period of limitation is not invokable where the transaction was in the knowledge of the department:

a) Jalla Industries Vs. CCE —2000 (117) ELT 429 (Tri.);

b) Rivaa Textile Inds. Ltd. Vs. CCE — 2006 (197) ELT 555 (Tri.);

c) Shree Renuka Sugars Vs. CCE - 2007 (210) ELT 385 (Tri. Ban.); and

d) Jetex Caburettors Vs. CCE — 2007 (78) RLT 682 (CESTAT-Mum.).

Extended period cannot be invoked as there was no misclassification of Medical Monitor and suppression of facts.

E.21. that it is a settled principle of law that even if misclassification has been adopted the same does not amount to mis-declaration and/or suppression of facts to invoke the extended period of limitation.

E.22. Reliance in this regard is placed on the decision of CESTAT, Hyderabad in **Vesuvius India Vs. CC - 2019 (11) TMI 499 - CESTAT Hyderabad, Suntec Agri Equipments Vs, CC -2025-TIOL-319-CESTAT-BANG, CCE, Aurangabad Vs. Bajaj Auto Limited — 2010 (260) ELT 17 (SC).**

E.23. that even if the impugned goods have been mis-classified, the same does not amount to mis-declaration and/or suppression of facts to invoke the extended period of limitation, if the importer has not wilfully suppressed or mis-stated any fact with an intent to evade tax.

E.24. that it was of the bonafide view that the Surgical Monitors are correctly classifiable under Tariff Item 8528 52 00. The Noticee has been importing the aforesaid monitors under Tariff Item 8528 52 00. However, no dispute or query had been raised by the Department. The Noticee had no intention to evade duty or wilfully mis-state the classification. Further, with respect to the Medical Monitors, the Noticee is still of the view that it has correctly classified the goods under Tariff Item 8528 52 00.

E.25. The Noticee has not wilfully suppressed any facts from the Department, as all the documents were available with the customs department at the time of import. Further, the Department has failed to adduce any evidence which proves that the Noticee has wilfully misstated and suppressed the facts with an intention to evade duty. The Department has not made any allegations or produced any new evidence of facts which were not available with them at the time of import. Thus, the Department has incorrectly alleged that vital facts were wilfully mis-stated and suppressed and erred while invoking the extended period in the present case.

E.26. In light of the aforesaid facts and judicial precedents, it is submitted that extended period of limitation cannot be invoked, even if it is assumed without accepting that the goods were misclassified in respect of the disputed BOEs.

Noticee was and still is under the bona fide belief that it has correctly discharged the duty liability for Medical Monitors. There was no intention to evade payment of duty.

E.27. that the Noticee was and still is under the bona fide belief that no differential duty is payable since the Noticee has adopted correct classification in respect of the Medical Monitors discussed above. In the foregoing paragraphs, Noticee has given detailed reasons and has also cited various decisions of judicial and quasi-judicial forums in support of its arguments. The Noticee had no intention to evade payment of duty and always acted in a bona fide manner, in as much as everything was on record and nothing was done without any record or complying with the legal provisions, wherever the same was required.

E.28. that no mala fide can be attributed to the Noticee, especially when the Noticee has been historically classifying the impugned goods under Tariff Item 8528 52 00 and discharging the same IGST rate applicable to the impugned goods as the customs department was always aware of such a practice.

E.29. that where the Noticee believes the correctness of a legal position, and if there is scope for such belief, such as decisions of judicial forums, then it cannot be said that there has been a wilful misstatement or suppression of facts, or contravention of the provisions and rules with intent to evade payment of duty. In this regard, Noticee places reliance on the following case laws in support of its contention that extended period of limitation is not invokable in such a scenario:

a. Cosmic Dye Chemical Vs, CCE, Bombay - 1995 (75) ELT 721 (SC)

b. Padmini Products Vs. CCE - 1989 (43) ELT 195 (SC)

c. Vineet Electrical Industries Pvt. Ltd. Vs, CCE & C, BBSR-IT - 2001 (136) ELT 784 (Tri - Kolkata), as maintained by the Hon'ble Supreme Court in 2002 (144) ELT A292 (SC)

d. Pee Jay Apparels Vs. CCE - 2001 (135) ELT 842 (Tri. - Del.).

E.30. It is well settled that when facts are within the Department's knowledge, allegations of wilful suppression with an intention to evade duty are not sustainable. In this regard, reliance is placed on the following judgments:

a. Pahwa Chemicals Vs. CCE - 2005 (189) ELT 257 (SC)

b. Pushpam Pharmaceuticals Company Vs. CCE - 1995 (78) ELT 401 (SC)

c. Continental Foundation Jt. Venture Vs. CCE - 2007 (216) ELT 177 (SC)

d. Accurate Chemicals Industries Vs. CCE, Noida - 2014 (300) ELT 451 (Tri. — Del.), as upheld by the Hon'ble Allahabad High Court in 2014 (310) ELT 441 (AII.).

Proposed demand to the extent of IGST is available as Input Tax Credit and thus. the same is revenue neutral.

E.31. that the proposed demand of differential duty to the extent of IGST is eligible as input tax credit (hereinafter referred to as "ITC") to the Noticee and thus, the entire demand is revenue neutral.

E.32. In this regard, reliance is placed on the cases of **Nirlon Ltd v CCE - 2015 (320) ELT 22 (SC), Chiripal Poly Films Vs. CC - 2024 (9) TMI 940 - CESTAT AHMEDABAD, Reliance Industries v CCE - 2016 (44) STR 82, (Tri. Mumbai)**, and **Amco Batteries Ltd v CCE - 2003 (153) ELT 7 (SC),**

E.33. Further, reliance is placed on the following cases wherein it has been held that extended period of limitation cannot be claimed in revenue neutral situation:

a) Mafatlal Industries Vs, CCE - 2009 (241) ELT 153 (Tri Ahmedabad) as maintained by the Supreme Court in 2010 (255 ELT A77 (SC)

b) Commissioner v Reliance Industries - 2017 (51) STR J187 (SC)

c) Choice Laboratories Ltd Vs. UOI - 2016 (341) ELT 604 (Guj)

d) NCR Corporation Vs. Comnir of C.T. Bangalore North - 2021 (55) GSTL 6 (Tri- Bang.)

e) Jet Airways v Comm. of ST - 2014 (36) STR 975 (Bom.)

E.34 In view of the above, since the proposed demand to the extent of IGST is revenue neutral, there can be no intent to evade duty and therefore, extended period of limitation cannot be invoked, thus, the impugned SCN is liable to be dropped on this ground alone.

The present case involves issue of legal interpretation.

E.35 The present case involves purely interpretational and legal issues. The Department has issued the impugned SCN without considering the facts of the case and the HSN explanatory notes, several rulings of the appellate authorities and the Department has confirmed the said demand without appreciation any of these documents. The classification of goods under said circumstances is clearly an issue of interpretation.

E.36. Itis submitted that the extended period of limitation is not invocable in cases where the issue relates to the interpretation of the law. The reliance in this regard is placed on the following judgments:

a. CCE Vs. Swaroop Chemicals - 2006 (204) ELT 492 (T)

b. Haldia Petrochemicals Vs. CCE - 2006 (197) ELT 97 (T)

c. CCE Vs. TELCO - 2006 (196) ELT 308 (T)

d. Siyaram Silk Mills Vs. CCE - 2006 (195) ELT 284 (T)

e. CCE Vs. Sikar Ex-Serviceman Welfare Coop. Society - 2006 (4) STR 213 (T).

f. Ispat Industries Ltd. Vs. CCE, Raigad - 2006 (199) ELT 509 (Tri. - Mum.)

g. Singh Brothers Vs. CCE, Indore - 2009 (14) STR 552 (Tri. - Del.)

h. Steeleast Ltd. Vs. CCE, Bhavnagar - 2009 (14) STR 129 (Tri. - Del.), as upheld by the Hon'ble Gujarat High Court in 2011 (21) STR 500 (Guj.)

F. **CONFISCATION OF THE GOODS IS NOT WARRANTED IN THE PRESENT CASE**

In any case the impugned goods are not liable for confiscation under Section 111(m).

F.1. The impugned SCN has proposed confiscation of the impugned goods in terms of Section 111(m) of the Customs Act on the ground of mis-declaration of goods.

F.2. that there is no dispute on value declared by the Noticee. It is also not the case that the goods do not correspond with the description of goods as made in the Bill of Entry. Thus, the Noticee submits that there was no mis-declaration either in respect of value or in any other particular with the entry made under the Customs Act and therefore, the provisions of the said Section are not attracted in the present case.

F.3. Since, the Noticee has not violated any of the aforesaid provisions and neither misdeclared nor suppressed any of the description in the disputed BOEs, therefore, the impugned goods are not liable for the confiscation under Section 111(m) of the Act.

F.4. Reliance is placed on the case of **Shahnaz Ayurvedics Vs. Commissioner of Central Excise, Noida - 2004 (173) ELT 337 (All.),** this decision of the Hon'ble Allahabad High Court has been affirmed by the Hon'ble Supreme court in the case of **CCE Vs. Shahnaz Ayurvedics - 2004 (174) ELT A34 (SC).**

Misclassification does not amount to mis-declaration

F.5. In the present case, it is submitted that the sole reason to propose the confiscation of the impugned goods under Section 111(m) is the alleged deliberate misclassification of the impugned goods. It is submitted that Section 111(m) is invokable in cases of mis-declaration and not mere misclassification.

F.6. It is submitted that there is a difference between 'misclassification' and 'misdeclaration' under the Customs law. However, the impugned SCN has obliterated this distinction conveniently without any legal or factual basis. The present case concerns dispute regarding classification of the impugned goods.

F.7. It is submitted that even if the department holds a different view regarding classification of the impugned goods, it becomes a case of difference in opinion or understanding vis-a-vis applicable tariff entries. The SCN has loosely used the term 'misclassification" in the present case without appreciating the remarkable distinction between misclassification and misdeclaration.

F.8. It is submitted that misclassification is an act of bona fide mistake of erroneous classification, whereas misdeclaration is a mala fide act with the intention to evade customs duty.

F.9. they placed reliance on the case of **CC Vs. A. Mahesh Raj - 2006 (195) ELT 261,**

F.10. In the present case, even if it is assumed without accepting that the Noticee did not adopt the correct classification for the Medical Monitors, it is submitted that this would be a case of mere 'misclassification' of impugned goods and no act of 'mis-declaration' can be attributed to the Noticee.

F.11. that in the impugned SCN has alleged that the Noticee has failed to comply with the provisions of Section 17 and Section 46 of the Customs Act. In this regard, it is submitted that there was no mis-declaration either in respect of value, description or in any other particular with the entry made under the Customs Act. The present case is merely of alleged misclassification and therefore, it is respectfully submitted that the proposal for confiscation of the impugned goods under Section 111(m) of the Customs Act is not sustainable in law.

F.12. that it is a settled principle of law that even if incorrect classification has been adopted the same does not amount to mis-declaration and therefore, confiscation of the impugned goods is not warranted.

F.13. The Noticee relies on the case of **Northern Plastic** supra. The aforesaid view has also been held in the case of **Sutures India Pyt. Ltd. vs. CC - 2009 (245) ELT 596 (Tri.-Bang.)**

F.14. Similarly, in the case of **Surbhit Impex P. Ltd. Vs. CC - 2012 (283) E.L.T. 556 (Tri. - Mumbai),**

F.15. Further, if the allegation of mis-declaration is accepted, then the provisions of confiscation would be invokable in all the cases and even the case of bonafide error or the issue involving interpretation of provisions of law which is incorrect and baseless. Therefore, the allegation that the Noticee has mis-declared the classification in bill of entry in terms of Section 46 of the Customs Act and hence, the impugned goods are liable to confiscation is incorrect and therefore, the impugned SCN is liable to be dropped to this extent.

F.16. that confiscation provisions under Sections 111 of the Customs Act can be pressed into service only in cases where the Noticee has acted with a mala fide intention, and it is proved beyond doubt that there was mens rea on part of the Noticee. Bonafide conduct on part of the Noticee does not entail the goods liable to confiscation. Support for the above proposition is found in the following:

a) Allseas Marine Contractors S.A. Vs. CC —2011 (272) ELT 619 (Tri.-Del.);

b) Sutures India Vs. CC -2009 (245) ELT 596 (Tri.-Bang); Affirmed by Hon'ble Supreme Court in 2010 (255) ELT A85 (SC)

F.17. The Noticee also relies on the case of **Kirti Sales Corporation Vs. CC - 2008 (232) ELT 151 (Tri.-Del.),**

F.18. Therefore, in light of the above-mentioned decisions, the Noticee submits that no provision of Customs Act has been violated by the Noticee and the impugned goods cannot be confiscated under Section 111(m) of the Customs Act merely on the basis of alleged misclassification of the impugned goods.

Self-assessment cannot be basis to allege misdeclaration.

F.19. that merely because the goods are self-assessed, the same cannot be a ground for alleging misdeclaration. It is submitted that the Noticee has correctly described the goods and has been consistently classifying the goads as per its understanding. Reliance is placed on the case of **Sirthai Superware India Ltd. v. CC - 2019 (10) TMI 460-CESTAT Mumbai**, it has been held that where the assessee has provided all the pertinent details of the product in the declaration, then no mis-declaration can be alleged.

F.20. Thus, that merely having imported goods in self-assessment regime is not enough to hold the goods liable for confiscation. The self-assessment only requires that the importer must himself indicate the classification of the imported goods in the Bill of Entry. The intention or deliberate attempt, on the part of importer, to evade duty has to be proved beyond reasonable doubt to justify such liability. No such allegation had been adduced in the impugned SCN.

F.21. Further, the import documents were submitted to the Customs department. The description of the products has remained the same and the Supplier's invoice has also remained as delivered. The Noticee submits that misdeclaration cannot be alleged in a classification dispute and hence, goods cannot be held liable for confiscation.

The proposal for confiscation is not sustainable as the conduct of the Noticee was bona fide.

F.22. As submitted in the aforementioned grounds, the Noticee had acted in a bona fide manner. Therefore, proposal of confiscation is liable to be dropped.

F.23. The Noticee place reliance on the case **of P Ripakumar and Company Vs. Union of India - 1991 (54) ELT 67 and Porcelain Crafts and Components Exim Ltd. Vs. CC - Calcutta, 2001 (198) ELT 471**

F.24. It is submitted that the Noticee cannot be held guilty of misdeclaration if the classification adopted by the Noticee is incorrect. Moreover, it is submitted that the basis of issuing the impugned SCN by the Department was the declaration of the Noticee in the bill of entry. Therefore, the allegation that the Noticee has mis-declared the particulars in the impugned BOEs is blatantly incorrect and baseless. Thus, the impugned goods are not liable for confiscation under Section 111(m) of the Customs Act.

Impugned goods are not available for confiscation.

F.25. Without prejudice to the other submissions, that confiscation of goods is not imposable when the goods are not available for confiscation. Reliance in this regard is placed on **Shiva Kripa Ispat Vs. CCE - 2009 (235) ELT 623 (Tri. - LB),** wherein it was held that goods which have been cleared cannot be confiscated. Therefore, the goods which are not in possession of the Noticee cannot be confiscated.

F.26. In the present case, the impugned goods were cleared for home consumption and used in the manufacture of finished goods. Further, the finished manufactured using the impugned goods have been already sold by the Noticee. Thus, the imported goods are not available for confiscation. Therefore, the impugned goods which are not in the possession of the Noticee cannot be confiscated.

F.27. Further, it is submitted that goods cannot be confiscated after clearance from the Custom Port. The impugned goods, in the present case, have been cleared and are not available for confiscation. Thus, it is submitted that the impugned SCN is liable to be dropped on this ground alone.

G. PENALTY IS NOT IMPOSABLE UNDER SECTION 114A OF THE CUSTOMS ACT

G.1. The Noticee has already submitted in the foregoing paragraphs that the demand of differential BCD and IGST is not sustainable in law. Once the demand of duty is found to be non-sustainable, the question of levy of penalty does not arise as per the settled law.

G.2. In this regard, reliance is placed on **H.M.M. Limited** supra and **CCE Vs. Balakrishna Industries - 2006 (201) ELT 325 (SC),**

G.3. The above judgment of the Hon'ble Supreme Court has been followed in several cases by the Hon'ble High Courts and Tribunals, including in the judgment of the Hon'ble Bombay High Court in the case of **CCE Vs, Cus. Vs. Nakoda Textile Industries Ltd - 2009 (240) ELT 199 (Bom.).**

G.4. As already submitted above, the Noticee had no intention to evade tax and there is no element of fraud, collusion, wilful-misstatement, or suppression of facts and therefore, penalty under Section 114A cannot be imposed.

G.5. Reliance in this regard is placed in the case of **CC Vs. Videomax Electronics - 2011 (264) ELT 0466 (Tri. -Bom.), Union of India Vs. Rajasthan Spinning & Weaving Mills - 2009 (238) ELT 3 (SC)** and **CC, Mumbai Vs. M.M.K. Jewellers - 2008 (225) ELT 3 (SC).**

G.6. Therefore, penalty under Section 114A cannot be imposed since there is no intention to evade tax and there is no element of fraud, collusion, wilful-misstatement, or suppression of facts.

Penalty cannot be imposed in absence of 'mens rea'

G.7. Without prejudice to the above, that imposition of penalty is a quasi-criminal proceeding. Penalty cannot be ordinarily imposed unless and until "mens rea" on the part of the defaulter is proved beyond all reasonable doubts. The impugned SCN has failed to bring out the essential "mens rea" or guilty mind of the Noticee. In fact, there was no intention to evade payment of duty on part of the Noticee. The Noticee was under a bona-fide belief that products under dispute are correctly classified.

G.8. Reliance is placed on the case of **Union of India Vs. Rajasthan Spinning and Weaving Mills Limited — 2009 (238) ELT 3 (SC)**

Penalty not imposable in cases involving Interpretation of statutory provisions

G.9. Without prejudice.to the submissions in the foregoing paragraphs, it is submitted that, the case involves interpretations of the provisions of the Customs Tariff Act. As already submitted, the Noticee acted in bona-fide belief. It has been held in several cases that no penalty is imposable in cases involving interpretation of the statutory provisions. Some of these cases are relied as under:

a. Auro Textile Vs. CCE —2010 (253) ELT 35 (Tri. -Del.)

b. Hindustan Lever Ltd. Vs. CCE-2010 (250) ELT 251 (Tri. -Del.)

c. Whiteline Chemicals Vs, CCE-2008 (229) ELT 95 (Tri. -Ahmd.)

d. Delphi Automotive Systems Vs. CCE — 2004 (163) ELT 47 (Tri. -Del.)

e. Rolex Logistics Vs. CCE —2009 (13) STR 147 (Tri-Bang)

G.10. In light of the aforesaid submissions, the Noticee cannot not be made liable to penalty under Section 114A of Customs Act and accordingly, the imposition of penalty in the impugned SCN should be quashed.

H. INTEREST CANNOT BE DEMANDED UNDER SECTION 28AA OF THE CUSTOMS ACT. WHEN DUTY DEMAND ITSELF IS NOT SUSTAINABLE. SIMILARLY, INTEREST AND

PENALTY CANNOT BE IMPOSED ON PROPOSED DEMAND OF IGST AND GOODS CANNOT BE CONFISCATED.

H.1. that the question of levy of interest arises only if the demand of duty is sustainable. As submitted in the foregoing paragraphs, the proposed demand of duty is not sustainable, therefore, the question of levy of any interest under Section 28AA on such duty would not arise.

H.2. The Hon'ble Supreme Court of India in the case of **Prathibha Processors Vs. UOI - 1996 (88) ELT 12 (SC),** has held that when the principal amount (duty) is not payable due to exemption, there is no occasion or basis to levy any interest, either.

Section 3(12) of Customs Tariff Act, 1975 does not borrow interest and penal provisions from the Customs Act. In absence of machinery provisions, no penalty and confiscation can be imposed, or interest recovered from the Noticee,

H.3. The impugned SCN has proposed to demand interest on the differential IGST, impose penalty and confiscate the impugned goods under the provisions of Customs Act. It is submitted that IGST is levied under Section 3(7) of the Customs Tariff. However, the Customs Tariff has limited provisions, and it borrows various provisions from the Customs Act for implementation of its provisions.

H.4. Section 3(12) of the Customs Tariff, which is the borrowing provision with regard to IGST, does not borrow provisions of confiscation, penalty and interest from the Customs Act. Therefore, it is submitted that confiscation of goods and penalty cannot be imposed, and interest cannot be recovered for non-payment of IGST which is chargeable under Section 3 of the Customs Tariff.

H.5. Reliance is placed on decision of The Hon'ble Bombay High Court in the case of **Mahindra and Mahindra Vs. UOT — 2022-VIL-690-BOM-CU**, this decision of the Hon'ble Bombay High Court has been maintained by the Hon'ble Supreme Court reported at 2023-VIL-72-SC-CU. Thereafter, the department also filed a review petition before the Hon'ble Supreme Court which stands dismissed vide Order dated 09.01.24.

H.6. Reliance is also place on the decision of CESTAT, Chennai in the case of **Acer India Vs. CC - 2023-VIL-998-CESTAT-CHE-CU**, in the decision of Hon'ble CESTAT, Mumbai in the recent case of **Philips India Ltd. Vs. CC - 2024-VIL-1531-CESTAT-MUM-CU, Chiripal Poly Films Vs. CC - 2024 (9) TMI 940 - CESTAT AHMEDABAD, India Carbon Vs. State of Assam - (1997) 6 SCC 479, J.K. Synthetics Vs. CTO, (1994) 4 SCC 276** and **V.V.S. Sugars Vs. Govt. of A.P. & Ors. - (1999) 4 SCC 192, Pioneer Silk Mills Vs. UOI — 1995 (80) ELT 507 (Delhi), Khemka & Co. (Agencies) - 1995 (76) ELT 235 (GOI)**[This judgment of the Hon'ble High Court of Delhi was approved by the Hon'ble Supreme Court in 2002 (145) ELT A74 (SC)], **Bajaj Health & Nutrition Vs. CC — 2004 (166) ELT 189, Tonira Pharma Ltd. vs. CC — 2009 (237) ELT 65 (Tribunal)** ***and*** **Siddeshwar Textile Mills Vs, Commissioner — 2009 (248) ELT 290 (Tribunal)** [which followed the case of Tonira Pharma (supra)].

H.7. It is therefore submitted that when there is no charge for recovery of interest and imposition of penalty and confiscation of goods, the same cannot be imposed/recovered from the Noticee in the absence of machinery provisions for assessment and collection of interest.

I. **PRESENT DEMAND IS INVALID IN ABSENCE OF AN APPEAL AGAINST THE OUT OF CHARGE ORDER / BILLS OF ENTRY.**

I.1 that the aforesaid orders (Out of Charge), being quasi-judicial orders, can only be set aside by an order of the competent appellate authority in appellate proceedings, that the quasi-judicial orders cannot be sought to be set aside by mere issuance of a SCN, which has proposed to declare the goods to be liable for confiscation.

I.2. This position has been affirmed in the case of **CCE Kanpur Vs. Flock (India) — 2000 (120) E.L.T 285 (S.C.), para 10.**

I.3 The above judgment was relied upon by the Hon'ble Supreme Court in respect of a refund claim arising under the provisions of the Customs Act in the case of **Priya Blue Industries Vs, CC (Preventive) — 2004 (172) ELT 145 (SC).**

I.4. The Hon'ble Supreme Court has once again affirmed this position in **ITC Limited Vs, CCE, Kolkata IV - 2019 (368) ELT 216 (SC)**, para 18, 43.

I.5. The above principle has been applied by the Hon'ble Punjab and Haryana High Court in **Jairath International Vs, UOI - 2019 (10) TMI 642**, also, in the case of **Vittesse Export Import Vs, CC (EP),**

Mumbai—2008 (224) ELT 241 (Tri. -Mumbai), Ashok Khetrapal Vs. CC, Jamnagar —2014 (304) ELT 408 (Tri. Ahmd.), Collector of Customs, Cochin Vs. Arvind Export—2001 (130) ELT 54 (Tri. -LB) and **Neelkanth Polymers Vs. CC, Kandla — 2009 (90) RLT 188 (Tri. -Ahmd.).**

I.6. that ratio of the aforesaid judgments is equally applicable to the case of the Noticee. In the present case also, the Department has sought to propose a demand without challenging the bill of entry and the resultant out of charge orders. In absence of any appeal against the said Out of Charge orders/ bills of entries which have been assessed by proper officers, it must be understood that the assessment has gained finality, which cannot be challenged or negated by issuance of the SCN. In view of this, the impugned SCN is liable to be dropped.

J. The Noticee craves leave to add, alter, amend and/or rescind any of the above submissions at the time of, before or after the personal hearing.

In view of the foregoing, it is respectfully prayed to —

(a) Drop the show cause notice no. 1621/ 2024-25/ GR. VA/ CAC/ INCH dated 16.01.2025 in toto;

(b) Drop the demand of Rs. 79,49,392.22/- along with interest and penalty and consequential relief;

(c) Grant a personal hearing; and

(d) Pass such order or orders as may be deemed fit and proper in the facts and circumstances of the case.

Written Submission of M/s. Man Logistics (India) Pvt. LTD (Customs Broker)

2.2 That no charges are laid out against the them nor any proposal of any action against them. Hence, it was prayed that no action may be taken against the Customs Broker. That the proceedings may be concluded in respect of the notice, M/s. Man Logistics (India) Pvt. Ltd.

3. RECORD OF PERSONAL HEARINGS

3.1. There are two Noticees in the subject SCN viz., (1). M/s. L G Electronics India Private Limited (IEC-0596063211) and (2). M /s. Man Logistics (India) Pvt. LTD (Customs Broker).

3.2. In compliance of provisions of Section 28(8) read with Section 122A of the Customs Act, 1962 and in terms of the principle of natural justice, the Noticees were granted opportunities of Personal Hearing (PH) on 11.11.2025 and 16.12.2025 for the same reasons, PH intimation letters were issued by speedpost. On 11.11.2025, Mr Sharad Kulshrestha, Authorised Representative, and Mr. Preetesh Srivastav, Authorised Representative, on behalf of M/s. L G Electronics India Private Limited attended the personal hearing before the Adjudicating Authority. During the PH, they reiterated the written submission dated 29.03.2025 and also stated that they will submit the synopsis of their written submission dated 29.03.2025.

3.3. On 16.12.2025, Mr. Sanjay Singhal, Advocate, on behalf of the Noticee No.2, attended the Personal Hearing before the Adjudicating Authority. During the PH, he reiterated the written submission dated 16.12.2025.

4. DISCUSSION AND FINDINGS

4.1 I have carefully gone through the subject Show Cause Notice (SCN) and its enclosures, material on record and facts of the case, as well as oral submissions made during the PH and written submission made by the Noticees. Accordingly, I proceed to decide the case on merit.

4.2. Section 122A of the Customs Act, 1962, stipulates that the Adjudicating Authority shall give an opportunity of being heard to a party in a proceeding, if the party so desires. The adjudicating authority may, if sufficient cause is shown, at any stage of proceeding, grant time, from time to time, to the parties or any of them and adjourn the hearing, provided that no such adjournment shall be granted more than three times to a party during the proceeding.

4.3. I find that in compliance to the provisions of the Section 28(8) and Section 122A of the Customs Act,1962 and in terms of the principles of natural justice, opportunities for Personal Hearing (PH) were granted to both the Noticees. Thus, the principles of natural justice have been followed during adjudication proceedings. Having compiled with the requirement of the principle of natural justice, I

proceed to decide the case on merits, bearing in mind the allegation made in the SCN as well as the Submission/Contention made by both the Noticees.

4.4. The Noticees have placed reliance on various judgments of Tribunals, High Courts and Apex Court on various issues, however, I find that the facts and circumstances involved in these judgements are not similar to facts and circumstances of the case in hand. Further, I find that the Hon'ble Supreme Court of India in case of Ambica Quarry Works Vs. State of Gujarat & Others [1987(l) S.C. C. 213] observed that *"the ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides and not what logically follows from it."* Further in the case of Bhavnagar University Vs. Palitana Sugar Mills (P) Ltd. 2003 (2) SCC 111, the Hon'ble Apex Court observed "It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

One other reference on the situation, I have noted is the decision of the Hon'ble Supreme Court in Ispat Industries Vs. Commissioner of Customs, Mumbai [2004 (202) ELT 56C (SC)], wherein, the Hon'ble Court has quoted Lord Denning and ordered as under:

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly reliance on a decision is not proper.

The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"*Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."*

4.5. I find that the subject SCN was issued based on data analysis carried out by Audit Commissionerate, JNCH in respect of imported goods declared as **"Computer Monitor For ADP (Automatic Data Processing) Use Only Without Tuner of different size, Monitors for use in Medical & Surgical and Computer Monitor having Size more than 32 inch. etc.",** as detailed in Annexure-A of the subject Notice. The subject goods were classified under CTI 85285200 of the First Schedule of the Customs Tariff Act, 1975, wherein IGST has been levied at the rate of 18% in terms of Sl. No. 383C and 384 of the Schedule III of IGST Notification No. 01/2017 dated 28.06.2017 and NIL BCD availing exemption under Customs Notification No. 24/2005 (Sr. No. 17) dated 01.03.2005.

It is alleged in the SCN that Sl. No. 383C and 384 of Schedule III of IGST Notification 01/2017 has been wrongly claimed for imported goods, declared as "**Computer Monitor For ADP (Automatic Data Processing) Use Only Without Tuner of different size, Computer Monitor having Size more than 32 inch.",** mentioned at Sr. No. 315, 721 to 744 and 746 of Annexure-A of the subject Notice (26 entries). The aforesaid imported goods are more specifically covered under Sl. No. 154 of Schedule IV of IGST Notification 01/2017 dated 28.06.2017 and attract IGST @28%. Therefore, the differential/short paid IGST amount, in respect of aforesaid goods, is proposed to demanded and recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest under Sectio 28AA of the Customs Act, 1962.

Further, it is also alleged in the SCN that the imported goods declared as **"SURGICAL DISPLAY/Medical Display TO BE USED WITH AUTOMATIC DATA PROCES",** mentioned at Sr. No. Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice, have been mis-classified under CTI 58285200 claiming duty exemption under Sr. no. 17 of Notification 24/2005 dated 01.03.2005, and also IGST has been wrongly claimed under Sl. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 for the aforesaid goods. The SCN proposes that the aforesaid goods are more appropriately classifiable under CTI 58285900 with BCD to be levied at the rate of 10% and the same are more specifically covered under Sl. No. 154 of Schedule IV of the IGST Notification No. 01/2017 dated 28.06.2017 attracting IGST @ 28%. Therefore, the differential duty, in respect of **"SURGICAL DISPLAY/Medical Display TO BE USED WITH AUTOMATIC DATA PROCES",** mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice, is proposed to be demanded and recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest under Sectio 28AA of the Customs Act, 1962. Further, the SCN proposes confiscation of the impugned goods and imposition of penalty on the Noticee under Section 114A of the Customs, 1962.

4.6. I find that the Noticee has paid differential IGST amount of Rs. 50,05,234 [Rs. 47,27,331/-(goods mentioned at Sr. No. 721 to 742 of the Annexure-A) + Rs. 2,77,903/-(for BE 6025820 dated 28.10.2021 which was not mentioned in Annexure-A)] along with applicable interest of Rs. 9,14,439 for the goods Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches vide Challans No. HCM456 and HCM 457 dated 05.01.2023. Therefore, the Noticee has paid aforesaid amount before issuance of this Consultative Letter No 12/2024-25/C1 dated 24.04.2024.

Further, I find that the Noticee has paid differential IGST amount of Rs. 39,65,205/- along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/- for the goods Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches and Monitors for use in Surgical as Surgical Display mentioned at Sr. No.315, 743 to 752, 757 and 758 of the Annexure-A after issuance of this Consultative Letter on 19.06.2024.

Furthermore, I find that the Noticee has paid differential duty amount Rs. 42,06,819/- [Rs. 20,96,769/-(duty amount), Rs. 11,20,376/- (interest amount), Rs. 5,87,095/- (IGST amount) and Rs. 4,02,579/-(Penalty amount)] for impugned goods mentioned at Sr.No.745,747 to 752, 757 & 758 (9 entries in Annexure-A of the subject notice) containing description of **SURGICAL DISPLAY TO BE USED WITH AUTOMATIC DATA PROCESS.**

4.7. I find that noticee in their written submission has contended that the goods were imported on the basis of assessed Bills of Entry which are in themselves to be considered as appealable orders under Section 47 of the CA, 1962; that the assessment orders being quasi-judicial orders, they ought be challenged before taking recourse to Section 28 of the Customs Act; that the demand of duty is not sustainable as the assessment has not been challenged by the Department. They relied upon the case of ITC Ltd. Vs Commissioner of Central Excise, Kolkata-IV [2019 (368) ELT 216 (SC)].

4.8 In this context, I find that there are plenty of case laws of various Appellate Forums, wherein it is held that for demand of short levy of Customs Duty, assessment is not required to be challenged. In the case of M/s. ITC Ltd., the Hon'ble Supreme Court was dealing with the issue of filing Refund under Section 27 of the Customs Act, 1962 without taking recourse to modify the assessment. The Hon'ble Supreme Court observed (Para 44 and 47 of the judgment) that refund proceedings under Section 27 are in the nature of execution for refunding amount and assessment cannot be challenged by way of refund application. It is also held that any order including self-assessment can be modified under Section 128 or under other relevant provisions of the Act. Thus, the judgment was given in the backdrop of different set of facts to hold that appeal against the assessment of Bill of Entry to modify the assessment is prerequisite for sanctioning of refund and refund sanctioning authority cannot adjudicate the exigencies involved. Hence, reliance placed by the Noticee on case law of M/s. ITC Ltd. is of no avail in the case on hand.

4.9. I find that this issue has also been settled by the Hon'ble Supreme Court in the case of Union of India V/s. Jain Shudh Vanaspati Limited [reported at 1996 (86) ELT 460 (SC)] wherein it has been clearly held that Show Cause Notice under Section 28 of the Customs Act, 1962 can be issued without revising the order of assessment. The same ratio was once again pronounced by the Hon'ble Supreme Court in the case of Collector of Central Excise, Bhubaneshwar V/s. Re-Rolling Mills [reported at 1997 (94) ELT 8 (SC)]. Once again by relying the ratio of Jain Shudh Vanaspati Limited [reported at 1996 (86) ELT 460 (SC)] the Civil Appeal No. 327/1998 filed by Component Corporation was rejected by the Supreme Court as reported at Component Corporation V/s Collector – 1998 (99) ELT A228 and thus, upholding the Tribunal's order dated 19-09-1996 reported at Component Corporation V/s. Collector of Customs, New Delhi – 1997 (93) ELT 225 (Tribunal).

4.10. I further rely upon some of the judgments, the details of the same are as follows:

(i) M/s. Interglobe Aviation Ltd. V/s. Pr. Commissioner Bangalore reported in 2022 (379) ELT 235 (Tri. Bang.);

"18. Coming to the issue as to whether the issuance of notice under section 28 of Customs Act, 1962 was correct as no appeals have been filed against the assessed bills of entry, we find that the appellants placed reliance on the decision of Hon'ble Supreme Court in the case of ITC Ltd Vs Commissioner of Central Excise, Kolkata IV, 2019 (368) ELT 216 (SC) wherein it was held that the sign/endorsement made on the bill of entry is an order of assessment under Section 17 which is an appealable order and any person including the departmental authorities who are aggrieved by order of self-assessment should challenge the assessment by way of filing an appeal against such self-assessment under Section 128 of the Customs Act, 1962; they submit that in the absence of any appeal against the Out of Charge orders for clearance of goods or the Bills of Entry passed by the proper officers of Customs, the said orders of

assessment and clearance have attained finality and the same cannot be challenged or negated by issuance of the impugned order.

18.1. Learned Commissioner, on the other hand, finds that the case laws submitted by the appellants pertained to the era where goods were assessed duty by the officers whereas in the present case, the goods have been cleared on self-assessment basis. We find that the appellants have relied upon the recent decision of Hon'ble Supreme Court in the case of ITC Ltd. Vs CCE, Kolkata-IV, 2019 (368) ELT 216(SC). We find that the issue for consideration before Apex Court was about refund and in this context, Hon'ble Apex Court has observed that in terms of the provisions of Section 27 read with Section 17 of the Customs Act, 1962, no refund claim is maintainable unless the order of assessment is challenged. The Hon'ble Supreme Court observes that: 47. When we consider the overall effect of the provisions prior to amendment and post-amendment under Finance Act, 2011, we are of the opinion that the claim for refund cannot be entertained unless the order of assessment or self-assessment is modified in accordance with law by taking recourse to the appropriate proceedings and it would not be within the ken of Section 27 to set aside the order of self-assessment and reassess the duty for making refund; and in case any person is aggrieved by any order which would include self-assessment, he has to get the order modified under Section 128 or under other relevant provisions of the Act.

18.2. On going through the above cited case, we find that the issue which was considered by the Hon'ble Apex Court was not "Demand" issued under Section 28 but "Refund" under Section 27. We find that the Apex Court has not, anywhere in the order, observed that for issuing a demand under Section 28, the assessment order needs to be challenged under the provisions of Section 128. We cannot read such a conclusion from the judgment. Therefore, we find that in view of the provisions of Section 17 and Section 28 of the Customs Act, 1962, the demand issued is in order. We find that learned Commissioner has rightly relied upon the order of Hon'ble Madras High Court, 2006 (199) ELT 405."

(ii) Commissioner of Customs, C. Ex. & ST, Hyderabad-II V/s. M/s. S.V. Technologies Pvt. Ltd. reported in 2019 (369) ELT 1631 (Tri. Hyd.); wherein it has been clearly held that Show Cause Notice can be issued without challenging the assessment in view of the issue already settled by the Supreme Court in the case of Jain Shudh Vanaspati Limited. It has been further held that judgment of Priya Blue Industries - 2004 (172) ELT 145 (SC) and Flock (India) Private Limited - 2000 (120) ELT 285 (SC) are clearly distinguishable being related to refund and not demand.

4.11. On 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 or not the levy of IGST rate of 18% (S. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017) on the impugned goods as mentioned at Sr. No. 315, 721 to 744 and 746 of Annexure-A of the subject Notice (26 entries) should be rejected and IGST rate of 28% (S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017) should be levied on the aforesaid impugned goods;

(ii) Whether or not the declared CTH 85285200 of goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice should be rejected and re-assessed under CTH 85285900;

(iii) Whether or not the levy of IGST rate of 18% (S. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017) on the impugned goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice should be rejected and IGST rate of 28% (S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017) should be levied on the aforesaid impugned goods;

(iv) Whether or not the levy of Nil BCD availed under Sr. No. 17 of the Customs Notification No. 24/2005 dated 01.03.2005 for goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice should be rejected and be levied to the applicable rate of BCD @10%;

(v) Whether or not the differential IGST amount of **Rs. 39,65,205/-** with respect to the items mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice, the differential IGST amount of **Rs. 47,27,331/-** with respect to the items mentioned at Sr. No. 721 to 742 of the Annexure-A of the subject Notice and the Differential Duty amount of **Rs. 1,06,33,256/-** (Rs. One crore six lakh thirty-three thousand two hundred and fifty-six) with respect to the items covered under Bills of entry as mentioned in Annexure-B and Annexure-C of the

subject Notice should be demanded/recovered under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act;

(vi) Whether or not Penalty should be imposed on the importer under Section 114A of the Customs Act, 1962 in respect of goods mentioned above at para 4.12(v);

(vii) Whether or not the impugned goods covered under the Bills of Entry listed at serial numbers 721 to 742 (for which the importer paid differential IGST of ₹47,27,331/-) and serial numbers 315, 743 to 752, 757, and 758 (for which the importer paid differential IGST of ₹39,65,205/-) of Annexure-A, valued at **Rs. 8,68,34,307/- (Rupees Eight crore Sixty-Eight Lakh Thirty-Four Thousand Three Hundred seven only)**, as well as the goods covered under the Bills of Entry in Annexure-B and Annexure-C, valued at **Rs. 5,20,73,960/- (Rupees Five crore Twenty Lakh Seventy-Three Thousand Nine Hundred Sixty only),** should be held liable for confiscation under Section 111(m) of the Customs Act, 1962, for contravening the provisions of Section 46(4) and Section 46(4A) of the said Act;

(viii) Whether or not the differential IGST amount of Rs. 39,65,205/-, along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/-, for the goods mentioned at Sr. No.315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice and the amount of Rs. 42,06,819/- (including differential duty, interest and penalty) for goods mentioned in Annexure-B of the subject Notice should be appropriated against liabilities.

4.12. **Whether or not the levy of IGST rate of 18% (S. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017) on the impugned goods as mentioned at Sr. No. 315, 721 to 744 and 746 of Annexure-A of the subject Notice (26 entries) should be rejected and IGST rate of 28% (S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017) should be levied on the aforesaid impugned goods;**

(i) I find that the Noticee had imported goods having declared description as Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches mentioned at Sr. No. 315, 721 to 744 and 746 of Annexure-A of the subject Notice (26 entries). The Noticee had claimed Sl. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017 for levy of IGST rate of 18% on the impugned goods. As per the SCN, the aforesaid impugned goods are more appropriately classifiable under Sl. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017, which attracts IGST rate of 28%. Thus, I find that the main issue involved here is determination of correct IGST Notification Schedule/Sr. No. for the impugned imported goods.

(ii) I note that the Noticee had claimed Sl. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017 while the SCN has proposed Sl. No. 154 of Schedule IV IGST Notification No. 01/2017 dated 28.06.2017. Further, I find that the Noticee has classified the aforesaid imported goods under CTI 85285200 having description as "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches". Even the SCN does not contest the Noticee's classification and description of the impugned goods. Hence, there is no dispute regarding classification and description of the goods imported by the Noticee under CTI 85285200. Therefore, it would be worthwhile to look at the contested IGST entries under IGST Notification 01/2017. The IGST entries are as under:

Schedule	S.No.	Chapter/ Heading/ Subheading/ Tariff item	Description of Goods	Rate
III	383C	8528	Television Set (Including LCD or LED Television) of screen size not exceeding (32 inches)	18%
III	384	8528	Computer monitors not exceeding 32 Inches, Set Top Box for Television (TV)	18%

IV	154	8528	Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing apparatus [other than computer monitors not exceeding 32 inches, STB for Television and Television Set (Including LCD or LED television) of screen size not exceeding 32 Inches]	28%

(iii) From perusal of above IGST entries under Schedule III and IV, I find that Sl. No. 383C of Schedule III of the said Notification is applicable to Television Set (Including LCD or LED Television) of screen size not exceeding (32 inches) while Sl. No. 384 of Schedule III of IGST Notification No. 01/2017 is applicable to Computer monitors not exceeding 32 inches. Further, I find that Sl. No.154 of Schedule IV of the said Notification is applicable to Computer monitors exceeding 32 inches. In the instant case, impugned goods have description as "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches". Therefore, I find that Sl. No. 154 of Schedule IV of the aforesaid Notification is correctly applicable to impugned goods having description as "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches" mentioned at Sr. No. 315, 721 to 744 and 746 of Annexure-A of the subject Notice (26 entries).

(iv) I find that the Noticee has also not contended this classification proposed under the subject SCN and paid the applicable differential duty as per findings in para 4.6 above. Accordingly, I reject the classification of the aforesaid impugned goods (mentioned at Sr. No. 315, 721 to 744 and 746 of Annexure-A of the subject Notice) under Sr. No. 383C and 384 of Schedule III of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and hold that the subject goods should be re-classified under Serial No. 154 of Schedule-IV of Notification No. 01/2017- Integrated Tax (Rate) dated. 28.06.2017.

4.13. **Whether or not the declared CTH 85285200 of goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice should be rejected and re-assessed under CTH 85285900;**

(i) I find that the subject SCN proposed to reject the classification of the subject imported goods, mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice, under CTI 85285200 and reclassify the said imported goods under CTI 85285900. The description of the aforesaid imported goods is declared as "**SURGICAL DISPLAY/Medical Display TO BE USED WITH AUTOMATIC DATA PROCESS**". Thus, I find that there are two types of Displays/Monitors in the instant case. First is Surgical Display or monitor and the other is Medical Display or Monitor. Therefore, I find that main issued involved here is determination of correct Customs Tariff Item (CTI) for the both types of Monitors/Displays imported by the Noticee.

(ii) I find that, in the SCN, it is argued that the goods of chapters 84 and 85, which are parts of machine, for example, monitors designed for X- ray machines or any other medical apparatus, which are specifically classifiable under heading 85285900 and will remain classified under 8528 even though they work in tandem solely and principally with machines of chapter 90 (Medical apparatus or otherwise) in view of note 2(a) of section XVI. The Monitors classifiable under 85285900 are not computer monitors; thus, the said goods will fall under Sr. No. IV 154 of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28 06.2017 (as amended) and attract IGST @28%.

(iii) Here, I find that there are two competing CTI for the aforesaid impugned goods, which are 85285200 and 85285900. Therefore, it is worthwhile to look at the relevant Tariff Heading and Tariff Items provided in the Tariff Schedule to the Customs Tariff Act, 1972 and also to look at the corresponding Explanatory Notes of WCO for the relevant Tariff Heading/Item.

8528		MONITORS AND PROJECTORS, NOT INCORPORATING TELEVISION RECEPTION APPARATUS, RECEPTION APPARATUS FOR TELEVISION, WHETHER OR NOT INCORPORATING RADIO-BROADCASTRECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS

	-	Cathode-ray tube monitors:
85284200	--	Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471
85284900	--	Other
	-	Other monitors:
85285200	--	Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471
85285900	--	Other

Relevant paragraphs of Explanatory Notes are reproduced below:

(4) MONITORS CAPABLE OF DIRECTLY CONNECTING TO AND DESIGNED FOR USE WITH AN AUTOMATIC DATA PROCESSING MACHINE OF HEADING 84.71

This group includes monitors which are capable of accepting a signal from the central processing unit of an automatic data processing machine and provide a graphical presentation of the data processed. These monitors are distinguishable from other types of monitors (see (B) below) and from television receivers,

The monitors of this group may be characterised by the following features:

(i) They usually display signals of. graphics adaptors (monochrome or colour) which are integrated in the central processing unit of automatic data processing machine;

(ii) They do not incorporate a channel selector or video tuner;

(iii) They are fitted "with connectors characteristic of data processing systems (e.g., RS-232C interface, DIN, D-SUB, VGA, DVI, HDMI or DP (display port) connectors),

(iv) The viewable image size ofihese monitors does not generally exceed 76 em (10 inches);

(v) They have a display pitch size (usually smaller than 0.3 mm) suitable for close proximity viewing;

(vi) They may have an audio circuit and built-in speakers (generally, 2 watts or less in total):They usually have control buttons situated in the front panel;

(vii) They usually cannot be operated by a remote control;

(viii) They may incorporate tilt, swivel and height adjusting mechanisms, glare free surfaces, flicker free display and other ergonomic design characteristics to facilitate prolonged periods of viewing or close proximity to the monitor;

(ix) They may utilize wireless communication protocol to display data from an automatic data processing machine of heading 84. 71

(B) MONITORS OTHER THAN THOSE CAPABLE OF DIRECTLY CONNECTING TO AND DESIGNED FOR USE WITH AN AUTOMATIC DATA PROCESSING MACHINE OF HEADING 84.71

This group includes monitors which are capable of receiving signals when connected directly to the video camera or recorder by means of composite video, s-video or co-axial cables, so that all the radio-frequency circuits are eliminated. They are typically used by television companies or for closed-circuit television (airports, railway stations, factories, hospitals, etc.). They can, moreover, have separate inputs for red (R), green (G) and blue (B), or be coded in accordance with a particular standard (NTSC, SECAM, PAL, D-MAC, etc.). For reception of coded signals, the monitor must be equipped with a decoding device covering (the separation of) the R, G and B signals. They are not fitted with connectors characteristic of data processing systems, and they do not incorporate tilt, swivel and height adjusting mechanisms, glare-free surfaces, flicker-free display, and other ergonomic design characteristics to facilitate prolonged periods of viewing at close proximity to the monitor. They do not incorporate a channel selector or video tuner.

(iv) From perusal of above, I note that cathode-ray tube monitor is classifiable under Sub-heading 8528 42 or 8528 49. In the present case, Surgical and Medical Monitors imported by the Noticee are LED Monitors, thus, the same not being cathode-ray monitors are to be classified as "Other Monitors". Further, I note that monitors which are capable of directly connecting to and designed for use with an ADP machine of Heading 84.71 are classified under Tariff Item 85285200 and monitors which are not capable of directly connecting to and designed for use with an ADP machine are classified under Tariff Item 85285900. Thus, I find that classification under 85285200 is applicable only when both conditions are satisfied, namely:

(a) Capability of direct connection to an ADP machine, and

(b) 'Design for use' with an ADP machine of Heading 8471 (establishing end-use condition).

(v) It is a settled position of law that end use is a relevant criterion for classification only when the tariff entry or chapter note itself incorporates such use, in which case the classification under that Heading or entry must establish compliance with the said requirement. **{Ref: Kumudam Publications (P) Limited [1997 (96) E.L.T. 226 (S.C.)}**

(vi) In this regard, reference can be further made to the decision of Hon'ble Tribunal in the case of ***Camlin Limited [2000 (121) E.L.T. 178 (Tribunal)]*** wherein while determining the classification of 'Aluminium ferrules designed for bonding the rubber eraser with the lead pencil' it was held that "on the aspect of functionality we find that the aluminium ferrules are solely designed for use in the pencils and therefore become parts meriting classification under the same entry as the lead pencils"

(vii) I note that the Nottcee has submitted that Surgical Monitors imported by them are LED monitors. The aforesaid monitors are designed to be fitted with other full HD surgical devices i.e. camera, which helps to transmit an instant image onto the monitor during a surgery. In other words, the aforesaid monitors are specifically designed to be used by the medical practitioners during a surgery to provide instant real-time images.

The Noticee has imported various models of Surgical Monitors which helps surgeons easily identify details, presenting accurate, realistic images during a procedure. The Surgical Monitors are connected to surgical camera which has an in-built processing unit and is inserted within a patient's body during surgery which transmits the data to the Surgical Monitor via the cables in the form of electronic signal. The surgical camera houses the imaging sensor, lens, light source and other electrical components which helps to capture the images and display them on the monitor.

(viii) These monitors are DICOM compliant and enables surgeons to view accurate, realistic images by maximizing compatibility. In addition, illumination sensors measure backlight brightness and automatically compensate for fluctuations in brightness caused by ambient temperature and aging for a consistently stable display.

Further, as the monitors are used in the medical industry it uses IPS display with sRGB which enables to view accurate and realistic image and when multiple doctors take part in the surgery, the wide viewing angle of the IPS panel allows each doctor to view content on the monitor from different angles with minimal colour shift. Further, a few monitors also have a picture-by-picture (PBP) multimodality connectivity up to 4 PBP, Furthermore, the monitors have HDMI, DVI, 2G-SDI and Display Port input terminals and also have output terminals such as Display Port, DVI and 2G-SDI. The Surgical Monitors are certified with the FDA as Registration (Class 1) which indicates that the aforesaid monitor is to be used in the medical industry.

(ix) Also, I note that the Medical Display Monitors and Diagnostic Monitors (hereinafter referred to as "Medical Monitors") imported by the Noticee are LED monitors, The aforesaid monitors do not have any inbuilt central processing unit i.e. it cannot function or display any images on its own without being connected to an Automatic Data Processing (ADP) machine. In other words, when connected to an ADP machine the Medical Monitors can display images on the screen, In the present case, the Noticee has imported various models of Medical Monitors which are used in the medical industry to view diagnostic images by medical professionals. The Medical Monitors are connected to a workstation having Picture Archiving and Communication Systems (PACS) software, which comprises of a central processing unit (CPU) which processes the information stored in it and transmits the data to the Computer Monitor via the cables. PACS stores and manages diagnostic images from X-ray machines, MRIs, CT scanners, ultrasounds, CR, etc. These images are usually in the DICOM (Digital Imaging and Communications in Medicine) format. The workstations usually have an in-built processor, operating system, graphic card, etc., for interpreting and re-processing the DICOM raw data acquired from different modalities by

accessing the advanced processing functions. When the PACS workstation is connected to the Medical Monitors, it allows medical professionals to easily and quickly display the images for review, analysis, and diagnosis. The Computer Monitor is connected to a workstation using DVI-D, Display Port connection.

It is pertinent to note that the Medical Monitors do not have any standalone functionality. It is only when the Medical Monitors are connected to an ADP machine i.e. workstation can the monitors be used by the medical professionals to display images.

Further, as the monitors are used in the medical industry it uses IPS display which offers optimized picture quality without any colour shift. The monitors also have various sensors such as Illumination sensor, Presence sensor and Calibration sensor. Further, a few monitors also have a dual controller which helps view and review images from multiple devices, Furthermore, the monitors have HDMI and Display Port input terminals and also has upstream and downstream USB. The monitors have control buttons situated in the front panel and a few monitors also have built-in speakers. Further, the monitors can be tilted, has height adjusting mechanism, has dual controller, flicker safe to facilitate prolonged period of viewing at close proximity.

The Clinical Review Monitors are registered under the US Food & Drug Administration (FDA) as Class I medical monitor and the Diagnostic Monitors are registered as FDA as 510(k) Class II which shows that the aforesaid monitors are to be used in the medical industry.

(x) In view of above para 4.14 (vii) to (ix), I find that the subject goods are **surgical and medical monitors** used in hospitals and clinical environments for:

- Display of real-time images/videos generated by medical equipment such as endoscopy systems, surgical cameras, ultrasound machines, and other diagnostic devices;
- High-precision visualization of medical images/videos with specialised calibration, brightness, contrast, and compliance with medical imaging standards.

Also, the aforesaid monitors **do not perform any data processing**, nor do they independently function as automatic data processing machines.

(xi) Further, based on the details submitted by the Noticee, I find that the aforesaid monitors are specifically designed for medical and surgical applications. They are marketed, certified, and supplied as medical display devices, not as computer peripherals. Their principal function is visual display of medical imaging output, not interaction with or operation as part of an ADP system, aforesaid monitors a Part of Medical system. The ADP system, i.e. workstation, performs enabling or facilitating function to access medical/diagnostic images or surgical videos from medical or surgical devices. The processing unit may be in-built or integrated within the medical devices, in which case images or videos can directly be displayed from such integrated medical devices, as in the case of Surgical Camera. Although the medical monitors may be capable of accepting digital video signals through interfaces such as HDMI or DisplayPort, mere capability of connection does not satisfy the requirement of being "designed for use with" ADP machines of Heading 8471. It is well settled that the expression *"designed for use with"* implies principal design, primary intention, and predominant use. Incidental or ancillary compatibility with computers cannot be the sole basis for classification under CTH 85285200.

(xii) In view of foregoing discussions, I am of the opinion that the primary function and predominant use of Surgical and medical monitors are to display images or videos from medical or surgical devices. Therefore, aforesaid monitors are not Computer monitors as defined under CTI 85285200. Therefore, I hold that the classification of Surgical and medical monitors under CTI 85285200 should be rejected and the aforesaid imported goods should be classified under CTI 85285900. Accordingly, I hold that the declared CTH 85285200 of goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice should be rejected and re-assessed under CTH 85285900.

4.14. **Whether or not the levy of IGST rate of 18% (S. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017) on the impugned goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice should be rejected and IGST rate of 28% (S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017) should be levied on the aforesaid impugned goods;**

(i) I find that the Noticee had imported goods having declared description as "SURGICAL DISPLAY/Medical Display TO BE USED WITH AUTOMATIC DATA PROCESS" at Sr. No. 27, 44,

411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice. The Noticee had claimed Sl. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017 for levy of IGST rate of 18% on the impugned goods. As per the SCN, the aforesaid impugned goods are more appropriately classifiable under Sl. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017, which attracts IGST rate of 28%. Thus, I find that the main issue involved here determination of correct IGST Notification Schedule/Sr. No. for the impugned imported goods.

(ii) In aforementioned Para 4.13 (xii), I have held that the Surgical and medical monitors are not Computer Monitors as defined under CTI 85285200, therefore, such monitors should be classified under CTI 85285900. Further, as discussed in Para 4.12 (iii) above, from perusal of IGST entries under Schedule III and IV, I find that Sl. No. 383C of Schedule III is applicable to Television Set (Including LCD or LED Television) of screen size not exceeding (32 inches). In the instant case, the imported goods are Surgical and medical Monitors, therefore, aforesaid goods are not Television Set (Including LCD or LED Television) of screen size not exceeding (32 inches). Accordingly, I hold that levy of 18% IGST rate under Sl No. 383C of Schedule III of IGST Notification 01/2017 dated 28.06.2017 on the impugned Surgical and Medical Monitors should be rejected.

(iii) Also, I find that Sl. No. 384 of Schedule III of IGST Notification No. 01/2017 is applicable to Computer monitors not exceeding 32 Inches, Set Top Box for Television (TV). The instant imported goods Surgical and Medical Monitors are not Computer Monitors as defined under CTI 85285200. Also, aforesaid Surgical and Medical Monitors cannot be considered as Set Top Box for Television (TV). Thus, I find that Sl. No. 384 of Schedule III of IGST Notification No. 01/2017 is not applicable on the aforesaid Surgical and Medical Monitors. Accordingly, I hold that levy of 18% IGST rate under Sl No. 384 of Schedule III of IGST Notification 01/2017 dated 28.06.2017 on the impugned Surgical and Medical Monitors should be rejected.

(iv) Further, I find that Sl. No.154 of Schedule IV of the IGST Notification No. 01/2017 dated 28.06.2017 is applicable to goods which fulfils the following two conditions:

(a) Such goods must fulfil the description under "*Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receiver or sound or video recording or reproducing apparatus [other than computer monitors not exceeding 32 inches, STB for Television and Television Set (Including LCD or LED television) of screen size not exceeding 32 Inches]*"

(b) Such goods must be classified under Tariff Heading 8528.

(v) In the instant case, I have held in Para 4.13 (xii) above impugned goods having description "**SURGICAL DISPLAY/Medical Display TO BE USED WITH AUTOMATIC DATA PROCESS**" are monitors classified under CTI 85285900 and they fulfil both the abovementioned conditions. Thus, I am of the opinion Sl. No. 154 of Schedule IV of the aforesaid Notification is correctly applicable to impugned goods having description as "**SURGICAL DISPLAY/Medical Display TO BE USED WITH AUTOMATIC DATA PROCESS**" mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice. Accordingly, I hold that the levy of IGST rate of 18% (S. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017) on the impugned goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice should be rejected and IGST rate of 28% (S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017) should be levied on the aforesaid impugned goods.

4.15. **Whether or not the levy of Nil BCD availed under Sr. No. 17 of the Customs Notification No. 24/2005 dated 01.03.2005 for goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice should be rejected and be levied to the applicable rate of BCD @10%;**

(i) I find that the Noticee had imported goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice. The aforesaid goods have declared description as "**SURGICAL DISPLAY/Medical Display TO BE USED WITH AUTOMATIC DATA PROCESS**". I find the Noticee had claimed duty exemption under Sr. No. 17 of the Customs Notification NO. 24/2005 dated 01.03.2005, as amended on the aforesaid imported goods. As per the SCN, the above items imported by the Noticee are not eligible for the benefit of duty exemption under Sr. No. 17 of the Notification No.24/2005 dated 01.03.2005 as amended.

(ii) I note that the Noticee had classified the subject imported goods under CTI 85285200.

I find that the impugned goods have been classified under "Other Monitors". And within "Other monitors", the subject goods classified under "Capable of directly connecting to and designed for use with an automatic data processing machine of heading 8471". The subject SCN proposed the classification of the impugned Surgical and Medical Monitors under CTI 85285900 under residual entry. Further, I have also held, in Para 4.14 (xii), that the imported goods Surgical and Medical monitors should be classified under CTI 85285900, as the same are not computer monitors capable of directly connecting to and designed for use with an automatic data processing machine off heading 8471, as defined under CTI 85285200.

(iii) Further, it would be worthwhile to look at the Customs Notification No. 24/2005 dated 01.03.2005. The extract of Sr. No. 17 of the said Notification is reproduced as under:

Sr. No.	**Heading, Sub Heading or Tariff Item**	**Description**
17.	852842, 852852 or 852862	All goods of a kind solely or principally used in an automatic data processing system of heading 8471

(iv) From the perusal of above Sr. No. 17 of Notification No. 24/2005 dated 01.03.2005, it is evident that in order to claim benefit of Sr. No. 17, the subject goods must fulfil both of the following two conditions:

(a) The goods must be classified under Heading, Sub Heading or Tariff item 852842, 852852 or 582862.

(b) The goods must be of a kind solely or principally used in an automatic data processing system of heading 8471.

(v) As I have held that the aforesaid Surgical and Medical Monitors should be classified under CTI 85285900, therefore, the impugned imported goods do not fulfil the condition (a), wherein the classification of the goods must be under sub Heading 852842, 852852 or 852862, to avail the benefit of Sr. no. 17 of the Notification No. 24/2005.

(vi) Further, I find that the aforesaid monitors are specifically designed for medical and surgical applications. They are marketed, certified, and supplied as medical display devices, not as computer peripherals. Their principal function is visual display of medical imaging output. The ADP machines help in processing the raw data obtained from the medical devices. The ADP machines may be located outside the medical devices or may be incorporated within the medical devices in order to process the raw images or video data. In such circumstances, I am of the opinion that the aforesaid Surgical and Medical Monitors cannot described as goods of a kind solely or principally used in automatic data processing system. Therefore, I find that the impugned imported goods do not fulfil Condition (b) for claiming the benefit under Sr. No. 17 of the Notification No. 24/2005 dated 01.03.2005. Thus, the same are not eligible for classification under the said Serial No. In view of the non-eligibility of classification under Serial No. 17, I find that the duty benefit claimed under Sr. No. 17 of the said Notification for the impugned goods is liable to be rejected.

(viii) It is pertinent to mention that exemption notification has to be strictly and narrowly construed. It is settled law that, in an exemption notification, there is no room for any change in the intendment which envisages the clear meaning of the words used therein. Therefore, the sense in which the law understands or interprets the true intention of the notification should remain intact. In other words, the admissibility of exemption, under a notification, from payment of duty / or availability of payment of duty at reduced rate on specified goods is governed wholly by the language of the notification.

(a) I find that it is well established that any exemption notification has to be strictly interpreted and in the case of doubt the benefit should go to the department. Hon'ble Apex Court in the case of *Commissioner of Customs (Import), Mumbai Vs. Dilip Kumar & Company [2018 (361) E.L.T. 577 (S.C.)]* has held that exemption notification should be interpreted strictly and ambiguity in exemption notification must be interpreted in favour of the Revenue. The relevant paras, para 41 and 52 of the said order are reproduced below:

> *"41. After thoroughly examining the various precedents some of which were cited before us and after giving our anxious consideration, we would be more than justified to conclude and also*

compelled to hold that every taxing statute including, charging, computation and exemption clause (at the threshold stage) should be interpreted strictly. Further, in case of ambiguity in a charging provisions, the benefit must necessarily go in favour of subject/assessee, but the same is not true for an exemption notification wherein the benefit of ambiguity must be strictly interpreted in favour of the Revenue/State."

"52. To sum up, we answer the reference holding as under -

(1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification."

(2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue."

(b) In the case of *Saraswati Sugar Mills Vs. Commissioner of C. Ex., Delhi-III* reported at [*2011 (270) E.L.T. 465 (S.C.)*], it was held that an exemption notification has to be strictly construed and that when the wordings of notification are clear, then the plain language of the notification must be given effect to. Relevant portion of the judgment is extracted below:

"7. The Tariff Act prescribes the rate of duty for each chapter head and sub-head. The Tariff Act has authorized the Central Govt. to modify the rates/duty by issuing notifications. Since exemption notifications are issued under delegated legislative power, they have full statutory force. The Notification No. 67/95-C.E., dated 16-3-1995 specifically exempts capital goods as defined in Rule 57Q of the Rules. The other condition that is envisaged in the Notification is that the "capital goods' should be manufactured in a factory and used within the factory of production. If these twin conditions are satisfied, the capital goods are exempt from payment of excise duty. A party claiming exemption has to prove that he/it is eligible for exemption contained in the notification. ***An exemption notification has to be strictly construed. The conditions for taking benefit under the notification are also to be strictly interpreted. When the wordings of notification is clear, then the plain language of the notification must be given effect to. By way of an interpretation or construction, the Court cannot add or substitute any word while construing the notification either to grant or deny exemption. The Courts are also not expected to stretch the words of notification or add or subtract words in order to grant or deny the benefit of exemption notification.*** *In Bombay Chemicals (P) Ltd. v. CCE - (1995) Supp (2) SCC 64 = 1995 (17) E.L.T. 3 (S.C.), a three Judge Bench of this Court held that an exemption notification should be construed strictly, but once an article is found to satisfy the test by which it falls in the notification, then it cannot be excluded from it by construing such notification narrowly"*

(c) I also find that it is a settled law that a person who claims exemption or concession has to establish that he is entitled to that exemption or concession and the exemption has to be construed based upon the settings on which the provision has been placed in the statute and the object and purpose to be achieved. In this regard, I place reliance on the judgement of the Hon'ble Supreme Court in the case of *CCE, New Delhi Vs Hari Chand Shri Gopal and Others [2010 (260) ELT 3 (SC)]*, wherein, the issue of grant and claim of exemption has been clarified by holding as under:

"a person who claims exemption or concession has to establish that he is entitled to that exemption or concession. ***A provision providing for an exemption, concession or exception, as the case may be, has to be construed strictly with certain exceptions depending upon the settings on which the provision has been placed in the statute and the object and purpose to be achieved.*** *If exemption is available on complying with certain conditions, the conditions have to be complied with. The mandatory requirements of those conditions must be obeyed or fulfilled exactly, though at times, some latitude can be shown, if there is a failure to comply with some requirements which are directory in nature, the non-compliance of which would not affect the essence or substance of the notification granting exemption."*

(d) Similarly, the Hon'ble Supreme Court of India in the case of *M/s Novopan India Ltd Vs. Collector of C. Ex and Customs, Hyderabad 1994 (73) E.L.T.769 (SC)*, has held that:

"a person, invoking an exception or exemption provisions, to relieve him of tax liability must establish clearly that he is covered by the said provisions and, in case of doubt or ambiguity, the benefit of it must go to the State."

(e) In view of the above legal position and after having gone through the provisions of the subject Serial No. 17 of Notification No. 24/2005, I find that when the words used in the exemption notification are plain and clear in meaning and do not admit of any doubt or ambiguity, such words, represent the legislative intent, leaving no room for any construction of the words to gather any other intention therefrom.

(ix) In view of the foregoing discussion, taking in view the importer's submission and above referred judgement, I am of the opinion that the subject goods are not eligible to claim benefit of Sr. No. 17 of Notification No. 24/2005 dated 01.03.2005, as amended and duty should be levied at applicable rate of 10% along with SWS. Accordingly, I reject the levy of Nil BCD availed under Sr. No. 17 of the Customs Notification No. 24/2005 dated 01.03.2005 for goods mentioned at Sr. No. 27, 44, 411, 488, 489, 560, 561, 613, 745 and 747 to 763 (26 entries) of the Annexure-A of the Subject Notice and hold that duty should be levied to the applicable rate of BCD @10%.

4.16. **Whether or not the differential IGST amount of Rs. 39,65,205/- with respect to the items mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice, the differential IGST amount of Rs. 47,27,331/- with respect to the items mentioned at Sr. No. 721 to 742 of the Annexure-A of the subject Notice and the Differential Duty amount of Rs. 1,06,33,256 (Rs. One crore six lakh thirty-three thousand two hundred and fifty-six) with respect to the items covered under Bills of entry as mentioned in Annexure-B and Annexure-C of the subject Notice should be demanded/recovered under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act;**

(i) After having determined the classification of the impugned imported goods having description "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches", "Surgical Monitors" and "Medical Monitors", it is imperative to determine whether the demand of differential/short paid IGST amount of Rs. Rs. 39,65,205/- with respect to the items mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice, the differential IGST amount of Rs. 47,27,331/- with respect to the items mentioned at Sr. No. 721 to 742 of the Annexure-A of the subject Notice and the Differential Duty amount of Rs. 1,06,33,256 (Rs. One crore six lakh thirty-three thousand two hundred and fifty-six) with respect to the items covered under Bills of entry as mentioned in Annexure-B and Annexure-C of the subject Notice under the provisions of Section 28(4) of the Customs Act, 1962, in the subject SCN is sustainable or otherwise. In this regard, the relevant legal provision is as under:

SECTION 28(4) of the Customs Act, 1962.

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

–

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

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

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

(ii) I have determined in the preceding paras that the impugned goods having description "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches", "Medical Monitors" and "Surgical Monitors" are correctly classifiable under Serial No. 154 of Schedule IV of Notification No. 01/2017-Integrated Tax (Rate) dtd. 28.06.2017 which attracts IGST @28%. Further, I have also determined in the preceding paras that the impugned goods having description "Surgical Display/Monitors" and "Medical Display/Monitors" are correctly classifiable under CTI 85285900 and the aforesaid goods are ineligible to claim duty exemption under Serial No. 17 of the Notification No. 24/2005 dated 01.03.2005. I find that being a regular importer, the Noticee must

be well aware of the type of equipment, their parts and accessories, correct classification, applicable duty exemption and leviability of IGST thereon. However, in the instant case, they did not declare the correct classification and leviability of IGST on the imported goods in the Bills of Entry. I find that the Noticee wilfully mis-classified the goods having description "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches", "Medical Monitor" and "Surgical Monitors" under wrong IGST Schedule, while knowing that the imported goods were rightly classifiable under Serial No. 154 of Schedule-IV of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 which attracts IGST @28%. Also, I find that the Noticee wilfully mis-classified the goods having description "Medical Monitors" and "Surgical Monitors" under CTI 85285200, whereas the aforesaid goods are rightly classifiable under CTI 85285900 and ineligible to claim duty exemption under Serial No. 17 of Notification No. 24/2005 dated 01.03.2005.

(iii) I find that Consultative Letter No 12/2024-25/C1 dated 24.04.2024 was issued to the Noticee informing the Audit observations as detailed in the aforesaid Consultative Letter. Also, I find that in reply to the aforesaid Consultative Letter, the Noticee vide their letter dated 21.06.2024 informed that they had paid differential IGST amount of Rs. 50,05,234 [Rs. 47,27,331/-(goods mentioned at Sr. No. 721 to 742 of the Annexure-A of the Subject Notice) + Rs. 2,77,903/-(for BE 6025820 dated 28.10.2021 which was not mentioned in Annexure-A of the subject Notice)] along with applicable interest of Rs. 9,14,439 for the goods "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches" vide Challans No. HCM456 and HCM 457 dated 05.01.2023. The details of all the payments made by the importer are given in Table below:

Table

Entry No.	Challan / DD No. and date	Amount of duty (Rs.)	Amount of interest (Rs.)	Amount of penalty (Rs.)
721 to 742 of Annexure-A of Notice	HCM456 and HCM457 dated 05.01.2023	50,05,234/-	9,14,439/-	-
315, 743 to 752, 757, 758 of Annexure-A of Notice	HCM1327, HCM1328 and HCM1329 dated 19.06.2024	39,65,205/-	16,08,701/-	5,94,781/-
Annexure-B of the notice	HC-65 and HCM-531 dated 20.01.2025	26,83,864/-	11,20,376/-	4,02,579/-

(iv) I find that the aforesaid Challans have been verified from the Cash Section, JNCH, Nhava Sheva. I find that the Noticee has voluntarily paid the differential IGST amount Rs. Rs. 47,27,331/-(for goods mentioned at Sr. No. 721 to 742 of the Annexure-A of the Subject Notice) along with applicable interest, for the goods having description "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches", before issuance of the aforesaid Consultative Letter. Thus, in respect of impugned goods mentioned at Sr. No. 721 to 742 of Annexure-A of the subject Notice, the Noticee had already discharged its duty liability before the issuance of the aforesaid Consultative Letter dated 24.04.2024. Accordingly, I hold that the demand of differential IGST amounting to Rs. 47,27,331/-, with respect to items mentioned at Sr. No. 721 to 742 of the Annexure-A of the subject Notice, under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962, is not sustainable and liable to be dropped.

(v) Further, I find that the Noticee vide their letter dated 21.06.2024 informed the aforesaid Consultative Letter authority that the Noticee had paid the differential IGST amount of Rs. 39,65,205/- along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/- for the goods 'Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches' and 'Surgical Monitors' mentioned at Sr. No.315, 743 to 752, 757 and 758 of the Annexure-A of the subject notice, after issuance of this Consultative Letter, on 19.06.2024 vide Challans No. HCM 1327, HCM 1328 and HCM 1329, all dated 19.06.2024. Since, the Noticee has paid the applicable differential IGST amount of Rs. 39,65,205/- after the issuance of the aforesaid Consultative Letter, therefore, I am of the

view that the differential IGST amount of Rs. 39,65,205/- with respect to the items, 'Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches' and 'Surgical Monitors', mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice is correctly demanded under Section 28 (4) of the Customs Act, 1962.

(vi) Furthermore, I find that Consultative Letter No 12/2024-25/C1 dated 06.01.2025 [DIN 20250178NY0000444D46] was issued to the Noticee informing the Audit observations as detailed in the aforesaid Consultative Letter. I find that the Noticee vide their reply letter dated 20.01.2025 informed that they had acknowledged their liability against "Surgical Display/Monitors" mentioned in Annexure-B of the subject Notice and voluntarily deposited Rs. 42,06,819/- (Duty of amount Rs. 20,96,769/-, applicable interest of amount Rs. 11,20,376/-, Penalty (@15%) of amount Rs. 4,02,579/-, and differential IGST of amount Rs. 5,87,095/-) vide Challans No. HC-65 dated 20.01.2025 and HCM-531 dated 20.01.2025. Therefore, I find that the Noticee partially acknowledged their liability and paid a partial differential duty of amount Rs. 26,83,864/- following the issuance of the aforesaid Consultative Letter. However, this payment only partially addresses the total demand of amount Rs. 1,06,33,256 related to 'Surgical Monitors' and 'Medical Monitors' listed in Annexures B and C of the subject Notice. Thus, in this regard, I am of the view that the differential duty of amount Rs. 1,06,33,256/-, in respect of goods having description "Surgical Monitors" and Medical Monitors" mentioned in Annexure-B and Annexure-C of the subject Notice, is correctly demanded under Section 28(4) of the Customs Act, 1962.

(vii) I find that had the department not raised the issue and initiated proceedings under the Customs Act, 1962, the duty so evaded might have gone unnoticed & unpaid. The Noticee has paid less duty by mis-classification of impugned goods, wrongly claiming duty exemption and non-payment of applicable IGST on the subject goods, which tantamount to suppression of material facts and wilful mis-statement. The Noticee mis-classified the goods and suppressed the correct IGST schedule and leviability of correct IGST on the goods to evade duty. This shows wilful suppression, mis-statement and malafide intention of the Noticee to evade payment of legitimately payable duty. As the Noticee got monetary benefit due to their wilful mis-declaration and evasion of applicable duty on the subject goods, hence, I find that duty was correctly demanded under Section 28(4) of the Customs Act, 1962, by invoking extended period.

(viii) I find that the Noticee evaded correctly payable duty by intentionally suppressing the correct classification of the imported product by not declaring the same at the time of filing of the Bills of Entry and wrongly availing duty exemption. Further, they wilfully mis-classified the goods of description "Computer Monitor having size more than 32 inches", "Medical Monitors" and "Surgical Monitors" under wrong Sr. No. III-383C & III-384 of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 when knowing that the aforesaid imported goods were rightly classifiable under Serial No. IV-154 of Notification No. 01/2017- Integrated Tax (Rate) dtd. 28.06.2017 which attracts IGST @28%. Also, the Noticee wilfully misclassified the goods of description "Surgical Monitors" and "Medical Monitors" under CTI 85285200 and wrongly availed duty exemption under Serial No. 17 of Notification No. 24/2005-Cus dated 01.03.2005, when knowing that the aforesaid goods "Surgical Monitors" and "Medical Monitors" are ineligible to claim duty exemption being correctly classifiable under CTI 85285900, attracting BCD at merit rate of 10%. By resorting to this deliberate suppression of facts and wilful mis-classification, the Noticee has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer. Thus, this wilful and deliberate act was done with the fraudulent intention to claim ineligible lower rate of duty.

(ix) Regarding the larger period of limitation invoked in this case, I find that to evade payment of correctly leviable duty, the Noticee mis-classified and also suppressed the correct IGST Schedule of the impugned goods, and also fraudulently claimed lower rate of duty at the time of filing of the Bills of Entry. Thus, there is an element of 'mens rea' involved. The instant case is not a simple case of bonafide wrong declaration of classification, duty exemption notification and IGST Sr. No. and claiming lower rate of duty. Instead, in the instant case, the Noticee deliberately chose to mis-classify the goods imported to claim lower rate of duty, being fully aware of the correct nature and classification of the imported goods. This wilful and deliberate act clearly brings out their 'mens rea' in this case. Once the 'mens rea' is established on the part of the Noticee, the extended period of limitation, automatically get attracted.

(x) In view of the foregoing, I find that, due to the deliberate and wilful mis-classification of goods, the differential IGST demand of Rs. 39,65,205/—pertaining to 'Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches' and 'Surgical Monitors' (as listed at Sr. No. 315, 743 to 752, 757, and 758 of Annexure-A of the notice)—has been correctly proposed under Section 28(4) of the Customs Act, 1962, by invoking the extended period of limitation.

Furthermore, I also hold that the differential duty demand of Rs. 1,06,33,256/- for 'Surgical Monitors' and 'Medical Monitors' (as listed in Annexure-B and Annexure-C of the notice) has also 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 following court decisions:

(a) 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]

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.

(b) 2013(290) E.L.T.322 (Guj.): Salasar Dyeing & Printing Mills (P) Ltd. Versus C.C.E. & C., Surat-I; Tax Appeal No. 132 of 2011, decided on 27.01.2012.

Demand - Limitation - Fraud, collusion, wilful misstatement, etc. - Extended period can be invoked up to five years anterior to date of service of notice - Assessee's plea that in such case, only one year was available for service of notice, which should be reckoned from date of knowledge of department about fraud, collusion, wilful misstatement, etc., rejected as it would lead to strange and anomalous results;

(xi) I find that the Noticee has classified the imported goods under Sr. No. III-383C & III-384 of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 paying IGST @ 18%, whereas the goods should fall under Sl. No. 154 of Schedule-IIV of the above notification attracting IGST @ 28%. Accordingly, the differential IGST amount Rs. 39,65,205/- resulting from re-classification of the imported goods under correct sl no and schedule of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 as proposed in the subject Show Cause Notice, is recoverable from M/s LG Electronics India Pvt. Ltd. under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

(xii) I find that the Noticee has classified the imported goods of description "Medical Monitors" and "Surgical Monitors" under CTI 85285200 and availed duty exemption under Serial No. 17 of Notification No. 24/2005 dated 01.03.2005 paying NIL BCD and also declared IGST Serial No. under Sr. No. III-383C and III-384 of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 paying IGST @18%, whereas the goods should fall under CTI 85285900 attracting BCD@ 10% and Sl. No. 154 of Schedule-IV of the above notification attracting IGST @ 28%. Accordingly, the differential duty of amount Rs. 1,06,33,256/- resulting from re-classification of the imported goods after imposing of higher rate of BCD and IGST as per the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 as proposed in the subject Show Cause Notice, is recoverable from the Noticee under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

(xiii) 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)]. In Directorate of Revenue Intelligence, Mumbai Vs. Valecha Engineering Limited, Hon'ble Bombay High Court observed that, in view of Section 28AA, interest is automatically payable on failure by the assessee to pay duty as assessed within the time as set out therein.

(xiv) Accordingly, I hold that the demand of the differential IGST amount of Rs. 47,27,331/-, with respect to the items mentioned at Sr. No. 721 to 742 of the Annexure-A of the subject Notice, under Section 28 (4) of the Customs Act, 1962, from the Noticee should be dropped.

Further, I hold that the differential IGST amount of Rs. 39,65,205/- with respect to the items mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice is correctly demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962, by invoking extended period.

Also, I hold that the differential duty of amount Rs. 1,06,33,256/- in respect of imported goods mentioned in Annexure-B and Annexure-C of the subject Notice is correctly demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962, by invoking extended period.

(xv) I find that the Noticee has submitted in their written submissions that they accepted the re-classification of Surgical Monitors under CTI 85285900 covered under Bills of Entry mentioned in Annexure-B and paid the differential duty along with applicable interest and penalty @15% vide Challans No. HC-65 dated 20.01.2025 and HCM-531 dated 20.01.2025. Accordingly, the Noticee had paid differential Duty of amount Rs. 20,96,769/-(HC-65), applicable interest of amount Rs. 11,20,376/-(HCM-531), Penalty (@15%) of amount Rs. 4,02,579/-(HCM-531), and differential IGST of amount Rs. 5,87,095/- (HCM-531). This payment has also been verified from the Cash Section, JNCH, Nhava Sheva on 15.01.2026. Thus, I find that the full payment towards differential BCD and IGST demanded, applicable interest and penalty (@15%) has been made by the importer in respect of goods mentioned in the Annexure-B of the subject notice prior to the reciept of the subject Show Cause Notice.

(xvi) In preceding paras, I have held that the differential duty amounting to **Rs. 1,06,33,256 (Rs. One crore six lakh thirty-three thousand two hundred and fifty-six)** with respect to the items having description Surgical Monitors and Medical Monitors covered under Bills of Entry as mentioned in Annexure-B and Annexure-C, respectively, of the subject Notice is correctly demanded under the provisions of Section 28(4) of the Customs, Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. The Noticee had deposited Rs. 20,96,769/- for demand of differential duty and Rs. 5,87,095/- for demand of differential IGST, along with applicable interest and penalty (@15%) within the prescribed time limit provided in the Customs Act, 1962, in respect of "Surgical Monitors" mentioned in the Annexure-B of the subject Notice. Accordingly, I hold that the remaining differential duty of amount Rs. 79,49,392/-, in respect of impugned imported goods "Medical Monitors" as mentioned in Annexure-C of the subject notice, should be demanded from the Noticee under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962.

4.17. **Whether or not Penalty should be imposed on the importer under Section 114A of the Customs Act, 1962 in respect of goods mentioned above at para 4.12(v)**

(i) I find that the subject SCN proposes Penalty on the importer under Section 114A of the Customs Act, 1962. The provisions of Section 114A of the Customs Act, 1962 are reproduced as under:

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 (2) of section 28 *shall also be liable to pay a penalty equal to the duty or interest so determined:*

Provided *that where such duty or interest, as the case may be, as determined under sub-section (8) of* section 28*, and the interest payable thereon under section* 28AA*, is paid within thirty days from the date of the communication of the orders of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be* ***twenty-five per cent*** *of the duty or interest, as the case may be, so determined:*

Provided *further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:*

Provided *also that where any penalty has been levied under this section, no penalty shall be levied under* section 112 *or* section 114.

(ii) I have held in preceding Para 4.16(xiv), that the demand of the differential IGST amount of Rs. 47,27,331/, with respect to the items mentioned at Sr. No. 721 to 742 of the Annexure-A of the subject Notice, under Section 28 (4) of the Customs Act, 1962, from the Noticee, is unsustainable and should be dropped. Therefore, once the demand of duty is found to be non-sustainable, the question of levy of penalty does not arise as per the settled law.

(iii) In this regard, reliance is placed on COLLECTOR OF CENTRAL EXCISE Versus H.M.M. LIMITED 1995 (76) E.L.T. 497 (S.C.), wherein the Hon'ble Supreme Court held that the question of penalty would

arise only if the Department were able to sustain the demand. Similarly, in CCE Vs. Balakrishna Industries - 2006 (201) ELT 325 (SC), the Hon'ble Supreme Court held that, penalty is not imposable when differential duty is not payable.

(iv) The above judgment of the Hon'ble Supreme Court has been followed in several cases by the Hon'ble High Courts and Tribunals, including in the judgment of the Hon'ble Bombay High Court in the case of CCE Vs, Cus. Vs. Nakoda Textile Industries Ltd - 2009 (240) ELT 199 (Bom.).

(v) In Para 4.16 (xiv), I held that the differential IGST amount of Rs. 39,65,205/—pertaining to 'Computer Monitors for ADP Use Only Without Tuner (size exceeding 32 inches)' and 'Surgical Monitors' listed at Sr. Nos. 315, 743 to 752, 757, and 758 of Annexure-A of the subject Notice—is correctly demanded under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA, by invoking the extended period. Similarly, I held in Para 4.16(xiv) that the differential duty of Rs. 1,06,33,256/- for the goods listed in Annexure-B and Annexure-C of the subject Notice is correctly demanded under the same provisions. Since the Noticee derived monetary benefits through the wilful mis-declaration and suppression of facts regarding these goods, I find that the demand under Section 28(4) invoking the extended period is justified. Furthermore, in the regime of self-assessment, the Noticee incorrectly assessed the Bills of Entry and evaded the payment of correctly leviable duty for the goods covered under Sr. Nos. 315, 721 to 752, 757, and 758 of Annexure-A of the notice, as well as those listed in Annexure-B and Annexure-C of the subject Notice.

(vi) I find that the Bills of Entry listed at Sr. Nos. 315, 743 to 752, 757, and 758 of Annexure-A of the notice as well as Bills of Entry listed in Annexure-B and Annexure-C of the notice were self-assessed by the Noticee. The Noticee was fully aware of the true nature and characteristics of the imported goods and, consequently, had knowledge of the correctly leviable duty. Despite this, they willfully suppressed these material facts and evaded payment of the legitimately payable duty in the Bills of Entry filed before the Customs authorities.

By resorting to aforesaid suppression and mis-declaration, the Noticee evaded their legitimate duty liability. Under the self-assessment regime established by **Section 17** of the Customs Act, 1962, it is obligatory for an importer to truthfully declare all particulars relevant for the assessment of goods, ensuring their accuracy and authenticity. In this instance, the importer clearly failed to fulfill this obligation with mala fide intent. They suppressed information regarding the correctly leviable duty to claim undue benefits at the time of clearance of the aforesaid impugned goods. Such willful and deliberate suppression of facts amply demonstrates the Noticee's *mens rea* to evade legitimate duty. The wilful and deliberate acts of the Noticee to evade payment of legitimate duty, clearly brings out their 'mens rea' in this case. Once *mens rea* is established, the extended period of limitation under Section 28(4) of the Customs Act, 1962, as well as the relevant confiscation and penal provisions, are automatically get attracted.

(vii) I find that as per Section 114A, imposition of penalty is mandatory once the elements for invocation of extended period are established. Hon'ble Supreme Court in *Grasim Industries Ltd. V. Collector of Customs, Bombay [(2002) 4 SCC 297=2002 (141) E.L.T.593 (S.C.)]* has followed the same principle and observed:

> "*Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for Court to take upon itself the task of amending or altering the statutory provisions.*" (para 10).

Hon'ble Supreme Court has again in *Union of India Vs. Ind-Swift Laboratories* has held: "*A taxing statute must be interpreted in the light of what is clearly expressed. It is not permissible to import provisions in a taxing statute so as to supply any assumed deficiency....*" [2011 (265) ELT 3 (SC)].

(viii) Thus, in view of the mandatory nature of penalty under Section 114A no other conclusion can be drawn in this regard. I also rely upon case reported in 2015 (328) E.L.T. 238 (Tri. - Mumbai) in the case of *SAMAY ELECTRONICS (P) LTD. Versus C.C. (IMPORT) (GENERAL), Mumbai*, in which it has been held:

> *Penalty - Imposition of - Once demand confirmed under Section 28 of Customs Act, 1962 read with Section 9A of Customs Tariff Act, 1975 on account of fraud, penalty under Section 114A ibid mandatory and cannot be waived - Therefore imposition of penalty cannot be faulted - Section 114A ibid.*

(ix) As I held above, the extended period of limitation under Section 28(4) of the Customs Act, 1962, has been correctly invoked for the demand of the differential IGST amount of **Rs. 39,65,205/-** (pertaining to

items at Sr. Nos. 315, 743 to 752, 757, and 758 of Annexure-A of the notice) and the differential duty of **Rs. 1,06,33,256/- (Rupees One crore six lakh thirty-three thousand two hundred and fifty-six)** regarding 'Surgical Monitors' and 'Medical Monitors' listed in Annexure-B and Annexure-C of the notice, respectively. Consequently, the penalty proposed under Section 114A in the impugned Show Cause Notice (SCN) is justified. Accordingly, I hold that Noticee is liable for a penalty under Section 114A of the Customs Act, 1962, for willful mis-declaration and suppression of facts with the intent to evade duty.

(x) I find that the Noticee has paid the differential IGST and duty amounts, along with applicable interest and a 15% penalty, for goods listed in Annexure-A of the Notice (Sr. Nos. 315, 743 to 752, 757, and 758) and Annexure-B of the Notice. In respect of goods listed at Sr. Nos. 315, 743 to 752, 757, and 758 of Annexure-A of the notice, the Noticee paid Rs. 39,65,205/- for IGST, Rs.16,08,701/- for interest, and Rs 5,94,781/- for penalty prior to the issuance of the Show Cause Notice. Also, I find that in respect of the goods mentioned in Annexure-B of the notice, payments of ₹26,83,864/- for duty, Rs. 11,20,376/- for interest, and Rs. 4,02,579/- for penalty were made within the time limits prescribed under Section 28(5) of the Customs Act, 1962. All payments were verified by the Cash Section, JNCH, Nhava Sheva, on 15.01.2026.

(xi) I note that Section 28(6) of the Customs Act, 1962 functions as a statutory dispute-closure and litigation-mitigation mechanism. It allows for the conclusion of proceedings when the duty, interest, and reduced penalty are paid within the stipulated time. Since the importer has fulfilled these conditions for both sets of goods, I find that the full payments towards the demanded amounts have been settled. Accordingly, I hold that the proceedings against the importer for the demands of differential IGST of amount Rs. 39,65,205/-, in respect of goods mentioned at Sr. Nos. 315, 743 to 752, 757, and 758 of Annexure-A of the notice, and of differential duty totalling Rs. 26,83,864/-, in respect of goods mentioned in Annexure-B of the notice, are fit for conclusion in terms of **Section 28(6)(i) of the Customs Act, 1962.**

4.18. **Whether or not the impugned goods—covered under Bills of Entry mentioned at Sr. Nos. 721 to 742 (for which the importer has paid differential IGST of Rs. 47,27,331/-) and Sr. Nos. 315, 743 to 752, 757, and 758 of Annexure-A of the Subject Notice (for which the importer has paid differential IGST amount of Rs. 39,65,205/-), valued at Rs. 8,68,34,307/- (Rupees Eight Crore Sixty-Eight Lakh Thirty-Four Thousand Three Hundred and Seven only), and the impugned goods covered under Bills of Entry mentioned in Annexure-B and Annexure-C of the Subject Notice, valued at Rs. 5,20,73,960/- (Rupees Five Crore Twenty Lakh Seventy-Three Thousand Nine Hundred and Sixty only)—should be held liable for confiscation under the provisions of Section 111(m) for contravention of Section 46(4) and Section 46(4A) of the Customs Act, 1962.**

(i) The SCN proposes the confiscation of goods imported vide Bills of Entry mentioned at Sr. Nos. 721 to 742 (for which the importer has paid differential IGST of Rs. 47,27,331/-) and Sr. Nos. 315, 743 to 752, 757, and 758 of Annexure-A, valued at Rs. 8,68,34,307/- (Rupees Eight Crore Sixty-Eight Lakh Thirty-Four Thousand Three Hundred and Seven only). It further proposes the confiscation of goods covered under Bills of Entry mentioned in Annexure-B and Annexure-C of the subject Notice, valued at Rs. 5,20,73,960/- (Rupees Five Crore Twenty Lakh Seventy-Three Thousand Nine Hundred and Sixty only), under the provisions of Section 111(m) of the Customs Act, 1962.

(ii) Section 111(m) of the Customs Act, 1962 states that the following goods brought from a place outside India shall be liable to confiscation:

> *(m) Any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77, in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of Section 54;*

(iii) Section 111(m) deals with any and all types of mis-declaration regarding any particular of Bill of Entry. Therefore, the declaration of the importer herein by mis-classification of the impugned goods, amounts to mis-declaration and shall make the goods liable to confiscation.

(iv) I have already held in foregoing paras that the impugned goods having description "Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches", Surgical Monitors/Display" and "Medical Monitors/Display" are correctly classifiable under the Serial No. 154 of Schedule-IV of Notification No. 01/2017- Integrated Tax (Rate) dtd. 28.06.2017 which attracts IGST @28%. Also, I held in foregoing paras that the impugned goods, "Surgical Monitors" and

"Medical Monitors" are correctly classifiable under Tariff Item 85285900 attracting BCD@10%. The Noticee was very well aware of the actual nature of the imported goods, their classification and the applicable correct IGST Schedule.

(v) In the foregoing paras, I have determined that the demand of differential IGST of Rs. 47,27,331/- in respect to the items mentioned at Sr. No. 721 to 742 of the Annexure-A of the subject Notice under Section 28 (4) of the Customs Act, 1962, is unsustainable as the duty liability with applicable interest has already been discharged by the notice before issuance of Consultative Letter and, therefore, should be dropped. However, in respect of goods mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the Subject Notice (for which the importer has paid differential IGST amount of Rs. 39,65,205/-), the Noticee deliberately suppressed the correct IGST Schedule, and instead mis-classified the impugned goods under Sr. No. III-383C & III-384 of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 in the Bills of Entry to pay lower IGST. Further, I find that in respect of goods mentioned in Annexure-B and Annexure-C of the notice, the Noticee deliberately suppressed the correct CTI and IGST schedule, instead misclassified the aforesaid impugned goods under CTI 85285200 and under Serial Nos. III-383C and III-384 of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 in the respective Bills of Entry in order to claim lower rate of duty and to pay lower IGST. This deliberate suppression of facts and wilful mis-classification resorted by the Noticee, therefore, rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962. Accordingly, I find that acts of omission and commission on part of the Noticee have rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.

(vi) I find that Section 111(m) provides for confiscation even in cases where goods do not correspond in respect of any other particulars in respect of which the entry is made under the Customs Act, 1962. I have to restrict myself only to examine the words "in respect of any other particular with the entry made under this act" would also cover case of mis-classification. As this act of the importer has resulted in short levy and short payment of duty, I find that the confiscation of the imported goods invoking Section 111(m) is justified and sustainable.

(vii) 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.

(viii) 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 Customs Act, 1962 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.

(ix) Prior to 08.04.2011, sub-section (2) of Section 2 of the Customs Act, 1962 read as under:

> *(2) "assessment" includes provisional assessment, reassessment and any order of assessment in which the duty assessed is nil;*

Finance Act, 2011 introduced provision for self-assessment by the importer. Subsequent to substitution by the Finance Act, 2011 (Act 8 of 2011), (w.e.f. 08.04.2011) sub-section (2) of Section 2 ibid read as under:

Section 2 - Definitions, Sub-section (2) – assessment:

(2) "assessment" includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;

With effect from 29.03.2018, the term 'assessment' in sub-section (2) of Section 2 ibid means as follows:

(2) "assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to-

a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;

b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;

c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;

d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;

e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods,

f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,

and includes provisional assessment self-assessment, re-assessment and any assessment in which the duty assessed is nil;

(x) From a plain reading of the above provisions related to assessment, it is very clear that w.e.f. 08.04.2011, the importer must self-assess the duty under Section 17 read with Section 2(2) of the Customs Act, and since 2018 the scope of assessment was widened. Under the self-assessment regime, it was statutorily incumbent upon the importer to correctly self-assess the goods in respect of classification, valuation, claimed exemption notification and other particulars. With effect from 29.03.2018, the term 'assessment', which includes provisional assessment also, the importer is obligated to not only establish the correct classification but also to ascertain the eligibility of the imported goods for any duty exemptions. From the facts of the case as detailed above, it is evident that M/s LG Electronic India Pvt. Ltd. has deliberately failed to discharge this statutory responsibility cast upon them.

(xi) Besides, as indicated above, in terms of the provisions of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018, the importer while presenting a Bill of Entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such Bill of Entry. In terms of the provisions of Section 47 of the Customs Act, 1962, the importer shall pay the appropriate duty payable on imported goods and then clear the same for home consumption. However, in the subject case, the importer while filing the Bill of Entry has resorted to deliberate suppression of facts and wilful mis-classification to claim lower rate of duty. Thus, the Noticee has failed to correctly assess and pay the appropriate duty payable on the imported goods before clearing the same for home consumption. Therefore, I find that by not self-assessing the true and correct rate of Customs duty applicable on the subject goods, the importer wilfully did not pay the applicable duty on the impugned goods.

(xii) In view of the foregoing discussions, I am of the view that the impugned imported goods mentioned at Sr. Nos. 315, 743 to 752, 757, and 758 of Annexure-A of the Subject Notice (for which the importer has paid a differential IGST amount of Rs. 39,65,205/-), with a total assessable value of Rs. 3,96,52,050/- (Rupees Three Crore Ninety-Six Lakh Fifty-Two Thousand and Fifty Only), and the impugned imported goods mentioned in Annexure-B and Annexure-C of the Subject Notice, with a total assessable value of Rs. 5,20,73,960/- (Rupees Five Crore Twenty Lakh Seventy-Three Thousand Nine Hundred

Sixty Only), as declared in the Bills of Entry filed by M/s LG Electronics India Pvt. Ltd., should be held liable for confiscation under Section 111(m) of the Customs Act, 1962, on the grounds of suppression and mis-classification of the imported goods.

(xiii) As the importer, through wilful mis-statement and suppression of facts, had mis-classified the goods while filing the Bills of Entry with intent to evade the applicable Customs duty, resulting in short levy and short payment of duty, I find that the confiscation of the imported goods under Section 111(m) is justified & sustainable in law. 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)."*

(a) 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.).

(b) 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.

(c) I find that the declaration under Section 46(4) of the Customs Act, 1962 made by the importer at the time of filing Bill of Entry is to be considered as an undertaking which appears as good as conditional release. I further find that there are various orders passed by the Hon'ble CESTAT, High Court and Supreme Court, wherein it is held that the goods cleared on execution of Undertaking/ Bond are liable for confiscation under Section 111 of the Customs Act, 1962 and Redemption Fine is imposable on them under provisions of Section 125 of the Customs Act, 1962.

(d) 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. Hon'ble Bombay High Court in case of *M/s Unimark reported in 2017(335) ELT (193) (Bom)* held Redemption Fine (RF) imposable in case of liability of confiscation of goods under provisions of Section 111(o). Thus, I also find that the goods are liable for confiscation under other sub-sections of Section 111 too, as the goods committing equal offense are to be treated equally. I opine that merely because the importer was not caught at the time of clearance of the imported goods, can't be given different treatment.

(e) In view of the above, I 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.),* which has been passed after observing decision of Hon'ble Bombay High Court in case of *M/s Finesse Creations Inc. reported vide 2009 (248) ELT 122 (Bom)*- upheld by Hon'ble Supreme Court in 2010(255) ELT A. 120 (SC), is squarely applicable in the present case. 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(m) of the Customs Act, 1962. Accordingly, since the impugned goods are not prohibited goods, the said goods are required to be allowed for redemption by the owner on payment of fine in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

(xiv) I find from the above findings and legal provisions that the importer had willfully did not pay the applicable duty on the imported goods. Therefore, I hold that the acts and omissions of the importer, by way of collusion, wilful mis-statement, mis-declaration and suppression of facts, of the imported goods, have rendered the goods liable to confiscation under section 111(m) of the Customs Act, 1962 and Redemption Fine is imposable on them under provisions of Section 125 of the Customs Act, 1962.

(xv) I find that the spirit of the legal statute enshrined in section 28(6) of the Customs Act, 1962 is also echoed in first proviso to section 125(1) of the Customs Act. The relevant portion of the Section 125 of the Customs Act, 1962 is reproduced as under:

Section 125. Option to pay fine in lieu of confiscation. -

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

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

.....

(xvi) As I have already held in para 4.17(xi) that the proceedings against the importer for demand of differential IGST of Rs. 39,65,205/-, in respect of goods mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject notice, having assessable value of **Rs. 3,96,52,050/- (Rupees Three Crore Ninety-Six Lakh Fifty-Two Thousand and Fifty Only).** are fit for conclusion in terms of Section 28(6)(i) of the Customs Act, 1962. Accordingly, I hold that redemption fine under Section 125of the Customs Act, 1962, by virtue of the Proviso thereunder, is unsustainable and cannot be levied.

(xvii) Also, as I have held in preceding para 4.17(xi) that the proceedings against the importer for demand of duty of Rs. 26,83,864/-, in respect of goods mentioned in Annexure-B of the subject notice, having assessable value **of Rs. 1,90,61,533/- (Rupees One Crore Ninety Lakh Sixty Thousand Five Hundred Thirty-Three Only)** are fit for conclusion in terms of Section 28(6)(i) of the Customs Act, 1962. Accordingly, I hold that redemption fine under Section 125 of the Customs Act, 1962, by virtue of the Proviso thereunder, is unsustainable and cannot be levied.

(xviii) Accordingly, in view of foregoing discussion, I hold that the impugned goods having description "Medical Monitors" declared in the Bills of Entry filed by the Noticee, mentioned in the Annexure-C of the subject Notice, having total assessable value of **Rs. 3,30,12,427/- (Rupees Three Crore Thirty Lakh Twelve Thousand Four Hundred Twenty-Seven Only)** should be held liable for confiscation under Section 111(m) of the Customs Act, 1962, on the grounds of supressing and mis-classification of the aforesaid imported goods.

4.19. **Whether or not the differential IGST amount of Rs. 39,65,205/-, along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/-, for the goods mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice and the amount of Rs. 42,06,819/- (including differential duty, interest and penalty) for goods mentioned in Annexure-B of the subject Notice should be appropriated against liabilities.**

(i) As per findings of Para 4.6, the Noticee has paid differential IGST amount of Rs. 39,65,205/- along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/- for the goods Computer Monitor for ADP (Automatic Data Processing) Use Only Without Tuner having Size more than 32 inches and Monitors for use in Surgical as Surgical Display mentioned at Sr. No.315, 743 to 752, 757 and 758 of the Annexure-A after issuance of this Consultative Letter on 19.06.2024. The aforesaid amount has been deposited vide Challans No. HCM 1327, HCM 1328 and HCM 1329, all dated 19.06.2024 (details are tabulated in below Table). From the case records, I find that the payment vide aforesaid Challans has been verified from the Cash Section, JNCH, Nhava Sheva on 15.01.2026.

(ii) In view of Para 4.16(xiv), I have held that the differential IGST amount of Rs. 39,65,205/- with respect to the items mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice is correctly demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962, by invoking extended period. In this regard, I find that the

noticee has discharged its full liability of amount Rs. 39,65,205/- along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/- for the aforesaid demand. Accordingly, I hold that the differential IGST amount of Rs. 39,65,205/-, along with applicable interest of Rs. 16,08,701/- and penalty of Rs. 5,94,781/- paid by noticee for the goods mentioned at Sr. No.315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice should be appropriated against the aforesaid duty demand.

(iii) Further, as per the findings of Para 4.6, the Noticee has paid differential duty amount Rs. 42,06,819/- [Rs. 20,96,769/- (duty amount), Rs. 11,20,376/- (interest amount), Rs. 5,87,095/- (IGST amount) and Rs. 4,02,579/- (Penalty amount)] for impugned goods mentioned at Sr.No.745,747 to 752, 757 & 758 (9 entries in Annexure-A of the subject notice) containing description of SURGICAL DISPLAY TO BE USED WITH AUTOMATIC DATA PROCESS. The aforesaid amount has been paid vide Challans no. HC-65 dated 20.01.2025 and HCM-531 dated 20.01.2025 (details are tabulated in below Table). From the case records, I find that the payment. vide aforesaid challans has been verified from the Cash Section, JNCH, Nhava Sheva on 15.01.2026.

(iv) In view of Para 4.1 (xiii), I have held that the differential/short paid duty amounting to Rs. 1,06,33,256 (Rs. One crore six lakh thirty-three thousand two hundred and fifty-six only) with respect to the items covered under Bills of entry as mentioned in Annexure-B and Annexure-C of the subject Notice should be demanded and recovered from the Noticee, under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period. In this regard, I find that the noticee has discharged its partial liability of amount Rs. 26,83,864/- (Rupees Twenty-Six Lakh Eighty-Three Thousand Eight hundred and sixty-four only) for the goods mentioned in Annexure-B of the subject Notice. Accordingly, I hold that the differential duty amount Rs. 26,83,864/- (Rupees Twenty-Six Lakh Eighty-Three Thousand Eight hundred and sixty-four only) along with applicable interest and penalty paid by the Noticee should be appropriated against the aforesaid duty demand.

4.20 Upon careful examination of the allegations levelled in the Show Cause Notice, I find that while M/s. Man Logistics (India) Pvt. Ltd. has been impleaded as a co-noticee, the notice fails to elaborate on any specific role, act of omission, or commission attributable to them that would warrant any penal action under the provisions of the Customs Act, 1962. It is a settled principle of natural justice that for a penalty to be sustained, the SCN must clearly specify the grounds and evidence for such a proposal to allow the noticee an adequate opportunity to respond. In the absence of any specific charge of abetment, collusion or knowledge of the alleged violations-elements invoking sections such as Section 112 or Section 114AA of the Customs Act, 1962-no case is made out against them. Furthermore, following the spirit of judicial discipline and Board Instructions, such as Instruction No. 02/2024-Customs, co-noticees should not be routinely implicated unless clear evidence of complicity is established. Consequently, as the SCN remains silent of the specific liability of M/s. Man Logistics India Pvt. Ltd., I find no grounds to impose any penalty or maintain proceedings against them. Accordingly, I hold that the charges against M/s. Man Logistics (India) Pvt. Ltd should be dropped.

5. 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 order to reject the levy of incorrect rate of IGST @18% (S. No. 383C and 384 of Schedule III of IGST Notification No. 01/2017 dated 28.06.2017) and order to levy IGST @ 28% (S. No. 154 of Schedule IV of IGST Notification No. 01/2017 dated 28.06.2017) on the impugned goods as mentioned at Sr. No. 27, 44,315, 411, 488, 489, 560, 561, 613, 721 to 763 (52 entries) of the Annexure-A of the subject Notice.

(ii) I confirm the demand of differential IGST amount of **Rs. 39,65,205/- (Rupees Thirty-Nine Lakhs Sixty-Five Thousand Two Hundred Five Only)** with respect to the items mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice and order to recover the same under Section 28 (4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. Further, considering the fact that the differential IGST amount of **Rs. 39,65,205/-** demanded in respect of aforesaid items in the Show Cause Notice under Section 28(4) of the Customs Act, 1962, along with interest of **Rs. 16,08,701/-** payable thereon under Section 28AA of the Customs Act, 1962 and penalty of **Rs. 5,94,781/-** equivalent to 15% of differential duty amount, have been paid by the importer within the prescribed period of 30 days from the date of receipt of the SCN and intimation thereof given, as per provisions of Section 28(5) ibid, the proceedings initiated vide impugned Show Cause

Notice, in respect to the items mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice, against the importer are hereby concluded in terms of provisions of Section 28(6)(i) of the Customs Act, 1962 and the aforesaid amounts paid by the importer are ordered to be appropriated.

(iii) I order that the goods mentioned at Sr. No. 315, 743 to 752, 757 and 758 of the Annexure-A of the subject Notice, having a declared assessable value of **Rs. 3,96,52,050/- (Rupees Three Crore Ninety-Six Lakh Fifty-Two Thousand and Fifty Only)** shall be confiscated under Section 111(m) of the Customs Act, 1962.However, as the proceedings against the importer in respect of aforesaid goods have been concluded in terms of provisions of section 28(6)(i) of the Customs Act, 1962. Therefore, in terms of the first proviso to section 125 of the Customs Act, 1962, I order to redeem the said goods to the importer without imposing any redemption fine.

(iv) I order to drop the demand of differential IGST amount of **Rs. 47,27,331/-** under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962, with respect to the items mentioned at Sr. No. 721 to 742 of the Annexure-A of the SCN.

(v) I reject the declared classification of the goods mentioned in Annexure-B and Annexure-C of the subject SCN under CTH 85285200 and order to reclassify and re-assess aforesaid goods under CTH 85285900.

(vi) I reject the levy of incorrect Nil BCD availed under Sr. No. 17 of the Customs Notification No. 24/2005 dated 01.03.2005 for goods mentioned in Annexure-B and Annexure-C of the subject SCN and order to levy the applicable rate of BCD @10%.

(vii) I confirm the demand of Differential Duty amounting to **Rs. 1,06,33,256 (Rs. One crore six lakh thirty-three thousand two hundred and fifty-six Only)** with respect to the items covered under Bills of entry as mentioned in Annexure-B and Annexure-C of the SCN and order to recover the same under the provisions of Section 28 (4) of the Customs Act, 1962 along with interest applicable in terms of Section 28AA of the Customs Act, 1962. Further, considering the fact that the differential duty amount of Rs. 26,83,864/- demanded, in respect of goods mentioned in Annexure-B of the SCN, in the Show Cause Notice under Section 28(4) of the Customs Act, 1962, along with interest of Rs. 11,20,376/- payable thereon under Section 28AA of the Customs Act, 1962 and penalty of Rs.4,02,579/- equivalent to 15% of differential duty amount, have been paid by the importer within the prescribed period of 30 days from the date of receipt of the SCN and intimation thereof given, as per provisions of Section 28(5) ibid, the proceedings initiated vide impugned Show Cause Notice, in respect to the items mentioned in Annexure-B of the SCN, against the importer are hereby concluded in terms of provisions of Section 28(6)(i) of the Customs Act, 1962 and the aforesaid amounts paid by the importer are ordered to be appropriated.

(viii) I order that the goods mentioned Annexure-B of the subject Notice, having a declared assessable value of **Rs. 1,90,61,533/- (Rupees One Crore Ninety Lakh Sixty Thousand Five Hundred Thirty-Three Only)** shall be confiscated under Section 111(m) of the Customs Act, 1962. However, as the proceedings against the importer in respect of aforesaid goods have been concluded in terms of provisions of section 28(6)(i) of the Customs Act, 1962. Therefore, in terms of the first proviso to section 125 of the Customs Act, 1962, I order to redeem the said goods to the importer without imposing any redemption fine.

(ix) I order to confiscate the impugned goods mentioned in Annexure-C of the SCN with declared assessable value of **Rs. 3,30,12,427/- (Rupees Three Crore Thirty Lakh Twelve Thousand Four Hundred Twenty-Seven Only)** under Section 111(m) of the Customs Act, 1962.

I also impose a redemption fine of **Rs. 30,00,000/- (Rupees Thirty Lakhs Only)** on M/s LG Electronics India Pvt. Ltd. in lieu of confiscation of goods under Section 125(1) of the Customs Act, 1962.

(x) I impose a penalty equivalent to differential duty of **Rs. 79,49,392/-(Rupees Seventy-Nine Lakh Forty-Nine Thousand and Three Hundred Ninety-Two only)** along with applicable interest under Section 28AA of the Customs Act, 1962, on M/s LG Electronic India Pvt. Ltd. under Section 114A of the Customs Act, 1962.

(xi) I drop the proceedings initiated under the subject SCN against M/s. Man Logistics (India) Pvt. Ltd.

6. 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.

15/1/25

(अनिल रामटेके/ **ANIL RAMTEKE**)
सीमाशुल्कआयुक्त/ Commissioner of Customs
एनएस-V, जेएनसीएच / NS-V, JNCH

To:

1. M/s. L G ELECTRONICS INDIA PRIVATE LIMITED,
A-24/6, Mathura Road, Mohan Co-operative Industrial Estate, South Delhi,
New Delhi -110044.

   Email:LGElect-Delhi@lge.com, gaurav2.sharma@lge.com bharat.sharma@lge.com, sharad.kulshreth@lge.com Contact No.: 9953555384, 9899302230

2. M /s. Man Logistics (India) Pvt. LTD (Customs Broker) 204,
Dhantak Plaza, Makwana Road, Marol,
Andheri (East),400059.
Email: kalyan.nawpute@manlogistics.in Contact No.: 9833955105

Copy to:

1. The Addl. Commissioner of Customs, Group VA, JNCH
2. AC/DC, Chief Commissioner's Office, JNCH
3. The Dy. Commissioner of Customs, Circle- C1, Audit, JNCH
4. The Asst./Dy. Commissioner of Customs, CAC, JNCH – For Adjudication
5. AC/DC, Centralized Revenue Recovery Cell, JNCH
6. Notice Board (CHS Section)
7. EDI Section
8. Office Copy