



सीमा शुल्क आयुक्त का कार्यालय, एनएस-V  
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V  
केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन,  
CENTRALIZED ADJUDICATION CELL,  
JAWAHARLAL NEHRU CUSTOM HOUSE,  
न्हावा शेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707  
NHAVA SHEVA, TALUKA-URAN,  
DIST- RAIGAD, MAHARASHTRA - 400707

F. No. S/10-028/2024-25/Commr/Gr.VA/NS-V/CAC/JNCH

Date: 04.06.2026

SCN No. 253/2024-25/Comm./Gr.VA/NS-V/CAC/JNCH dated 07.05.2024

DIN: 20260678NX000888E30

**CORRIGENDUM**

**Subject: Corrigendum to Order-in-Original No. 421/2025-26/COMMR/GR.VA/NS-V/CAC/JNCH dtd. 26.03.2026 issued by the Commissioner of Customs, NS-V, JNCH in the case of M/s Haier Appliances (India) Pvt. Ltd. (IEC-0597001324) and Others – reg.**

Attention is invited to the Order-in-Original No. 421/2025-26/COMMR/GR.VA/NS-V/CAC/JNCH dated. 26.03.2026 issued by the Commissioner of Customs, NS-V, JNCH in the case of M/s Haier Appliances (India) Pvt. Ltd. (IEC-0597001324) and Others.

2. It has been noticed that Paragraphs 4.11.2 to 4.11.7 were inadvertently omitted from Page No. 40 of the aforesaid Order-in-Original No. 421/2025-26/COMMR/GR.VA/NS-V/CAC/JNCH dated 26.03.2026. The omitted paragraphs are reproduced below:

4.11.2 In the present case, I have held that the extended period under Section 28(4) is invocable on account of wilful misstatement and suppression of material facts with intent to evade duty. The deliberate declaration of Electric Heating Resistors as Heating Element and the conscious mis-declaration and mis-classification in Bills of Entry establish the existence of *mens rea*. As the Noticee got monetary benefit due to their wilful mis-declaration and suppression of facts on the aforesaid goods, I find that duty was correctly demanded under Section 28(4) of the Act by invoking extended period.

4.11.3 In terms of Section 46 (4) of Customs Act, 1962, the importer is required to make a declaration as to truth of the contents of the Bills of Entry submitted for assessment of Customs duty. M/s Haier Appliances (India) Pvt. Ltd. had wilfully mis-declared the goods as Heating Element (parts of water heater) whereas the goods were Electric Heating Resistor and also mis-classified the Tariff Classification of the said goods imported by them under CTI 85169000 and instead of under correct CTI 85168000. They were aware of the true nature and characteristics of the imported goods and accordingly, were knowing about the correctly leviable duty thereon. However, still they wilfully suppressed this fact and evaded payment of legitimately payable duty in the Bills of Entry filed before the Customs authorities. By resorting to the aforesaid suppression and mis-declaration, they evaded legitimately payable duty. Under the self-assessment scheme, it is obligatory on the part of importer to declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the importer clearly failed to do with malafide intention. However, the importers deliberately devised fraudulent modus to mis-declare Electric Heating Resistors as parts of Water Heater and tried to get these goods cleared from the port. They suppressed the fact before the Customs Department regarding correctly leviable

duty thereon, to claim the undue duty benefit at the time of clearance of the said imported goods. This wilful and deliberate suppression of facts amply points towards the “mens rea” of the Noticee to evade the payment of legitimate duty. The wilful and deliberate acts of the Noticee to evade payment of legitimate duty, clearly brings out their ‘mens rea’ and hence, the extended period of limitation, as well as confiscation and penal provisions will automatically get attracted. Thus, the Noticee, by their various acts of omission and commission discussed above, have rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962, thereby making themselves liable for penalty under Section 112(a)(ii) *ibid* for the subject goods imported vide Bill of Entry No. 4785790 dated 24.02.2023 and the Bills of Entry as detailed in Annexure-B to the Notice.

4.11.4 Accordingly, I agree with the proposal made in the subject SCN and hold that penalty should be imposed on the Noticees, M/s Haier Appliances (India) Pvt. Ltd. under Section 112(a) of the Customs Act, 1962.

4.11.5 Further, 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)].*


4.11.6 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*.*

4.11.7 As I have held above, that the extended period of limitation under Section 28(4) of the Customs Act, 1962 for the demand of duty is rightly invoked in the present case. Therefore, penalty under Section 114A is rightly proposed on the Noticee, M/s Haier Appliances (India) Pvt. Ltd. in the impugned SCN in respect of the impugned goods covered under Bills of Entry mentioned in Annexure-B to the Notice. Accordingly, the Noticee is liable for a penalty under Section 114A of the Customs Act, 1962 for wilful mis-declaration and suppression of facts, with an intent to evade duty. Further, I have already held above that by their acts of omission and commission, the importer has rendered the goods, as detailed in Annexure-B to the Notice, liable for confiscation under Section 111(m) of the Customs Act, 1962, making them liable for a penalty under Section 112(a) of the Customs Act, 1962. However, I find that the penalty under Section 114A and Section 112 of the Customs Act, 1962 are mutually exclusive and both cannot be imposed simultaneously. Therefore, in view of fifth proviso to Section 114A, no penalty is imposable on the Noticee under Section 112(a) *ibid*.

3. Consequent upon incorporation of the omitted Paragraphs 4.11.2 to 4.11.7, the total number of pages in the Order-in-Original No. 421/2025-26/COMMR/GR.VA/NS-V/CAC/JNCH dated 26.03.2026 shall stand revised from 44 (Forty-Four) pages to 45 (Forty-Five) pages. Accordingly, all references to the total number of pages in the said Order-in-Original shall be read and construed as 45 (Forty-Five) pages.

4. Except for the above correction, all other contents of the aforesaid Order-in-Original shall remain unchanged.

  
(अनिल रामटेके / ANIL RAMTEKE)  
सीमा शुल्क आयुक्त / Commissioner of Customs  
एनएस-V, जेएनसीएच / NS-V, JNCH

To,

1. **M/s Haier Appliances (India) Pvt. Ltd.**  
(IEC: 0597001324),  
B-3, Ranjangaon Growth Centre,  
MIDC Ranjangaon, Taluka Shirur-412 209.
2. **M/s. Man Logistics (India) Private Limited**, Customs Broker.
3. **Shri Jagpal Singh Bains, Senior General Manager, M/s. Haier Appliances (India) Pvt. Ltd.**

Copy To:

1. Dy. Commissioner of Customs, SIIB(I), JNCH, Nhava Sheva.
2. The Addl. Commissioner of Customs, Group VA, JNCH
3. AC/DC, Chief Commissioner's Office, JNCH
4. AC/DC, Centralized Revenue Recovery Cell, JNCH
5. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
6. EDI Section.
7. Office copy.