



**OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I),
सीमाशुल्क आयुक्त का कार्यालय (एनएस -I)**

**NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE,
न्हावा-शेवा, जवाहरलाल नेहरू कस्टम हाउस,
TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA - 400 707.
ताल-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707**

F. No. S/26-Misc-161/2024-25/Gr. II (C-F)

Date of order: 25.08.2025

F. No. S/10-Adj-25/2025-26 Gr II(C-F)

Date of issue: 25.08.2025

SCN No.1447/2024-25/AC/Gr.II(C-F)/NS-I/CAC/JNCH Dated 06.12.2024

DIN : 20250878NW0000020920

Passes by: Shri Dinesh Kumar, Deputy Commissioner of Customs Gr. II(C-F).

Order No. 767/2025-26/AC/Gr. II CF/NS-I/CAC/JNCH

Name of Party/Noticee/Importer: M/s Lord India Pvt Ltd (IEC-0388115981)

मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र - 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।।

ORDER-IN-ORIGINAL

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Sheva, Tal :Uran, Dist : Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
3. Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

On the basis of the Analytics Report-03/2020-21 regarding short payment of IGST by wrong availment of schedule-1 of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 under chapter 8413, data pertaining to imports made by various importers through JNCH (INNSA1) was analysed in detail.

2. While analyzing the data, it is observed that M/S LORD INDIA PVT LTD (IEC: 0388115921) (now hereinafter referred to as 'the Importer') having official address at A-401-404, 4th floor 215, Atrium, Chakala, Andheri Kurla Road, Andheri (EAST), Mumbai, Mumbai Suburban, Maharashtra 400093 have imported goods having description such as 'LOTION PUMP' under CTH 8413 2000 (as detailed mentioned in TABLE-A) and importer has made short payment of IGST by wrong availment of schedule-I of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017. However, the importer had imported the goods after classifying their goods as mentioned in Table-A under Sr. No. 231 of Schedule-1 of IGST Notification No. 01/2017 dated 28.06.2017 and had paid IGST @ 5%.

3. During the course of audit, prima facia, it was noticed that the importer had imported goods as mentioned in Table-A below classifying the same under CTI 8413 2000 and paid the IGST @5% under Sr. No. 231 of Schedule-1 of the Notification No.01/2017-IGST (Rate) dated 28.06.2017. The details of description of goods, Bill of Entry, assessed IGST amount, are as per Table-A.

4. The import of goods has been defined in the IGST Act, 2017 and Section 5 of IGST Act, 2017 stipulates that "Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (51 of 1975) on the value as determined under the said Act at the point when duties of Customs are levied on the said goods under Section 12 of the Customs Act 1962."

5. Further as per Section 7 of Customs Tariff Act, 1975 any article which has been imported Into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty percent, as is leviable under Section 5 of the IGST Act 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section 8 or sub-section 8A as the case may be.

6. On the basis of the above observations of the Customs Audit, a Consultative Letter No. 3300/2021-22/B2 dated 21-02-2022 was issued to the importer advising them to pay the differential duty of IGST as IGST was short paid by them. In this regard, no written submission/clarification / letter has been received in this office from the importer.

TABLE-A

BE No.	BE Date	Item No.	Description	Assessable Value(INR)	IGST Duty amount (INR)	IGST rate applicable	Differential IGST (INR)
6744634	04.02.2020	16 (inv. No. 3)	Cartridge 300x75 Nylon, Assembled (cartridge)	63772	3539	18%	9202

The total Assessable value of the BE items so imported is **Rs. 63,772/-** and it appears that a short levy of IGST amounting to Rs. 9,202/-(as detailed in TABLE- 'A') is recoverable from the Importer along with applicable interest and penalty.

7. The CTH 8413 applies to "Pumps for liquids whether or not fitted with a measuring device Liquid Elevators". Depending upon the types of preamps and its usage, the "Pumps" are

further classified under 8-digit CTIs. The IGST rate applicable to the goods of CTH-8413 is prescribed vide Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 as amended.

The details are as under: -

Table – B:

Schedule No.	Sl. No.	CTH	Description of the goods	Rate of IGST
I	231	8413, 841391	Hand Pumps and parts thereof	5%
II	192	8413	Power driven pumps primarily designed for 12% handling wer, namely, centrifugal pumps Charizuntal and vertical), deep tube well turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps.	12%
III	317A	8413	Concrete pumps (8413 40 00j, other rotary positive displacement pumps [8413 60] [43/2017- IGST dated 14.11.2017-Sr. No.317A Inserted] Effective date of this amendmem is 15.11.2017	18%
III	452D	84138190	Hydraulic Pump for Tractors inserted vide 19/2017-4GST dated 18.08.2017-St. No.452D]	18%
IV	117	8413	Pumps for dispersing fisel or lubricants of the type used in filling stations or garages [8413 11], Fuel, 18%ubrication or cooling medam pumps for internal combustion piston engines [8413 30]	28%
III	453	Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI	

8. In view of the above, the goods imported as mentioned in Table-A above falling under CTH 8413 has been covered under Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 under different headings. Sr. No. 231 of Schedule covers hand pump and parts thereof. Sr. No. 453 of Schedule III covers Goods which are as tabulated above in Table B.

9. From the above discussion, it is observed that only pumps of various models, which are complete and functional, are covered in the description given there in the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 except at Sr. No. 231. As the subject goods falling under CTH 8413 2000, it appears that the impugned goods are correctly covered under Sr. No. 453 of the Schedule -III of the IGST Notification No. 01/2017 dated 28.06.2017 and attract IGST 18%. Hence, it appears that the importer has wrongly assessed the goods under Sr. No. 231 of the Schedule-1 IGST of the said notification and availed benefit of lower rate of IGST which resulted in short payment of IGST amounting to **Rs. 9,202/- (Rupees Nine Thousand Two Hundred and Two Only)** and the same is recoverable from the importer.

10. In view of above, it appears that the importer has classified the impugned goods as mentioned in Table-A above under CTH 8413 2003 and paid the IGST @5% mentioned at Sr. No. 231 of the Schedule-I IGST Notification no. 01/2017 dated 28.06.2017. Thus, the importer has short paid the duty amounting to **Rs. 9,202/- (Rupees Nine Thousand Two Hundred and Two Only)** and same is recoverable from the importer under Section 28 of the Customs Act, 1962 read with Section 5 of the IGST Act, 2017 along with applicable interest under Section 28AA of the Customs Act, 1962 read with Section 50 of the Central Goods and Service Tax Act, 2017, thereby making the importer liable for penalty under Section 112(a)/or 114A of the Customs Act. 1962.

11. Whereas, consequent upon amendment to the Section of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in Customs clearance, Section 17 of the Customs Act, effective from 08.04.2011 (CRE's erstwhile CREC) Circular No. 17/2011 dated 08.04.2011), provides for self-assessment of duty on imported goods by the importer himself by filing a bill of entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 40 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. This, under self-assessment, it is the importer who has to ensure that he declared the correct classification, declaration, applicable rate of duty including IGST, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the importer more specifically the RMS facilitated Bill of Entry, to declare the correct classification, description, value, notification benefit, etc, and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In other words, the onus on the importer in order to prove that they have classified the goods correctly by giving the complete description of the goods. In the instant case, the importer has wrongly assessed the impugned goods under Sr. No. 231 of the Schedule-I IGST Notification no. 01/2017 dated 25.06.2017 and availed benefit of lower rate of IGST which resulted in short payment of IGST. Wrong assessment is nothing but suppression of information with intent to get financial benefit to claim the benefit of the Notification. In view of the above, it appears that the onus on the importer to make correct classification of the goods being imported is on the importer only.

12. As discussed above, it is the responsibility of the importer to give correct and complete description of the goods being imported in the Bills of Entry. In the instant case, the importer has wrongly assessed the impugned goods under Sr. No: 231 of the Schedule-1 IGST Notification no. 01/2017 dated 28.06.2017 and availed benefit of lower rate of IGST which resulted in short payment of IGST. It appears that the importer has done the assessment wrongly with an intention to get financial benefit by paying lesser IGST under ineligible Sr. No. 231 of the Notification No.1/2017-IGST(Rate) dated 28.06.2017. Thus, the wrong assessment of goods under ineligible Sr. No. 231 of the Notification has led to short payment of duty by the importer as detailed above. The wrong assessment of goods is nothing but suppression of facts with an intention to get financial benefit. Hence, it appears that the importer has suppressed the facts, by wrong assessment of the impugned goods leading to short payment of IGST. As there is suppression of facts, extended period of five years can be invoked for demand of duty under Section 28 of the Customs Act, 1962.

13. Therefore, in exercise of the powers conferred by Section 28 of the Customs Act, 1962, the importer **M/S LORD INDIA PVT LTD (IEC- 0388115981)** (now hereinafter referred to as the Importer) having official address at A-401-404, 4th floor 215, Atrium, Chakala, Andheri Kurla Road, Andheri (EAST), Mumbai, Mumbai Suburban, Maharashtra 400093 was called upon to Show Cause to the **Deputy/Assistant Commissioner of Customs, Group II(C-F), N.S-I, Jawaharlal Nehru Custom House, Nhava Sheva, Taluka-Uran, District Raigad, Maharashtra-400707**, vide Show Cause Notice No. **1447/2024-25/AC/Gr.II(C-F)/NS-I/CAC/JNCH Dated 06.12.2024** as to why:

(a) The IGST rate@ 5% under Sr. No. 231 of Schedule-1 of IGST Notification No. 01/2017 dated 28.06.2017, as amended, in respect of the goods as discussed above should not be denied for the reasons stated therein and the merit IGST rate 18% under Sr.No. 453 of Schedule- III of the GST Notification 01/2017 dated 28.06.2017, as amended, should not be applied.

(b) The subject goods imported vide Bills of Entry as detailed in Table-A above having assessable value of **Rs. 63,772/- (Rupees Sixty-Three Thousand Seven Hundred and Seventy-Two Only)** should not be confiscated under Section 111(m) and 111(o) of the Customs Act, 1962,

(c) The differential duty amounting to **Rs. 9,202/- (Rupees Nine Thousand Two Hundred and Two Only)** as detailed in the Table-A should not be demanded and recovered from them in terms of section 28647 of the Customs Act, 1962.

(d) The applicable interest on the differential duty amount specified above should not be recovered from them in terms of section 28A of the Customs Act, 1962.

(e) Penalty should not be imposed on them under section 112(a) and/or 114A of the Customs Act, 1962.

DEFENCE SUBMISSIONS & PERSONAL HEARING

14. The importer has not replied to the Show Cause Notice so far. In order to comply with the principal of natural justice, personal hearings were fixed on 15.05.2025, 05.06.2025 & 22.07.2025. However, the importer has not attended the same.

DISCUSSION AND FINDINGS

15. I have carefully gone through the facts of the case and evidence available on record. I find that the importer has neither filed any reply against the SCN nor attended the personal hearing. As such the SCN remains uncontested. From the record, it is evident that the importer had cleared the imported goods namely "Cartridge 300x75 Nylon, Assembled (cartridge)" vide 6744634 dated 04.02.2020 and paid IGST @ 5% under Sl. No. 231 of Schedule-I of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017. From Sl. No. 231 of Schedule-I of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017, I find it is applicable to Hand Pumps & parts thereof. From the declared description of the goods it is evident that the subject goods is neither a Hand Pump nor its part. These goods are more appropriately leviable to IGST @ 18% under Serial No. 453 of Schedule-I of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 as the subject goods are not specified in Schedule I, II, IV, V or VI.

16. Consequent upon amendment to the section 17 of the Customs Act, 1962 vide Finance Act, 2011; 'Self-assessment' has been introduced in Customs clearance. Under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendments to section 17, since 08.04.2011, it is the added and enhanced responsibility of the importer, to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

16. In view of the facts as stated above, I hold that the importer has wilfully mis-classified the impugned goods, thereby evading payment of applicable IGST resulting in a loss of Government revenue of Rs. 9,202/- (Rupees Nine Thousands Two Hundred and Two Only) and in turn accruing monetary benefit to the importer. Since the importer has wilfully mis-stated, mis-represented and suppressed the facts and exact nature of goods with an intention to evade applicable duty, provisions of Section 28(4) are invokable in this case. As the IGST, as applicable, so evaded, is recoverable under section 28(4) of the Customs Act, 1962. Interest on delayed payment of the same is also recoverable from the importer under the provisions of section

28AA of the Customs Act, 1962. In addition, the importer has rendered himself liable for penalty under section 114A of the Customs Act, 1962.

17. Now coming to the question as to whether the impugned goods are liable for confiscation, I find that Section 111(m) provides for confiscation in cases where goods do not correspond in respect of any particulars in respect of which the entry has been made under this act. In instant case, the importer has mis-classified the goods resulting in less payment of duty. Hence, I find that the subject goods are liable for confiscation under Section 111(m). However, I find that the subject goods are not available for confiscation. 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 judgement 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 regularized, 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 authorized by this Act....", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization 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 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."

18. I 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.) and the same has not been challenged by any of the parties. Hence, I find that any goods improperly imported as provided in any sub-section of the Section 111 of the Customs Act, 1962 are liable to confiscation and merely because the Importer was not caught at the time of clearance of the imported goods, can't be given differential treatment. 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. Accordingly, I find that the impugned goods imported under BE No. 6744634 dated 04.02.2020 are liable for confiscation under Section 111(m). The SCN proposes confiscation under Section 111(o) of the Customs Act, 1962. I find that 111(o) is invokable in the case where the condition attached to notification is not fulfilled/complied with. This aspect is absent in the case as such, I am not invoking Section 111(o) of the Customs Act, in the present case.

19. Now coming to the issue of penalties I find that the notice proposes penalty under Section 112(a)/114A of the Customs Act, 1962. In this regard, I find that the importer has willfully suppressed the exact nature of goods by misclassifying the same in wrong IGST schedule has paid IGST@ 5% instead of 18% with mala-fide intention to evade duty. I find that in the self-assessment regime, the Importer is duty bound to correctly assess the duty on the imported goods. In the instant case, the Importer has short paid duty which is tantamount to suppression of material facts and willful mis-statement. The "mens rea" can be deciphered only from "actus reus" and in the instant case, I find that the Importer is an entity of repute having access to all kinds of legal aid. Thus, providing wrong declaration and claiming undue benefit on account of short-payment of IGST by the said Importer in the various documents filed with the

Customs amply brings out their "mens rea" to evade the payment of duty. Thus, I find that the extended period of limitation under Section 28(4) of the Customs Act, 1962 for demand of duty is rightly invoked in the present case. In view of the above, I find that the Importer is liable for penalty under Section 114A of the Act. The SCN also proposes confiscation under Section 111(o) o

20. In view of the above, I pass the following order:

ORDER

- i. I order to reject the self-assessment done by the Importer **M/S LORD INDIA PVT LTD (IEC- 0388115981)** as discussed above and I order to re-assess the same with IGST @ 18% as per Sr. No. 453 of Schedule III of IGST notification No. 1/2017. As a result, I confirm the demand of differential IGST duty amounting to **Rs. 9,202/- (Rupees Nine Thousand Two Hundred and Two Only)** on the importer **M/S LORD INDIA PVT LTD (IEC- 0388115981)** under section 28(4) of Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act 1962
- ii. I order to confiscate the goods valued at total assessable value of **Rs.63,772/-** (Rs. Two lakh twenty-four Thousand four hundred and Eighty-five only) under Section 111(m) of the Customs Act, 1962. However, as the goods are not available for confiscation, I impose a Redemption Fine of **Rs.6,000/-** (Rupees Six Thousand only) under Section 125 of the Customs Act, 1962. The same is to be paid by **M/S LORD INDIA PVT LTD (IEC- 0388115981)** .
- iii. I hereby impose a penalty equal to the sum of differential duty of **Rs. 9,202/- (Rupees Nine Thousand Two Hundred and Two Only)** and applicable interest on differential duty as per Section 28AA of the Customs Act, 1962 on importer **M/S LORD INDIA PVT LTD (IEC- 0388115981)** under section 114A of the Customs Act, 1962. However, the importer has an option to avail the benefit of reduced penalty @ 25% under the first proviso to section 114A of the Customs Act, 1962 if the penalty is paid within the period of 30 days from the receipt of this order.
- iv. I refrain from imposing penalty under section 112 (a) of the Customs Act, 1962, as I have already imposed penalty under section 114A of the Customs Act, 1962. I also refrain from imposing penalty under section 114AA on the importer **M/S LORD INDIA PVT LTD (IEC- 0388115981)**

21. This order is issued without any prejudice to any other action that may be taken against the said goods/notice and /or against any other firm/ person concern under the provision of Custom Act, 1962 and are any other law for the time being in force, in India.


(दिनेश कुमार)

उप आयुक्त, सीमा शुल्क,

मूल्यांकन समूह II (सी-एफ), एनएस-1, जेएनसीएच

To,

M/s Lord India Pvt Ltd (IEC-0388115981),
A-401-404, 4th floor 215. Atrium, Chakala, Andheri Kurla Road,
Andheri (EAST), Mumbai, Mumbai Suburban, Maharashtra 400093

Copy to: -

1. The Dy./Asstt. Commissioner of Customs, CHS, JNCH
2. The Dy./Asstt. Commissioner of Customs, CRRC, JNCH.
3. The Dy./Asstt. Commissioner of Customs, CRAC, JNCH.
4. The Dy./Asstt. Commissioner of Customs, Audit Commissionerate, JNCH
5. The Dy./Asstt. Commissioner of Customs, CAC, JNCH.
6. The Dy./Asstt. Commissioner of Customs, EDI, JNCH.
7. Office copy