

	आयुक्त सीमाशुल्क) आयात-I (का कार्यालय OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT - I) नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई - ४०० ००१ New Customs House, Ballard Estate, Mumbai- 400 001 Email-adjn-adc-jc-imp1@gov.in
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Date of Order: 24.09.2026

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DIN: 20260977NP0000C5C2FC

Order No: 10/ADC/VJM/ADJ/2026-27

Order Passed by: Shri Vijay J Manvatkar
Additional Commissioner of Customs, Import-I,
New Custom House, Mumbai Customs Zone-I

Name of Party/Noticee(s): M/s. Ajanta Innovation Solutions LLP

मूल आदेशORDER-IN-ORIGINAL

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है

1. This copy is granted free of charge for the use of the person to whom it is issued.

2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम, १९६२ की धारा १२८ (१) के तहत आदेश की संसूचना की तारीख से साठ दिन के भीतर ऐसे मामले जहां शुल्क या शुल्क और जुर्माना विवादित हैं या जुर्माना जहां सिर्फ जुर्माना ही विवादित है, की ७.५ % राशि अदा करने पर सीमाशुल्क (आयुक्त) अपील का कार्यालय, नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई - ४०० ००१ के समक्ष की जा सकती है।

2. An appeal against this order shall lie before the Commissioner of Customs (Appeals), New Custom House, Ballard Estate, Mumbai - 400 001 under Section 128(1) of the Customs Act, 1962 within **Sixty days** from the date of communication of this order and on 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.

3. अपील सीमाशुल्क अपील नियम १९८२ में प्रदर्शित फॉर्म सी.ए.-१ में दो प्रति में की जानी चाहिए। अपील रुपये ५.०० के न्यायालय फीस स्टॉप तथा इस आदेश या आदेश की प्रति के साथ संलग्न होनी चाहिए। यदि आदेश की प्रति संलग्न की जाती है तो इसमें भी न्यायालय फीस अधिनियम १९७० की अनुसूची १ में प्रदर्शित रुपये ५.०० की न्यायालय फीस स्टॉप भी होना चाहिए।

3. The appeal should be in duplicate and should be filed in Form CA - 1 appeared in

Custom (Appeals) Rule, 1982. The appeal should bear a court fee stamp of Rs. 5.00 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. 5.00 only as prescribed under Schedule 1, item 6 of the Court Fees Act, 1970.

4. जो व्यक्ति इस निर्णय या आदेश के विरुद्ध अपील कर रहा है वह अपील को अनीर्णित रखेगा, और सीमाशुल्क अधिनियम, १९६२ की धारा १२९ ई के उपबंधों के अंतर्गत पैरा २ के अनुसार धनराशि जमा कराएगा तथा अपील के समय उन भुगतान का प्रमाण प्रस्तुत करेगा, जिसके अनुपालन किए जाने पर सीमाशुल्क अधिनियम १९६२ की धारा १२८ (१) के उपबंधों के अधीन अपील अस्वीकार कर दी जाएगी।

4. Any person appealing against this decision or order shall, pending the appeal, deposit the amount as per Para 2 above under Section 129E of the Customs Act, 1962 and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for noncompliance with the provisions of Section 128(1) of the Customs Act, 1962.

BRIEF FACTS OF THE CASE

On the basis of data analysis, the Special Intelligence & Investigation Branch (SIIB) Unit of New Custom House, Mumbai observed that the importer, M/s. Ajanta Innovative Solutions LLP (IEC No.-ABQFA1613A) having registered office at 292, Mangaldas Building No.3-B, 3rd Floor, Mangaldas Road, Mumbai, Maharashtra - 400002 had filed Bill of Entry No. 2954926 dated 10.04.2024 through Customs Broker M/s Sunshine Logistics for clearance of goods declared as below: -

Sr. No.	Name of Importer	Bill of Entry number and date	Description of goods	Declared CTH
1.	M/s. Ajanta Innovative Solutions LLP (IEC ABQFA1613A)	2954926 dated 10.04.2024	Item-1 RE-IMPORT 1 KSA MOBILE SLUDGE TANKER AND DEWATERING UNIT SERIAL NO. 1735-2024, BHARATBENZ 2823C CHASSIS NO. MEC841KBEP140820"	87059000

2. On the basis of analysis of documents uploaded in e-Sanchit, SIIB found that the importer is first exporting/supplying an Indian-originated chassis free of cost to a Denmark-based manufacturer of Special-Purpose Vehicles (SPVs) i.e. Mobile Sludge Tanker and Dewatering Unit, by classifying it under CTH 8706 in the shipping bill. The foreign manufacturer is then fitting the Sludge Tanker and Dewatering Unit developed by them on the chassis exported from India. While filing BE the importer has classified the imported goods as Special Purpose Vehicle

under CTH 8705, in which the exported chassis is incorporated. Further, on perusal of import invoices, it was observed that the Denmark-based manufacturer had raised invoices only towards the Sludge Tanker and Dewatering Unit and its fitting/installation charges and not towards the chassis that was supplied by the importer to them free of cost. The import invoices also mention that the chassis are being returned after mounting of the equipment.

2.1 During the analysis, it was observed that the importer while filing the BE has not added/included the value of exported/supplied (free of cost) chassis in the value of the imported goods to arrive at the assessable value. Further, it is observed that though the importer has mentioned in the BE that the goods are re-imported, it appears that it does not comply with the condition of Notification relevant to re-importation, as CTH mentioned in the Export documents are different from the import documents. In this regard, the relevant provisions referred to are as follows: -

- I. Section 20 of the Act, [Re-importation of goods] stipulates that the *“if goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof.”*
- II. Rule 10(1)(b) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 states that in determining the transaction value, there shall be added to the price actually paid or payable for the imported goods, the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely materials, components, parts and similar items incorporated in the imported goods.
- III. Further, as per proviso (d) to para 1 of the Notification No. 45/2017-Customs dated 30.06.2017, the exemption under the said notification is available when the goods at the time of import are same which were exported.

3. In view of the above, a detailed investigation was initiated by SIIB. The goods imported vide Bills of Entry No. 2954926 dated 10.04.2024 were put on hold by SIIB and examined under Panchanama dated 22.04.2024.

During the examination, it was observed that the imported goods were Special Purpose Vehicles (SPVs) i.e., Sludge Tanker and Dewatering Unit mounted on a chassis. It was further noted that the imported goods were not separate units consisting of a chassis and a Sludge Tanker and Dewatering Unit but rather a single integrated Special Purpose Vehicle classifiable under CTH 8705. Additionally, the chassis number of the vehicles tallied with the ones mentioned in the Bills of Entry and the Shipping bills.

3.1 Thereafter, importer made following submissions vide letter dated 16.05.2024:

- i. The duty is levied on the transaction value of imported goods as per Section 14 of the Act, 1962. The invoice from M/s. Simon Moos, the foreign supplier, reflects the transaction value under CFR Incoterms, where the cost and freight are borne by the buyer i.e., by M/s. Ajanta Innovative Solutions LLP. The cost of the sludge tank and dewatering unit mounted on the Bharat Benz chassis exported from India includes the cost of the tank and dewatering unit, installation charges, customs clearance and transport to Mumbai. The chassis were supplied on a job-work basis free of cost and a GR waiver was submitted at the time of export. Therefore, the value in the invoice reflects only the notional value for customs purposes and cannot be considered as the cost to the foreign supplier.
- ii. Under the CVR, 2007, none of the rules from Rule 4 to Rule 10 can be invoked to add the cost of the chassis supplied from India. The different chassis nos. of Bharat Benz make are unique and no similar or identical goods are available for comparison under the valuation rules. Similarly, neither the deductive value method nor the computed value method can be resorted to for adding the cost of chassis to the transaction value of the SPVs imported.
- iii. The chassis exported from India on job-work basis cannot be considered as incorporated in the imported goods under Rule 10(1)(b) (i). The tank and the dewatering unit are manufactured by the foreign supplier and mounted on the chassis sent to them free of charge on re-import basis. Therefore, what is mounted on a chassis with engine cannot be said to be incorporated in the imported goods. The supplier raised invoices only towards the cost of the Sludge Tanker and Dewatering Unit and not towards the chassis with engine, as they

received the chassis, free of cost on a job-work basis.

- iv. Indian-origin goods, upon re-import, are exempt from customs duty under notification no. 45/2017-Customs dated 30.06.2017. Since the company had not availed any export incentives like refund of IGST, drawback, DEEC, DFIA, EPCG etc. The execution of LUT was only a procedural part. At serial no. 5 of the notification no. 45/2017, the conditions are Nil implying that the re-imported chassis is fully exempt from Basic Customs Duties, IGST and Compensation Cess. So far as the condition no. (d) of the proviso to the notification, which stipulates that the goods must be the same which were exported, is concerned, it is stated that all automobiles are uniquely identified by their chassis and engine nos. The Sludge Tanker and Dewatering Unit mounted on the said chassis does not alter the identity of the re-imported goods. Therefore, all the conditions of exemption notification no. 45/2017-Customs are satisfied in the instant case and no duty liability arises upon importation.
- v. When the complete goods i.e., Sludge Tanker and Dewatering Unit mounted on the chassis, are imported by M/s. Ajanta Innovative Solutions LLP, the transaction value under Section 14 of the Act is represented by the invoice amount raised by the supplier which included the cost of the Sludge Tanker and Dewatering Unit and freight from Sonderborg, Denmark to Mumbai, India. There is no ground to add the cost of the chassis in the invoice of the foreign supplier as the same was sent to them from India only for job-work and the ownership of these chassis always remained with the Municipal Corporations or, in some cases, the importer themselves. Thus, the IGST paid on the assessable Value declared in the bill of entry is limited only to the CIF Value of Sludge Tanker and Dewatering Unit for which the importer is entitled to a credit of IGST paid.

Further, the importer requested to release the consignment as the imported machines were imported under the Swachh Bharat Mission in the interest of the public health and safety to replace the manual scavengers.

3.2 In the wake of aforementioned submission and requests of the importer, the goods imported by the importer vide Bills of Entry No. 2954926 dated 10.04.2024, was assessed provisionally under Section 18

of the Customs Act, 1962 on the following conditions:

- i. Submission of bond covering the full declared value of goods.
- ii. Bank Guarantee of differential duty.
- iii. The importer will not dispute the identity of the imported goods that the imported goods are/is a Special Purpose Motor Vehicle (Mobile Sludge Tanker and Dewatering Unit) after provisional clearance of the goods.

3.3 Further, one more Bill of Entry No. 3974282, dated 13.06.2024, was filed by the importer for clearing Special-Purpose Vehicles i.e. Mobile Sludge Tanker and Dewatering Unit. The said Bill of Entry was examined under examination report dated 21.06.2024 and goods were assessed provisionally under Section 18 of the Act after submission of Bond and Bank Guarantee. The details of 02 Bills of Entry is tabulated below as Table-I. The amount of Bond and Bank Guarantee was calculated as below: -

- I. Bond = Invoice value in the Bill of Entry (declared value of the imported goods + freight + Insurance)
- II. Bank Guarantee = Differential duty i.e., 30.98% [10% BCD+10% SWS+18% IGST] of the value of exported chassis (FOB+ Freight+ insurance value for Shipping Bills).

Table-I

Sr. No.	Bill of Entry No. & Date	Description of Goods	Declared CTI	Unit price (EUR)	Declared Assessable Value (in INR)	Duty Paid @ 30.98% (BCD@10%, SWS@10% & IGST@18%) (in INR)	Shipping Bill Number & Date for export of chassis	Bond value submitted by importer (in INR)	BG Amount submitted by importer (in INR)
1	2954926 dated 10.04.2024	<u>Item-1</u> RE-IMPORT 1 KSA MOBILE SLUDGE TANKER AND DEWATERING UNIT SERIAL NO. 1735-2024, BHARATBENZ 2823C CHASSIS NO. MEC841KBEP140820	87059000	1,77,610.5	1,79,18,619.24	55,51,188.00	3012738 dated 07.08.2023	1,79,19,620	12,10,585
	3974282 dated 13.06.2024	<u>Item-1</u> RE-IMPORT 1 KSA MOBILE SLUDGE TANKER AND DEWATERING UNIT SERIAL NO.1734-2024, B	87059000	1,59,885	1,79,95,514.72	55.75.010.00	2477266 dated 15.07.2023	1,79,97,515	13,13,000

2		HARATBENZ 2823C CHASSIS NO. MEC8 41EBCPP137465						
Total					3,59,14, 133.96	1,11,26, 198.00		3,59,17, 135 25,23,5 85

PAST IMPORT CONSIGNMENT

4. The data in respect of past imports of the importer was checked in the ICES system and it was noticed that the said importer has no past imports of the said Special-Purpose Vehicles (SPVs) i.e., "Mobile Sludge Tanker and Dewatering Unit.

STATEMENTS OF IMPORTER AND CUSTOMS BROKERS

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5. Statement of Shri Roochir Satish Sanghvi, Partner of M/s. Ajanta Innovative Solutions LLP, was recorded on 07.05.2024 under Section 108 of Act wherein he inter alia stated that:

- i. M/s. Ajanta Innovative Solutions LLP, having its registered office in Mumbai, is a prominent organization in the domain of providing complete technology solutions on a turnkey basis to various Government, semi-Government & PSUs in India in different areas of waste water management, septage management, storm water management and solid waste management under Swachh Bharat Mission.
- ii. They do not have any distributorship agreement with the supplier and submitted a copy of contract with the supplier. They have not imported such machines in past and this is their first consignment. He then submitted export commercial invoices, packing lists and shipping bills.
- iii. When asked about Bills of Entry No. 2954926 dated 10.04.2024, in which they declared re-importing KSA Mobile Sludge Tanker and Dewatering Unit with Bharat Benz chassis, and value of Sludge Tanker and Dewatering Unit was declared without including the chassis, they stated that they have not mis declared anything. They stated that all the details have been declared and disclosed fully to customs. The value of the chassis was not included in assessable value of the imported goods as the chassis had been sent from India, Bharat Benz Make. They submitted a copy of the Shipping Bills,

which show that the chassis were sent for mounting the sludge dewatering unit. Additionally, they stated that have always filed Bills of Entry under first check with goods thoroughly examined by customs and declarations accepted. They strongly believe that no customs duty should be levied on chassis sent from India for mounting the devices.

- iv. They were then asked to see the Section 20 of the Act read with Notification 45/2017-Cus dated 30.06.2017 and Rule 3 & 10 of the CVR, 2007. It could be seen that all the re-imports should be liable to duty and restrictions to which goods of like kind and value are liable on the importation thereof. Further, they were told that their goods are not covered under notification 45/2017 dated 30.06.2017 to be exempted from duty. It could be seen from Rule 10 (1)(b)(i) of CVR 2007 that the value of chassis should be added in the transaction value. They were asked why did they not include the value of chassis in assessable value, they stated that they believe that their re-import is covered under notification 45/2017.
- v. When asked about how the equipment is fitted/mounted to the chassis sent from India, they stated that this is technical expertise of the manufacturer cum supplier. This technology is not available in India and they do not share the process with them, so they are unaware of it.
- vi. When asked about how the equipment is operated, they stated that there are controls on the machine to manage the process and training is provided by the supplier.

5.1 From the above statement, it appears that the importer intentionally did not include the value of the chassis in the assessable value of the imported goods as the chassis had been sent from India. They believe they are eligible for re-import under Notification 45/2017- Customs dated 30.06.2017, however they never claimed the benefit of Notification 45/2017 dated 30.06.2017 in the impugned BEs. The importer has mis declared the value of the imported goods by suppressing the value of chassis which was supplied free of cost to the foreign supplier thus violated the provisions of sections 20 of the Act.

5.2 Further statement of Mr. Roochir Satish Sanghvi, Partner of M/s. Ajanta Innovative Solutions LLP was recorded on 23.12.2024 under Section 108 of the Act, wherein he inter alia stated that:

- i. He is a partner at M/s. Ajanta Innovative Solutions LLP. M/s. Ajanta Innovative Solutions LLP has two shareholders namely Shri Roochir Satish Sanghvi and Shri Rooshabh Satish Sanghavi, both having 50% shares in the firm. A copy of the List of partners was produced.
- ii. M/s. Ajanta Innovative Solutions LLP is into waste management, waste water management, fire-fighting and storage solutions (turnkey projects). Banking details of M/s. Ajanta Innovative Solutions LLP are as follows:
 1. A/c No.: 0404200002280; Bank of Baroda, Mangaldas Market Branch.
 2. A/c No.: 60451717958; Bank of Maharashtra, Lokhandwala Branch
- iii. The chassis were exported under NFEI Scheme to M/s. Simon Moos for mounting the Sludge Tanker and Dewatering Unit on re-import basis after mounting. The chassis were all of Indian origin. Due to these facts, the value of chassis was not included in the value of imported goods.
- iv. On being asked about how they arrive at the notional value declared in the Shipping bill, they stated that they purchased the chassis from M/s HEC Enviro India Pvt. Ltd. and were in possession of Purchase Invoices. That is how they arrived at the notional value.
- v. On being asked how they come in contact with the foreign supplier i.e., M/s. Simon Moos, they stated that they were in search of the technology for septage management and came across this company (M/s. Simon Moos) through internet. They then contacted M/s. Simon Moos for bidding purpose and after the foreign supplier issued them all the technical details to bid for the tender. They confirmed that there is no written agreement apart from this and M/s. Ajanta Innovative Solutions LLP doesn't have any distributorship agreement with the supplier.
- vi. No charges were incurred for movement of the chassis to the port and all the local customs charges from the port to the loading point were invoiced by M/s. Shreenathji Forwarders Pvt. Ltd.
- vii. He also submitted a letter dated 19.12.2024 in reply to this office letter dated 12.11.2024.

5.3 From the above statement, it appears that the chassis exported from India with re-import declared in Shipping bill is of Indian origin and,

hence, the importer believes that the value of chassis is not to be included in the imported goods. The importer declared only notional value in the shipping bills for export of chassis. Therefore, the actual value is to be determined. There is no written agreement with the foreign supplier, M/s. Simon Moos. The importer does not have any distributorship agreement with the supplier.

5.4 Statement of Mr. Hemant Shukle, proprietor of M/s. Sunshine Logistics, was recorded on 29.01.2025 under Section 108 of the Customs Act, 1962, wherein he inter alia stated that:

He had informed the importer that the Bills of Entry were being filed under first check basis and that no notification benefit was being availed since:

- (a) the exported goods (chassis) were covered under CTH 8706, and
- (b) the imported goods (Special Purpose Vehicle) were covered under CTH 8705.

He further stated that the importer said that they were eligible for re-import benefit. However, being in doubt, they filed the Bills of Entry under first check basis. The imported goods were examined and their identity was established before Bill of Entry was assessed.

5.5 Further statement of Mr. Roochir Satish Sanghvi, Partner of M/s. Ajanta Innovative Solutions LLP was recorded on 21.02.2025 under Section 108 of the Act wherein he inter alia stated that:

- i. He re-iterates all the statements and submission made by him.
- ii. He is not aware of the process of mounting the Sludge Tanker and Dewatering Unit on the chassis as the same is not shared with them by the foreign supplier, M/s Simon Moos.
- iii. There were tenders issued by Nagar Nigams of Uttar Pradesh (UP) for supply of sludge tanker and dewatering unit mounted on chassis. they were awarded the tenders. 02 chassis were purchased by them and registered, in the name of Nagar Nigam of U.P and both the chassis were sent to M/s. Simon Moos for mounting of Sludge Tanker and Dewatering Unit. After, re-import, they supplied the imported goods to the Nagar Nigams of Uttar Pradesh. 02 tax invoices were raised by them to the various Nagar Nigams of Uttar Pradesh for supply of imported SPVs with invoice value as per LOAs for the chassis and the body fabrication work and the invoice value includes

the cost of chassis.

- iv. No additional charges, towards insurance or transportation, were incurred for movement of the chassis to the port of loading for export, as they were handled by M/s Daimler India Commercial Vehicles Pvt. Ltd. and it was part of mutual understanding between them and M/s Daimler India Commercial Vehicles Pvt. Ltd
- v. All the chassis are coming with Power Take-off Unit (PTO), from the manufacturer of the chassis, that drives all the equipment in the Sludge Tanker and Dewatering Unit.
- vi. He believes that the Sludge Tanker and Dewatering Unit is mounted on the chassis without any alteration to the chassis as per the ARAI norms.
- vii. On being shown the statement of customs broker, M/s. Sunshine Logistics wherein CB stated that when they asked the importer about not including the cost of chassis in the imported goods, the importer said that they are clarifying that the chassis were supplied from India, only for mounting of Sludge Tanker and Dewatering Unit and that all the facts were declared in Shipping Bills and the Bills of Entry. Also, the Invoices too mentioned that the chassis is being returned after mounting of sludge dewatering unit.

5.6 From the above statement of the importer, it appears that the importer at every stage was well aware of all the facts and with a belief that the chassis is eligible for re-import benefit, has willfully suppressed the value of the exported chassis which was to be added in the transaction value to arrive at the actual assessable value for the purpose of correct calculation of duty or eligibility of the goods for duty exemption, if any. Further, even if the importer believed that the exported chassis is eligible for exemption from the duty, it is incumbent on them to declare the correct value of such goods in the Bills of Entry. The importer has not provided any clarification/literature on the process of mounting of Sludge Tanker and Dewatering Unit on the chassis. Further, the importer submitted that he believes that the Sludge Tanker and Dewatering Unit is mounted on the chassis without any alteration to the chassis as per the ARAI norms.

CHARTERED ENGINEER REPORT

6 . As per investigation, Local Port Chartered Engineer in his report dated 03.07.2024 submitted on 05.01.2025 stated as follows: -

- i. *The said material was in the form of MOOS Sludge Tanker and Dewatering Unit combined Sludge Tanker and Dewatering Unit mounted on a Truck, designed to empty, and treat waste water from various sources such as Car Wash Facilities, Interceptor Tanks, Septic Tanks, Grease Interceptors, etc.*
- ii. *The MOOS Sludge Tanker and Dewatering Unit consists of a Sludge Tank, Suction Hoses with Reels, Rotating Light, Vacuum Pump, Sludge Filter, Stone Filter, Ladder, Fire Extinguisher, Drains, Tool Cabinet, Electrical & Control Panels, Remote Control, etc.*
- iii. *During visual examination, they observed that the said material consists of the above-mentioned MOOS Sludge Tanker and Dewatering Unit mounted on the chassis of a Truck by means of Nuts and Bolts.*
- iv. *During inspection we found that the said KSA mobile Sludge Tanker and Dewatering Unit and its hydraulic system is driven by Engine of the truck with power take off unit and electrical power from the battery of the truck.*
- v. *Similarly, air taken for operation of the Pneumatic Valve System is taken from the air system of the truck, through the hoses connected to the units.*
- vi. *Taking into consideration the design of the said unit, installation of the Sludge Tanker and Dewatering Unit, with the Truck chassis is carried out by applying good engineering principles. We can say that the Sludge Tanker and Dewatering Unit cannot be separated easily from each other without special tools and machineries.*

Conclusion:

- a. *The said material is a Sludge Tanker and Dewatering Unit mounted on the chassis of a Truck using Nuts & Bolts.*
- b. *No Riveting was found for installation of the Sludge Tanker and Dewatering on the chassis of the Truck.*
- c. *The Sludge Tanker and Dewatering Unit is Mechanically and Electrically integrated with the Truck.*
- d. *Both the items cannot be separated from each other easily, without the use of specialised tools and machinery and hence Integrated.*

6.1 Hence, from the local port CE report, it appears that the Sludge

Tanker and Dewatering Unit is used to treat the waste from septic tanks and dewatering of sludge and collection thereof in mobile tanker. The Sludge Tanker and Dewatering Unit has been mounted on the chassis using nuts and bolts and without any riveting and accordingly, the importer has correctly classified the imported goods under CTH 8705. Further, the Sludge Tanker and Dewatering Unit is mechanically and electrically integrated with the chassis, resulting in the formation of single unit of imported goods i.e. Special-Purpose Vehicle (SPV) (Mobile Sludge Tanker and Dewatering Unit fitted/mounted on chassis). The Sludge Tanker and Dewatering Unit and the exported chassis cannot be easily separated from each other without use of specialized tools/machinery, hence, form a single integrated unit.

Clarification from the Automotive Research Association of India (ARAI)

7 . As per investigation, a letter dated 18.02.2025 was sent to the Automotive Research Association of India (ARAI) thereby seeking clarification as whether the exported chassis and the mounted sludge tanker and de-watering unit be considered as integrated. In this regard, a reply letter ARAI/HSHRI/GOVT-CORR/24-25/14 dated 21.02.2025 has been received wherein following is stated: -

“This is in response to your letter, regarding the condition and integration of body mounting on chassis. It is understood that the vehicle chassis is being exported from India to some foreign country and again the vehicle is brought back to India, after the mounting of sludge tanker and dewatering unit. This gets covered under the multistage body-building process on drive away chassis vehicles, which is a normal process happening within the country. For any such purposes of special body building, governed by the user requirements, there are specific provisions under the Central Motor Vehicles Rules, permitting the States to register under the State provisions. As per CMV Rules, the drive away chassis vehicles, which are plying on Indian roads need to have a CMVR Type Approval Certificate and be approved through the VAHAN Portal. Whereas, for very special applications like the sludge tank and the dewatering unit, that are special purpose bodies (SPB) built on chassis and those are directly registered by the Regional Transport Office of the State, as per provisions of the respective State, which are permitted under CMVR. Our response to the queries raised in your letter are as given below;

- a. *The chassis and sludge tank with dewatering unit is to be considered as a single integrated unit during registration.*
- b. *Power take-off unit, is given in some chassis to drive limited power from the engine to run some fixed types of equipment mounted on chassis.*
- c. *According to the Central Motor Vehicle Rules, the Chassis and Body mounted on the Chassis, should be an integrated unit of the vehicle and it should be treated as a single unit for registration purposes. The generic guidelines to install various types of bodies on chassis, are guided by the technical provisions specified in the Technical Standard, AIS-093 addressing Truck Constructions.”*

7.1 From the above clarification, it appears that the imported goods are to be considered as a single integrated unit for registration purposes. The imported goods are registered in state RTOs. The importer has submitted sample copies of RTO registration. Hence, the imported goods i.e. the SPVs is to be construed as integrated in terms of uses and registration purpose.

SUMMARY OF THE INVESTIGATION

8. As per the investigation, there were tenders issued by Kanpur Nagar Nigam and Agra Nagar Nigam for supply of sludge tanker and dewatering unit mounted on chassis and the importer was awarded the tenders. The chassis were purchased by M/s. Ajanta Innovative Solutions LLP from M/s. HEC Enviro (India) Pvt. Ltd. which were subsequently purchased from M/s. Daimler India Commercial Vehicles Pvt. Ltd. as M/s. HEC Enviro (India) Pvt. Ltd. was the registered channel partner of M/s. Daimler India Commercial Vehicles Pvt. Ltd. and both the chassis were sent to M/s. Simon Moos for mounting of Sludge Tanker and Dewatering Unit. The importer submitted the indigenous purchase invoices for both the chassis purchased by them. After re-import, they supplied the imported goods to the Kanpur Nagar Nigam and Agra Nagar Nigam.

8.1 The importer, M/s. Ajanta Innovative Solutions LLP, IEC – ABQFA1613A, has imported a total of 02 Special-Purpose Vehicles (SPVs) i.e., “Mobile Sludge Tanker and Dewatering Unit, one each on 10.04.2024 and 13.06.2024. The importer exported/supplied 02 chassis to the foreign supplier, M/s. Simon Moos, to be incorporated in the production of

imported goods.

8.2 The importer exported the 02 chassis to the foreign supplier, M/s. Simon Moos, free of cost. The value declared in the Shipping Bills filed for export of 02 chassis was only a notional value for customs purposes. All the Shipping Bills were filed under NFEI scheme (No foreign exchange involved) with GR waivers issued by authorized banks. The importer, during his statement, had stated that they arrived at the declared notional value in the Shipping Bills on the basis of proforma invoices.

8.3 The importer denied having any agreement with the foreign supplier regarding the supply of chassis and subsequent supply of the imported SPV. The importer also denied having any distributorship agreement with the foreign supplier. When asked to provide a purchase contract/agreement, the importer submitted copy of purchase confirmation orders for import of 02 SPVs. The importer did not provide any technical literature explaining the mounting process of sludge tanker onto the exported chassis. E-mails were sent to the foreign supplier, M/s. Simon Moos, requesting a copy of the agreement/distributorship agreement and technical literature explaining the mounting process. In response, M/s. Simon Moos submitted certain documents but did not provide the required distributorship agreement or technical details. Their email dated 19.03.2025 mentioned the inclusion of agreements and purchase orders but only an order confirmation document was received. A follow-up e-mail was sent on 21.03.2025 requesting clarification but no further documents have been received. Also, the importer submitted a letter dated 23.04.2025 from Daimler India Commercial Vehicles Private Limited wherein they had stated that the Chassis supplied by them are standard commercial motor vehicle chassis and they have not been specially designed or structurally modified for any specific purpose.

8.4 The importer explained that the imported goods are Special-Purpose Vehicles deployed under the Swachh Bharat Mission by Municipal Corporations and such local bodies, for dewatering of sludge and collection thereof in the Mobile Tanker. These machines are intended to promote public health and safety and to eliminate manual scavenging under the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. The tanks and the dewatering units were manufactured by the foreign supplier and mounted on the chassis sent to them free of charge on

re-import basis. However, in none of the Bills of Entry filed for clearance of subject goods, had the importer claimed the benefit of Notification No. 45/2017-Customs, dated 30.06.2017, which provides re-import benefits.

8.5 The importer declared only the price of the machine i.e., Sludge Tanker and Dewatering Unit, along with fitting/installation charges, freight and insurance as the assessment value. The importer claimed that Section 14 of the Act prescribes that the transaction value is the assessable value. However, the SIIB Unit observed that the assessable value is required to be arrived at as per Section 14 of the Act, read with the CVR, 2007.

8.6 Section 14 of the Act, read with Rule 3(1) and Rule 10(1) of the CVR, 2007, makes it clear that the value of materials, components, and parts incorporated in the imported goods or consumed in the production of the imported goods is to be added in the transaction value of the imported goods to arrive at the assessable value of the imported goods. Hence, it is observed that the value of the chassis supplied free of cost to be used in the manufacturing of SPVs must be added to the transaction value of the imported goods to arrive at the assessable value of the imported goods. By not adding the value of the chassis to the transaction value, the importer has evaded customs duty on the value of the chassis used in the manufacturing of the SPVs.

8.7 The importer contested these findings arguing that none of the rules from Rule 4 to Rule 10 of CVR, 2007 can be invoked to add the cost of the chassis originally supplied from India by them. The importer further submitted that chassis exported on job-work basis cannot be considered incorporated in the imported goods under Rule 10(1)(b)(i). They added that SPV's identity is determined only by the engine and chassis numbers and not by the serial number of the tank. The chassis is being re-imported with a machine mounted on it and was not dutiable. Further, they pleaded that they should be allowed to claim the benefit of Notification 45/2017-Cus, dated 30.06.2017, available to re-imported goods.

8.8 In this context, Section 20 of the Act prescribes that the goods manufactured in India and re-imported after their export are liable to duty and subject to all the conditions and restrictions, to which goods of the like kind and value are liable. Further, regarding applicability of the Notification No. 45/2017 dated 30.06.2017, it was observed that the notification prescribes a condition that the notification is applicable only if

the re-imported goods are the same which were exported. However, in the present case, the goods that were exported were “Bharat Benz Chassis”, classified under CTH 8706. After export, the Sludge Tanker and Dewatering Unit has been mounted on the chassis and then re-imported as a Special-Purpose Vehicles, classified under CTH 8705. Since the Sludge Tanker and Dewatering Unit is mechanically and electrically integrated with the chassis, it no longer qualifies as a standalone chassis under CTH 8706. The imported goods are now classifiable as Special-Purpose Vehicles under CTH 8705. Even from an economic and cost perspective, the machine i.e., Sludge tanker and Dewatering Unit, dominates the chassis. Thus, even if the chassis retains the same serial number, its integration with the Sludge Tanker and Dewatering Unit has transformed it into a new product. The original identity of the exported goods is not retained, and once the identity is not established the re-import benefit under Notification No. 45/2017 dated 30.06.2017 cannot be given.

8.9 The local port Chartered Engineer in his report dated 03.07.2024 concluded that the Sludge Tanker and Dewatering Unit is mounted on the chassis using nuts and bolts and without any riveting and the Sludge Tanker and Dewatering Unit is mechanically and electrically integrated with the chassis resulting in the formation of single unit of the imported goods. He stated that both, the Sludge Tanker and Dewatering Unit and the exported chassis, form a single integrated unit which cannot be easily separated from each other without the use of specialized tools and machinery. Hence, the Sludge Tanker and Dewatering Unit that is mounted on the exported chassis, at the time of import, as presented, form a single integrated unit which cannot be easily separated from each other. Automotive Research Association of India (ARAI) in their letter ARAI/HMR/GOVT-CORR/24-25/14 dated 21.02.2025 has clarified that the imported goods are to be considered as a single integrated unit. The imported goods are registered in state RTOs. The imported has submitted sample copies of RTO registration. Hence, the imported goods i.e., the SPVs can be construed as integrated in terms of uses and registration purpose.

8.10 Based on the above findings during the course of the investigation, it is concluded that the value of the chassis exported and incorporated into the manufacture of Special-Purpose Vehicles (SPVs) must be added in the

transaction value of the imported SPVs under Rule 10(1)(b) of the CVR, 2007. Further, the benefit of re-import under Notification No. 45/2017, dated 30.06.2017, is not applicable to the chassis that have been used or incorporated in the manufacturing of the SPVs. The goods that were exported were Chassis classifiable under CTH 8706 and after export, the Sludge Tanker and Dewatering Unit has been mounted on the chassis and then re-imported as a single unit of Special-Purpose Vehicles, classifiable under CTH 8705. As discussed in para 8.8 and 8.9, the importer has willfully suppressed the value of exported chassis. Further, the importer intentionally mis declared the value of imported goods by not including the value of chassis in the transaction value to arrive at the actual assessable value. By excluding the chassis value, the importer evaded applicable customs duty.

VALUATION OF IMPORTED GOODS

9. Section 2(41) of the Act provides that “value” in relation to any goods, means the value thereof determined in accordance with the provisions of sub-Section (1) or sub-Section (2) of Section 14 of the Act. The Section 14(1) *ibid* provides that for the purposes of the Customs Tariff Act, 1975 or any other law for the time being in force, the value of the imported goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation subject to such other conditions as may be specified in the rules made in this behalf.

9.1 First proviso to Section 14(1) of the Act provides that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf. Further, second proviso to Section 14(1) provides that the rules made in this behalf may provide for the manner of acceptance or rejection of value declared by the importer where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this Section. Rule 3(1) of CVR, 2007 state that “Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with

provisions of rule 10; (2) Value of imported goods under sub-rule (1) shall be accepted: provided that “

9.2 In the instant case, the importer has not included the value of exported/supplied chassis (free of cost) in the transaction value to arrive at the actual assessable value as mandated under Rule 3 and Rule 10 of CVR, 2007. The declared value of imported goods covered under 02 provisionally assessed Bills of Entry as mentioned in Table-I, is not inclusive of the value of exported/supplied chassis (free of cost) and hence, the declared value, in its current form, cannot be accepted and requires adjustment to incorporate the value of the exported/supplied chassis (free of cost) in compliance with Rule 3 and Rule 10 of CVR, 2007.

DETERMINATION OF ACTUAL ASSESSABLE VALUE OF THE IMPORTED GOODS

10. Section 14 of the Act read with Rule 3 of the CVR, 2007 provides the method of ascertaining value of imported goods. According to the Rule 3(1) of the CVR, 2007, the value of the imported goods shall be the transaction value of the goods adjusted in accordance with provisions of Rule 10. Rule 10(i)(b) of the CVR, 2007 states that in determining the transaction value, there shall be added to the price actually paid or payable for the imported goods, the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely

- i. *materials, components, parts and similar items incorporated in the imported goods*

.....

- iii. *materials consumed in the production of the imported goods;*

Accordingly, the value of the goods imported vide 02 Bills of Entry is to be re-determined in terms of Rule 3(1) of the CVR, 2007 read with Rule 10 of CVR, 2007 and Section 14 of the Act. Thus, to arrive at actual assessable value, the value of the exported chassis, which was incorporated or consumed in the manufacture of Special-Purpose Vehicles, should be added/included in the transaction value of the imported goods

under Rule 10(1)(b) of the CVR 2007.

10.1 The value declared in the Shipping Bills filed for export of chassis is only a notional value for customs purposes. Hence, the value of the chassis that is supplied by the importer, for use in connection with the production and sale for export of imported goods, is to be determined. The FOB value is determined as per the method of calculation of FOB value as available on <https://commerce.gov.in/wp-content/uploads/2020/12/Annex-3-2-Method-of-Calculation-of-FOB-value.pdf>. As per the aforementioned method, the FOB value = Ex-Factory Price + Other Costs. Other Costs in the calculation of the FOB value are the costs incurred in placing the goods in the ship for export, including domestic transport and insurance costs and customs and other clearance charges. Hence, the value of the chassis supplied to foreign manufacturer = FOB value of chassis + freight + insurance. In the present case, the importer has submitted relevant documents i.e., local purchase invoice, clearance charges, freight and marine insurance. Hence, the determined value represents the price that would have been payable, and is therefore considered to be the transaction value that would have been payable and is true and correct value of the exported/supplied chassis (free of cost) and this value need to be added in the declared transaction value in the Bills of Entry to arrive at the actual assessable value for the purpose of calculation of applicable duty. In this regard, the ex-factory price, other costs, freight and insurance are ascertained, on the basis of submissions of the importer, as follows: -

I. Ex-Factory Price

- a. Ex-Factory Price has been determined on the basis of the copy of 02 local/indigenous purchase invoice submitted by the Importer.

II. Cost of insurance and transport of exported chassis, till port

- a. The importer submitted that the cost of transportation/insurance of the chassis till the port/CFS was included in the invoice value of chassis as a mutual understanding between the seller of chassis, Daimler India Commercial Vehicles (DICV), and the Importer. An email from DICV, dated 16.01.2025, was submitted by the importer wherein it was mentioned that the exported chassis were billed by DICV to different government bodies through the importer and were

delivered through their dealer M/s. Wasan Trucking and Esprit Trucking in Mumbai from their Panvel and Bhiwandi stock yards to JNPT/Nhava Sheva port.

III. Cost of freight and insurance of export of chassis and clearance charges

- a. The importer submitted copy of tax invoices raised by the freight forwarder/clearing agents (Shreenathji Forwarders Pvt. Ltd.) towards the clearance charges along with copy ocean freight charges for the export of 02 chassis. The value declared in the SBs have been taken as marine insurance value of the exported chassis.

10.2 Accordingly, re-determined values of provisionally assessed imported goods covered under 02 live Bills of Entry is tabulated below:

Table-II

I	II	III	IV	V	VI	VII (=V+VI)	VIII	IX	X (=VII+V+III+IX)
Sr. No.	Bill of Entry No. & Date	Description of Goods & Shipping Bill (SB) No. & Date of export of chassis	Declared value of the imported goods Assessable value (in INR)	Ex-Factory Price of chassis (in INR)	Other clearance costs as per forwarder invoice (in INR)	On board value (in INR)	Freight	Insurance	Re-determined Assessable value of the imported goods (in INR)
1	2954 926 dated 10.04.2024	<u>Item-1</u> RE-IMPORT 1 KSA MOBILE SLUDGE TANKER AND DEWATERING UNIT SERIAL NO. 1735-2024, BHARATBENZ 2823C CHASSIS NO. MEC841KBEP140820 SB No. 3012738 Date d 07.08.2023	1,79,18,619.24	43,94,964.10	1,67,242.00	45,62,206.10	3,31,735.00	1,956.00	2,28,14,516.34
2	3974 282 dated 13.06.2024	<u>Item-1</u> RE-IMPORT 1 KSA MOBILE SLUDGE TANKER AND DEWATERING UNIT SERIAL NO.1734-2024, BHARATBENZ 2823C CHASSIS NO. MEC841EBCPP137465 SB No. 2477266 Date d 15.07.2023	1,79,95,514.72	43,94,963.60	1,86,280.00	45,81,243.60	3,58,908.00	2,106.00	2,29,37,772.32

-

DUTY CALCULATION:

11. The value of the exported chassis, which was incorporated or consumed in the manufacturing of the imported goods i.e., Special-Purpose Vehicles, must be added to the transaction value of the imported goods i.e., SPVs as mandated under Rule 3 and Rule 10(1)(b) of the CVR 2007 to arrive at the actual assessable value. Furthermore, the benefit of re-import notification is not available for such chassis that have been used or incorporated in the manufacturing of the imported goods. The importer has willfully suppressed the value of exported chassis and has intentionally mis declared the value of imported goods by not adding the value of the chassis, which was supplied free of cost to the foreign supplier, in the transaction value. This has resulted in mis-declaration of assessable value.

11.1 Accordingly, the assessable values of the imported goods are re-determined as tabulated in Table-II, for goods provisionally assessed and covered under 02 live Bills of Entry. Duty calculation on re-determined assessable values, calculated @ 30.98% [10% BCD+10% SWS+18% IGST], is tabulated as Table-III, for 02 live Bills of Entry, as under:

Table-III

Sr. No.	Bill of Entry No. & Date	Description of Goods	Declared Assessable value of the imported goods (in INR)	Re-determined Assessable value (in INR)	Duty paid @ 30.98% [10% BCD+10% SWS+18% IGST]	Duty payable @ 30.98% [10% BCD+10% SWS+18% IGST]	Differential duty
1	2954926 dated 10.04.2024	<i>Item-1</i> RE-IMPORT 1 KSA MOBILE SLUDGE TANKER AND DEWATERING UNIT SERIAL NO. 1735-2024, BHARATBENZ 2823C CHASSIS NO. MEC841KBEP P140820 SB No. 3012738 Dated 07.08.2023	1,79,18,619.24	2,28,14,516.34	55,51,188.00	70,67,937.16	15,16,749.16
2	3974282 dated 13.06.2024	<i>Item-1</i> RE-IMPORT 1 KSA MOBILE SLUDGE TANKER AND DEWATERING UNIT SERIAL NO.1734-2024, BHARATBENZ 2823C CHASSIS NO. MEC841EBEP P137465	1,79,95,514.72	2,29,37,772.32	55,75,010.00	71,06,121.86	15,31,111.86

		SB No. 2477266 Dated 15.07.2023					
Total			3,59,14,133.96	4,57,52,288.66	1,11,26,198.00	1,41,74,059.00	30,47,861.00

OBLIGATION UNDER SELF-ASSESSMENT

12. The importer had subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Act, in all their import declarations. Further, consequent upon the amendment to Section 17 of Act vide Finance Act, 2011, concept of 'Self-Assessment' has been introduced in Customs. Section 17 of the Act, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry in electronic form. Section 46 of the 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, 2018 (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 on the (common portal) or by way of data entry through the service centre, a Bill of Entry number was generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under the Self-Assessment Scheme, it was the importer's responsibility to ensure that the correct value of the imported goods is declared while presenting the Bill of Entry. With the introduction of self-assessment by amendment to Section 17, w.e.f. 08.04.2011, importer's responsibility was further enhanced to declare the correct value of the imported goods; to correctly classify the goods; and to determine and pay the applicable duty in respect of the imported goods.

LEGAL PROVISIONS INVOKED IN THE SUBJECT CASE:

13. The Customs Act, 1962:

i) Section 14: Valuation of goods –

(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for

export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf :

PROVIDED that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

PROVIDED FURTHER that the rules made in this behalf may provide for –

- i. the circumstances in which the buyer and the seller shall be deemed to be related;*
- ii. the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;*
- iii. the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this Section:*

PROVIDED ALSO that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under Section 46, or a shipping bill of export, as the case may be, is presented under Section 50.

- iv. the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria*

(2) Notwithstanding anything contained in sub-Section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation. - For the purposes of this Section –

- a. *"rate of exchange" means the rate of exchange –*
 - i. *determined by the Board, or*
 - ii. *ascertained in such manner as the Board may direct,*
for the conversion of Indian currency into foreign currency
or foreign currency into Indian currency;
- b. *"foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (m) and clause (q) of Section 2 of the Foreign Exchange Management Act, 1999.*

ii) Section 17: Assessment of duty-

1. *An importer entering any imported goods under Section 46, or an exporter entering any export goods under Section 50, shall, save as otherwise provided in Section 85, self-assess the duty, if any, leviable on such goods.*
2. *The proper officer may verify the entries made under Section 46 or Section 50 and the self-assessment of goods referred to in sub-Section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary:*
PROVIDED that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.
3. *For the purposes of verification under sub-Section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.*
4. *Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.*
5. *Where any re-assessment done under sub-Section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the*

shipping bill, as the case may be.

6. *Where re-assessment has not been done or a speaking order has not been passed on re-assessment, the proper officer may audit the assessment of duty of the imported goods or export goods at his office or at the premises of the importer or exporter, as may be expedient, in such manners as may be prescribed.*

Explanation - For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under Section 46 or an exporter has entered any export goods under Section 50 before the date on which the Finance Bill, 2011 receives the assent of the President, such imported goods or export goods shall continue to be governed by the provisions of Section 17 as it stood immediately before the date on which such assent is received.

iii) section 18. Provisional assessment of duty.

1. *Notwithstanding anything contained in this Act but without prejudice to the provisions contained in Section 46 [and Section 50]*

where the proper officer is satisfied that an importer or exporter is unable to produce any document or furnish any information necessary for the assessment of duty on the imported goods or the export goods, as the case may be; or

(a) where the importer or exporter is unable to make self-assessment under sub-section (1) of section 17 and makes a request in writing to the proper officer for assessment; or

(b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test; or

(c) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary to make further enquiry; or

(d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry,

the proper officer may direct that the duty leviable on such goods be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed or re-assessed as the case may be, and the duty provisionally assessed.]

[(1-A) Where, pursuant to the provisional assessment under sub-Section (1), if any document or information is required by the proper officer for final assessment, the importer or exporter, as the case may be, shall submit such document or information within such time, and the proper officer shall finalise the provisional assessment within such time and in such manner, as may be prescribed.]

(2) When the duty leviable on such goods is assessed finally [or reassessed by the proper officer] in accordance with the provisions of this Act, then -

(a) in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty [finally assessed or re-assessed, as the case may be,] and if the amount so paid falls short of, or is in excess of [the duty [finally assessed or re-assessed, as the case may be,]], the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be;

(b) in the case of warehoused goods, the proper officer may, where the duty [finally assessed or re-assessed, as the case may be,] is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.....

iv) Section 46: Entry of goods on importation–

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such a form and manner as may be prescribed:

PROVIDED that the Principal Commissioner of Customs or Commissioner of Customs may, in case where it is not feasible to make entry by presenting electronically on the customs automated system, allow an entry to be presented in any other manner:

PROVIDED FURTHER that if the importer makes and subscribes a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-Section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under Section 57 without warehousing the same.

(2) *Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.*

.....

(4) *The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.*

(4A) *The importer who presents a bill of entry shall ensure the following namely: -*

- a. *the accuracy and completeness of the information given therein;*
- b. *the authenticity and validity of any document supporting it; and*
- c. *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

v) Section 111(m):

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

vi) Section 111(o): *any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;*

vii) Section 112: Penalty for improper importation of goods, etc. -

Any person, -

- a. *who in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, or abets the doing or omission of such an act, or*
- b. *who acquires possession of or is in any way concerned in*

carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111,

- i. In the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;*
- ii. In the case of dutiable goods, other than prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten per cent. Of the duty sought to be evaded or five thousand rupees, whichever is higher:*

PROVIDED that where such duty 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 communication of the order 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 penalty so determined.

- iii. in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under Section 77 (in either case hereafter in this Section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;*
- iv. in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;*
- v. in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.*

viii) Section 114AA. Penalty for use of false and incorrect material.

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which

is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

ix) Section 2(33) – prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

x) Customs Valuation (Determination of Value of Imported Goods) Amendment Rules, 2007:

a) Rule 3 of the CVR, 2007: Determination of the method of valuation-

(1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of Rule 10;

(2) Value of imported goods under sub-Rule (1) shall be accepted:

Provided that –

- a. *there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which –*
 - i. *are imposed or required by law or by the public authorities in India; or*
 - ii. *limit the geographical area in which the goods may be resold; or*
 - iii. *do not substantially affect the value of the goods;*
- b. *the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;*
- c. *no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and*
- d. *the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.*

(3) (a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

- i. the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;*
- ii. the deductive value for identical goods or similar goods;*
- iii. the computed value for identical goods or similar goods:*

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause (b) of this sub-Rule.

(4) if the value cannot be determined under the provisions of sub-Rule (1), the value shall be determined by proceeding sequentially through Rule 4 to 9.

b) Rule 10 of the CVR, 2007: Cost and Services-

(1) In determining the transaction value, there shall be added to the price actually paid or payable for the imported goods, -

(a) the following to the extent they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods, namely: -

- i. commissions and brokerage, except buying commissions;*
- ii. the cost of containers which are treated as being one for customs purposes with the goods in question;*
- iii. the cost of packing whether for labour or materials;*

(b) The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely: -

- i. materials, components, parts and similar items incorporated in the imported goods;*
- ii. tools, dies, moulds and similar items used in the production of the Imported goods;*

- iii. *materials consumed in the production of the imported goods;*
- iv. *engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods;*

(c) royalties and licence fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of the sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable: -

(d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller,

(e) all other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not included in the price actually paid or payable.

Explanation- Where the royalty, licence fee or any other payment for a process, whether patented or otherwise, is includible referred to in clauses (c) and (e), such charges shall be added to the price actually paid or payable for the imported goods, notwithstanding the fact that such goods may be subjected to the said process after importation of such goods.

(2) For the purposes of sub-Section (1) of Section 14 of the Customs Act, 1962 (52 of 1962) and these rules, the value of the imported goods shall be the value of such goods, and shall include -

(a) the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation;

(b) the cost of insurance to the place of importation:

Provided that where the cost referred to in clause (a) is not ascertainable, such cost shall be twenty per cent of the free on board value of the goods:

Provided further that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (b) is ascertainable, the cost referred to in clause (a) shall be twenty per cent of such sum:

Provided also that where the cost referred to in clause (b) is not ascertainable, such cost shall be 1.125% of free on board value of the goods:

Provided also that where the free on-board value of the goods is not ascertainable but the sum of free on-board value of the goods and the cost

referred to in clause (a) is ascertainable, the cost referred to in clause (b) shall be 1.125% of such sum:

Provided also that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed twenty per cent of free on-board value of the goods:

Provided also that in the case of goods imported by sea or air and transshipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded.

Explanation - The cost of transport of the imported goods referred to in clause (a) includes the ship demurrage charges on chartered vessels, lighterage or barge charges.

(3) Additions to the price actually paid or payable shall be made under this rule on the basis of objective and quantifiable data.

(4) No addition shall be made to the price actually paid or payable in determining the value of the imported goods except as provided for in this rule.

Contraventions:

14. From the above facts, it was attributed that the importer has resorted to wilful suppression of the value of chassis supplied/exported by them free of cost, to the foreign supplier for use in the production of imported goods and hence has intentionally mis declared the value of imported goods with an intention to evade the applicable customs duty. Therefore, the differential duty is liable to be recovered under Section 18 of the Act. The 02 Bills of Entry as detailed in Table-I, were assessed provisionally and hence the differential duty is liable to be recovered by adding the value of exported chassis in the transaction value to arrive at actual assessable value as enumerated in Table- II, and then re-assessing the said 02 provisionally assessed Bills of Entry under Section 18(2) of the Act. Also, applicable interest as per provisions of 18(3) of the Act is also liable to be demanded and recovered on the said differential amount of duty. Further, the goods imported vide the 02 provisionally assessed Bills of Entry as detailed in Table-I, is liable for confiscation under Section 111(m) and 111 (o) of the Act. The importer is liable for penalty under Section 112(a) of the Act.

14.1 As per Rule 11 of the CVR, 2007 the responsibility to declare true,

correct and actual value of the imported goods has been assigned to the importer of such goods. However, in the instant case, the importer did not state the true and correct value of the imported goods before the Customs authority, at the time of clearance of the subject imported goods. In view of the facts and material evidence available on record, it transpires that the importer has contravened the provisions of Section 46 of the Act and Rule 11 of the CVR, 2007 by knowingly and intentionally mis-declaring the value of the imported goods.

14.2 The importer's contention that the goods were cleared on a "first check" basis by Customs without any objection is entirely baseless. Had they claimed the benefit of re-import under Notification No. 45/2017, the goods would have been examined and assessed in that specific context at the time of clearance and such a claim would have been rejected at that stage, and the appropriate duty would have been collected along with any other necessary action. These facts clearly establish that the importer intentionally refrained from claiming the benefit under Notification No. 45/2017 at the actual value of the imported goods, thereby successfully evading the legitimate duty payable to the revenue exchequer, a fact revealed during the course of this investigation. Hence, the importer knowingly and intentionally made false or incorrect declarations while filing the said Bills of Entry. This deliberate concealment of information and wilful misstatement, made with the intent to secure an undue benefit, renders them liable for penal action under Section 114AA of the Customs Act, 1962.

15. In view of the above investigation, Show Cause Notice No. 54/JC/GR. 5B/IMPORT-I/NCH-2025-26 dated 11.12.2025 (hereinafter referred to as "SCN") was issued to the following noticees:

15.1 M/s Ajanta Innovative Solutions LLP [hereinafter referred to as "Noticee No. 1"] was called upon to show cause as to why:

- I. The declared assessable value of Rs. 3,59,14,133.96/- (Rupees Three Crore Fifty-Nine Lakh Fourteen Thousand One Hundred Thirty-Three and Paise Ninety-Six only) should not be enhanced to Rs. 4,57,52,288.66/- (Rupees Four Crore Fifty-Seven Lakh Fifty-Two Thousand Two Hundred Eighty-Eight and Paise Sixty-Six only) as per Table-II of the Show Cause Notice by adding the value of

exported/supplied chassis in the transaction value in accordance with adjustment as per provisions of Rule-3 and Rule 10(1)(b) of the CVR, 2007 read with Section 14 of the Customs Act, 1962 with consequential duty liability.

- II. The duty provisionally assessed at Rs. 1,11,26,198/- (Rupees One Crore Eleven Lakh Twenty-Six Thousand One Hundred Ninety-Eight only) as per Table-I of the Show Cause Notice should not be finally assessed at Rs. 1,41,74,059/- (Rupees One Crore Forty-One Lakh Seventy-Four Thousand Fifty-Nine only) as per Table-III of the Show Cause Notice under Section 18(2) of the Act after adding the value of exported/supplied chassis in the transaction value under Rule 10(1) (b) of the CVR, 2007 read with Section 14 of the Act.
- III. The total differential duty amounting to Rs. 30,47,861/- (Rupees Thirty Lakh Forty-Seven Thousand Eight Hundred Sixty-One only) as per Table-III of the Show Cause Notice should not be demanded and recovered under section 18(2) of the Act along with applicable interest as per provisions of 18(3) of the Act.
- IV. The total bonds executed of Rs 3,59,17,135/- (Rupees Three Crore Fifty-Nine Lakh Seventeen Thousand One Hundred Thirty-Five only) should not be enforced for recovery of the revenue and the Bank Guarantee of Rs. 25,23,585/- (Rupees Twenty-Five Lakh Twenty-Three Thousand Five Hundred Eighty-Five only) submitted during the provisional assessment should not be adjusted/encashed against the total differential duty amounting to Rs. 30,47,861/- (Rupees Thirty Lakh Forty-Seven Thousand Eight Hundred Seventy-Six only) under Section 18(2) of the Act.
- V. The imported goods should not be held liable for confiscation under section 111(m) and 111(o) of the Act.
- VI. Penalty should not be imposed under Section 112(a) of the Act in respect of the imported goods.

15.2 Mr. Roochir Satish Sanghvi [hereinafter referred to as "Noticee No. 2"], partner of M/s Ajanta Innovative Solutions LLP was called upon to show cause as to why:

- I. Penalty should not be imposed upon him under Section 112(a) of the Act for his role in respect of import vide 02 Bills of Entry as per Table-III of the Show Cause Notice.
- II. Penalty should not be imposed upon him under Section 114AA of the

Act for role in respect of import vide 02 Bills of Entry as per Table-III of the Show Cause Notice.

15.3 Shri Hemant Shukle [hereinafter referred to as "Noticee No. 3"], proprietor of M/s. Sunshine Logistics, Customs Broker was called upon to show cause as to why:

- I. Penalty should not be imposed upon him under Section 112(a) of the Act for his role in respect of import vide 02 Bills of Entry as per Table-III of the Show Cause Notice.
- II. Penalty should not be imposed upon him under Section 114AA of the Act for his role in respect of import vide 02 Bills of Entry as per Table-III of the Show Cause Notice.

15.4 A corrigendum dated 17.06.2026 to the Show Cause Notice was issued rectifying the inadvertent error in Paragraph 19 by substituting the adjudicating authority from "Commissioner of Customs (Import-I)" to "Joint/Additional Commissioner of Customs (Import-I)".

RECORDS OF PERSONAL HEARING:

16. Following the principle of natural justice and in terms of Section 28(8) read with Section 122A of the Customs Act, 1962, the Noticees No. 1, 2 & 3 were granted opportunities for personal hearing (PH) was granted on 28.04.2026 and 13.05.2026.

16.1 A personal hearing in the matter was granted to Noticee No. 3 on 09.06.2026. The said noticee replied vide email dated 09.06.2026 that he does not need any personal hearing and his earlier statement may be considered as final statement from his end.

16.2 Pursuant to the issuance of a Corrigendum dated 17.06.2026 to the Show Cause Notice and consequent upon the change of the adjudicating authority, another opportunity of personal hearing was granted to all the three noticees on 22.07.2026, in the interest of natural justice. On 22.07.2026, Advocate Shri Radheshyam Sharma appeared on behalf of Noticee No. 1 and Noticee No. 2 and reiterated the submissions already made in the written reply as well as during the earlier personal hearing, and requested for 15 days' time to file additional written submissions along

with any further judicial precedents specifically addressing the valuation issue involved in the present case. Noticee No. 3 in terms of his email dated 22.07.2026, reiterated that his previous statement may be treated as his final submission.

WRITTEN SUBMISSION OF NOTICE NO. 1

17. M/s Ajanta Innovative Solutions LLP (Noticee No.1) and Shri Roochir Satish Sanghvi, Partner of M/s Ajanta Innovative Solutions LLP (Noticee No.2) submitted detailed written submissions dated 16.01.2026 contesting the allegations in the Show Cause Notice, wherein they inter alia submitted as follows:

- a. **Value of the Chassis sent abroad on “job-work” and supplied free of cost cannot be added in the final product u/s 14 of the Customs Act, 1962, the transaction value declared in the Bills of Entry represented the actual price paid/payable to the foreign supplier;**
- i. The Noticee submits that the assessable value of the imported goods has been correctly determined under Section 14 of the Customs Act, 1962 on the basis of the transaction value reflected in the invoices issued by M/s. Simon Moos, Denmark. The invoices represent the actual consideration payable for the fabrication and mounting of the sludge tank and dewatering unit on the Bharat Benz chassis, together with customs clearance and freight charges from Denmark to India under CFR terms.
- ii. It is contended that the Bharat Benz chassis supplied by the Noticee were exported to Denmark free of cost on a job-work basis and were merely returned after mounting of the equipment. Accordingly, the value of the chassis cannot be added to the assessable value of the imported goods, as no consideration was paid by the foreign supplier for the chassis and the invoices expressly state that the chassis were being returned after installation of the equipment.
- iii. The Noticee further relies upon declarations filed by M/s. Simon Moos before Denmark Customs, which reportedly confirm that the chassis were received free of cost for job work and were not subject to customs duty in Denmark. This, according to the Noticee, establishes that ownership of the chassis remained with the Indian exporter and that the foreign supplier did not incur any cost towards their

acquisition.

- iv. The Noticee also points to the GR Waivers issued by the authorised bank and the declarations made in the shipping bills and export invoices, wherein it was specifically declared that the chassis were exported free of cost on a job-work basis and that the declared export value was only a notional value for customs purposes. Therefore, the Noticee argues that such notional export value cannot be treated as a cost to the foreign supplier or added to the value of the imported sludge tankers and dewatering units.

b. The Proposed Addition of cost and services under Rule 10 of CVR 2007 is Fallacious;

- i. The Noticee contends that the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 do not permit inclusion of the value of the Bharat Benz chassis supplied from India on a free-of-cost job-work basis. According to the Noticee, none of the alternative valuation methods prescribed under Rules 4 to 10 can be invoked, as the chassis are unique goods and there are no identical or similar imports available for comparison. Likewise, the deductive and computed value methods are stated to be inapplicable.
- ii. The Noticee specifically disputes the proposed application of Rule 10(1)(b) of the Valuation Rules. It is argued that the chassis supplied by the importer do not fall within any of the categories of assists contemplated under the Rule, such as materials, components, tools, consumables, or engineering and design work supplied free of charge for the production of imported goods.
- iii. It is further submitted that the chassis cannot be regarded as a material, component, or part “incorporated” in the imported goods. The imported goods are Special Purpose Vehicles (SPVs) consisting of sludge tanker and dewatering equipment mounted on the chassis supplied by the Noticee. The tank and dewatering unit were manufactured by the foreign supplier and mounted on the existing chassis, and therefore the chassis retained its independent identity rather than becoming an assist incorporated into the imported goods.
- iv. The Noticee also submits that the remaining categories under Rule 10(1)(b) are irrelevant to the present case. Tools, dies, moulds, and consumable materials are not involved, while any engineering, design, or development work undertaken by the supplier forms part of its

manufacturing cost already included in the invoice value. Accordingly, the Noticee argues that no addition towards the value of the chassis is warranted under Rule 10(1)(b) or any other provision of the Valuation Rules, and that the invoice value alone should be accepted as the assessable value under Section 14 of the Customs Act, 1962.

c. Applicability of Notification No. 45/2017-Cus dated 30.06.2017 (Re-imports);

- i. The Noticee submits that the Bharat Benz chassis, being goods of Indian origin, are eligible for exemption under Notification No. 45/2017-Customs dated 30.06.2017 upon re-importation. It is contended that the chassis were exported to Denmark on a job-work basis, remained the property of the Indian owners, and were re-imported after mounting of the sludge tanker and dewatering unit. Accordingly, the foreign supplier invoiced only the cost of the mounted equipment and related services, and not the value of the chassis and engine supplied free of cost by the Noticee.
- ii. The Noticee further argues that all conditions of Notification No. 45/2017-Customs stand satisfied, as no export incentives such as drawback, IGST refund, DFIA, DEEC, or EPCG benefits were availed at the time of export. Since the re-imported goods are identifiable by the same chassis and engine numbers as those exported, the requirement that the goods re-imported are the same as those exported is also fulfilled. Consequently, the Noticee claims that the chassis portion of the goods is fully exempt from customs duties upon re-importation.
- iii. The Noticee also maintains that the classification declared is correct. According to the Noticee, the exported chassis fitted with engines were rightly classified under CTH 8706, while the re-imported mobile sludge tanker and dewatering unit mounted on the chassis are correctly classifiable under CTH 8705 as special purpose motor vehicles. Reliance is placed on the HSN Explanatory Notes, which recognize vehicles equipped with specialized machinery and mounted on a complete motor vehicle chassis as classifiable under Heading 8705. Accordingly, the Noticee contends that both the classification and the exemption claimed are legally proper and no customs duty is payable on the impugned imports.

d. **Inapplicability of invocation of Section 20 of the Customs Act, 1962: -**

i. Section 20 of the Customs Act, 1962 reads as : -

“20. Re-importation of goods— If goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof.”

- ii. A plain meaning of the above provision conveys that the export was completed, consideration was paid by the foreign buyer to the Indian supplier and ownership of the goods changed hands from the Seller to the Buyer. In the instant case, the ownership of chassis never changed, it always remained with the Municipalities/ M/s. Ajanta Innovative Solutions LLP (Noticee No. 1) and the goods were dispatched free of cost on job work basis. The essential ingredient of export like consideration received in foreign currency, is absent in the present case in view of the GR Waiver. Since, export was not completed, the rigours of Section 20 are not attracted.

e. **Export under Bond/LUT without payment of integrated tax.**

- i. The Noticee submits that Condition No. 1(d) of Notification No. 45/2017-Customs, relating to recovery of IGST not paid at the time of export under Bond/LUT, is not attracted in the present case. It is argued that the chassis were not exported as part of a sale transaction but were sent abroad on a returnable job-work basis for mounting of sludge tankers and dewatering units. Since no foreign exchange consideration was involved and a GR Waiver had been obtained, the transaction did not constitute a conventional export attracting IGST liability. The execution of LUT was stated to be only a procedural requirement and not indicative of a taxable export supply.
- ii. The Noticee further contends that the provisions of Rules 89(4), 96A and 96B of the CGST Rules, 2017 are inapplicable, as neither the Noticee nor any other party claimed refund of unutilized input tax credit or IGST refund in relation to the exported chassis. It is submitted that the chassis were exported without any tax component and on a notional value declared solely for customs purposes. Consequently, there was no occasion for recovery of IGST or refund

reversal under the GST framework.

- iii. The Noticee also argues that there is no possibility of any double benefit accruing to the importer. According to the Noticee, no IGST refund was claimed at the time of export, while the input tax credit availed upon re-importation was restricted only to the IGST paid on the declared import value representing the cost of the sludge tanker, dewatering unit and freight. Since the value of the chassis was neither included in the supplier's invoice nor subjected to IGST credit, the allegation of dual tax benefits is stated to be factually incorrect.
- iv. Finally, the Noticee relies upon the foreign supplier's declarations and commercial invoices, which allegedly recorded that the chassis had been supplied on a returnable basis and continued to remain the property of the Noticee. On this basis, the Noticee maintains that there was never any transfer of ownership of the chassis and that the transaction was throughout intended as a temporary export for job work followed by re-importation. Accordingly, the Noticee submits that there is neither any contravention of GST provisions nor any basis for recovery of IGST under Condition 1(d) of Notfn No. 45/2017-Customs.

f. The extended period under Section 28(4) cannot be invoked

- i. The Noticee submits that, even assuming the assessable value is liable to redetermination on the basis of the Investigation Report dated 14.07.2025, the demand can only be sustained for the normal period under Section 28(1) of the Customs Act, 1962. It is contended that the extended period under Section 28(4) has been wrongly invoked in the absence of any evidence of fraud, collusion, wilful misstatement, or suppression of facts with intent to evade duty. The Noticee states that all material facts, including the returnable nature of the chassis and the continued ownership with the Noticee, were fully disclosed to the Department, and that a mere difference of opinion regarding valuation, classification, or interpretation of law cannot justify invocation of the extended limitation period. Reliance is placed on judicial precedents, including Commissioner of Customs, Chennai v. K.B. Autosys India Pvt. Ltd., Principal Commissioner of Customs (Import) v. Signet Chemicals Pvt. Ltd., and M/s. Daxen Agritech India Pvt. Ltd. v. Principal Commissioner of Customs

(Imports), wherein it has been held that extended limitation under Section 28(4) is not sustainable in the absence of deliberate suppression or intent to evade duty. Accordingly, the Noticee contends that the demand for past Bills of Entry is barred by limitation.

- g. **Demand of duty u/s 28(4) in respect of Finally assessed B/E is not sustainable:** The Noticee contends that the proposal to re-determine the value of goods imported under the past Bills of Entry is legally unsustainable, as the assessments had already attained finality and were never challenged by the Department before the appropriate appellate forum. It is argued that recovery proceedings under Section 28 of the Customs Act, 1962 cannot be used to bypass a concluded assessment, and that any challenge to valuation must first be preceded by modification or setting aside of the assessment order through the statutory appellate process. In support, the Noticee relies upon the decisions in *Asha Enterprises v. Commissioner of Customs (Preventive)*, *Shillong*, *Priya Blue Industries v. Commissioner of Customs*, and *ITC Ltd. v. CCE, Kolkata-IV*, wherein it was held that an assessment order, including a self-assessed Bill of Entry, remains binding unless overturned in appeal and that recovery, refund, reclassification, or revaluation claims cannot circumvent such final assessment. Accordingly, the Noticee submits that the proposed re-determination of value and consequential demand of differential duty in respect of the past Bills of Entry is contrary to settled law and liable to be set aside.
- h. **The imported goods are not liable for confiscation under Section 111(m) and 111(o) of the Customs Act, 1962.**
- i. The Noticee submits that Section 111(m) of the Customs Act, 1962 is not attracted as there was no misdeclaration of value, description, quantity, or any other material particulars of the imported goods. It is contended that the assessable value declared in the Bills of Entry was based on the invoices issued by the foreign supplier and that all relevant facts, including the returnable nature of the chassis and the ownership thereof, were fully disclosed to Customs. The imports were also subjected to First-Check examination, during which the identity and particulars of the goods were verified by Customs. According to the Noticee, since there was

no requirement to include the value of the chassis supplied free of cost on a job-work basis, no allegation of undervaluation or misdeclaration can be sustained.

- ii. The Noticee further contends that Section 111(o) is equally inapplicable, as no exemption notification, including Notification No. 45/2017-Cus. dated 30.06.2017, was claimed at the time of import. It is argued that, even otherwise, the conditions of the said notification stood substantially complied with and there was no breach of any exemption condition. The Noticee submits that the ownership of the chassis always remained with the Noticee/Municipal Corporations and, therefore, there was no necessity to claim re-import benefits. Accordingly, in the absence of any violation of exemption conditions, misdeclaration, or suppression of facts, the imported goods are not liable to confiscation under Sections 111(m) or 111(o) of the Customs Act, 1962.**i. Penalty cannot be imposed under Section 112(a) and/or Section 114A of the Customs Act, 1962.**

- i. The Noticee submits that the proposed penalty under Section 112(a) of the Customs Act, 1962 is unsustainable as the imports were undertaken in a fully transparent manner under First-Check examination and all material particulars, including the chassis and engine numbers, were correctly declared in the Bills of Entry and corresponding Shipping Bills. It is contended that the dispute raised in the Show Cause Notice is purely one of valuation and legal interpretation, namely whether the value of Indian-origin chassis supplied free of cost on a job-work basis should be added to the value of the imported Special Purpose Vehicles. According to the Noticee, such interpretational disputes do not amount to any act or omission rendering the goods liable to confiscation under Section 111. Further, there is no evidence of any abetment, knowledge, or conscious involvement in any offending act, which is a prerequisite for imposition of penalty under Section 112(a). Reliance is placed on the decision of the Hon'ble Delhi High Court in *Rajeev Khatri v. Commissioner of Customs (Export)*, wherein it was held that abetment necessarily requires knowledge of the offending act.
- ii. The Noticee further submits that the penalty proposed under Section 114A is equally untenable, as the provision applies only where duty has been short-levied by reason of collusion, willful misstatement, or suppression of facts. It is argued that no such elements are present in

the instant case, since all transactions were duly disclosed to Customs and the Bills of Entry were either finally self-assessed or provisionally assessed/re-assessed by the proper officer during the course of investigation. Accordingly, in the absence of fraud, suppression, misstatement, or any conduct rendering the goods liable to confiscation, the Noticee contends that the penalties proposed under Sections 112(a) and 114A deserve to be dropped in their entirety.

j. Cross-examination of witnesses whose statements have been recorded by Customs should be allowed under Section 138B of the Customs Act, 1962:

- i. The Noticee requested an opportunity to cross-examine the persons whose statements, reports or opinions have been relied upon in the Show Cause Notice, including the Customs officers who recorded statements, the Chartered Engineer who prepared the report dated 03.07.2024 and the author of the ARAI clarification dated 21.02.2025. It was contended that the Chartered Engineer's report and ARAI clarification were relied upon without adequate opportunity to test their factual basis and correctness through cross-examination.
- ii. The Noticee further alleged that the statement recorded under Section 108 was obtained under duress and should not be treated as conclusive evidence without independent corroboration.

Accordingly, the Noticee requested that the persons whose statements, technical reports and opinions have been relied upon in the Show Cause Notice be made available for cross-examination and that the proceedings be decided only after granting a fair and effective opportunity of defence.

On the basis of the above contention the Noticee requested that all charges should be dropped against the Noticee No. 1.

WRITTEN SUBMISSION BY NOTICEE NO. 2

18. Shri Roochir Satish Sanghvi, Partner of M/s Ajanta Innovative Solutions LLP (Noticee No. 2) reiterating substantially similar contentions as submitted in case of Noticee No. 1 and denying liability to penalty under Sections 112(a) and 114AA of the Customs Act, 1962 on the following grounds:

- i. It is contended that as no penalty is imposable on the firm under Section 112(a) of the Customs Act hence there is no basis for proceeding against Noticee No. 2. With regard to the proposed penalty under Section 112(a) and 114AA. The Noticee argues that the provision of Section 114AA of the Customs Act, 1962 is attracted only where a person knowingly or intentionally makes, signs, or uses a false declaration, statement, or document in connection with customs transactions. Reliance was placed on judicial decisions including Sameer Santosh Kumar Jaiswal v. Commissioner of Customs, Jai Balaji Industries, Trinetra Impex Pvt. Ltd., and Insaaf Qureshi, wherein it was held that penalties under Section 114AA cannot be imposed in the absence of evidence establishing knowledge, intent, or conscious involvement in the use of false documents or declarations.
- ii. The Noticee further submits that Section 114AA, being a penal provision, cannot be invoked mechanically or on mere technical or procedural lapses. According to the Noticee, the Department has not identified any specific false document, statement, or declaration attributable to Noticee No. 2. It was also contended that the Show Cause Notice fails to assign any distinct role to Noticee No. 2, and the allegations contained in the relevant paragraphs merely repeat the allegations made against the partnership firm without demonstrating any personal involvement. Accordingly, the Noticee submits that the proposed penalty under Section 114AA is legally unsustainable and liable to be dropped.
- iii. In view of the above submissions and the alleged absence of any culpable conduct on his part, Noticee No. 2 requests that the proceedings against him be dropped and that an opportunity of personal hearing be granted before adjudication of the Show Cause Notice.

WRITTEN SUBMISSION BY NOTICEE NO. 3

19. Shri Hemant Shukle, Proprietor of M/s Sunshine Logistics (Noticee No.3) vide email dated 09.06.2026 had submitted that he does not need any personal hearing and his earlier statement may be considered as final statement from his end. He reiterated the same for his personal hearing on 22.07.2026 vide email dated 22.07.2026.

FURTHER WRITTEN SUBMISSION BY NOTICEE NO. 1

20 . In continuation of and in addition to their Reply to the above-captioned Show Cause Notice (SCN) dated 16.01.2026 and in pursuance to the Personal Hearing held on 22.07.2026, M/s. Ajanta Innovative Solutions LLP, the Noticee No. 1 submitted the further additional written submissions on 25.08.2026 for the consideration of the Hon'ble Adjudicating Authority:

i. The Noticee No. 1 submitted that the chassis exported from India were admittedly of Indian origin and were sent to the foreign supplier solely for carrying out the limited activity of mounting the sludge tanker and dewatering unit on a job-work basis. At no point of time was the ownership of the chassis transferred to the foreign supplier, nor was any export incentive such as drawback, refund of IGST, DEEC, DFIA or EPCG benefit availed at the time of export. The very same chassis, identifiable by their unique chassis and engine numbers, have been re-imported after completion of the intended activity. Therefore, every substantive condition prescribed under the Notification No. 45/2017-Cus dated 30.06.2017 stands duly fulfilled.

ii. The Noticee No. 1 relies on the following judicial pronouncement: -

M/s. NTC Logistics India Pvt Ltd, Customs Appeal No.40899 of 2023, CESTAT Chennai, Regional Bench, order dated 09.01.2026;

The Appellant challenged the confirmation of Customs duty comprising BCD, SWS and IGST on re-import of goods on the ground that the Department treated the temporary export of capital goods to Sri Lanka as a taxable supply and denied exemption under Notification No. 45/2017-Customs. The Department contended that since the goods were exported under LUT without payment of IGST, the re-import attracted IGST under Sl. No. 1(d) of the Notification and that the exemption under Sl. No. 5 was not available, further alleging suppression to invoke the extended period of limitation. The Appellant contended that the goods were moved abroad for its own use in execution of a service contract, without consideration, without transfer of ownership and without any supply to an overseas entity, and therefore the movement did not constitute a 'supply' under Section 7 of the CGST Act read with the IGST Act. It was further contended that mere mention of LUT in shipping bills could not determine taxability and that Sl. No. 5 of Notification No. 45/2017 independently granted exemption for re-import of goods exported otherwise than by way of

supply. The Hon'ble CESTAT held that mere movement of goods without consideration or transfer of title does not constitute a supply and hence no IGST was payable at the time of export or re-import. It was further held that Sl. No. 5 of the Notification operates independently and could not be denied by importing conditions from Sl. No. 1(d), and that invocation of extended limitation was unsustainable in the absence of suppression. Accordingly, the impugned order was set aside and the appeal was allowed with consequential relief

This judgement is squarely applicable in the facts and circumstances of our case as the ownership of the subject goods always remained with the Municipalities/ M/s. Ajanta Innovative Solutions LLP and that the goods were dispatched free of cost on job-work basis. The said position is specifically mentioned in the **Para 3.5 of the of the Written Reply dated 16.01.2026** by the Noticee No. 1. The Hon'ble Adjudicating Authority may kindly consider the parity of the circumstances in both the cases and pass a judicious order.

iii. The Noticee No. 1 submits that the chassis were temporarily registered with the RTO for movement from the factory to the gateway port for exportation to Denmark for job-work my M/s. Simon Moos. After completion of the mounting activity and re-importation of the complete Onsite Sludge Dewatering Unit mounted on the same chassis, Registration Certificate in Form 23 was issued by the competent authority. They submitted "Annexure-A" as a copy of the Temporary Registration Certificate and "Annexure-B" as a copy of the Registration Certificate in Form 23.

In respect of the chassis bearing Chassis No. MEC841KBEPP140820, covered under Bill of Entry No. 2954926 dated 10.04.2024, the chassis was temporarily registered under Temporary Registration No. UP78KN3192. The same chassis bearing Chassis No. MEC841KBEPP140820 with the dewatering unit mounted on it was subsequently issued a Certificate of Registration in Form 23 dated 31.07.2024 upon importation and clearance from customs.

The details of the chassis and engine numbers appearing in the Shipping Bills, Bills of Entry and RTO Registration records are set out below:

PRE IMPORT	POST IMPORT

Chassis No & Engine No	Temp. Regn. No.	Shipping Bill No & Date	B/E No & Date	Sludge Tanker Dewatering Unit Serial No.	Form 23 & Regn. No.
MEC841KBE PP140820 / 92 6956D014693 1	T022 4MH 3087 D	SB No. 30 12738 date d 07.08.20 23	BE No. 29 54926 date d 10.04.20 24	1735-2024	Form 23 dated 31 .07.2024 / Regn. No. UP78KN319 2
MEC841EBC PP137465 / 9 26956D01433 04	T032 3TN8 167C	SB No. 24 77266 date d 15.07.20 23	BE No. 39 74282 DT D. 13-06-2 024	1734-2024	Form 23 dated 27 .08.2024 / Regn. No. UP80JT4517

They submitted that the engine numbers/ chassis numbers appearing in the Shipping Bills, Bills of Entry and RTO Registration records are the same. Thus, the Shipping Bills, Bills of Entry and RTO Registration records identify the chassis through the corresponding chassis and engine numbers. The above records also support the fact that the chassis exported by the Noticee No. 1 were subsequently re-imported after completion of the mounting activity.

iv. Further, the catalogue of the Noticee No. 1 sets out the process followed for deployment of the dewatering vehicles. The process specifically states that the chassis is received, thereafter sent to the principal, followed by mounting of the dewatering unit on the chassis, quality checks, inspection and dispatch. They submitted a copy of the Catalogue relating to the Septage Dewatering Vehicles deployed by the Noticee No. 1.

v. It was prayed that the submissions made hereinabove may kindly be taken on record and considered along with the reply dated 16.01.2026. In view of the facts, documents and judicial pronouncements relied upon by the Noticee No. 1, the proposed demand of customs duty, interest and penalty in respect of the re-imported chassis is not sustainable and the proceedings initiated vide the captioned Show Cause Notice may kindly be dropped.

FURTHER WRITTEN SUBMISSION BY NOTICEE NO. 2

21. In continuation of and in addition to their Reply to the above-captioned Show Cause Notice (SCN) dated 16.01.2026 and in pursuance to the Personal Hearing held on 22.07.2026, Roochir Satish Sanghvi, Partner

of *M/s. Ajanta Innovative Solutions LLP* (Noticee No. 2) submitted the further additional written submissions on 25.08.2026 that the Additional Submissions dated 14.08.2026 filed by Noticee No. 1, *M/s. Ajanta Innovative Solutions LLP*, may kindly be read as and treated as part of the submissions of Noticee No. 2, to the extent applicable to Noticee No. 2. The facts, documents, submissions and judicial pronouncement relied upon by Noticee No. 1 in the said Additional Submissions are also relied upon by Noticee No. 2.

DISCUSSION AND FINDINGS

22. I have carefully gone through the entire records, applicable rules/regulations, show cause notice and submission made by the importer during the Personal Hearing and the case has been examined in light of evidences submitted by the importer as well as facts furnished by the department before me. I have also carefully examined the statutory provisions of the Customs Act, 1962, Customs Tariff Act, 1975, Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, Notification No.45/2017-Cus dated 30.06.2017 and the judicial precedents relied upon by the Noticees as well as those relevant to the issues involved in the present proceedings. The principle of natural justice has been scrupulously observed as prescribed under section 122A by affording the Noticees adequate opportunities to present their side by written as well as oral submissions before proceeding towards adjudication the case on merits.

22.1 I have carefully examined their contentions, made both in writing and orally during the personal hearing. I find their submissions, in totality, revolve around the claim that goods are Indian-Origin chassis, temporarily exported to *M/s Simon Moos*, Denmark, solely for the limited purpose of mounting sludge tanker and de-watering equipment under a “job-work” arrangement; that the Value of the Chassis sent abroad on “job-work” and supplied *free of cost* cannot be added in the final product under section 14 of the Customs Act, 1962; that the goods of Indian origin upon re-importation are exempted from customs duty under the Notification no. 45/2017-Customs dated 30.06.2017; that the section 20 of the Customs Act, 1962 cannot be invoked, as the ownership of chassis never changed, it always remained with the Municipalities/Importer and the goods were dispatched free of cost on job work basis; that request for cross-examination of Customs Officers who have recorded the statement of

notice no. 1 and person who have signed the Local Port Chartered Engineer's report dated 03.07.2024 and the clarification issued by the Automotive Research Association of India (ARAI); and that the demand, confiscation, and penalties are unsustainable and liable to be dropped. Upon careful consideration of the facts of the case, the allegations contained in the Show Cause Notice, and the submissions made by the Noticees, I find that the following issues arise for determination and are required to be decided:

(i) Whether the value of the Indian-origin chassis supplied free of cost by the importer to the overseas manufacturer is required to be added to the transaction value under Rule 10(1)(b) of the Customs Valuation Rules, 2007.

(ii) Whether the imported goods qualify for exemption under Notification No.45/2017-Cus. dated 30.06.2017.

(iii) Whether differential customs duty amounting to Rs. 30,47,861/- is recoverable under Section 18(2) of Customs Act, 1962 along with applicable interest as per provisions of Section 18(3) of the Customs Act, 1962 with respect to goods imported vide 02 provisionally assessed Bills of Entry covered by Table-I of the Show Cause Notice.

(iv) Whether the imported goods are liable to confiscation under Sections 111(m) and 111(o) of the Customs Act, 1962.

(v) Whether penalties are imposable upon Noticee No.1, Noticee No.2 and Noticee 3, as proposed in the SCN, under the relevant provisions of the Customs Act, 1962.

(vi) Whether the request for cross examination is liable to be allowed.

I proceed to examine each of the above issues independently.

23. Before examining the valuation dispute, it is necessary to determine the precise nature of the imported goods because the valuation dispute itself flows from the character of the imported goods.

23.1 The investigation has established through the examination reports prepared under Panchanama dated 22.04.2024 that what was imported was not a chassis separately accompanied by a sludge tanker and dewatering equipment. Rather, the imported goods were a fully integrated motor vehicle comprising a Bharat Benz chassis permanently fitted with a sludge tanker, hydraulic pumps, vacuum systems, dewatering

mechanism, power transmission equipment, pipelines, tanks, control panels and associated operating systems. The examination further records that the sludge tanker and dewatering unit had become an integral part of the vehicle and that the imported article functioned as a complete Special Purpose Vehicle. The chassis numbers recorded in the Shipping Bills and Bills of Entry were found to tally, thereby establishing continuity between the exported chassis and the imported SPV.

23.2 Significantly, the Noticees have nowhere disputed this factual position. Rather, throughout their written submissions they repeatedly describe the imported goods as "Mobile Sludge Tanker and Dewatering Unit mounted on Bharat Benz chassis." Their own invoices from M/s Simon Moos describe the imported article as a "KSA Special Edition mounted onto Bharat Benz chassis". Thus, there is complete unanimity between the Department and the importer that the imported article is a fully assembled Special Purpose Vehicle and not merely a chassis.

23.3 The explanatory notes to Heading 8705 clearly provide that special purpose motor vehicles are those specially designed or adapted for performing functions other than transport of persons or goods. Examples specifically include road service vehicles, mobile workshops and similar vehicles incorporating permanently mounted equipment. The imported goods answer this description in every respect. The principal function of the vehicle is not transportation but suction, collection, storage, treatment and dewatering of sludge. The entire hydraulic, pneumatic and electrical systems have been permanently integrated with the chassis. Such integration results in emergence of a commercially distinct article having an entirely different name, character and use from the exported chassis.

23.4 The Noticees themselves have repeatedly emphasized that these vehicles are deployed under the Swachh Bharat Mission for municipal sanitation and mechanized cleaning operations. Such submissions themselves demonstrate that the imported article has acquired a completely new commercial identity. Municipal corporations procure these vehicles not as transport chassis but as sophisticated sanitation equipment mounted on specialized vehicles. Therefore, the commercial identity of the imported article is that of an SPV under Heading 8705 and not that of a chassis under Heading 8706.

23.5 I therefore hold that there exists no dispute regarding the classification of the imported goods. The imported goods are Special Purpose Vehicles (SPV) appropriately classifiable under Heading 8705. This finding assumes considerable importance while examining the eligibility of Notification No.45/2017- Customs dated 30.06.2017 as well as the valuation provisions because the imported goods is commercially, technically and legally different from the chassis originally exported.

Now, I proceed to decide the following issues:

24. Whether the value of the Indian-origin chassis supplied free of cost by the importer to the overseas manufacturer is required to be added to the transaction value under Rule 10(1)(b) of the Customs Valuation Rules, 2007.

24.1 This issue constitutes the core dispute in the present proceedings. The Show Cause Notice alleges that importer M/s Ajanta Innovative Solutions LLP (Noticee No.1) exported Bharat Benz chassis free of cost to the overseas supplier, M/s Simon Moos, Denmark, for manufacture of Special Purpose Vehicles (SPVs). Upon import of the completed SPVs, the importer declared only the value charged by the foreign supplier towards the sludge tanker, dewatering unit, installation charges and freight, while excluding the value of the chassis already supplied by it free of cost. The Show Cause Notice alleged that such exclusion is contrary to Rule 10(1)(b) of the Customs Valuation Rules, 2007 and consequently the assessable value requires re-determination under Section 14 of the Customs Act, 1962.

24.2 The Importer, on the other hand, has vehemently contended that the chassis continued to remain their property; that it was merely sent abroad on a job-work basis; that there was no sale of the chassis to the foreign supplier; that the invoices raised by M/s Simon Moos correctly represent the transaction value; that Rule 10(1)(b) has no application since the chassis was not manufactured by the foreign supplier; and that the declared export value of the chassis was only a notional customs value because GR waiver had been obtained from the authorized bank. Accordingly, I find that the issue requires examination of the statutory scheme governing customs valuation. The section 14 of the Customs Act, 1962 provides that the value of imported goods shall be the transaction

value, namely the price actually paid or payable for the goods when sold for export to India, subject to the provisions of the Customs Valuation Rules. Thus, Section 14 itself does not declare that the invoice value shall invariably constitute the assessable value. Rather, it expressly incorporates the Valuation Rules and makes the transaction value subject to such additions and adjustments as are prescribed therein. The legislative intent is evident from the first proviso to Section 14, which contemplates inclusion of various costs and services that may not form part of the invoice price. Therefore, customs valuation is not confined to the commercial invoice but extends to all additions specifically mandated under the Valuation Rules. The Rule 3(1) of the Customs Valuation Rules, 2007 further reinforces this position by providing that:

" Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with Rule 10."

24.3 The use of the expression "**adjusted**" is of considerable significance. It clearly demonstrates that the invoice price declared by the importer is merely the starting point for valuation. Wherever Rule 10 requires addition of specified elements, such additions become mandatory and the assessable value cannot remain confined to the invoice amount. Therefore, the repeated contention of the importer that "transaction value equals invoice value" proceeds on an incomplete reading of Section 14 of Customs Act, 1962 and Rule 3 of the CVR, 2007. The statutory transaction value is the invoice price after incorporation of all mandatory additions prescribed under Rule 10. Rule 10(1)(b) of the Customs Valuation Rules, 2007 provides that:

(1) In determining the transaction value, there shall be added to the price actually paid or payable for the imported goods, -

.....
.....

(b) The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of imported goods, to the extent that such value has not been included in the price actually paid or payable, namely: -

(i) materials, components, parts and similar items incorporated in the

imported goods;

.....

The language employed by the Rule is both broad and mandatory.

The Rule requires satisfaction of only four essential conditions:

- (i) the goods/materials/components must be supplied by the buyer;
- (ii) such supply may be direct or indirect;
- (iii) the supply may be free of cost or at reduced cost;
- (iv) the supplied goods must be used in connection with production and sale for export of the imported goods.

Once these ingredients are satisfied, inclusion of their value in the transaction value becomes compulsory.

Applying these statutory requirements to the present case, I find that every ingredient of Rule 10(1)(b) stands fully established from the evidence on record.

- i. The Bharat Benz chassis were admittedly supplied by importer to M/s Simon Moos. There is no dispute on this factual aspect.
- ii. The chassis were supplied **free of cost**. The importer itself has repeatedly asserted that the foreign supplier never charged for the chassis because they were received on job-work basis.
- iii. The chassis were used by the foreign manufacturer in producing the imported SPVs. In fact, the foreign supplier could not have manufactured the imported Special Purpose Vehicle without using those said chassis.
- iv. The value of the chassis has admittedly not been included in the invoices raised by the foreign supplier.

24.4 Thus, I find that all statutory conditions prescribed under Rule 10(1)(b) of CVR, 2007 stand completely fulfilled.

24.5 The core contention raised by the Importer is that the chassis cannot be regarded as a material or component incorporated in the imported goods because it was merely sent abroad on job-work basis and continued to remain the property of the importer. I find no merit in this contention.

24.6 The expression employed in Rule 10 is "**materials, components, parts and similar items incorporated in the imported goods.**" The Rule nowhere stipulates that the component must first become the property of

the foreign manufacturer. Similarly, the Rule nowhere requires that the component must itself be manufactured by the foreign supplier. The only statutory requirement is that the buyer must have supplied such component free of cost for production of the imported goods. Ownership is therefore legally irrelevant.

24.7 The imported goods are admittedly Special Purpose Vehicles. A motor vehicle cannot exist without a chassis. Indeed, the chassis forms the very structural foundation upon which the entire sludge tanker, vacuum pump, hydraulic assemblies, piping system, dewatering mechanism and control systems have been permanently mounted. The examination report records that the imported article is a single integrated Special Purpose Vehicle and not two independent goods. Therefore, it is impossible to accept the submission that the chassis has not been incorporated in the imported goods. On the contrary, it constitutes the principal structural component of the imported vehicle.

24.8 I find that the Importer's contention that only the sludge tanker and dewatering unit have been imported and not the chassis is equally untenable. The Bills of Entry themselves describe the imported goods as *"Mobile Sludge Tanker and Dewatering Unit mounted on Bharat Benz Chassis."* Similarly, the overseas invoices describe the goods as mounted on Bharat Benz chassis. The imported goods were assessed under Heading 8705 as one complete Special Purpose Vehicle and not as separate machinery. Once the importer itself has declared the imported goods as one complete Special Purpose Vehicle, it cannot simultaneously contend that one of its principal structural components should be ignored for valuation purposes.

24.9 Much emphasis has been placed by the Importer on the fact that the chassis was exported only for job work and that ownership never passed to M/s Simon Moos. In my considered opinion, this argument proceeds on a misconception of Rule 10 of CVR, 2007. The Rule 10 does not concern itself with transfer of ownership. The Rule 10 of CVR, 2007 seeks to ensure that customs duty is levied on the complete economic value of the imported goods. If a buyer supplies valuable components free of cost to the foreign manufacturer, exclusion of such value would artificially depress the invoice price and consequently reduce customs duty. Rule 10 precisely prevents such undervaluation.

24.10 Therefore, irrespective of whether the supply is by sale, loan, lease or job work, once the buyer supplies a valuable component free of cost for production of the imported goods, its value necessarily becomes includible.

24.11 One of the core contention of the Importer is that the commercial invoice issued by foreign supplier M/s Simon Moos reflects the actual transaction value and therefore no further addition is permissible under Section 14 of the Customs Act. According to the Importer, the foreign supplier has merely charged for the sludge tanker, dewatering unit, installation charges, customs clearance and freight and, therefore, the invoice correctly represents the value of the imported goods.

24.12 In this connection, I find that the expression "price actually paid or payable" occurring in Section 14 cannot be read in isolation. Section 14 itself makes such price subject to the Customs Valuation Rules. Rule 3 of CVR, 2007 further mandates that the transaction value is the price actually paid or payable adjusted in accordance with Rule 10. Therefore, the invoice price constitutes only the starting point for valuation and not the final assessable value. Wherever Rule 10 of CVR, 2007 mandates inclusion of specified elements, such additions are statutory in nature and do not depend upon whether the foreign supplier has included them in the commercial invoice.

24.13 In the present case, the foreign supplier admittedly did not invoice the value of the Bharat Benz chassis because it had been supplied free of cost by the importer. Such omission in the invoice cannot nullify the statutory mandate of Rule 10(1)(b) of CVR, 2007. The assessable value must reflect the complete economic value of the imported Special Purpose Vehicle and not merely the portion charged by the overseas supplier.

24.14 Another important contention of the Importer is that the authorised dealer bank granted GR waiver at the time of export and consequently no foreign exchange was receivable against export of the chassis. It has been argued that the value declared in the Shipping Bills was merely a notional customs value and therefore cannot be adopted for customs valuation at the time of re-import.

24.15 I find that this argument proceeds on a complete conflation of

two distinct legal regimes. The GR waiver granted under the Foreign Exchange Management framework merely dispenses with the requirement of realisation of export proceeds in foreign currency. It regulates foreign exchange transactions and has no bearing whatsoever on determination of assessable value under the Customs Act. The Customs valuation is governed exclusively by Section 14 of the Customs Act and the Customs Valuation Rules, 2007. Neither Section 14 nor Rule 10 of CVR, 2007 makes the applicability of valuation provisions dependent upon receipt of foreign exchange by the exporter.

24.16 Therefore, merely because export proceeds were not realised pursuant to a GR waiver, it does not mean that the chassis had no value or that its value ceases to exist for the purpose of Rule 10 of CVR, 2007. The Importer has further argued that the value declared in the Shipping Bills was only a notional value declared for customs purposes and therefore the same cannot be adopted while determining the assessable value of the imported goods.

24.17 I partly agree with the proposition that the Shipping Bill value may not, by itself, represent the intrinsic value of the chassis. However, this does not advance the case of the Importer. The Show Cause Notice itself does not proceed on the simplistic premise that the Shipping Bill value should automatically be adopted. Rather, the investigation has determined the value of the chassis on the basis of the documentary evidence furnished by the importer itself, including indigenous purchase invoices, freight charges, marine insurance, customs clearance charges and transport costs, so as to arrive at the value of the buyer-supplied assist in accordance with Rule 10.

24.18 Thus, even if the export declaration is described as "notional", the factual position remains that the chassis had a real and substantial economic value. A Special Purpose Vehicle worth several crores cannot be manufactured without the chassis forming its structural foundation. The law requires inclusion of the value of the component supplied free of cost; it does not require adoption of the Shipping Bill value irrespective of evidence. The valuation exercise undertaken in the SCN is therefore based on contemporaneous evidence and not merely on the export declaration.

24.19 The Importer has argued that the Department could not invoke

Rule 10 of CVR, 2007 directly and that Rules 4 to 9 ought to have been sequentially applied before making any addition. I find that this contention of importer also deserves rejection. The Rules 4 to 9 become relevant only where the transaction value determined under Rule 3 is liable to be rejected and valuation has to be undertaken by adopting alternative methods such as identical goods, similar goods, deductive value, computed value or residual method.

24.20 I find that the transaction-value method under Rule 3 remains applicable. The purchase/order-confirmation documents and the commercial invoices of M/s Simon Moos, which form part of the RUDs, evidence the commercial transaction for supply/export to India of the imported SPV as presented, while the foreign supplier's invoice price does not include the value of the chassis supplied free of cost by or through the buyer. Rule 3 therefore requires the otherwise accepted price actually paid or payable to be adjusted by the additions mandated in Rule 10. The case is not one of rejecting the transaction value and proceeding sequentially to Rules 4 to 9; it is a case of completing the Rule 3 transaction value by adding a buyer-supplied assist under Rule 10(1)(b).

24.21 In view of the foregoing discussion, I record the following findings:

- (a) The Bharat Benz chassis supplied by Importer constitutes a "component" within the meaning of Rule 10(1)(b) of the Customs Valuation Rules, 2007.
- (b) The chassis was admittedly supplied free of cost by the buyer to the foreign manufacturer for use in connection with the production of the imported Special Purpose Vehicle.
- (c) The value of the chassis was admittedly not included in the invoice price charged by the foreign supplier.
- (d) Rule 3 read with Rule 10(1)(b) of CVR, 2007 mandatorily requires inclusion of the value of such buyer-supplied component while determining the assessable value.
- (e) The job-work arrangement, continued ownership of the chassis, GR waiver and absence of sale of the chassis do not dilute or override the statutory mandate contained in Rule 10(1)(b) of CVR, 2007.
- (f) Consequently, the declared assessable value is incomplete and liable to be re-determined by adding the value of the exported chassis to the declared transaction value in accordance with Section 14 of the Customs

Act read with Rule 3 and Rule 10(1)(b) of the Customs Valuation Rules, 2007.

24.22 I further find that the quantification of the chassis assist is supported by objective and quantifiable data as required by Rule 10(3). The investigation did not merely adopt the notional value shown in the Shipping Bills. It relied upon the indigenous purchase invoices for the chassis and the documentary freight, marine insurance, transport and customs-clearance charges furnished by the importer. The resulting addition therefore represents the documented cost/value of the buyer-supplied chassis attributable to the imported SPV and not an arbitrary enhancement.

24.23 The contention that chassis were temporarily registered with the RTO for movement from the factory to the gateway port for exportation to Denmark for job-work by M/s. Simon Moos and its re-importation after completion of the mounting activity, the complete Onsite Sludge Dewatering Unit mounted on the same chassis, Registration Certificate in Form 23 was issued by the competent authority does not alter the Rule 10. Rule 10(1)(b) requires that the goods be supplied directly or indirectly by the buyer free of charge or at reduced cost; it does not require the buyer to hold title to the assist. The record shows that M/s Ajanta Innovative Solutions LLP, being the buyer/importer in the transaction with M/s Simon Moos, arranged or caused the identified chassis to be supplied for production of the corresponding imported SPVs. The chassis were physically incorporated in those SPVs, and their value was not included in the foreign supplier's invoice. The statutory ingredients of Rule 10(1)(b)(i) are therefore satisfied notwithstanding the municipal ownership/job-work arrangement.

25. Whether the benefit of Notification No. 45/2017-Customs dated 30.06.2017 is admissible to the imported goods:

25.1 The Importer has strongly contended that the Bharat Benz chassis exported from India have merely returned after mounting of the Sludge Tanker and Dewatering Unit and therefore the re-import is squarely covered by Notification No.45/2017-Customs dated 30.06.2017. They have further argued that no export incentives such as drawback, RoDTEP, DEEC, EPCG, DFIA or IGST refund were claimed at the time of export and

consequently the re-imported chassis are fully exempt from customs duties. According to them, the chassis continued to retain their identity throughout the transaction since the engine number and chassis number remained unchanged. It has also been argued that mounting of the sludge tanker and dewatering unit does not alter the identity of the exported chassis and, therefore, the condition contained in the notification that the re-imported goods should be the "same goods" stands satisfied.

25.2 In this connection, I observed that the department has alleged that the exported goods and imported goods are commercially, technically and legally different goods. The exported goods were chassis classifiable under Customs Tariff Heading 8706, whereas the imported goods are complete Special Purpose Vehicles classifiable under Heading 8705. Consequently, the essential condition prescribed under Notification No.45/2017-Customs dated 30.06.2017 is not fulfilled and the exemption is not available.

25.3 Accordingly, the issue requiring determination is whether the imported Special Purpose Vehicles can be regarded as the "same goods" which were exported from India. Before examining the exemption notification, it is necessary to appreciate the statutory scheme governing re-importation.

Section 20 of the Customs Act, 1962 provides that where goods are imported into India after export therefrom, such goods shall be liable to duty and shall be subject to all the conditions and restrictions applicable to like imported goods. Thus, Section 20 does not create any exemption from customs duty merely because the goods are of Indian origin. Rather, it enacts the general rule that re-imported goods are liable to customs duty in the same manner as any other imported goods. Any exemption from such liability can arise only if the importer strictly satisfies the conditions prescribed under an exemption notification issued under the Customs Act, 1962.

25.4 It is now a settled principle of law that an exemption notification must be construed strictly. The burden lies upon the person claiming exemption to establish that every condition prescribed therein stands fully satisfied. If there is any ambiguity regarding fulfilment of the conditions, the benefit cannot be extended by implication. The Hon'ble Supreme Court in **Commissioner of Customs v. Dilip Kumar & Company [(2018) 9 SCC**

1] has authoritatively held that exemption notifications are to be interpreted strictly and any ambiguity regarding eligibility must operate against the claimant of exemption. Once the Revenue establishes that the case falls outside the plain language of the notification, exemption cannot be granted on equitable considerations. Therefore, the eligibility of the Importer has to be examined strictly within the four corners of Notification No.45/2017-Cus.

25.5 The notification grants exemption only when the goods re-imported are the same goods which had earlier been exported. This condition is not merely procedural but constitutes the very foundation of the exemption. The expression "same goods" cannot be interpreted to mean that merely because one component of the imported article originated in India, the entire imported article becomes identical to the exported goods.

25.6 I find that in the present case, the exported goods were a Bharat Benz chassis classifiable under Heading 8706. It consisted of a motor vehicle chassis fitted with engine but without the specialized sludge tanker, vacuum system, hydraulic assemblies, dewatering equipment, pumps, electrical controls and associated systems. After export, the overseas manufacturer permanently mounted sophisticated municipal sanitation equipment on the chassis, integrated the hydraulic and electrical systems, carried out engineering operations and converted the chassis into a fully functional Special Purpose Vehicle. The imported goods are therefore no longer a bare chassis but an integrated machine performing specialized functions. An important circumstance reinforcing the above conclusion is the change in tariff classification. The exported goods were declared under Heading 8706. The imported goods have admittedly been declared under Heading 8705. This is not a mere change in nomenclature but reflects emergence of a commercially distinct product recognized under the Customs Tariff itself. Heading 8706 covers motor vehicle chassis. Heading 8705 covers special purpose motor vehicles equipped with permanently mounted machinery. Thus, the Customs Tariff recognises these as two separate and distinct commodities. When the statute itself treats the exported and imported articles as different goods, it would be wholly inconsistent to hold that they are nevertheless the "same goods" for the purpose of the exemption notification.

25.7 I find this argument to be misconceived. Retention of the same serial

number merely establishes continuity of the structural platform. It does not establish identity of the commercial goods. The fact that the Bharat Benz chassis continues to bear the same chassis number does not lead to the conclusion that the imported Special Purpose Vehicle is the same goods as the exported chassis. The relevant test is the identity of the goods in commercial parlance and under the Customs Tariff, not merely continuity of identification marks.

25.8 This conclusion is also supported by the directly analogous decisions in *M/s Ashok Leyland Ltd. v. Commissioner of Customs (Import), Nhava Sheva, CESTAT Mumbai*, decided on 02.02.2012, and *Ford India Pvt. Ltd. v. Commissioner of Customs, Chennai*, 2008 (228) E.L.T. 71 (Tri.-Chennai). In *Ashok Leyland*, chassis with engines exported for body building and re-imported as fully built buses were held not to be the same goods for the re-import notification, notwithstanding First Check and matching chassis/engine numbers. Ford India similarly held that exported components re-imported after fitment/assemblage abroad as integral parts of a different imported article do not satisfy the condition that the goods re-imported must be the same goods exported. The ratio applies here because the exported 8706 chassis returned as an integral component of a complete 8705 SPV.

25.9 In view of the foregoing discussion, I hold that:

- (a) Section 20 of the Customs Act does not grant any automatic exemption merely because the goods are of Indian origin.
- (b) Notification No.45/2017-Cus. is an exemption notification and its conditions are required to be satisfied strictly.
- (c) The exported goods were Bharat Benz chassis classifiable under Heading 8706.
- (d) The imported goods are integrated Special Purpose Vehicles classifiable under Heading 8705.
- (e) Permanent mounting and integration of the sludge tanker and dewatering unit resulted in emergence of a commercially and legally distinct article having different name, character, classification and use.
- (f) Mere retention of the same chassis number or engine number does not establish that the imported article is the "same goods" as the exported chassis.
- (g) Consequently, the essential condition prescribed under Notification No.45/2017-Cus. that the goods re-imported should be the same goods as

exported is not fulfilled.

(h) Accordingly, the benefit of Notification No.45/2017-Cus. is not admissible to the imported Special Purpose Vehicles.

26. Whether differential customs duty is recoverable under Section 18(2) of Customs Act, 1962 along with applicable interest as per provisions of Section 18(3) of the Customs Act, 1962 in respect of 02 provisionally assessed Bills of Entry as per Table-I of SCN.

26.1 I find that the SCN has proposed the recovery of duty under Section 18(2) of the Customs Act, 1962, in respect of 02 provisionally assessed Bills of Entry as detailed in Table-I of SCN. I find that the 02 Bills of Entry mentioned in Table-I of the Show Cause Notice were admittedly assessed provisionally under Section 18 of the Customs Act, 1962 after the importer executed the prescribed Bonds and furnished Bank Guarantees towards the likely differential duty. The provisional assessment was resorted to since the investigation regarding the correct assessable value of the imported Special Purpose Vehicles was pending. Upon detailed examination of the facts, records and submissions, I have already held that the value of the Indian-origin chassis, which was supplied free of cost by the importer to the foreign supplier and thereafter formed an integral part of the imported Special Purpose Vehicle, is liable to be added to the transaction value in terms of Rule 10(1)(b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962. Consequently, the assessable value declared by the importer in respect of the said 02 Bills of Entry is not the correct assessable value and requires enhancement as proposed in the Show Cause Notice.

26.2 I have carefully considered the contention and submission of the importer that the chassis were exported only on a job-work basis, that ownership of the chassis always remained with the importer or the Municipal Corporations, that the foreign supplier had charged only for the sludge tanker and dewatering unit, and therefore no differential duty can arise upon finalisation of the provisional assessments. However, these submissions are not acceptable. Rule 10(1)(b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 mandates inclusion of the value of materials, components, parts and similar items supplied free of cost by the buyer for use in the production of the imported

goods, to the extent such value is not already included in the price actually paid or payable. The exported chassis constituted an indispensable component of the imported Special Purpose Vehicle and was admittedly supplied free of cost by the importer for manufacture of the finished imported goods. The fact that the chassis remained under the ownership of the importer or was exported on a job-work basis does not dilute the statutory requirement of valuation under Rule 10(1)(b) of CVR, 2007. Therefore, upon finalisation of the provisional assessments, the duty is required to be recalculated on the enhanced assessable value and the differential duty becomes recoverable under Section 18(2) of the Customs Act, 1962.

26.3 In view of the foregoing findings, I hold that the provisional assessments in respect of the 02 Bills of Entry as detailed in Table-I of the Show Cause Notice are liable to be finalised by enhancing the assessable value in accordance with the provisions of Rule 10(1)(b) of the Customs Valuation Rules, 2007 read with Section 14 of the Customs Act, 1962. Consequently, the differential customs duty arising upon such final assessment is correctly recoverable from M/s Ajanta Innovative Solutions LLP under Section 18(2) of the Customs Act, 1962. Further, once any amount becomes payable upon finalization of provisional assessment, the liability to pay interest as per law under Section 18(3) of the Customs Act, 1962. Accordingly, I hold that the importer is also liable to pay the applicable interest on the differential duty from the date specified under the said provision till the date of payment. The proposal contained in the Show Cause Notice on this issue is, therefore, liable to be confirmed.

CONFISCATION OF GOODS:

27. Whether the imported goods vide 02 provisionally assessed Bills of Entry are liable to confiscation under Sections 111(m) and 111(o) of the Customs Act, 1962.

27.1 The next issue arising for determination, in the sequence of issues framed, is whether the impugned goods covered under 02 provisionally assessed Bills of Entry as detailed in Table-I to the SCN are liable to confiscation under Section 111(m) and under Section 111(o) of the Customs Act, 1962 for mis-declaration of the value of the impugned goods and not fulfil the condition therein. It is therefore appropriate to first

examine the relevant statutory provisions of section 111(m) and Section 111(o) of the Customs Act, 1962, which are reproduced below:

SECTION 111. Confiscation of improperly imported goods, etc.-The following goods brought from a place outside India shall be liable to confiscation:

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

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

27.2 I have carefully examined the allegations contained in the Show Cause Notice, the written submissions filed by M/s Ajanta Innovative Solutions LLP, the documents relied upon in the notice, and the oral submissions made during the course of personal hearing. The proposal for confiscation under Sections 111(m) and 111(o) of the Customs Act, 1962 has been made on the ground that the importer deliberately declared an incorrect assessable value by excluding the value of the Indian-origin chassis supplied free of cost to the foreign manufacturer, thereby rendering the imported goods liable to confiscation. The importer has contended that there was complete transparency in the import transactions; the chassis numbers and engine numbers were declared in the Shipping Bills as well as the Bills of Entry; the invoices specifically mentioned that the chassis were being returned after mounting of the equipment; all consignments were assessed under First Check and examined by Customs; and therefore there was neither any suppression of facts nor any mis-declaration. The importer has further argued that the dispute is purely one relating to interpretation of the valuation provisions and Notification No. 45/2017-Cus., and hence confiscation is not sustainable merely because the Department takes a different view regarding valuation.

27.3 I find that the above submissions cannot be accepted. As already discussed while deciding the issue of valuation, the imported goods were complete Special Purpose Vehicles comprising the sludge tanker and dewatering unit mounted on the chassis supplied free of cost by the importer. Under Rule 10(1)(b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the value of such chassis, being a material/component supplied free of cost by the buyer for production of the imported goods, was mandatorily includible in the transaction value. However, while filing the impugned 02 Bills of Entry, the importer declared only the invoice value relating to the sludge tanker and dewatering unit without including the value of the chassis, thereby declaring an assessable value substantially lower than the value legally required for assessment. Consequently, the value declared in the Bills of Entry was not the true assessable value under Section 14 of the Customs Act, 1962. The fact that the importer disclosed the chassis numbers or that the consignments were subjected to First Check examination cannot absolve the importer of the statutory obligation to correctly declare the assessable value. Customs examination verifies the physical identity and description of goods; it does not dispense with the importer's responsibility to declare the correct value in accordance with law. Thus, the omission to include the value of the chassis resulted in mis-declaration of value attracting the provisions of Section 111(m) of the Customs Act, 1962.

27.4 I further find that the goods were released only after provisional assessment under Section 18 of the Customs Act, 1962 on execution of Bonds and furnishing of Bank Guarantees subject to specific conditions imposed by the investigating authority, including final determination of the correct assessable value. Upon finalisation of the provisional assessment, it has been held that the importer was liable to pay differential duty after inclusion of the value of the exported chassis. Since the importer sought clearance of the goods on the basis of an incorrect assessable value and failed to comply with the statutory requirements governing assessment and valuation of the imported goods, the conditions subject to which the goods were provisionally cleared also stood violated. Accordingly, the imported goods become liable to confiscation not only under Section 111(m) for mis-declaration of value but also under Section 111(o) of the Customs Act, 1962, as the conditions governing their importation and provisional clearance were not fulfilled in the manner required by law. The contention that the case involves only a bona fide interpretational dispute is not

acceptable because the statutory valuation provisions unequivocally require inclusion of the value of the free-of-cost chassis supplied by the buyer. Therefore, I hold that the proposal in the Show Cause Notice to confiscate the imported goods under Sections 111(m) and 111(o) of the Customs Act, 1962 is legally sustainable and is liable to be confirmed.

CROSS EXAMINATION:

28. Whether the request for cross examination is liable to be allowed:

28.1 With respect to next issue regarding cross-examination, I find that the Importer argued that the statement of notice no. 1 was obtained under duress therefore, cannot be relied upon as conclusive evidence and no person can be penalized merely on the strength of such a statement without independent corroborative evidence. Further, they argued that the report of the Local Port Chartered Engineer dated 03.07.2024, submitted on 05.02.2025 is not legally sustainable. The said report constitutes a vital basis for the allegations concerning the classification, composition, and valuation of the imported Special Purpose Vehicles. However, the Chartered Engineer whose opinion has been relied upon has neither been examined by the Department as a witness nor has the Noticee been afforded an opportunity to cross-examine him. Further, they also argued that ARAI letter dated 21.02.2025 merely represents an external opinion, rendered without any physical inspection of the goods in question or verification of the factual aspects relevant to the present case. Furthermore, the said communication lacks cogent reasoning or any detailed explanation substantiating its conclusion. So, in interest of justice, they requested of cross-examination of Customs Officers who have recorded the statement of notice no. 1 and person who have signed the Local Port Chartered Engineer's report dated 03.07.2024 and the clarification issued by the Automotive Research Association of India (ARAI). It is therefore necessary to examine whether, in the facts of the present case, cross-examination is either warranted or legally required. I have carefully examined this issue in light of the facts of the case, the nature of evidence relied upon and the legal position governing admissibility of evidence under the Customs Act, 1962.

28.2 I observed that the present proceedings do not rest solely or substantially upon any oral statement or opinion of the above persons. The

allegations in the Show Cause Notice are principally founded upon documentary evidence such as the Bills of Entry, Shipping Bills, commercial invoices, packing lists, contracts with the foreign supplier, examination reports, Panchanama, import and export documents, valuation records. These documents are either statutory records filed by the importer or documents supplied by the importer during the course of investigation. The facts relating to export of Indian-origin chassis, re-import of the same chassis after mounting of the sludge tanker and dewatering unit, non-inclusion of the value of the exported chassis in the assessable value and classification of the imported goods as Special Purpose Vehicles are all admitted and undisputed facts emerging from the records themselves. The dispute in the present case is essentially regarding the legal interpretation of Section 14 of the Customs Act, 1962, Rule 10(1) (b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the applicability of Notification No. 45/2017-Cus., rather than any disputed factual issue requiring testing through cross-examination.

28.3 The request for cross-examination of the Customs officers who recorded the statements is also devoid of merit. The officers who recorded statements under Section 108 of the Customs Act merely performed their statutory function of recording statements during investigation. They are neither witnesses to the alleged transaction nor have they deposed to any independent facts. The evidentiary value lies in the statements themselves and not in the officer who recorded them. On the contrary, the statements of Shri Roochir Satish Sanghvi, Partner of M/s. Ajanta Innovative Solutions LLP substantially admit the factual sequence of export of the chassis free of cost, import of the mounted Special Purpose Vehicle, issuance of invoices only for the mounted equipment and the conscious decision not to include the value of the chassis in the assessable value on the belief that re-import benefit was available. Therefore, examination of the officers who merely recorded such statements would serve no useful purpose.

28.4 It is further observed that Section 138B of the Customs Act, 1962 does not confer an absolute or automatic right of cross-examination in every adjudication proceeding. The provision merely lays down the circumstances under which statements recorded before Customs officers become relevant as evidence. Where the adjudication is based primarily

upon admitted documents and independent documentary evidence and not exclusively upon statements, denial of cross-examination does not violate the principles of natural justice. It is well settled that cross-examination is required only where the adjudicating authority seeks to rely upon a disputed testimonial assertion for establishing facts and where such facts cannot otherwise be proved through documentary evidence. In the present case, the material facts are independently established from statutory documents and records produced by the importer himself.

28.5 The request for cross-examination of the Chartered Engineers who prepared the Local Port Chartered Engineer's Report dated 03.07.2024 is equally untenable. The Chartered Engineer's report merely records the physical characteristics and technical features of the imported goods after examination. The Chartered Engineer reports are only explanatory in nature and do not introduce independent allegations. Since no technical finding contained in the report has been specifically challenged by producing any contrary expert opinion, cross-examination of the Chartered Engineers would be an empty formality and would not assist in determination of the issues involved.

28.6 Similarly, the request for cross-examination of the officials of ARAI in respect of their clarification dated 21.02.2025 cannot be accepted. The clarification issued by ARAI is in the nature of an expert technical clarification issued by a recognised technical institution in response to a specific query raised during investigation. The letter neither records any disputed factual assertion against the Noticee nor attributes any act or omission to the importer. It merely clarifies technical aspects relating to the nature and construction of the vehicle. Expert opinions obtained from statutory or recognised technical bodies are intended to assist the adjudicating authority in understanding technical matters and do not become testimonial evidence requiring cross-examination as a matter of course. Moreover, the Noticee has not produced any contrary expert opinion from any equally competent technical institution rebutting the clarification issued by ARAI. Mere disagreement with an expert opinion does not create a vested right to insist upon cross-examination of the expert.

28.7 It is also noteworthy that the Noticee has failed to demonstrate as to what prejudice has been caused by non-grant of cross-examination. The

request is general and omnibus in nature without specifying which particular factual assertion contained in the statements, Chartered Engineer's report or ARAI clarification is incorrect or requires testing through cross-examination. It is a settled principle that cross-examination cannot be permitted as a matter of routine or for conducting a fishing or roving inquiry. Unless the Noticee establishes that the adjudication substantially depends upon disputed oral evidence and that denial of cross-examination would cause prejudice to its defence, such request need not be granted.

28.8 Insofar as the request for cross-examination of the officers who conducted examination of the goods at the docks is concerned, I find that the examination findings are recorded in contemporaneous official records prepared in discharge of statutory duties. Their examination reports are documentary evidence reflecting physical verification of goods and are not in the nature of opinion evidence requiring testing through cross-examination.

28.9 I further find that the importer has not pointed out any specific inconsistency, contradiction or infirmity in the Chartered Engineer reports or ARAI letter which can only be resolved through cross-examination. The request is general and lacks specificity as to what material fact is sought to be disproved through such cross-examination.

28.10 I find that the right to cross-examination is an important fact of the principles of natural justice; however, it is not an absolute or invariable right and must be determined in the context of the nature of evidence relied upon and the facts of each case. In terms of Section 138B of the Customs Act, 1962, cross-examination is not an absolute right and becomes necessary only when the reliance is placed substantially on statements. In *J&K Cigarettes Ltd. v. CCE*, 2009 (242) E.L.T. 189 (Del.), it was held that cross-examination may be denied where the evidence is predominantly documentary and statements are merely confirmatory. Similarly, in *CCE v. Kalvert Foods*, 2011 (270) E.L.T. 643 (S.C.), it was held that voluntary statements containing internal factual details cannot be discarded merely on retraction. *In case of Andaman Timber Industries v. CCE*, the Hon'ble Supreme court held that in present case, demand is not solely based on statements. In the present case, even in the absence of statements of Chartered Engineers or officers, the documentary evidence

on record is sufficient to establish mis-declaration of the value of the re-imported chassis which was exported free of cost to foreign manufacturer.

28.11 In view of the above, I hold that the issues involved in the present proceedings are capable of being decided on the basis of admitted facts, statutory documents, import and export records, the voluntary statements of the Noticee and other documentary evidence available on record. The Chartered Engineer's report and the ARAI clarification are only corroborative pieces of evidence and are not the sole foundation of the demand proposed in the Show Cause Notice. The Noticee has failed to demonstrate any prejudice arising from denial of cross-examination. Accordingly, I hold that cross-examination is neither necessary nor warranted in the facts of the present case, and denial thereof does not violate principles of natural justice.

IMPOSITION OF PENALTY

29. Whether penalties are imposable upon Noticee No.1, Noticee No.2 and Noticee 3 under the relevant provisions of the Customs Act, 1962.

29.1 The next issue for consideration is whether penalties, as proposed in the Show Cause Notice, are liable to be imposed upon the respective Noticees.

29.2 The SCN proposes imposition of penalties under Sections 112(a) and 114AA of the Customs Act, 1962 upon the Noticees. Before examining the role and liability of each Noticee, it is necessary to examine the scope, intent and legal ingredients of the penal provisions invoked in the Show Cause Notice, beginning with Section 112(a) of the Customs Act, 1962.

Section 112(a) of the Customs Act, 1962 provides for imposition of penalty on any person who, in relation to any goods, does or omits to do any act which renders such goods liable to confiscation under Section 111 of the Act, or abets the doing or omission of such an act. A plain reading of the provision shows that clause (a) comprises two distinct portions. The first portion covers act or omissions by the importer, exporter or beneficial owner which directly result in the goods becoming liable to confiscation. In this respect, it is well settled that proof of mens rea is not an essential requirement, as the liability arises from the act or omission itself. This position stands affirmed by the judgments of the Hon'ble Supreme Court

in *Chairman, SEBI v. Shriram Mutual Fund* [2006 (5) SCC 361] and *Pine Chemicals Suppliers v. Collector of Customs*, and has been consistently followed by various High Courts, including in *Commissioner of Customs (Export), Chennai-I v. Bansal Industries* [2007 (207) E.L.T. 346].

29.3 The second portion of Section 112(a) relates to abetment of acts or omissions which render goods liable to confiscation. In such cases, the use of the expression “abets” assumes significance and necessarily requires establishment of knowledge, intent or conscious involvement on the part of the person concerned. This limb is generally attracted in the case of persons other than the principal importer, such as Customs Brokers, their employees, shipping agents or other facilitators, whose liability must be examined on the basis of evidence demonstrating deliberate assistance or conscious facilitation of the offence.

29.4 Further, Section 114AA of the Customs Act, 1962 states that “If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.” The section applies to any person who deliberately submits false or incorrect information in documents or statements related to customs transactions, such as mis-declaration of goods, their value, country of origin or any other particulars during Customs clearance of the goods. The provision emphasizes the need for knowing or intentional action, meaning the person must have acted with deliberate intent to sign or use, or cause to be made, signed or used, any false or incorrect declaration, statement or document for the purpose of Customs clearance. Courts have held that penalties under this section require proof of mens rea (guilty mind) and cannot be imposed for technical or unintentional errors. The Tribunal in *Amglo Resources Pvt Ltd. v. CC, Ahmedabad* (2024) held that.

29.5 In relation to penalty imposed under Section 114AA, it is submitted that the key words in the aforesaid Section is ‘knowingly’ and ‘intentionally’ and therefore unless mens-rea is established beyond doubt Penalty under the said section cannot be imposed. Hence, since Section 114AA specifically requires proof of mens rea (guilty mind) and deliberate intent, while imposing penalties under Section 114AA.

29.6 I find that the legislative intent behind Section 114AA of the Act is to safeguard revenue interests by penalizing fraudulent practices in customs transactions, whether they pertain to imports or exports. I find that in *“Nitin Khandelwal vs. Principal Commissioner, Customs (Import) ICD Tughlakabad, New Delhi (Final Order dated 13 September 2024)”*, the Hon’ble CESTAT in Para 45 held that, *“A plain reading of the above shows that the person who knowingly making any false declaration statement or produce a document which is false or incorrect in any material particular in the transaction of any business for the purposes of this Act, shall be liable to a penalty under Section 114AA. Bills of Entry are certainly documents meant for transaction under the Customs Act. There is nothing in the text of section 114AA which shows that it is confined only to export and does not apply to imports. Learned counsel relied on the 27th Report of the Standing Committee of the Finance in support. We have examined it. The Committee had expressed concerns about the introduction of an additional section 114AA as it was considered harsh. In response, the Ministry explained that this has been introduced consequent upon several cases of fraudulent exports for which no goods were being exported or papers being created claiming benefits under the scheme. After the Ministry’s response, the Committee felt that the proposal to introduce Section 114AA was in the right direction but advised the Government to monitor the implementation of this provision with due care. Nothing in this report indicates that it is confined only to cases of export it only states the background in which this provision was made. At any rate, any discussion during the Committee meeting cannot form the law. The law has to be read as it has been enacted by the Parliament. Nothing in the text of section 114AA shows that it applies only to exports and not to imports.”*

29.7 The adjudication proceedings under the Customs Act are quasi-judicial in nature and require careful appreciation of facts, evidence and the degree of culpability of each Noticee. It is a settled principle of law that confirmation of duty demand or confiscation of goods does not automatically warrant imposition of penalty. The adjudicating authority is required to independently examine whether the essential ingredients of each penal provision are satisfied in respect of each Noticee.

Therefore, keeping in view the statutory provisions, the judicial precedents discussed above and the evidence brought on record during investigation, I now proceed to examine, in detail, the role of each Noticee

individually, to determine whether penalties under Sections 112 and 114AA of the Customs Act, 1962 are warranted in the facts and circumstances of the present case.

30. Role played by the Importer, M/s Ajanta Innovative Solutions LLP (Noticee No. 1):

30.1 I find that the SCN proposes penalties under Section 112(a) of the Customs Act, 1962 on the Importer, M/s Ajanta Innovative Solutions LLP. The SCN alleged that the importer deliberately suppressed the value of chassis supplied/exported by them free of cost, to the foreign supplier for use in the production of imported goods and hence has intentionally mis-declared the value of the imported goods with an intention to evade the applicable customs duty. The importer was fully aware that the exported chassis formed an inseparable part of the imported Special Purpose Vehicle, yet deliberately chose to declare only the value reflected in the supplier's invoice. Such repeated undervaluation resulted in substantial short payment of customs duty. On the basis of these allegations, penalties under Sections 112(a) of the Customs Act, 1962 have been proposed.

30.2 I observed that the Authorised Representative on behalf of the importer has argued that penalty under Section 112(a) is not imposable as the import of the SPV were carried out in full transparency under "First Check" examination, all relevant particulars, including chassis and engine numbers, were correctly declared in the Bills of Entry and corresponding Shipping Bills. There has been no mis-declaration, suppression, or omission on the part of the importer that could render the goods liable to confiscation under Section 111 of the Customs Act, 1962. The issue raised in SCN is purely one of valuation and interpretation—whether the value of Indian-origin chassis, exported free of cost on job-work basis, should be added to the value of the imported Special Purpose Vehicles. Differences of interpretation on valuation do not constitute an "act" or "omission" attracting penal consequences under Section 112(a) of the Customs Act, 1962. Imposition of penalty under section 112(a) is contingent upon doing or omitting to do any act which act or omission would render such goods liable to confiscation under section 111 of the Customs Act, 1962 or abetting the doing or omission of such an act. There is no act or omission by the importer rendering the goods liable to confiscation under Section 111, nor any evidence of abetment or knowledge of an offending act. As

held by the Hon'ble Delhi High Court in ***Rajeev Khatri v. Commissioner of Customs (Export)*** [MANU/DE/4161/2023], abetment necessarily requires knowledge of the offending act, and in the absence of such knowledge or connivance, penalty under Section 112(a) cannot be imposed. The contentions put forth by the importer have been carefully examined by me in light of allegation raised in the SCN along with judgement relied upon.

30.3 It is a well-settled position of law that the obligation to make a true, correct, and complete declaration under Section 46 of the Customs Act, 1962 rests squarely upon the importer. Judicial pronouncements have consistently upheld the imposition of penalties where deliberate misstatement, suppression of facts, or fraudulent intent is established. The **Hon'ble Supreme Court** in *Union of India v. Rajasthan Spinning & Weaving Mills* [2009 (238) E.L.T. 3 (S.C.)] has unequivocally held that once the essential ingredients of fraud, suppression, or willful misstatement are established, penalty follows as a matter of law. Further, in the matter of *Collector of Customs v. Sanjay Chandiram*, Hon'ble apex Court upheld *deterrent penalties and redemption fines for an importer who used forged documents and false information to evade customs duty. The Court found these penalties proportionate to the importer's actions.*

30.4 M/ Ajanta Innovative Solutions LLP is the importer of the subject goods and the principal beneficiary of the imports under investigation. The investigation has established that the importer exported Indian-origin Bharat Benz chassis free of cost to M/s Simon Moos, Denmark, for mounting of Sludge Tanker and Dewatering Units and thereafter re-imported the fully built Special Purpose Vehicles (SPVs) into India through 02 Bills of Entry. The imported goods were complete Special Purpose Vehicles classifiable under CTH 8705 and not merely sludge tank assemblies. The examination conducted by SIIB also confirmed that the imported goods were integrated Special Purpose Vehicles mounted on the same chassis exported from India.

30.5 It is an admitted position that the foreign supplier raised invoices only for the sludge tanker, dewatering unit and mounting charges, whereas the value of the Indian-origin chassis supplied free of cost by the importer was not included in the assessable value declared in the Bills of Entry. The importer consciously assessed the imported goods only on the

invoice value of the foreign supplier despite being fully aware that the chassis constituted an integral component of the imported Special Purpose Vehicle. The investigation has therefore correctly concluded that the importer failed to include the value of the chassis supplied free of cost, which was required to be added under Rule 10(1)(b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962. The consequence of such omission was undervaluation of the imported goods and short payment of customs duty.

30.6 The role of M/s Ajanta Innovative Solutions LLP was not passive or ministerial. The entire transaction originated from the importer. It was the importer who procured the Bharat Benz chassis in India, exported the same to Denmark under Shipping Bills, entered into contractual arrangements with the foreign supplier for mounting the specialised equipment, received the finished Special Purpose Vehicles in India, arranged the import documentation through Customs Brokers and filed the Bills of Entry declaring only the invoice value of the foreign supplier. Therefore, every stage of the import transaction remained under the control and knowledge of M/s Ajanta Innovative Solutions LLP.

30.7 The importer has contended that complete disclosure was made before Customs, that chassis numbers and engine numbers were declared in the Shipping Bills and Bills of Entry, that the Bills of Entry were filed under "First Check", and that there was no intention to evade duty. It has further argued that the issue is merely one of interpretation of Rule 10(1)(b) of the Valuation Rules and Notification No. 45/2017-Customs dated 30.06.2017, and therefore no penalty under Section 112(a) is imposable.

30.8 I have carefully considered the above submissions. Mere disclosure of chassis numbers or filing Bills of Entry under First Check cannot absolve the importer from the statutory obligation of correctly declaring the assessable value of imported goods. First Check examination primarily facilitates verification of description, quantity and physical identity of the imported goods; it does not dispense with the obligation cast upon the importer under Section 46 read with Section 14 of the Customs Act to truthfully declare the correct assessable value. The responsibility for correct valuation always rests with the importer.

30.9 The importer has also argued that the chassis remained their property, that the chassis were exported only on job-work basis and that the imported goods qualified for exemption under Notification No. 45/2017-Cus. These submissions have already been examined and rejected while deciding the valuation issue. Once it is held that the imported goods are complete Special Purpose Vehicles and that the value of the chassis supplied free of cost was required to be added under Rule 10(1)(b) of the Valuation Rules, 2007, the omission to declare such value inevitably rendered the imported goods liable to confiscation under Section 111(m) of the Customs Act, 1962 on account of mis-declaration of value.

Liability under Section 112(a)

30.10 Section 112(a) of the Customs Act, 1962 provides for imposition of penalty on any person who does or omits to do any act which renders goods liable to confiscation under Section 111 or who abets the doing or omission of such act. In the present case, M/s Ajanta Innovative Solutions LLP, being the importer, omitted to declare the correct assessable value by excluding the value of the chassis supplied free of cost. This omission directly resulted in undervaluation of the imported goods and rendered the goods liable to confiscation under Section 111 of the Customs Act, 1962. Thus, the ingredients necessary for invoking Section 112(a) stand fully satisfied.

30.11 I find that the plea of bona fide belief advanced by the importer is also not acceptable. A bona fide belief cannot be accepted where the importer, despite being fully aware of all material facts relating to the transaction, failed to include an essential value component required under the Customs Valuation Rules. The importer had complete knowledge that the imported goods consisted of the very chassis exported by it along with the mounted specialised equipment. It was therefore under a legal obligation to correctly determine and declare the assessable value in accordance with the provisions of the Customs Valuation Rules.

30.12 I find that the reliance placed by the importer on the absence of suppression, the filing of Bills of Entry under First Check and its legal interpretation of Rule 10(1)(b) does not mitigate its liability under Section 112(a). Once the goods are held liable to confiscation under Section 111 owing to mis-declaration of value, the importer, being the person

responsible for filing the Bills of Entry and making the declaration of value, becomes liable to penalty under Section 112(a).

30.13 Accordingly, I hold that M/s Ajanta Innovative Solutions LLP actively participated in the importation of undervalued goods by omitting to include the value of the exported chassis in the assessable value of the imported Special Purpose Vehicles. Such omission rendered the goods liable to confiscation under Section 111 of the Customs Act, 1962. Therefore, M/s Ajanta Innovative Solutions LLP has rendered itself liable to penal action under Section 112(a) of the Customs Act, 1962, and I hold that an appropriate penalty is liable to be imposed upon M/s Ajanta Innovative Solutions LLP under the said provision.

31. Role played by Shri Roochir Satish Sanghvi, Partner of M/s. Ajanta Innovative Solutions LLP (Noticee No. 2), for imposition of penalty under Sections 112(a) and 114AA of the Customs Act, 1962.

31.1 I have carefully examined the allegations made against the Shri Roochir Satish Sanghvi, Partner of M/s. Ajanta Innovative Solutions LLP (Noticee No. 2). The SCN proposes imposition of penalty upon him under Sections 112(a) and 114AA of the Customs Act, 1962 on the ground that, he orchestrated deliberate mis-declaration of Value of Chassis supplied/exported free of charge to foreign manufacturer of Special Purpose Vehicle.

31.2 Shri Roochir Satish Sanghvi is the Partner of M/s. Ajanta Innovative Solutions LLP and the key person responsible for the overall affairs of M/s Ajanta Innovative Solutions LLP, the importer of the subject goods. His statement recorded under Section 108 of the Customs Act clearly establishes that he was fully conversant with the complete business model adopted by the company, namely export of Indian-origin Bharat Benz chassis to M/s Simon Moos, Denmark free of cost, mounting of sludge tanker and dewatering equipment thereon and subsequent re-import of the complete Special Purpose Vehicles into India. He categorically admitted that the value of the chassis was consciously not included in the assessable value on the ground that the chassis were of Indian origin and had been exported only for job-work.

31.3 I observed that the investigation has established that the importer

exported Indian-origin chassis free of cost to the foreign supplier and subsequently imported complete Special Purpose Vehicles under 02 Bills of Entry by declaring only the value charged by the foreign supplier towards the sludge tanker, dewatering unit and mounting charges, without including the value of the chassis supplied free of cost. The entire commercial arrangement, execution of contracts, export of chassis, import of the finished Special Purpose Vehicles and filing of Bills of Entry were undertaken under the overall supervision and control of Shri Roochir Satish Sanghvi in his capacity as Partner of M/s. Ajanta Innovative Solutions LLP, the importing company.

31.4 During investigation, Shri Roochir Satish Sanghvi, Partner of M/s. Ajanta Innovative Solutions LLP did not dispute that the imported goods consisted of complete Special Purpose Vehicles mounted on the same chassis exported from India. He admitted that the company deliberately assessed the imported goods only on the value of the foreign supplier's invoice because, according to him, the chassis were of Indian origin and therefore their value was not required to be added. Thus, the omission to include the value of the chassis was not accidental or due to any clerical mistake but represented a conscious commercial decision taken by the management of the importing company under his direction. The contention of Shri Roochir Satish Sanghvi is that all relevant particulars, including chassis numbers and engine numbers, were disclosed in the Shipping Bills and Bills of Entry, that the Bills of Entry were filed under First Check examination, that the imported goods were eligible for the benefit of Notification No. 45/2017-Customs and that the issue involved only interpretation of Rule 10(1)(b) of the Customs Valuation Rules 2007. He has also contended that the invoices correctly reflected the transaction value charged by the foreign supplier and therefore no mis-declaration or suppression can be attributed either to him or to the importing company.

31.5 I have carefully considered the above submissions. Mere disclosure of chassis numbers or filing of Bills of Entry under First Check cannot substitute the statutory obligation of correctly declaring the assessable value under Section 14 of the Customs Act, 1962 read with Rule 10(1)(b) of the Customs Valuation Rules, 2007. The responsibility for truthful declaration of value rests upon the importer and the persons who knowingly control and cause such declarations to be filed. Shri Roochir

Satish Sanghvi was not merely a nominal Partner, his statements and the record show his active role in the procurement arrangement, export of chassis, import of the SPVs, the valuation methodology and correspondence with Customs. His own statements demonstrate complete knowledge of the material transaction facts.

31.6 I find that that the records further reveal that even after the initiation of investigation in April 2024 and despite being specifically informed by SIIB regarding the Department's stand that the value of the exported chassis was liable to be added in the assessable value under Rule 10(1)(b) of CVR, 2007, the importer, under the management of Shri Roochir Satish Sanghvi, continued to import similar Special Purpose Vehicles through additional Bills of Entry by following the identical valuation methodology. This continued conduct, despite knowledge of the Department's objection, clearly demonstrates that the omission was deliberate and consciously persisted with.

31.7 Once it has been held that the value of the chassis supplied free of cost was required to be included in the assessable value, the declaration made in the Bills of Entry became materially incorrect, resulting in undervaluation of the imported goods and rendering them liable to confiscation under Section 111(m) of the Customs Act, 1962. Shri Roochir Satish Sanghvi, being the person who controlled and supervised the import transactions and who consciously adopted the impugned valuation methodology, actively facilitated the importation of goods liable to confiscation.

Liability under Section 112(a)

31.8 Section 112(a) of Customs Act, 1962 imposes penalty upon any person who does or omits to do any act which renders goods liable to confiscation under Section 111 or abets such act or omission. In the present case, Shri Roochir Satish Sanghvi consciously directed and approved the importation of Special Purpose Vehicles without inclusion of the value of the chassis supplied free of cost to foreign supplier, despite being fully aware of the nature of the transaction and the valuation adopted. His acts and omissions directly resulted in mis-declaration of assessable value and consequently rendered the imported goods liable to confiscation under Section 111(m) and 111(o) of the Customs Act, 1962.

Therefore, Shri Roochir Satish Sanghvi has rendered himself liable to penalty under Section 112(a) of the Customs Act, 1962.

Liability under Section 114AA

31.09 The Show Cause Notice has further proposed penalty under Section 114AA on the allegation that false and incorrect declarations were used during importation. Section 114AA applies where a person knowingly or intentionally makes, signs, uses or causes to be made, signed or used any declaration, statement or document which is false or incorrect in any material particular in any transaction under the Customs Act. In the present case, the Bills of Entry, invoices and import declarations were admittedly filed under the authority and supervision of Shri Roochir Satish Sanghvi. Although the invoices correctly reflected the amount charged by the foreign supplier, the Bills of Entry and valuation declarations intentionally omitted the value of the Indian-origin chassis which constituted an integral part of the imported Special Purpose Vehicles. Consequently, the declaration of assessable value furnished before Customs became materially incorrect. Shri Roochir Satish Sanghvi, being fully aware of the true nature of the transaction and having consciously caused such declarations to be filed, knowingly used and caused to be used documents containing materially incorrect declarations regarding the assessable value of the imported goods. Such conduct squarely attracts the provisions of Section 114AA of the Customs Act.

31.10 The plea of Shri Roochir Satish Sanghvi that the issue merely involves interpretation of valuation provisions cannot be accepted in view of the facts already discussed in detail while confirming the demand of duty. The repeated adoption of the same valuation methodology in 02 Bills of Entry, coupled with continuation of the same practice even after commencement of investigation, clearly negatives the plea of bona fide belief.

31.11 Accordingly, I hold that Shri Roochir Satish Sanghvi, Partner of M/s Ajanta Innovative Solutions LLP, actively participated in and was responsible for the importation of undervalued goods by consciously omitting to include the value of the exported chassis while declaring the assessable value of the imported Special Purpose Vehicles. His acts and omissions rendered the goods liable to confiscation under Section 111 of

the Customs Act, 1962, thereby attracting penalty under Section 112(a) of the Customs Act, 1962. Further, by knowingly causing materially incorrect valuation declarations to be filed before Customs, he has rendered himself liable to penalty under Section 114AA of the Customs Act, 1962.

32. Role played by Shri Hemant Shukle, Proprietor of M/s Sunshine Logistics, Customs Broker (Noticee No.3):

32.1 Shri Hemant Shukle, is the Proprietor of M/s Sunshine Logistics, a licensed Customs Broker, through whom M/s Ajanta Innovative Solutions LLP filed 02 Bills of Entry covering the subject imports of Mobile Sludge Tanker and Dewatering Units mounted on Bharat Benz chassis. As a licensed Customs Broker, Shri Hemant Shukle was an authorized person under the Customs Act, 1962 entrusted with the responsibility of preparing, verifying and filing import declarations on behalf of the importer after exercising due diligence expected from a Customs Broker. The Customs Broker acts as an important link between the importer and Customs administration and is expected to ensure that declarations made before Customs are complete, accurate and in conformity with the provisions of the Customs Act, 1962 and the Customs Broker Licensing Regulations.

32.2 The investigation establishes that the 02 impugned Bills of Entry were filed by M/s Sunshine Logistics on behalf of the importer wherein the assessable value declared was restricted only to the value charged by the foreign supplier towards the Sludge Tanker and Dewatering Unit together with the installation and freight charges. The value of the Bharat Benz chassis, admittedly supplied free of cost by the importer to the foreign supplier and forming an integral part of the imported Special Purpose Vehicle, was not included in the assessable value declared in the Bills of Entry. Consequently, the imported goods were assessed on an incorrect transaction value, resulting in short-payment of customs duty.

32.3 The statement of Shri Hemant Shukle recorded under Section 108 of the Customs Act reveals that he was fully aware that the exported goods were classified under Customs Tariff Heading 8706 whereas the imported goods were classified under Heading 8705. He further admitted that he had informed the importer that, because of the change in tariff classification, the benefit of Notification No. 45/2017-Customs dated

30.06.2017 was not being claimed while filing the Bills of Entry. However, according to him, the importer maintained that the goods were otherwise eligible for re-import benefit. Since the Customs Broker entertained doubts regarding the eligibility of the imports, he chose to file the Bills of Entry under "First Check" examination and the goods were physically examined before assessment.

32.4 The above statement clearly establishes that Shri Hemant Shukle was not ignorant of the peculiar nature of the import transaction. On the contrary, he himself admitted that he had doubts regarding the applicability of the exemption and the valuation of the imported goods. Once such doubts existed, a higher degree of professional diligence was expected from a licensed Customs Broker. Instead of merely acting upon the instructions of the importer, he was required to advise the importer to declare the complete assessable value in accordance with Section 14 of the Customs Act read with Rule 10(1)(b) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, or at the very least to clearly bring the valuation issue to the notice of the proper officer in the Bills of Entry. The fact that the Bills of Entry were filed under "First Check" does not absolve the Customs Broker of his statutory responsibilities. First Check examination is intended for verification of the description, identity and physical characteristics of imported goods. It does not shift the legal responsibility for making a truthful and complete declaration of value from the importer or the Customs Broker to the assessing officer. The statutory obligation to furnish a correct declaration remains that of the persons filing the import documents.

32.5 A Customs Broker cannot merely act as a mechanical filing agent. Being a licensed professional under the Customs Broker Licensing Regulations, he is expected to exercise due care, verify the correctness of the declarations made before Customs and advise his client to comply with the provisions of the Customs Act. His failure to exercise such due diligence facilitated the filing of Bills of Entry containing materially incorrect assessable value, thereby enabling clearance of the imported goods on payment of short customs duty.

Liability under Section 112(a)

32.6 Section 112(a) of the Customs Act provides for penalty upon any

person who does or omits to do any act which renders goods liable to confiscation under Section 111, or who abets the doing or omission of such act.

32.7 I find that in the present case, by preparing and filing 02 Bills of Entry declaring an assessable value which excluded the value of the Indian-origin chassis forming part of the imported Special Purpose Vehicles, Shri Hemant Shukle actively facilitated the importation of goods that have been held liable to confiscation under Section 111(m) of the Customs Act, 1962 for mis-declaration of value. Although the principal beneficiary of the undervaluation was the importer, the Customs Broker knowingly participated in filing the import declarations on the basis of such valuation despite being conscious of the legal issues involved. His conduct therefore amounts to abetment of the improper importation of goods liable to confiscation, attracting penalty under Section 112(a) of the Customs Act 1962.

Liability under Section 114AA

32.8 Section 114AA provides for imposition of penalty upon any person who knowingly or intentionally makes, signs, uses or causes to be made, signed or used any declaration, statement or document which is false or incorrect in any material particular in any transaction under the Customs Act, 1962.

32.9 The Bills of Entry filed by M/s Sunshine Logistics constituted statutory declarations under the Customs Act. These Bills of Entry declared an assessable value which, as discussed in the foregoing paragraphs, did not include the value of the chassis supplied free of cost by the importer and consequently did not reflect the correct assessable value of the imported goods. Shri Hemant Shukle, being the Customs Broker who prepared and electronically filed these Bills of Entry on behalf of the importer, knowingly caused these declarations to be used before Customs. His own statement establishes that he was aware of the peculiar nature of the transaction, the difference in tariff classification between export and import, and the doubts regarding the availability of the claimed benefit. Despite possessing such knowledge, he continued to file Bills of Entry adopting the same valuation methodology for the impugned 02 consignments without ensuring that the correct assessable value was

declared or bringing the valuation issue to the notice of the proper officer in a manner required under law. Consequently, he knowingly used and caused to be used import declarations containing materially incorrect particulars relating to valuation, thereby attracting the provisions of Section 114AA of the Customs Act.

32.10 Accordingly, I hold that Shri Hemant Shukle, Proprietor of M/s Sunshine Logistics, by repeatedly preparing and filing Bills of Entry containing incorrect assessable value and by facilitating the importation of undervalued goods despite being aware of the nature of the transaction and the legal issues involved, has abetted the improper importation of goods liable to confiscation under Section 111 of the Customs Act. He has, therefore, rendered himself liable to penalty under Section 112(a) of the Customs Act, 1962. Further, by knowingly causing materially incorrect import declarations to be filed before Customs, he has also rendered himself liable to penalty under Section 114AA of the Customs Act, 1962.

ORDER

33. In view of the findings and observations as made above, I pass the following order:

- I. I reject the declared assessable value of Rs. 3,59,14,133.96/- (Rupees Three Crore Fifty Nine Lakh Fourteen Thousand One Hundred Thirty Three and Paise Ninety Six Only) of imported goods covered under Bill of Entry Nos. 2954926 dated 10.04.2024 and 3974282 dated 13.06.2024 and re-determine the assessable value at Rs. 4,57,52,288.66/- (Rupees Four Crore Fifty Seven Lakh Fifty Two Thousand Two Hundred Eighty Eight and Paise Sixty Six Only) by including the value attributable to the exported/supplied chassis in accordance with Rule 3 read with Rule 10(1)(b) of the Customs Valuation Rules, 2007 and Section 14 of the Customs Act, 1962.
- II. I order finalisation of the provisional assessment under Section 18(2) of the Customs Act, 1962 at a total duty liability of Rs. 1,41,74,059/- (Rupees One Crore Forty One Lakh Seventy Four Thousand Fifty Nine only) of Bill of Entry Nos. 2954926 dated 10.04.2024 and 3974282 dated 13.06.2024 as against the provisionally assessed duty of Rs. 1,11,26,198/- (Rupees One Crore Eleven Lakh Twenty Six Thousand One Hundred Ninety Eight Only).
- III. I confirm the demand of differential customs duty amounting to Rs. 30,47,861/- (Rupees Thirty Lakhs Forty-Seven Thousand Eight

Hundred Sixty-One only) in respect of Bill of Entry Nos. 2954926 dated 10.04.2024 and 3974282 dated 13.06.2024 provisionally assessed under Section 18(2) of the Customs Act, 1962 and order recovery thereof along with applicable interest from M/s Ajanta Innovative Solutions LLP under Section 18(3) of the Customs Act, 1962.

- IV. I order that the bonds executed in connection with the provisional assessment be enforced to the extent required for recovery of the duty and interest confirmed herein and that the Bank Guarantee of Rs. 25,23,585/- (Rupees Twenty Five Lakh Twenty Three Thousand Five Hundred Eighty Five only), furnished in connection with the provisional assessment, be dealt with/encashed to the extent legally required towards the confirmed liability, subject to adjustment of amounts already paid.
- V. I hold the imported goods liable to confiscation under Sections 111(m) and 111(o) of the Customs Act, 1962. However, I impose a redemption fine of Rs. 45,00,000/- (Rupees Forty Five Lakh only) on M/s. Ajanta Innovative Solutions LLP, in lieu of confiscation, under Section 125(1) of the Customs Act, 1962.
- VI. I order to impose penalty of Rs. 3,00,000/- (Rupees Three Lakh only) upon M/s. Ajanta Innovative Solutions LLP under Section 112(a) of the Customs Act, 1962.
- VII. I order to impose penalty of Rs. 3,00,000/- (Rupees Three Lakh only) upon Mr. Roochir Satish Sanghvi, partner of M/s Ajanta Innovative Solutions LLP, under Sections 112(a) of the Customs Act, 1962.
- VIII. I order to impose penalty of Rs. 30,00,000/- (Rupees Thirty Lakh only) upon Mr. Roochir Satish Sanghvi, partner of M/s Ajanta Innovative Solutions LLP, under Sections 114AA of the Customs Act, 1962.
- IX. I impose penalty of Rs.3,00,000/- (Rupees Three Lakh only) upon Shri Hemant Shukle, Proprietor of Customs Broker, M/s Sunsine Logistics, under Sections 112(a) of the Customs Act, 1962.
- X. I impose penalty of Rs.30,00,000/- (Rupees Thirty Lakh only) upon Shri Hemant Shukle, Proprietor of Customs Broker, M/s Sunsine Logistics, under Sections 114AA of the Customs Act, 1962.

34. This order is passed without prejudice to any other action which may be taken or purported to be taken against the noticees or any other

concerned person under the Customs Act, 1962, or any other act for the time being in force in the Union of India.

Digitally signed by
Vijay J Manvatkar
Date: 24-09-2026
15:57:31
(VIJAY J MANVATKAR)

Additional Commissioner of Customs (Import-I)

New Custom House, Mumbai Customs Zone-I

To:

1. M/s Ajanta Innovative Solutions LLP,
292, Mangaldas Building No.3B, 3rd floor,
Mangaldas Road, Andheri Link Road,
Mumbai – 400002.
Email: - ajantaisllp@gmail.com

2. Mr. Roochir Satish Sanghvi,
Partner of M/s. Ajanta Innovative Solutions LLP,
292, Mangaldas Building No.3B, 3rd floor,
Mangaldas Road, Andheri Link Road,
Mumbai – 400002

3. Shri Hemant Shukle,
Proprietor, M/s. Sunshine Logistics,
Tolaram Nagar, Building No. 2,
A Wing, Room No. 9, Chembur Colony,
Mumbai - 400074

Copy to:

1. The Commissioner of Customs (Import – I), NCH, Mumbai.
 2. The Asstt./Dy. Commissioner of Customs, SIIB (Import), NCH, Mumbai.
 3. The Asstt./Dy. Commissioner of Customs, Review Cell, Import-I, NCH, Mumbai
 4. The Asstt./Dy. Commissioner of Customs, Gr. VB, NCH, Mumbai.
 5. EDI Section for upload in Mumbai Customs Zone – I website.
 6. Office Copy.
 7. Notice Board.
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