



**OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT)**  
CENTRAL BOARD OF EXCISE & CUSTOMS, INDIAN CUSTOMS - MUMBAI ZONE - I  
2<sup>ND</sup> FLOOR, NEW CUSTOM HOUSE, SHOORJI VALLABHDAS ROAD, BALLARD ESTATE,  
MUMBAI - 400001.

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F. No.: S/26-Misc-1546/2022-23/Gr.VA JNCH  
eF.No. GEN/ADJ/COMM/270/2025-ADJN

Date of Order: 12.03.2026  
Date of Issue: 12.03.2026

Passed by: **ASLAM HASSAN**  
**COMMISSIONER OF CUSTOMS (EXPORT)**  
**NEW CUSTOMS HOUSE, MUMBAI, ZONE-I**

C.A.O. NO.: 150/2026/2025-26/CAC/CC(E)/AH/ADJN-EXP  
DIN- 2026037700000000C48A

**ORDER-IN-ORIGINAL**

**मूल आदेश**

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यह प्रति उस व्यक्ति के प्रयोग के लिए नि शुल्क है जिसके लिए यह पारित किया है।

2. An appeal against this order lies to the Regional Bench, Customs, Excise and Service Tax Appellate Tribunal, Jai Centre, 4th & 5th Floor, 34 P. D'Mello Road, Poona Street Masjid Bunder (East), Mumbai 700 009.

इस आदेश के विरुद्ध क्षेत्रीय पीठ, सीमाशुल्क, उत्पाद एवं सेवाकर अपीलार्थी अधिकरण, जय सेन्टर, चौथा एवं पांचवा तल, 34 पीडी, मेलो रोड, पूना स्ट्रीट मस्जिद बन्दर (पूर्व मुंबई) (400 009) को अपील की जा सकती है।

3. The appeal is required to be filed as provided in Rule 6 of the Customs (Appeals) Rules, 1982 in form C.A.3 appended to said rules. The appeal should be in quadruplicate and needs to be filed within 90 days and shall be accompanied by Four copies of the order appealed against (at least one of which should be certified copy) A crossed bank draft drawn in favour of the Asstt. Registrar of the Bench of the Tribunal on a branch of any nationalized bank located at a place where the bench is situated for Rs. 200/- or Rs. 1000/- as applicable under Sub Section (6) of the Section 129 (A) of the Customs Act, 1962.

सीमाशुल्क (अपील नियमों) (1982 के नियम 6 के आधार पर अपील फॉर्म सी ए-3 में जैसा कि उक्त नियम में संलग्न है के आधार पर की जानी चाहिए। अपील चार प्रतियों में की जानी चाहिए एवं 90 दिनों के अन्दर दायर की जानी चाहिए एवं उसके साथ उस आदेश की चार प्रतियां संलग्न होनी चाहिए जिसके विरुद्ध अपील की गई हो इन प्रतियों में कम से कम एक प्रति। अपील के साथ सीमाशुल्क अधिनियम (अभिप्रमाणित प्रति होनी चाहिए) 1962 की धारा 129 (ए) की उपधारा ((6) के अन्तर्गत लागू रु. 200/- अथवा रु. 1000/- का, क्रास किया हुआ बैंक ड्राफ्ट अधिकरण की पीठ के सहायक रजिस्ट्रार के नाम जारी किया होना चाहिए। यह बैंक ड्राफ्ट ऐसे राष्ट्रीय बैंक का होना चाहिए जिसकी शाखा उस जगह स्थित हो जहां अधिकरण पीठ स्थित है।

4. The appeal shall be presented in person to the Asstt. Registrar of the bench or an Officer authorized in this behalf by him or sent by registered post addressed to the Asstt. Registrar or such Officer. अपील अधिकरण पीठ के सहायक रजिस्ट्रार अथवा इस संबंध में उनके द्वारा अधिकृत किसी भी अधिकारी के कार्यालय में प्रस्तुत की जानी चाहिए अथवा सहायक रजिस्ट्रार या ऐसे अधिकारी के नाम पंजीकृत डाक द्वारा भेजी जानी चाहिए।

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

जो व्यक्ति इस आदेश के विरुद्ध अपील करना चाहता है वह इस अपील के लंबित रहने तक दंडराशि या अपेक्षित शुल्क को जमा कर और ऐसे भुगतान का साक्ष्य प्रस्तुत करे। ऐसा न करने पर यह अपील सीमाशुल्क अधिनियम 1962 की धारा 129 के प्रावधानों के अनुपालन न करने के आधार पर निरस्त मानी जाएगी।

Subject: Adjudication of Show Cause Notice No. 2944/2023-24/Gr.VA/JNCH Dated 29.03.2024, issued by the Commissioner of Customs, NS-V, Nhava Sheva, JNCH in respect of M/S. Electronic Stock Exchange (IEC-0316949132)- Reg.

**BRIEF FACTS OF THE CASE**

1. M/s. Electronic Stock Exchange (IEC-0316949132), having its registered address at H. No. 5, Block B-SF, Gurudwara Bala Sahib Complex, South Delhi-110014 (hereinafter referred to as "the Noticee"), had filed various Bills of Entry through their authorized Customs Broker, M/s. Prakhar Gupta (ASLPG5339H), during the years 2019 and 2020 at JNCH, Nhava Sheva, for the import of LED TV Panels of different sizes of Sony and Samsung brands.

The details of the said Bills of Entry comprising of Bills of Entry Nos./dates, description of goods, declared brand, quantity, declared value, and unit value are as hereunder:

**Table-I**

Sr. No.	BE No.	BE Date	Type of Goods found	Declared Brand	Qty (in pcs)	UQC	Declared Value (in USD)	Declared Unit Value in Rs.
1	2626029	29.03.2019	LED TV PANEL 32"	Sony	200	Pcs	70	4900
			LED TV PANEL 40"	Sony	120	Pcs	80	5600
			LED TV PANEL 43"	Sony	150	Pcs	90	6300
			LED TV PANEL 48"	Sony	120	Pcs	100	7000
			LED TV PANEL 55"	Sony	30	Pcs	120	8400
2	3070126	02.05.2019	LED TV PANEL 40"	Samsung	176	Pcs	80	5632
			LED TV PANEL 65"	Samsung	6	Pcs	140	9856
			LED TV PANEL 75"	Samsung	26	Pcs	160	11264
			LED TV PANEL 49"	Samsung	232	Pcs	103	7251.2
3	3204678	13.05.2019	LED TV PANEL 40"	Sony	150	Pcs	80	5636
			LED TV PANEL 43"	Sony	150	Pcs	90	6340.5
			LED TV PANEL 48"	Sony	150	Pcs	100	7045
			LED TV PANEL 49"	Sony	50	Pcs	105	7397.25
			LED TV PANEL 55"	Sony	50	Pcs	120	8454
4	3585241	10.06.2019	LED TV PANEL 43"	Samsung	200	Pcs	90	6327
			LED TV PANEL 49"	Samsung	314	Pcs	103	7240.9
5	4003260	10.07.2019	LED TV PANEL 32"	Sony	20	Pcs	65	4533.75
			LED TV PANEL 40"	Sony	200	Pcs	80	5580
			LED TV PANEL 43"	Sony	60	Pcs	90	6277.5
			LED TV PANEL 48"	Sony	100	Pcs	100	6975
			LED TV PANEL 49"	Sony	124	Pcs	103	7184.25
			LED TV PANEL 55"	Sony	30	Pcs	120	8370

6	3749689	21.06.2019	LED TV PANEL 32"	Sony	52	Pcs	65	4576
			LED TV PANEL 40"	Sony	150	Pcs	80	5632
			LED TV PANEL 43"	Sony	140	Pcs	90	6336
			LED TV PANEL 48"	Sony	150	Pcs	100	7040
			LED TV PANEL 49"	Sony	16	Pcs	103	7251.2
			LED TV PANEL 50"	Sony	16	Pcs	107	7532.8
			LED TV PANEL 55"	Sony	30	Pcs	120	8448
7	8288127	27.07.2020	LED TV PANEL 55"	Samsung	208	Pcs	120	9132
			LED TV PANEL 65"	Samsung	72	Pcs	140	10654
			LED TV PANEL 75"	Samsung	13	Pcs	160	12176
			LED TV PANEL 82"	Samsung	8	Pcs	180	13698
8	8594988	26.08.2020	LED TV PANEL 43"	Samsung	480	Pcs	90	6831
			LED TV PANEL 49"	Samsung	45	Pcs	103	7817.7
9	8830667	16.09.2020	LED TV PANEL 55"	Samsung	135	Pcs	120	8892
			LED TV PANEL 65"	Samsung	88	Pcs	140	10374
			LED TV PANEL 75"	Samsung	15	Pcs	160	11856
			LED TV PANEL 82"	Sony	8	Pcs	180	13338
			LED TV PANEL 85"	Samsung	10	Pcs	200	14820

The goods covered under the subject Bills of Entry comprise LED TV Panels ranging from 32 inches to 85 inches.

**1.1** During the course of Investigation initiated in a case vide F. No. SG/Inv-65/2020-21/C-cell/SIIB (I)/JNCH, wherein it was observed that noticee M/s Electronic Stock Exchange had not declared the brand name with the description and goods also undervalued. It was checked in ICES system and found that said noticee had also imported the same items i.e. LED TV PANEL of different sizes with generic description in past as mentioned above in Table-I by the way of willful mis-declaration in terms of generic description i.e. brand name had not mentioned with description and undervalued the impugned goods during the year 2019 and 2020 to evade applicable customs duty.

**1.2** During the investigation, the statement of Shri Gurvinder Singh Kochhar, (herein after referred as Noticee No. 2) authorized representative of the Noticee M/s Electronic Stock Exchange, was recorded under Section 108 of the Customs Act, 1962, on 10.01.2023. In his statement, he inter alia stated that:

- that he was authorized by Shri Gurmej Singh, Proprietor of M/s. Electronic Stock Exchange, to appear before the department; he submitted the authorization letter dated 05.01.2023 issued by Shri Gurmej Singh; he worked as Manager and looked after the purchase and sale in case of both domestic and foreign of M/s. Electronic Stock Exchange; his email ID is [autostores\\_india@yahoo.com](mailto:autostores_india@yahoo.com); his residential address is Plazzio Opulence, 11th Floor, Sarojani Road, Santacruz (E), Mumbai- 400054.

- The firm was engaged in the trading of LED spare parts and auto parts, and only about 10% of their turnover related to imports.
- The subject Bills of Entry were filed by their authorized Customs Broker, M/s. Prakhar Gupta.
- The goods imported under the said Bills of Entry were Samsung and Sony brand LED TV Panels of different sizes, and the brand names were declared in the respective columns of the Bills of Entry, though not specifically mentioned in the description column.
- The firm procured goods from suppliers including M/s. Simba Electronics LLC (Dubai), M/s. Quality Export House Pte. Limited, and M/s. Shree Sai Import Export Pte. Limited, and the goods were imported on a cost and freight basis.
- that on being asked, 'when they were getting the goods from four different countries how come rates were same even including freight, as freight from different country must be different', he replied it was correct that the freight from different country/port is different. However, he stated that they always imported on cost and freight basis and invoice was always generated on cost and freight basis. As the freight from different countries is different, supplier must have adjusted in their profit margin to sell the goods.
- Payments in respect of the imports were adjusted against exports of machinery made by them to the said suppliers.
- He further stated that in cases where both Sony and Samsung brand goods were imported together, the brand column reflected "SONY/SAMSUNG," as the value declared for both brands was the same.

Subsequently, summons was issued in order to sought BE-wise item details, purchase orders, and sales invoices of last five years wherein LED TV Panel were sold by the noticee. In response to them, Mrs. Baljeet Kaur, wife of Late Shri Gurmej Singh (Proprietor of Noticee firm), had submitted a letter dated 01.03.2024 along with annexures containing item-wise brand details and a copy of the death certificate of late Gurmej Singh issued by Government of Punjab.

**1.3** During the course of investigation, the statement of Shri Toushif Ibrahim Shaikh, H-Card Holder of M/s. Prakhar Gupta, Customs Broker (herein after referred as Noticee No.3), was recorded under Section 108 of the Customs Act, 1962 on 26.12.2022. In his statement, he inter alia stated as under:

- He stated that he himself filed Bills of Entry in Mumbai after verification of the checklist by the importer. He further stated that they did not deal in any specific category of goods and undertook clearance of any goods permitted under the Customs Act and allied Acts.
- He stated that clients were generally acquired through industry references. He further stated that four clients, namely M/s. Electronic Stock Exchange, M/s. Global International, M/s. Ideal Impex, and M/s. Raj Traders, were introduced to them by Shri Hakim Shaikh, who was earlier associated with their firm.
- He stated that he had filed all the Bills of Entry pertaining to M/s. Electronic Stock Exchange and the other three firms through M/s. Prakhar Gupta.
- On being asked regarding non-mentioning of the brand name in the description column, he stated that the brand name was not written in the description column; however, there was a specific column in the Bill of Entry for brand and model number, and he had always mentioned the brand and model number in the respective column as per the invoice and packing list. He further stated that in cases of LED TV Panels, wherever required, IPR NOC was obtained from the IPR Cell when queries were raised by the Docks or the Assessing Group.
- He stated that Shri Hakim Shaikh had visited the addresses of the Delhi-based importers, whereas he had verified the Mumbai-based importers. He further stated that Shri Hakim Shaikh was associated with their firm till 2021 and had joined another Customs Broker firm in 2022.
- that on being shown the copy of summons issued to M/s. Electronic Stock Exchange, M/s. Global International, M/s. Ideal Impex and M/s. Raj Traders vide Summons No. KS/410/2022-23, KS/411/2022-23, KS/412/2022-23 and KS/413/2022-23 respectively all dated 23.11.2022, which were sent vide speed post and he was given the hard copy for the same but none of the importer has turned up and further asked did he had any communication with the importer he replied that he had forwarded the said summons to Shri Hakim Shaikh and followed up with him.
- He stated that summons issued to the importers were forwarded to Shri Hakim Shaikh for follow-up and that none of the importers appeared in response thereto.
- that as per the invoice payment was 90 days after delivery so he could not confirm whether the payment had been made or not.
- He stated that import documents were received in hard copy at their office. In respect of Delhi-based importers, documents were delivered through the office boys of Shri Gurvinder Singh Kochhar, authorized representative of the importer.

He stated that documents other than the Bill of Lading were received as coloured copies and not in the original; however, original Bills of Lading were received, though in some cases the BL was surrendered.

- He further stated that he had been present during the examination of Samsung/Sony LED TV Panels imported by the aforesaid firms and that the goods were found as declared in terms of quantity, description, and brand. He reiterated that brand and model details were always mentioned in the respective columns of the Bills of Entry and that wherever IPR verification was undertaken, IPR NOC had been granted.

**1.4** After the introduction of self-assessment vide the Finance Act, 2011, the onus is on the importer to make a true and correct declaration in all aspects, including classification and calculation of duty. However, in the instant case, the subject goods have been undervalued and the short-levied duty amount has not been paid.

**1.5** During the course of the investigation, it was observed that importers namely, M/s Raj Traders, M/s. Electronics Stock Exchange, M/s. Ideal Impex, and M/s. Global International have intentionally omitted declaring the brand name of the LED TV panels in the description column during importation of the goods, "Led TV panels". Furthermore, they undervalued the goods, which mean they deliberately misrepresented the value of the imported LED TV panels to pay lesser customs duties. Additionally, they engaged in a scheme where they sold the imported items to each other under GST invoices and all these importers intentionally omitted mentioning the brand name of the LED TV panels in both import documents (bill of entry) and sales documents (sales invoices). This omission further facilitated the deception regarding the actual value of the imported goods. This convoluted exchange was designed by above mentioned importers to obscure the true market value of branded LED TV panels and circumvent the customs duty payment.

**1.6** Following provisions of the Customs Act, 1962 are invocable in case

**Section 17** – Assessment of duty.

**Section 28** – Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.

**Section 46** – Entry of goods on importation.

**Section 111(m)** – Confiscation of improperly imported goods, etc.

**Section 112(a)** – Penalty for improper importation of goods, etc.

**Section 114A** – Penalty for short-levy or non-levy of duty in certain cases.

**Section 114AA** - Penalty for use of false and incorrect material.

#### **1.7 Valuation of the goods**

**1.7.1** The noticee M/s. Electronic Stock Exchange had not declared the specific brand name of the items in the description column of the Bills of Entry. In the case of electronic goods, valuation of items is primarily determined based on brand, model number, and size of the goods. The apparent non-disclosure of specific brand details in the

description column indicated suppression of material particulars having a direct bearing on valuation.

**1.7.2** Due to such apparent concealment of brand information, the declared value did not represent the true transaction value of the goods actually imported and was liable for rejection under Rule 12 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 read with Section 14(1) of the Customs Act, 1962 and the value needs to be re-determined in accordance with Custom Valuation Rules (Determination of Price of imported goods) 2007 ( in short " Customs Valuation Rules,2007").

**1.7.3** Valuation of goods for the purpose of assessment of customs duties is governed by the provisions of Section 14 of the Customs Act, 1962, which provides that the value of imported goods shall be the transaction value of such goods, when sold for export to India for delivery at the time and place of importation, 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. Further, Customs Valuation Rules, 2007, having been framed under the provisions of Section 14, provides for determination of value in a variety of situations. More specifically, Rule 3 of the Customs Valuation Rules,2007 provides that subject to Rule 12, value of the goods shall be the transaction value adjusted in accordance with Rule 10.

**1.7.4** However, in the instant case, the brand and model numbers of imported goods were not declared with description in the respective bill of entry filed for their clearance. Accordingly, value declared to the customs in the respective bills of entry did not represent the true transaction value of the goods actually imported. It appeared that the value declared is liable to be rejected under the provisions of Rule 12 of the Customs Valuation Rules,2007.

**1.7.5** Shri. Gurvinder Singh Kochhar, authorised representative of M/s. Electronic Stock Exchange, did not provide any documentary evidence of the true Transaction Value of the imported goods therefore the valuation of the imported goods cannot be determined under Rule 3 of the CVR, 2007.

**1.8** Rule 3(4) of the Customs Valuation Rules ,2007prescribe that if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding subsequently through rules 4 to 9 as the value of impugned goods could not be determined under the provisions of sub rule (1) of Rule 3 of the Customs Valuation Rules 2007, the same appeared to be required to be determined sequentially under Rule 4 to 9 of Customs Valuation Rules, 2007. As per rule 4 of Customs Valuation Rules 2007 the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. Further as per Rule 5 of Customs Valuation Rules, 2007, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued. To determine the value

of the imported goods as per Rule 4 or Rule 5 of Customs Valuation Rules,2007 Contemporaries data of import of identical or similar goods would be required, however no concrete data of identical or similar items in terms of description, quantity and country of origin, was found in custom database. Therefore, it appeared that value of the goods cannot be determined as per Rule 4 and 5 of the Customs Valuation Rules,2007. As per Rule 6 of the Customs Valuation Rules, 2007 if the value of imported goods cannot be determined under the provisions of Rules 3, 4 and 5, the value shall be determined under the provisions of Rule 7 or when the value cannot be determined under that rule then under Rule 8. Due to non-availability of the actual profit, transportation, general expenses, in each transaction and cost of production and profit percentage of the supplier, it appeared that the determination of value under Rule 7 or Rule 8 of the Customs Valuation Rules, 2007 is not feasible option, therefore the valuation of impugned goods appeared to be rightly determined under Rule 9 of the Customs Valuation Rules, 2007 using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India. Since the period of past import is ranging from year 2019 to 2020, therefore, the contemporary data from year 2019 to 2020 of assessable value of similar goods which were available in India are as under:

**Table-II**

Sr. No.	Description	B/E No. & Date	Port of Import	Size	Value Declared in B.E. (USD)	Value as per NIDB Data (in Rs.)
1	Samsung LED TV Panel	2589509 dated 27.03.2019	INWFD6	40"	128	8960
2	Samsung LED TV Panel	2589509 dated 27.03.2019	INWFD6	43"	144	10080
3	Samsung LED TV Panel	2589509 dated 27.03.2019	INWFD6	49"	197	13790
4	Samsung LED TV Panel	2748842 dated 08.04.2019	INCCU4	65"	470	32641.5
5	Samsung LED TV Panel	3748530 dated 21.06.2019	INCCU4	75"	550	38720
6	Sony LED TV Panel	2430337 dated 15.03.2019	INCCU4	49"	310	22010
7	Sony LED TV Panel	2295903 dated 05.03.2019	INCCU4	55"	390	28080
8	Samsung LED TV Panel	7311886 dated 20.03.2020	INCCU4	55"	295	22346.25

9	Samsung LED TV Panel	7311886 dated 20.03.2020	INCCU4	65"	480	36360
10	Samsung LED TV Panel	7311886 dated 20.03.2020	INCCU4	75"	620	46965
11	Samsung LED TV Panel	8471636 dated 14.08.2020	INCCU4	82"	380	28785
12	Samsung LED TV Panel	8471636 dated 14.08.2020	INCCU4	55"	250	18937.5
13	Samsung LED TV Panel	8471636 dated 14.08.2020	INCCU4	65"	300	22725
14	Samsung LED TV Panel	8471636 dated 14.08.2020	INCCU4	75"	350	26512.5
15	Samsung LED TV Panel	9770070 dated 01.12.2020	INCCU4	85"	400	30080
16	Sony LED TV Panel	3250162 dated 16.05.2019	INDEL4	32"	85.39	6015.72
17	Sony LED TV Panel	3250162 dated 16.05.2019	INDEL4	40"	132.59	9340.96
18	Sony LED TV Panel	9573760 dated 09.01.2019	INDEL4	43"	189.85	13099.31
19	Sony LED TV Panel	2706190 dated 04.04.2019	INDEL4	48"	245.44	17180.8
20	Sony LED TV Panel	3346004 dated 22.05.2019	INDEL4	50"	189.87	13509.25

**1.9** It appeared that on redetermination under Rule 9 of Customs Valuation Rules, 2007, the total value of impugned goods imported under all the Bills of Entry mentioned in Table-I comes to ₹6,26,09,746/- (Rupees Six Crore Twenty-Six Lakh Nine Thousand Seven Hundred and Forty-Six Only), and the total duty payable on the redetermined value is ₹2,34,59,871/- (Rupees Two Crores Thirty-Four Lakh Fifty-Nine Thousand Eight Hundred Seventy-One only).Accordingly, differential duty amounting to ₹1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty-Five Only) appeared to be payable by noticee.

**1.10** It appeared that it was the duty of the noticee M/s. Electronic Stock Exchange to declare the correct assessable value of impugned goods in the Bills of Entry filed under Section 46 of the Customs Act, 1962, and as Noticee had short-paid duty amounting to Rs. 1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty-Five Only), the said differential duty was proposed to be recovered under Section

28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962, for the acts of omission and commission on the part of the noticee.

**1.11** From the above, it appeared that:

- (i) M/s. Electronic Stock Exchange and Custom Broker, M/s. Prakhar Gupta have indulged in mis-declaration in terms of generic description, i.e. brand name did not declare with description and undervalued the impugned goods thereby, rendering the goods liable for confiscation under Section 111(m) of the Customs Act, 1962.
- (ii) Consequent to the said mis-declaration and undervaluation in respect of subject impugned goods, the re-determined value of all the Bills of entry mentioned in Table -I of SCN on the basis of NIDB data is Rs. 6,26,09,746/- (Rupees Six Crore Twenty-Six Lakh Nine Thousand Seven Hundred and Forty-Six only) and re-determined duty of all bills of Entry is Rs. 2,34,59,871/- (Rupees Two Crore Thirty-Four Lakh Fifty-Nine Thousand Eight Hundred and Seventy-One only). Based on the re-determined assessable value, the short duty paid on impugned goods imported under said bills of entry is Rs. 1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand and Eighty-Five Only) (as per Annexure-A of the SCN).
- (iii) M/s Electronic Stock Exchange had tried to evade applicable customs duty by way of declaring the generic description not with brand name, undervalued the impugned goods imported under said Bills of Entry. They had attempted to evade duty to the tune of Rs. 1,19,08,085/- by providing incorrect data in bills of entry in terms of generic description of goods and value of the impugned goods. Their said acts of omission & commission have rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and consequently rendered themselves liable for penal action under Section 112(a)/114 A of the Customs Act, 1962.
- (iv) Shri. Gurvinder Singh Kochhar, had knowingly misdeclared the impugned goods in terms of generic description & undervalued the subject impugned goods with intent to fraud the government exchequer. His said acts of omission and commission, on the part of the importer, has rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and consequently rendered himself liable for penal action under Section 112(a) & 114AA of the Customs Act, 1962.
- (v) The Custom Broker, M/s. Prakhar Gupta was also indulged into misguide the department as he also did not advise the noticee M/s. Electronic Stock Exchange (IEC-0316949132) to make the correct description of goods in respect of brand name, model no, and value also. Their said acts of omission & commission have rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and consequently rendered themselves liable for penal action under section 112(a) & 114AA of the Customs Act, 1962.

**1.12** Accordingly, A Show Cause Notice No. 2944/2023-24/Gr.VA/JNCH dated 29.03.2024 was issued to noticee M/s. Electronic Stock Exchange and they were called upon to show cause to the Commissioner of Customs, NS-V, JNCH, Nhava Sheva, Distt. Raigad, Maharashtra-400707, so as to why:

**(i)** The declared value of the goods covered under the Bills of Entry mentioned in Table-I of SCN should not be rejected and redetermined to Rs. 6,26,09,746/- (Rupees Six Crore Twenty Six Lakh Nine Thousand Seven Hundred and Forty Six Only) as per Rule 9 of the CVR, 2007;

**(ii)** The differential duty amounting to Rs. 1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty Five Only) should not be recovered from the noticee under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962;

**(iii)** The goods covered under the Bills of Entry mentioned in Table I of SCN, having a redetermined value of Rs. 6,26,09,746/- (Rupees Six Crore Twenty Six Lakh Nine Thousand Seven Hundred and Forty Six Only), should not be confiscated under Section 111(m) of the Customs Act, 1962;

**(iv)** Penalty should not be imposed on noticee M/s. Electronic Stock Exchange (IEC-0316949132) under Section 112(a) and/or 114A of the Customs Act, 1962.

**1.13** Shri. Gurvinder Singh Kochhar, power of attorney holder of noticee M/s Electronic Stock Exchange, was also called upon to Show Cause to the Commissioner of Customs, NS-V, JNCH, Nhava Sheva so as to why penalty should not be imposed on him under Section 112(a) and 114AA of the Customs Act, 1962.

**1.14** M/s Prakhar Gupta, Customs Broker, was also called upon to Show Cause to the Commissioner of Customs, NS-V, JNCH, Nhava Sheva so as to why penalty should not be imposed under Section 112(a) and 114AA of the Customs Act, 1962.

#### **RECORDS OF PERSONAL HEARING**

**2.** In compliance with the provisions of Section 28(8) read with Section 122A of the Customs Act, 1962, and in terms of the principles of natural justice, the Noticees M/s. Electronic Stock Exchange, Shri. Gurvinder Singh Kochhar(Authorised representative of M/s. Electronic Stock Exchange) and M/s. Prakhar Gupta(Custom Broker), were granted opportunities for personal hearing (PH) on 22.01.2026, 11.02.2026, and 17.02.2026 with due intimation thereto to them

**2.1** M/s. Prakhar Gupta, Customs Broker, vide their office letters dated 30.01.2026, 05.02.2026, and 12.02.2026, have submitted that they had not received a copy of the Show Cause Notice. Furthermore, he also submitted that M/s. Electronic Stock Exchange, also have not received the said SCN from the Customs Department.

**2.2** Noticee M/s. Electronic Stock Exchange, Shri. Gurvinder Singh Kochhar, authorised representative of noticee M/s Electronic Stock Exchange and M/s Prakhar Gupta, Customs Broker did not appear for personal hearing to submit their say on Show Cause Notice issued to them in case.

### **DISCUSSIONS AND FINDINGS**

**3.** I have carefully gone through the Show Cause Notice (SCN) and it relied upon documents (RUDs), submissions on record of case. As per Board Notification No.29/2025-Cus (NT) dated 24.04.2025, I have been appointed as Adjudicating Authority for the purpose of adjudication of the subject Show Cause Notice.

**3.1.** The Chief Commissioner of Customs, Mumbai, Zone-II has granted extension of time limit to adjudicate the case up to 28.03.2026 in terms of proviso to Section 28(9) of the Customs Act, 1962. The case has been taken up for adjudication proceedings within the time limit as extended in terms of proviso to Section 28(9) of the Customs Act, 1962.

**3.2.** In compliance with the provisions of Section 28(8) and Section 122A of the Customs Act, 1962, and in terms of the principles of natural justice, opportunities for personal hearing (PH) were granted to Noticees in case on 22.01.2026, 11.02.2026, and 17.02.2026. As per documents on record, it is noticed that the subject Show Cause Notice dated 29.03.2024 was already mailed to the email- id *autostores\_india@yahoo.com*, which was the same email-id provided by Shri Gurvinder Singh Kochhar, authorized representative of M/s. Electronic Stock Exchange by Shri Gurmej Singh, Proprietor of Noticee firm. Further, Show Cause Notice was also dispatched to all noticees by Speed Post. Hence, the contentions of the Customs Broker, M/s. Prakhar Gupta, that they have not received the Show Cause Notice has no merit for consideration.

**3.3.** The intimations of personal hearings which were conducted during adjudication proceedings had been forwarded to all noticees in terms of provisions under Section 153 of the Customs Act, 1962. Same were duly served on all noticees M/s Electronic Stock Exchange, Shri. Gurvinder Singh Kochhar, authorised representative of noticee M/s Electronic Stock Exchange and M/s Prakhar Gupta, Customs Broker. However, they neither appeared for personal hearing on given dates nor filed any submission or contention in respect to charges framed on them under Show Cause Notice. As the matter pertains to recovery of government dues, it is to be decided in time bound manner on merit of the case. Therefore, in lack of any submission on merit from any noticee of the case, I hereby proceed to decide the Show Cause Notice ex-parte on basis of facts mentioned therein and relied upon documents thereto.

**3.4** As per the Show Cause Notice, following issues have to be determined on merit of the case:

**(i)** Whether the declared value of the impugned goods covered under the Bills of Entry mentioned in Table-I of SCN is liable to rejected and re-determined to Rs.

6,26,09,746/- (Rupees Six Crore Twenty Six Lakh Nine Thousand Seven Hundred and Forty Six Only) under Rule 9 of the Customs Valuation Rules,2007;

**(ii)** Whether the differential duty amounting to Rs.1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty Five Only) is liable to be recovered from the noticee M/s Electronic Stock Exchange under Section 28(4) of the Customs Act,1962 along with applicable interest thereon under Section 28AA of the Customs Act, 1962;

**(iii)** Whether the goods covered under the Bills of Entry mentioned in Table-I of SCN with redetermined value of Rs. 6,26,09,746/- (Rupees Six Crore Twenty Six Lakh Nine Thousand Seven Hundred and Forty Six Only) are liable for confiscation under Section 111(m) of the Customs Act, 1962;

**(iv)** Whether M/s. Electronic Stock Exchange (IEC-0316949132) are liable to penalty under Section 112(a) and/or 114A of the Customs Act, 1962;

**(v)** Whether Shri. Gurvinder Singh Kochhar, is liable to penalty under Section 112(a) and 114AA of the Customs Act, 1962;

**(vi)** Whether M/s Prakhar Gupta are liable to penalty under Section 112(a) and 114AA of the Customs Act, 1962.

**3.5.** I now proceed to examine each of the issues individually on basis of facts mentioned in the Show Cause Notice, Relied upon documents thereto and relevant provisions of Customs Act,1962.

**4.** Whether the declared value of the impugned goods covered under the Bills of Entry mentioned in Table-I of SCN is liable to rejected and redetermined to Rs. 6,26,09,746/- (Rupees Six Crore Twenty Six Lakh Nine Thousand Seven Hundred and Forty Six Only) under Rule 9 of the Customs Valuation Rules,2007

**4.1.** The Noticee No. 1, i.e., M/s. Electronic Stock Exchange, through their Customs Broker, M/s. Prakhar Gupta, had filed Bills of Entry, mentioned in Table-I of SCN, for the import and clearance of goods declared as "LED TV Panels of different sizes." The subject Bills of Entry were filed during the period March,2019 to September,2020. During investigation, the impugned goods LED TV Panels of different screen sizes ranging from 32 inches to 85 inches, were found to be of reputed Brands, Sony and Samsung. Same were declared with generic descriptions without explicitly mentioning the brand names in the description column.

**4.2.** I find that, during the course of investigation, it was revealed that the noticee had failed to declare the relevant brand of imported LED TV Panel in the description column, which is an influential factor in determining mainly the value of electronic goods. The goodwill value of branded goods represents the intangible premium a company commands due to its reputation, brand loyalty, and, ultimately, its ability to generate profits exceeding those of a generic competitor. For branded goods, this includes brand recognition, proprietary technology, and customer relationships. Consequently, the declared value of the impugned goods imported under subject Bills of Entry did not represent the true transaction value of the goods actually imported. The impugned goods were cleared as un-branded generic goods and thus the value declared for them

is not representing the actual transaction value thereto. Same is therefore liable for rejection under the provisions of Rule 12 of the Customs Valuation Rules, 2007 read with Section 14(1) of the Customs Act, 1962, and the value be re-determined in accordance with the Customs Valuation Rules, 2007.

**4.3** Rules of the Customs Valuation Rules, 2007 relevant to determination of transaction value of impugned goods are reproduced hereunder for sake of clarity:

**(i) Rule 12 – Rejection of Declared Value:**

*(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer to furnish further information including documents or other evidence and, if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the sub-rule (1) of rule 3.*

*Explanation.-(1)(i).... where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9 .*

**(ii) Rule 3- 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;*

...

*(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.*

**(iii) Rule 4- Transaction value of identical goods. –**

*(1)(a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued; Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.*

*(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.*

*(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.*

However, data for Identical goods for the relevant period is not available to ascertain valuation of the impugned goods using Rule 4 of the CVR,2007.

**(iv) Rule 5- Transaction value of similar goods. –**

*(1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued; Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.*

*(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods*

However, data for Similar goods for the relevant period is not available to ascertain valuation of the impugned goods using Rule 5 of the CVR,2007.

**(v) Rule 6- Determination of value where value cannot be determined under rules 3, 4 and 5.-**

*If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8.*

*Provided that at the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 8 shall be reversed.*

**(vi) Rule 7- Deductive Value**

Determination under Rule 7 is not feasible in the present case, as the required information such as the unit sale price in India in the greatest aggregate quantity, usual commissions, profit and general expenses, inland transport and insurance costs, and applicable duties and taxes is not available. In the absence of reliable data necessary to make the prescribed deductions, the value cannot be determined under the Deductive Value method.

**(vii) Rule 8- Computed Value**

Determination under Rule 8 is also not feasible, as the necessary details regarding the cost or value of materials and fabrication, other processing costs, profit and general expenses of the producer in the country of export, and other expenses required under the rules are not available. Since these essential components of computed value cannot be ascertained, valuation under the Computed Value method is not practicable.

**(viii) Rule 9. Residual method**

*(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;*

*Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.*

*(2) No value shall be determined under the provisions of this rule on the basis of -*

- (i) the selling price in India of the goods produced in India;*
- (ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;*
- (iii) the price of the goods on the domestic market of the country of exportation;*
- (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;*
- (v) the price of the goods for the export to a country other than India;*
- (vi) minimum customs values; or*
- (vii) arbitrary or fictitious values.*

**4.4** It is noticed that the following facts has been brought out in the Show Cause Notice in order to re-determine the value of the impugned goods sequentially under Customs Valuation Rules,2007.

- (i) Contemporary data of import of identical or similar goods would be required however no concrete data of identical or similar items in terms of description, quantity and country of origin, was found in custom database;

(ii) Non-availability of data in respect to actual profit, transportation, general expenses, in each transaction and cost of production and profit percentage of the supplier of the impugned goods.

I find that in view of the facts above, the value of impugned goods cannot be re-determined under Rule 4,5,7 & 8 of Customs Valuation Rules,2007.

**4.5** As value of impugned goods cannot be determined under Rule 4,5,7 & 8 of Customs Valuation Rules,2007, Show Cause Notice has proposed to re-determine the value of impugned goods on basis of NIDB data under Rule 9 of Customs Valuation Rules,2007 on basis of values of items similar/identical to the impugned goods imported under the Bills of Entry during the contemporaneous period. Details of which are as under:

Table-III

Sr. No	Description	BE No & Date	Port of Import	Size	Value Declared In USD	Value as per NIDB data (In Rs.)
1	Samsung LED TV Panel	2589509 dated 27.03.2019	INWFD6	40"	128	8960
2	Samsung LED TV Panel	2589509 dated 27.03.2019	INWFD6	43"	144	10080
3	Samsung LED TV Panel	2589509 dated 27.03.2019	INWFD6	49"	197	13790
4	Samsung LED TV Panel	2748842 dated 08.04.20219	INCCU4	65"	470	32641.5
5	Samsung LED TV Panel	3748530 dated 21.06.2019	INCCU4	75"	550	38720
6	Sony LED TV Panel	2430337 dated 15.03.2019	INCCU4	49"	310	22010
7	Sony LED TV Panel	2295903 dated 05.03.2019	INCCU4	55"	390	28080
8	Samsung LED TV Panel	7311886 dated 20.03.2020	INCCU4	55"	295	22346.25
9	Samsung LED TV Panel	7311886 dated 20.03.2020	INCCU4	65"	480	36360
10	Samsung LED TV Panel	7311886 dated 20.03.2020	INCCU4	75"	620	46965
11	Samsung LED TV Panel	8471636 dated 14.08.2020	INCCU4	82"	380	28785
12	Samsung LED TV Panel	8471636 dated 14.08.2020	INCCU4	55"	250	18937.5
13	Samsung LED TV Panel	8471636 dated 14.08.2020	INCCU4	65"	300	22725
14	Samsung LED TV Panel	8471636 dated 14.08.2020	INCCU4	75"	350	26512.5

15	Samsung LED TV Panel	9770070 dated 01.12.2020	INCCU4	85"	400	30080
16	Sony LED TV Panel	3250162 dated 16.05.2019	INDEL4	32"	85.39	6015.72
17	Sony LED TV Panel	3250162 dated 16.05.2019	INDEL4	40"	132.59	9340.96
18	Sony LED TV Panel	9573760 dated 09.01.2019	INDEL4	43"	189.85	13099.31
19	Sony LED TV Panel	2706190 dated 04.04.2019	INDEL4	48"	245.44	17180.8
20	Sony LED TV Panel	3346004 dated 22.05.2019	INDEL4	50"	189.87	13509.25

**4.6** I find that in Show Cause Notice, unit price of different sized LED TV Panels of Sony and Samsung has been referred from NIDB data of similar imported goods in order to re-determine their values in terms of Rule 9 of Customs Valuation Rules,2007. In order to determine the value of goods under Rule 9 ibid., following 03 criteria stipulated therein are required to be followed:

- (i) The value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;
- (ii) The value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.
- (iii) The value shall not be decided on the basis of -
  - a) the selling price in India of the goods produced in India;
  - b) system which provides for the acceptance for customs purposes of the highest of the two alternative values;
  - c) the price of the goods on the domestic market of the country of exportation;
  - d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;
  - e) price of the goods for the export to a country other than India;
  - f) minimum customs values; or
  - g) arbitrary or fictitious values.

I find that NIDB is a tool for checking declared values of live consignments. Outliers are alerts for checking previously assessed values for their authenticity and for taking follow up action on suspected transactions. The principal use of NIDB is to compare declared values with contemporaneous assessed values of identical / similar goods and with international prices so as to take a considered decision on the acceptance or otherwise of the declared value. In the instant case, Unit price per item wise, as per the NIDB data, has been considered to arrive at the transaction value of impugned goods under Rule 9 of Customs Valuation Rules,2007 and it fulfils all the criteria stipulated thereunder.

**4.7** I find that on application of Unit price items wise, as per the NIDB data, the transaction value of the impugned goods imported under 09 Bills of Entry as mentioned

in Table -I of SCN, have been found to be more than that was declared for the said goods. Therefore, the value declared for the said goods is rightly liable to be rejected under Rule 12 of Customs Valuation Rules,2007 and re-determined, in terms of NIDB data thereto, under Rule 9 ibid. There is no submission by any noticee which have contested the reference of NIDB data to arrive at the value of impugned goods. Therefore , I conclude, by invoking the principle *qui tacet consentire videtur*, that the silence of the noticees is nothing but an approval to the re-determination of value of impugned goods on basis of NIDB data thereto. Accordingly, the value of impugned goods, Bill of Entry wise have been re-determined as under:

Bill of Entry No./Date	Total Declared Value (As per Annexure-A to SCN) ( Rs.)	Total Re-determined Value (On basis of NIDB data mentioned in Table-III) (Rs.)
3070126 dated 02.05.2019	3059547	5978809
3585241 dated 10.06.2019	3578857	6346060
8288127 dated 27.07.2020	3173901	8106765
8594988 dated 26.08.2020	3694932	5485130
8830667 dated 16.09.2020	2920913	5458950
2626029 dated 29.03.2019	3730501	7193051.7
3204678 dated 13.05.2019	3686803	8447660.5
4003260 dated 10.07.2019	3461278	8064185
3749689 dated 21.06.2019	3555328	7529133.8
<b>TOTAL</b>	<b>30862060</b>	<b>62609746</b>

Accordingly, I hereby reject the total declared value Rs. 3,08,62,060/- (Rupees Three Crore Eight Lakhs Sixty Two Thousand and Sixty Only) as that mentioned in Annexure-A to SCN for the impugned goods imported under 09 Bills of Entry mentioned in Table-I of SCN, under Rule 12 of Customs Valuation Rules,2007 and re-determined it to Rs. 6,26,09,746/- (Rupees Six Crore Twenty Six Lakh Nine Thousand Seven Hundred and Forty Six Only) as proposed in SCN on basis of NIDB data thereto (Table- III above), under Rule 9 of Customs Valuation Rules,2007.

**5.** Whether the differential duty amounting to Rs. 1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty Five Only) is liable to be recovered from the noticee M/s Electronic Stock Exchange under Section 28(4) of the Customs Act, 1962 along with applicable interest thereon under Section 28AA of the Customs Act, 1962

**5.1** Provisions of Section 17 of Customs Act,1962 relevant to case is reproduced under for sake of discussion:

*(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 subsection (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.*

It is seen that Consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in Customs clearance. Under self- assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. In terms of Section 38 of Finance Act, 2011, responsibility of assessment has been cast upon the importer and said can be verified by the proper officer selectively on basis of risk evaluation through appropriate selection criteria. The noticee in instant case have violated the norms of self-assessment by mis-declaring the description of goods i.e. declared generic goods instead of branded goods even they were well aware of said fact.

**5.2** The noticee by their acts of omission and commission have also contravened the provisions of sub-section 4A of Section 46 of Customs Act,1962 which stipulates:

*"(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."*

The fact that the impugned goods were of Brand Sony and Samsung (as applicable) which are not disputed by the noticees during the investigation. Shri. Gurvinder Singh Kochar in his statement dated 10.01.2023 recorded under Section 108 of Customs Act,1962 has categorically stated that they have not declared the brand of goods while declaring description of goods. The impugned goods were cleared by the noticee by declaring them as generic goods (generally manufactured as lower cost alternatives to branded goods) instead of goods of Brand Sony / Samsung. It is clearly established that the noticee has wilfully mis-declared the impugned goods as generic goods in order to take advantage of value difference between generic goods and branded goods although they are similar in functions. The duty paid on the goods by noticee was in terms of value of generic goods and not of the value of branded goods. Thus, Noticee had willfully mis-declared the description of goods to evade payment of applicable Customs duties. The mis-declaration and suppression of facts attracts invocation of extended period of limitation in terms of Section 28(4) of the Customs Act, 1962. As such, the demand for differential duty in respect of the Bills of Entry listed in Table-I of the Show Cause Notice is justified and recoverable under Section 28(4) of the Customs Act, 1962,

along with applicable interest as provided under Section 28AA of the said Act. The noticee having deliberately mis-declared the goods in question, which resulted into short payment of Customs duty, the differential duty of Rs.1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty Five Only) is recoverable under Section 28(4) of the Customs Act, 1962.

**5.3** As per Section 28AA of the Customs Act, 1962, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2) of Section 28AA, whether such payment is made voluntarily or after determination of the duty under that section. From the above provisions, it is evident that regarding demand of interest, Section 28AA of the Customs Act, 1962 is unambiguous and mandates that where there is a short payment of duty, the same along with interest shall be recovered from the person who is liable to pay duty. The interest under the Customs Act, 1962 is payable once demand of duty is upheld and such liability arises automatically by operation of law. In an umpteen number of judicial pronouncements, it has been held that payment of interest is a civil liability and interest liability is automatically attracted under Section 28AA of the Customs Act, 1962. In case of *Pratibha Processors Vs UOI [1996 (88) ELT 12 (SC)]*, Hon'ble Supreme Court has observed that Interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable. The levy of interest is geared to actual amount of tax withheld and the extent of the delay in paying the tax on the due date.

**5.4** Thus, once differential duty Rs.1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty Five Only) is confirmed under Section 28 of the Customs Act, 1962, interest on the unpaid duty becomes automatically payable. Therefore, the noticee M/s Electronic Stock Exchange is legally liable to pay the applicable interest under Section 28AA of the Act.

**6.** Whether the goods covered under the Bills of Entry mentioned in Table-I of SCN with redetermined value of Rs. 6,26,09,746/- (Rupees Six Crore Twenty Six Lakh Nine Thousand Seven Hundred and Forty-Six Only) are liable for confiscation under Section 111(m) of the Customs Act, 1962;

**6.1.** The SCN proposes confiscation of goods under the provisions of Section 111(m) of the Customs Act, 1962. Section 111(m) provides for confiscation in cases where goods do not correspond in respect of any other particulars in respect of which the entry was made under the Act. This would also cover case of wilful mis-declaration of description of the subject goods by suppressing the fact of their true nature by the Noticee. As there is wilful mis-declaration of description of goods to pay lower rate of duty, resulting in short levy and short payment of duty, I find that the confiscation of the imported goods covered under Bills of Entry as per Table-I of the SCN, valued at to Rs.6,26,09,746/- (Rupees Six Crore Twenty Six Lakh Nine Thousand Seven Hundred and Forty Six Only) invoking Section 111(m) is justified and sustainable. I therefore hold that this intentional mis-declaration and suppression of facts by the noticee with the intent to

evade payment of applicable duty have rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962

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

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

(Emphasis Supplied)

**6.3.** I further find that the above view of Hon'ble Madras High Court in case of M/s. Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.). Therefore, Following the ratio of law laid down in above cases, I conclude that their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. Redemption fine can be imposed under Section 125 of Customs Act, 1962 when the goods are liable for confiscation under Section 111 *ibid.* even when same are not physically available for confiscation.

**7. Whether M/s. Electronic Stock Exchange (IEC-0316949132) are liable to penalty under Section 112(a) and/or 114A of the Customs Act, 1962;**

**7.1.** As discussed above, I find that the subject Bills of Entry were self-assessed by the noticee M/s Electronic Stock Exchange. They were well aware of the description of imported goods (Branded goods). However, they wilfully suppressed the said fact and in turn suppress the correct value and undervalued the same before Customs authorities. The said act of noticee has resulted into short levy of duty on impugned goods. Under the self-assessment under Section 17 *ibid.*, it is obligatory on the part of importers to

declare truthfully all the particulars relevant to the assessment of the goods, ensuring their accuracy and authenticity, which the noticee M/s Electronic Stock Exchange clearly failed to do so.

**7.2** As established in the preceding paragraphs, the Noticee, despite being fully aware of the nature and composition of the imported goods, deliberately withheld relevant information and wilfully mis-declared the said goods, as uncovered during investigation and thereby clearly indicating the existence of mens rea. Even otherwise, the Supreme Court in UOI v. Dharmendra Textile Processors [2008 (231) E.L.T. 3 (SC)] clarified that mens rea is not a prerequisite for civil penalties under tax laws unless specifically stated. Similarly, in Chairman, SEBI v. Shriram Mutual Fund [(2006) 5 SCC 361], the Apex Court held that for contraventions under civil statutes, proving intention is unnecessary- mere breach of the statutory obligation attracts penalty. Further support is drawn from Comex Co. v. Collector of Customs, Madras-I [1997 (96) E.L.T. 526 (Mad.)], where the Madras High Court held that under Section 112(a), mens rea need not be established for imposition of personal penalties in departmental proceedings; proof of contravention suffices. I find that the noticee has intentionally mis-declared the subject goods to reduce the Customs duty payable. Since, the impugned goods have already been held liable to confiscation under Section 111(m) of the Customs Act, 1962 and duty is demanded under Section 28(4) of the Customs Act, 1962 along with applicable interest, the noticee has rendered itself liable to penalty under Section 114A of the Customs Act, 1962 for acts/omissions and the above said deliberate mis-declaration and wrong self-assessment of duty.

**8. Whether Shri. Gurvinder Singh Kochhar, is liable to penalty under Section 112(a) and 114AA of the Customs Act, 1962;**

**8.1.** I find that M/s Electronic Stock Exchange, through their authorized representative, Shri Gurvinder Singh Kochhar, facilitated the importation of goods that were undervalued for customs duties. This deliberate act of undervaluation, as evidenced by the discrepancy between the declared and re-determined values, implicates his role in activities that render the goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

**8.2.** I find that Shri Gurvinder Singh Kochhar was well aware of the appropriate valuation of the imported goods. He knowingly and intentionally mis-declared the goods, as evidenced by discrepancy between the declared and re-determined values, implicates him in activities that render the goods liable to confiscation under Section 111(m) of the Customs Act, 1962, with intent to avail monetary benefit and to evade payment of appropriate customs duty by undervaluation of the impugned goods. These acts of undervaluation of the impugned goods has rendered the impugned goods liable for confiscation under Section 111(m) of Customs Act, 1962 making Shri Gurvinder Singh Kochhar liable for a penalty under Section 112(a) of the Customs Act, 1962.

**8.3.** Further, in the instant case, as established in foregoing paras, there is mens rea on the part of Shri Gurvinder Singh Kochhar by evasion of Customs duty through mis-declaration and undervaluation of the impugned goods. The aforesaid acts of omission

or commission of Shri Gurvinder Singh Kochhar resulted in use of false and incorrect declaration in the clearance of goods, hence, Shri Gurvinder Singh Kochhar is liable for penal action under Section 114AA of the Customs Act, 1962.

**8.4.** Accordingly, I hold that Shri Gurvinder Singh Kochhar is liable to penalty under Section 112(a) and 114AA of the Customs Act, 1962 as well.

**9.** Whether M/s Prakhar Gupta are liable to penalty under Section 112(a) and 114AA of the Customs Act, 1962.

**9.1.** I find that M/s Electronic Stock Exchange, through their authorized Customs Broker, M/s Prakhar Gupta, facilitated the importation of goods that were undervalued for customs duties. This deliberate act of undervaluation, as evidenced by the discrepancy between the declared and re-determined values, implicates the Customs Broker, M/s Prakhar Gupta, in activities that render the goods liable to confiscation under Section 111(m) of the Customs Act, 1962.

**9.2.** I find that M/s Prakhar Gupta, (Customs Broker) was well aware of the appropriate valuation of the imported goods. He knowingly and intentionally mis-declared the goods, as evidenced by the discrepancy between the declared and re-determined values, implicates in activities that render the goods liable to confiscation under Section 111(m) of the Customs Act, 1962, with intent to avail monetary benefit and to evade payment of appropriate customs duty by undervaluation of the impugned goods. These acts of undervaluation of the impugned goods has rendered the impugned goods liable for confiscation under Section 111(m) of Customs Act, 1962 making M/s Prakhar Gupta, (Customs Broker) liable for a penalty under Section 112(a) of the Customs Act, 1962.

**9.3.** Further, in the instant case, as established in foregoing paras, there is mens rea on the part of M/s Prakhar Gupta, (Customs Broker) by evasion of Customs duty by mis-declaration as undervaluation of the impugned goods. I find that M/s Prakhar Gupta, intentionally signed the declaration or document which is false in material particular, they are liable to a penalty. The aforesaid acts of omission or commission of M/s Prakhar Gupta, (Customs Broker) resulted in use of false and incorrect declaration in the clearance of goods, hence M/s Prakhar Gupta, is liable for penal action under Section 114AA of the Customs Act, 1962.

**9.4.** Accordingly, I hold that M/s Prakhar Gupta (Custom Broker) is liable to penalty under Section 112(a) and 114AA of the Customs Act, 1962 as well.

**10.** In view of the discussions and findings above, I pass the following order:

**ORDER**

- (i) I reject the declared assessable value of the goods covered under Bills of Entry mentioned in Table-I of SCN and re-determined to Rs. **6,26,09,746/- (Rupees Six Crore Twenty-Six Lakh Nine Thousand Seven Hundred and Forty-Six Only)** as per Annexure-A of Show Cause Notice.



- (ii) I confirm the demand and order for recovery of differential duty of **Rs. 1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty-Five Only)** which is short levied/ short paid on the goods covered under Bills of Entry mentioned in Table-I of SCN, under section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA *ibid*.
- (iii) I order confiscation of the goods covered under the Bills of Entry mentioned in Table-I, having re-determined value of **Rs. 6,26,09,746/- (Rupees Six Crore Twenty-Six Lakh Nine Thousand Seven Hundred and Forty-Six Only)** under section 111(m) of Customs Act, 1962. The goods are not available for confiscation, therefore, in lieu of confiscation, I impose a Redemption Fine of **Rs. 60,00,000/- (Rupees Sixty Lakhs Only)** under Section 125 of the Customs Act, 1962.
- (iv) I also impose a penalty equivalent to differential duty of **Rs.1,19,08,085/- (Rupees One Crore Nineteen Lakh Eight Thousand Eighty-Five Only)** and **applicable interest payable thereon**, on the Noticee M/s Electronic Stock Exchange (IEC-0316949132), under Section 114A of the Customs Act, 1962 in respect of Bills of Entry mentioned in Table-I of SCN. However, if such duty and the interest payable is paid within thirty days from the date of communication of this order, the amount of penalty liable to be paid shall be 25% (Twenty-five per cent) of the duty and interest, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.
- (v) As penalty is imposed under Section 114A of Customs Act, 1962, in terms of the fifth proviso to Section 114A *ibid*. I refrain from imposing penalty under Section 112(a) of Customs Act, 1962.
- (vi) I impose a penalty of **Rs.11,00,000/- (Rupees Eleven Lakhs Only)** on Shri Gurvinder Singh Kochhar, Power of Attorney Holder of M/s Electronic Stock Exchange (IEC-0316949132), under section 112(a) of Customs Act, 1962.
- (vii) I impose a penalty of **Rs.10,00,000/- (Rupees Ten Lakhs Only)** on Shri Gurvinder Singh Kochhar, Power of Attorney Holder of M/s Electronic Stock Exchange (IEC-0316949132), under section 114AA of Customs Act, 1962.
- (viii) I impose a penalty of **Rs.11,00,000/- (Rupees Eleven Lakhs Only)** on M/s Prakhar Gupta (Customs Broker) (ASLPG5339H), under section 112(a) of Customs Act, 1962.
- (viii) I impose a penalty of **Rs.10,00,000/- (Rupees Ten Lakhs Only)** on M/s Prakhar Gupta (Customs Broker) (ASLPG5339H), under section 114AA of Customs Act, 1962.



F. No. S/26-MISC-1546/2022-23/Gr.VA/JNCH  
SCN.No.: 2944/2023-24/Gr. VA/ JNCH  
E-File No.:GEN/ADJ/COMM/270/2025-ADJN  
CAO No.- 150 /2026/2025-26/CAC/CC( E)/AH/ADJN-EXP

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

*Aslam Hassan*  
*12/03/2026*

**(ASLAM HASSAN)**  
COMMISSIONER OF CUSTOMS (EXPORT)  
NEW CUSTOM HOUSE, MUMBAI CUSTOMS ZONE-I

**To**

1. M/s. Electronic Stock Exchange (IEC-0316949132),  
H. No. 5, Block B-SF, Gurudwara Bala Sahib Complex,  
South Delhi-110014
2. Shri. Gurvinder Singh Kochar  
Power of Attorney Holder of M/s. Electronic Stock Exchange (IEC-0316949132),
  - (i) H. No. 5, Block B-SF, Gurudwara Bala Sahib Complex,  
South Delhi-110014
  - (ii) Plazzio Opulence, 11<sup>th</sup> floor, Sarojani Road,  
Santacruz (E), Mumbai-400054
3. M/s Prakhar Gupta (ASLPG5339H)  
117/H-2/115, Pandu Nagar, Kanpur  
Uttar Pradesh-208 005

**Copy to:**

- (i) The Principal Chief Commissioner of Customs, New Custom House, Mumbai Customs Zone-I.
- (ii) The Commissioner of Customs, NS-V, Jawaharlal Nehru Custom House, Nhava Sheva, Tal. Uran, Dist. Raigad-400 707-for appropriate actions as required.
- (iii) AC/CHS to display on Notice Board.
- (iv) Master File.
- (v) DC/EDI, New custom House, Mumbai.
- (vi) Office Copy.