



आयुक्त सीमाशुल्क) आयात-1 (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
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File No: CUS/APR/PROV/417/2025-GR-5

Date of Order: 09-06-2026

DIN: 2026067700000000FBC8

Date of Issue: 09-06-2026

Order No: 77/JC/AS/ADJ/2026-27

Order Passed by: Shri Arshdeep Singh, Joint Commissioner of Customs,
Import-I, New Custom House, Mumbai Customs Zone-I

Name of Party/Noticee: M/s Iloom Cranes International Private Limited

मूल आदेश**ORDER-IN-ORIGINAL**

१. 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.
२. 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.
३. 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 रूपये 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.
४. 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 पैरार 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

M/s Ikoom Cranes International Private Limited (IEC No. AAICI2440P), having its registered office at Block No. 135-A, Ring Road, Kamod, Daskroi, Ahmedabad - 382405 filed Bill of Entry No. 5239074 dated 22.10.2025 through their Customs Broker M/s Damani Shipping Private Limited (Customs Broker Code AAACD5533ACH01) for clearance of "01 unit of Old and Used second hand SANY STC1000T5 (100 Tons maximum rated carrying capacity) hydraulic mobile crane with VIN LFCNPG6P5N3001974 with standard Accessories (YEAR OF MANUFACTURE 2023)" at Import Docks, Mumbai Port.

1. Intelligence:

1.1 Specific intelligence was received with respect to Bill of Entry No. 5239074 dated 22.10.2025 filed by the importer, with the input that there were manipulation and consequent inconsistency between the documentation submitted for processing of the import on ICES and the physical goods, i.e. the 01 unit of Old and Used second hand SANY STC1000T5 (100 Tons maximum rated carrying capacity) hydraulic mobile crane with VIN LFCNPG6P5N3001974 with standard Accessories (YOM 2023).

1.2 To counter this modus operandi, Public Notice No. 08/2024 dated 04.07.2024 was issued by this office, mandating provisional assessment for old and used cranes and requiring submission of the RTO Registration Certificate (RC) for finalization of provisionally assessed Bills of Entry, so as to check evasion of duty and ensure alignment between the Year of Manufacture declared at Customs and that recorded by the State RTOs. This office has been monitoring the import of old and used cranes on a regular basis, multiple previous investigations having established a pattern of importers mis-declaring the Year of Manufacture (YOM) and capacity to evade duty and thereafter registering the cranes as relatively new at the respective Regional Transport Office (RTO).

1.3 Accordingly, to eradicate the possibility of tampering, manipulation, re-stamping or any other mis-declaration that may have led to duty being short paid / not levied / short levied, the subject Bill of Entry was put on hold by this office on 29.10.2025 and the approval of the competent authority was obtained to examine the goods in the presence of a Chartered Engineer (CE).

2. Examination and Investigation:

2.1 An examination of the goods imported vide BE No. 5239074 dated 22.10.2025 was undertaken vide Panchnama dated 13.11.2025 in the presence of the independent empaneled Chartered Engineer Shri Jitendra N. Darunkar of M/s A. G. Associates. The findings of the examination were as under:

- I. The crane was manufactured by M/s SANY Co., on which a telescopic boom having four (04) ring/circle was mounted, displaying Model No. "STC 00" painted on the telescopic boom; however, the model mentioned in the Bill of Entry was STC1000T5 (100 TONS).
- II. Vehicle Identification No. (VIN) LFCNPG6P5N3001974 on the plate of the crane and on the chassis was tampered/scratched. It appeared that a new plate bearing VIN, Capacity, etc. had been affixed on the crane by removing the original plate. The lifting capacity mentioned on the plate of the crane was tampered/scratched.

- III. Down pipes and accessories of motor parts appeared to be rusted.
- IV. Plates on the front counterweight (10T) and rear counterweight (6T) and at the back of the crane had been removed.
- V. As per the Bill of Lading (waybill), the weight of the crane was declared as 58,000 kg; however, the weight painted on the crane was 50,000 kg.
- VI. Odometer details could not be verified as the engine of the crane could not be started.

2.2 The examination findings led to a reasonable belief that the identity particulars of the crane (the VIN, model, capacity and Year of Manufacture) had been tampered/manipulated, to evade the provisions/rules/regulations under the Customs Act and other allied Acts. Accordingly, an investigation was initiated to unearth the extent of the alleged offences. The independent empaneled Chartered Engineer informed, vide letter dated 14.11.2025, that the subject crane appeared to have been manufactured in the year 2020-2021.

3. Statements Recorded under Section 108 of the Customs Act, 1962:

3.1 Statement of Shri Jitendra Singh Mohan Singh Kalsi, Director of M/s Ikoom Cranes International Private Limited, was recorded on 27.11.2025, wherein he, inter alia, stated that:

- I. the importer was a private limited company; he was the sole person in charge of the marketing, sale and purchase of cranes; and the company usually imported old and used cranes from M/s Everhigher International Ltd., China and M/s Universal Cranes Trading Ltd., Hong Kong;
- II. he came in contact with the supplier M/s Universal Crane Trading Ltd., Hong Kong over the phone, placed the order verbally after negotiation, and ordered a SANY STC-1000 T5 crane with Year of Manufacture 2023 and lifting capacity 100 Ton, the consolidated payment of USD 199,000 having been remitted via SWIFT on 03.09.2025. Out of this amount of USD 199,000, an amount of USD 98,000 was the payment for the old and used crane imported vide the subject Bill of Entry;
- III. on being asked about the discrepancy regarding the Year of Manufacture, the supplier had informed him on phone that the crane being supplied was of YOM 2023; that as the supplier was a regular supplier, the importer did not request images or proof; that on inquiry the supplier verbally admitted that the actual Year of Manufacture was 2021 but refused to provide documentary evidence; and that tampering was not done at the direction of his company; and
- IV. the importer had no incentive to mis-declare the YOM, as the crane was purchased at a high price which already increased the duty burden, and there was no revenue loss because the duty paid was higher.

3.2 Statement of Shri Sanjay Parab, G-Card Holder of the Customs Broker M/s Damani Shipping Pvt. Ltd., was recorded on 01.12.2025, wherein he, inter alia, stated that M/s Ikoom Cranes International Private Limited approached the Customs Broker by email; that the Aadhaar, PAN and GST of the importer were

verified as KYC; that the documents provided by the importer comprised the Bill of Lading, Invoice, Packing List and remittance details for filing the Bill of Entry; that nine (09) Bills of Entry had been filed by the Customs Broker on behalf of the importer in the last five years; and that their firm did not inspect any imported goods after unloading.

3.3 A further statement of the Director Shri Jitendra Singh Mohan Singh Kalsi was recorded on 11.02.2026, wherein he, inter alia, stated that:

- I. the importer imported old and used cranes for the purpose of renting them out and did not trade in them, the profit margin being approximately 5-7% of the import cost;
- II. there was no deliberate manipulation or change in the YOM, VIN or capacity, the specifications being supplied by the foreign supplier, and any discrepancy in the YOM may have occurred at the supplier's end;
- III. the importer had multiple overseas suppliers, namely Universal Cranes Ltd., Pratham International Ltd., Ever Higher International Ltd. and Raja International Ltd., and in the instant case the supplier was Universal Cranes Ltd.;
- IV. customers generally demanded cranes less than five years old, for which reason the importer preferred comparatively newer used cranes, but he did not change the YOM either before shipment or after unloading;
- V. the supplier might have changed the YOM due to non-availability of the requested crane; he denied any intention to mis-declare the YOM and stated that duty was paid on the declared value;
- VI. a difference in YOM of 1-2 years did not significantly affect rent or selling price; however, a larger difference might lead to higher returns;
- VII. he had previously imported cranes and a Show Cause Notice had been issued in the past in another case involving mis-declaration of Year of Manufacture and lifting capacity under a different IEC (M/s Satkartar Crane Hiring - IEC 0811010813);
- VIII. he held two IECs one in his individual name and one in partnership with his son both under investigation at that time; approximately 10 cranes had been imported under the present IEC (AAICI2440P) and around 170 under the earlier IEC of M/s Satkartar Crane Hiring, all being old and used cranes; and
- IX. the Bills of Entry were filed on the basis of the invoices and documents provided by the supplier, all imports being through Mumbai Port.

4. Seizure, Provisional Release and Chartered Engineer's Report:

4.1 Considering the material evidence indicating mis-declaration, the goods covered under BE No. 5239074 dated 22.10.2025 were seized on 08.12.2025 under Section 110(1) of the Customs Act, 1962. On the importer's request dated 08.12.2025, provisional release was allowed on 09.12.2025 under Section 110A of the Act, subject to prescribed conditions. Subsequently, the importer got the

description amended to "OLD & USED S H SANY, STC1000T5(100TONS) HYDRAULIC MOBILECRANE, CHAS. NO LFCNPG6P5N3001974 WITH STD. ACC (YEAR OF MANUFACTURE 2021)".

4.2 The Chartered Engineer submitted a report dated 10.12.2025 (Ref. No. AGA/CEC/SIIB-DAMANI-IKOOOM CRANES/0336/2025-26). In Annexure-A, the description was stated as Model STC1000T5, S/N TC2100CC1599, Chassis No. LFCNPG6P5N3001974, Lifting Capacity 100 Tons, YEAR OF MANUFACTURE 2020-2021 (as per physical condition) and Repainted, with the present assessable value stated as USD 1,07,000 (CIF) and USD 1,50,000 (FOB) in YOM.

5. Summary of Investigation and Inferences:

5.1 The declared YOM 2023 stands contradicted by the physical condition of the goods (tampered/scratched VIN and capacity, a fresh plate affixed after removing the original, model painted as "STC 00", removed counterweight plates, and the painted weight of 50,000 kg against the Bill of Lading weight of 58,000 kg), by the Chartered Engineer's opinion (2020-2021), by the supplier's verbal admission (2021), and by the importer's own amendment of the declaration to YOM 2021. The Director was the sole person in charge of the purchase; the order was placed verbally for a crane of YOM 2023 although the supplier later admitted the actual YOM to be 202 and he had previously faced a Show Cause Notice for mis-declaration of YOM and lifting capacity under his other IEC. The claim of a purely verbal negotiation, in the face of a written Bill of Lading, Invoice and Packing List, does not appear plausible and appears to be an afterthought.

6. Role of the Importer – M/s Ikoom Cranes International Pvt. Ltd.:

6.1 The importer undertook the import by declaring the Year of Manufacture as "2023" instead of the actual Year of Manufacture, i.e. "2021". Being under an obligation to declare the goods truthfully, the importer resorted to a post-dated Year of Manufacture, reflecting a deliberate act of false declaration. The claim that the supplier had provided a crane of YOM 2021 shown as 2023 in the documents was unsupported by any evidence and rested solely on an oral communication. The particulars carried into the Bill of Entry were derived from an identity plate which, on examination, was found to have been tampered with and replaced, and the importer, having declared a post-dated Year of Manufacture which it subsequently admitted to be 2021, thereby rendered the imported goods liable to confiscation along with consequential fine and penalties under the Customs Act, 1962.

7. Valuation and Duty:

7.1 The importer declared the CIF value of the crane as USD 98,000. As per the Chartered Engineer's certificate read with Circular No. 25/2015 dated 15.10.2015 (F. No. 467/34/2006-Cus.V), the present assessable value was determined as USD 1,07,000 (CIF), inclusive of repainting charges, which form part of the transaction value in terms of Section 14 of the Customs Act, 1962 read with Rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The differential value worked out to USD 9,000, which at the notified exchange rate of ₹88.70 per USD (Section 14(3)) amounts to a differential assessable value of ₹7,98,300. The duty difference is computed as below:

S. No.	Particulars	Declared Value/Duty (₹)	Redetermined Value/Duty (₹)	Differential Value/Duty (₹)
1	Assessable Value	86,92,600	94,90,900	7,98,300
2	BCD @ 7.5% of Assessable Value	6,51,945.00	7,11,817.50	59,872.30
3	SWS @ 10% of BCD	65,195.50	71,181.75	5,987.00
4	IGST @ 18% of (AV + BCD + SWS)	16,93,753.11	18,49,301.87	1,55,548.80
5	Total Duty (2 + 3 + 4)	24,10,893/-	26,32,302/-	2,21,408/-

7.2 As per record on the e-Sanchit Portal, the total duty of ₹26,32,302/- (Rupees Twenty-Six Lakhs Thirty-Two Thousand Three Hundred and Two only) was deposited by the importer vide Challan No. 2058656630 on 26.12.2025, which includes the differential duty of ₹2,21,408/-.

8. Conclusion of the Investigation:

8.1 The cumulative evidence indicates false declaration while filing the Bill of Entry under Section 46 of the Customs Act, 1962, the imported old and used crane being of an earlier Year of Manufacture than that declared. The declared YOM 2023 is belied by the physical condition of the goods, the Chartered Engineer's opinion, the supplier's admission and the importer's own amendment of bill of entry. Accordingly, the goods are liable to confiscation under Section 111(m); the differential duty of ₹2,21,408/- is liable to be appropriated at finalization; and the importer is liable to penalty under Section 112(a) and Section 114AA of the Act.

9. Contraventions:

9.1 The importer, being under an obligation to declare the goods truthfully, resorted to a post-dated Year of Manufacture, thereby omitting correct self-assessment. The differential duty of ₹2,21,408/- is liable to be appropriated at the time of finalization of BE No. 5239074 dated 22.10.2025.

9.2 The impugned goods were imported and cleared by resorting to mis-declaration by way of post-dating the Year of Manufacture. The acts of commission and omission on the part of the importer rendered the goods liable to confiscation under Section 111(m), and the importer has rendered itself liable to penalty under Section 112(a) of the Act.

9.3 The importer failed to furnish any evidence of the Year of Manufacture being "2023" and relied solely on an oral communication, while on examination the identity plate was found tampered/scratched and a fresh plate had been affixed after removing the original. Having declared a post-dated Year of Manufacture (subsequently admitted to be 2021), the particulars whereof were carried from an identity plate found tampered and replaced, the importer has rendered itself liable to penalty under Section 114AA of the Act, separately.

10. Show Cause Notice:

10.1 Show Cause Notice No. 15/2026-27/Gr-V dated 27.05.2026 was issued under Section 124 of the Customs Act, 1962, calling upon the importer M/s Ikoom Cranes International Pvt. Ltd. (IEC No. AAICI2440P) as to why:

- I. The declared description in Bill of Entry No. 5239074 dated 22.10.2025 described as "OLD & USED, SECONDHAND SANY 98000.000000 1.000000 UNT 98000.00 STC1000T5 (100 TONS) HYDRAULIC MOBILECRANE, CHASSIS No. LFCNPG6P5N3001974 WITH STD.ACC. (YOM 2023)" may not be rejected, and re-determined as "OLD & USED, SECONDHAND SAN 98000.000000 1.000000 UNT 98000.00 STC1000T5(100 TONS) HYDRAULIC MOBILECRANE, CHASSIS No. LFCNPG6P5N3001974 WITH STD.ACC. (YOM 2021)";
- II. Assessable Value of Rs. 86,92,600/- self-declared by the Importer in Bill of Entry No. 5239074 dated 22.10.2025 should not be rejected and re-determined to Rs. 94,90,900/-;
- III. Differential Duty of Rs. 2,21,408/- (INR Two Lakhs, Twenty-One Thousand, Four Hundred and Eight Only), submitted as part of total duty of Rs. 26,32,302/- (INR Twenty-Six Lakhs, Thirty-Two Thousand, Three Hundred and Two Only) vide Challan No. 2058656630 dated 26.12.2025 should not be reappropriated at the time of finalization of Bill of Entry No. 5239074 dated 22.10.2025;
- IV. The goods imported vide Bill of Entry No. 5239074 dated 22.10.2025 should not be held liable for confiscation under provisions of Section 111(m) of the Customs Act, 1962;
- V. Penalty should not be imposed upon the Importer under provisions of Section 112(a) and/or Section 114AA of the said Act; and
- VI. The Bond and Bank Guarantee furnished by the Importer at time of Provisional Release should not be enforced and encashed respectively for recovery of revenue in the interest of the department.

11. Reply to the Show Cause Notice:

11.1 The importer filed a written reply dated 30.05.2026, denying the allegations in the SCN as baseless and unsupported by corroborating documentary evidence. The submissions are summarised below.

11.2 Summary of Submissions by the Importer

11.2.1 The importer is in the business of purchase, sale and hiring of cranes, often purchasing after inspection and sometimes on the basis of visuals/photographs and the visible condition of the used crane. It does not possess adequate technical information regarding parameters such as YOM, value and overseas expenses. For correct clearance on correct valuation and to avoid disputes, instead of presenting a self-assessed Bill of Entry under Section 17(1), the importer filed a First Check Bill of Entry No. 5239074 dated 22.10.2025 under the 2nd Proviso to Section 46(1) of the Customs Act, 1962, offering the goods for examination and determination of the relevant parameters. It is contended that this step itself absolves the importer from disputes and allegations of mis-declaration.

11.2.2 There is a fatal statutory error in the Chartered Engineer's report, as the VIN rubbing zone carries the same VIN as on the VIN plate. Determination of the Year of Manufacture on the basis of the VIN is a recognized international

and statutory practice. The VIN comprises 17 characters as provided in ISO 3779 and ISO 4030; the first 3 characters constitute the World Manufacturer Identifier (WMI), the next 6 the Vehicle Descriptor section, and the last 8 the Vehicle Indicator section. The Automotive Industry Standards Committee (AISC) was set up under the CMVR-Technical Standing Committee by the MoRT&H in 1997, and the Bureau of Indian Standards (BIS), being the National Standards Body of India, acts as the WMI coordinator in India. The 10th character of the VIN is indicative of the model year, and on decoding the 10th character "N" of VIN LFCNPG6P5N3001974, the model year works out to 2022, as confirmed by the US NISRINC (CMV ID) website which decoded the maker as SANY (LFC = SANY Automobile Manufacturing Co. Ltd.) and the year as 2022, with the Check Digit shown as "Valid".

11.2.3 It is prayed that the Chartered Engineer be required to explain whether he was aware of the VIN structure under ISO 3779 / ISO 4030, his report being said to be statutorily and technically erroneous and not disclosing the source of the earlier YOM. The goods being in the Customs area under departmental control, there was no occasion for the importer to tamper with the crane, and no parallel plate, tools or person was recovered.

11.2.4 There was no intent to mis-declare. The importer declared all particulars strictly on the basis of documents supplied by the foreign seller and the information in the import documents; it neither manufactured the crane nor had any independent means to verify the manufacturer's historical records; and mere variation in the YOM, without establishing prior knowledge of the discrepancy or active manipulation, cannot amount to wilful mis-statement, suppression of facts or intent to evade duty.

11.2.5 The allegation of tampering with or replacement of the identification plate is baseless. The crane was imported in used condition, and the importer had no role in its manufacture, repair or prior ownership. No evidence has been produced to establish that the alleged tampering was carried out after acquisition by the importer, that the importer instructed or participated in any such tampering, or that it derived any benefit. The burden to prove pre-import manipulation has not been discharged, and any mistake, if at all, is post-import and relates to the Motor Vehicles Act, 1988, disclosing no customs violation.

11.2.6 Without prejudice, there is no ground to reject the assessable value as there is no mis-declaration of YOM, and the procedure adopted for revaluation is erroneous. Depreciation and valuation should be done on the basis of manufacturing evidence and not on registration details or Chartered Engineer assumptions. Further, there is no undervaluation, as the invoice value was paid through banking channels and there is no evidence of any additional remittance to the supplier.

11.2.7 On confiscation under Section 111(m) and penalty under Section 112(a): there is no intentional mis-declaration attracting Section 111(m), and penalty under Section 112 is derivative and must fail once confiscation fails. The importer has relied upon the following judgments:

1. *Northern Plastic Ltd. v. Collector of Customs & Central Excise (SC)*: relied upon to show that a declaration made bona fide on the basis of available facts/supplier documents cannot be treated as a deliberate "mis-declaration" under Section 111(m).

II. *Kirti Sales Corporation v. Commr. of Customs, Faridabad (CESTAT)*: relied upon to establish that "mis-declaration" requires deliberate intent and cannot be equated with an inadvertent or wrong declaration made in good faith on the basis of supplier documents.

III. *Shree Ganesh International v. Commissioner of C. Ex., Jaipur (CESTAT)*: relied upon to support that where particulars are declared on the basis of overseas supplier documents, mens rea cannot be attributed to the importer.

11.2.8 On penalty under Section 114AA: the provision is penal, requires strict construction, and can be invoked only on knowing or intentional use of false or incorrect documents. The documents were supplier-generated and used in the normal course of trade, and there is no evidence of prior knowledge of any discrepancy; mens rea, being mandatory, is absent. The importer has relied upon the following judgments:

I. *Akbar Badruddin Jiwani v. Collector of Customs (SC)*: relied upon to establish that the Department must prove conscious knowledge and deliberate intent to breach the law before imposing penalty, and that penalty is not warranted for a technical or venial breach or one flowing from a bona fide belief.

II. *M/s Hindustan Steel Ltd. v. State of Orissa (SC)*: relied upon to show that penalty is the result of a quasi-criminal proceeding and is not impossible unless the party acted deliberately in defiance of law, or was guilty of contumacious or dishonest conduct, or acted in conscious disregard of its obligation.

11.2.9 It is prayed that the entire proceedings be set aside and all penalties proposed in the SCN be dropped.

12. Record of Personal Hearing:

On 01.06.2026, Shri Jitendrasingh Mohansingh Kalsi, Director, M/s Ikoom Cranes International Private Limited appeared on behalf of the Noticee. He submitted that his submissions remained the same as those made in the written submissions made on 30.05.2026.

13. Discussion and Findings:

I have carefully gone through the facts of the case, the material evidence on record, the Show Cause Notice dated 27.05.2026, and the oral and written submissions of the noticee. I now proceed to decide upon the issues involved in the case.

13.1 Request for Enquiry with / Cross-examination of the Chartered Engineer

13.1.1 Before examining the merits, I take up the preliminary prayer of the noticee that an enquiry be directed against the empanelled Chartered Engineer Shri Jitendra N. Darunkar and that his report be impeached and he be cross-examined, on the ground that his opinion as to an earlier Year of Manufacture is statutorily and technically erroneous, since the 10th character of the VIN itself indicates the model year.

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13.1.2 The right to cross-examination in a quasi-judicial customs proceeding is not absolute and is to be assessed in light of whether the material sought to be impeached constitutes the sole or primary foundation of the charge, and whether its denial causes real and demonstrable prejudice. In the present case, the Chartered Engineer's opinion as to the Year of Manufacture is neither the sole nor the foundational basis of the proceedings. The findings rest, first and foremost, on the physical condition of the goods recorded in the Panchnama dated 13.11.2025, namely, that the VIN on the plate and on the chassis was scratched/tampered, that a fresh plate bearing VIN and capacity appeared to have been affixed after removing the original, that the lifting-capacity figures were scratched, that the counterweight plates (10T and 6T) and the rear plate had been removed, that the model was painted as "STC 00" against the declared STC1000T5, and that the weight painted on the crane (50,000 kg) was at variance with the Bill of Lading weight (58,000 kg). These are objective physical facts independently observed and recorded, and do not depend upon the Chartered Engineer's view of ISO 3779.

13.1.3 Secondly, and decisively, the noticee itself, upon being confronted with the examination findings, applied to amend the Bill of Entry and got the description amended to "...*(YEAR OF MANUFACTURE 2021)*", and thereafter deposited the entire differential duty of ₹2,21,408/- vide Challan No. 2058656630 dated 26.12.2025. Having itself accepted and acted upon the re-determined Year of Manufacture of 2021, the noticee cannot now be heard to say that it is prejudiced by the very finding it has accepted, or that the Chartered Engineer must be examined to dislodge it.

13.1.4 Thirdly, the noticee's own technical argument is self-defeating. Even if the contention that the 10th character "N" of the VIN decodes to the year 2022 is accepted at its highest, it establishes that the Year of Manufacture is not 2023 as declared. The noticee's own decoding thus confirms, rather than refutes, that the declared Year of Manufacture i.e. 2023 was incorrect, and furnishes no ground for examining the Chartered Engineer.

13.1.5 In view of the foregoing, I find that the report of the Chartered Engineer is corroborated by independent physical evidence and by the noticee's own conduct and admissions, that no real and specific prejudice has been demonstrated, and that the enquiry against / cross-examination of the Chartered Engineer is not warranted. The request is accordingly rejected.

13.2 Issues to be Determined

13.2.1 Having dealt with the preliminary issue, I find that the following issues are required to be determined:

- I. Whether the declared description in BE No. 5239074 dated 22.10.2025 (YOM 2023) is liable to be rejected and re-determined as YOM 2021;
- II. Whether the assessable value of ₹86,92,600/- declared by the importer is liable to be rejected and re-determined to ₹94,90,900/-;
- III. Whether the differential duty of ₹2,21,408/- is liable to be appropriated at the time of finalization of the provisionally assessed Bill of Entry;
- IV. Whether the imported goods are liable to confiscation under Section 111(m) of the Customs Act, 1962;

v. Whether penalty is imposable on the importer under Section 112(a) of the Customs Act, 1962;

VI. Whether penalty is imposable on the importer under Section 114AA of the Customs Act, 1962; and

VII. Whether the Bond and Bank Guarantee furnished at the time of provisional release are liable to be enforced or encashed respectively.

13.3 Whether the declared description (YOM 2023) is liable to be rejected and re-determined as YOM 2021?

13.3.1 The SCN proposes that the Year of Manufacture declared as 2023 in BE No. 5239074 dated 22.10.2025 be rejected and re-determined as 2021. On physical examination in the presence of the Chartered Engineer, the VIN on the plate and on the chassis was found scratched/tampered, a fresh plate bearing VIN and capacity appeared to have been affixed after removing the original, the lifting capacity was scratched, the model was painted as "STC 00", and the counterweight plates had been removed. The Chartered Engineer, both vide his letter dated 14.11.2025 and his report dated 10.12.2025, opined the Year of Manufacture to be 2020-2021 on the basis of the physical condition of the machine.

13.3.2 Crucially, the importer also admitted in his statement dated 27.11.2025 that the supplier had verbally accepted the actual Year of Manufacture to be 2021, and the importer thereafter applied to amend, and got amended, the description to "(YEAR OF MANUFACTURE 2021)" and deposited the differential duty. The declared YOM 2023 is therefore contradicted by the physical condition of the goods, by the Chartered Engineer's opinion, by the supplier's admission, and by the importer's own amendment.

13.3.3 The contention that the filing of a First Check Bill of Entry under the 2nd Proviso to Section 46(1) absolves the importer of any allegation of mis-declaration is misconceived. The First Check facility enables examination before assessment; it does not convert a false declaration into a correct one, nor does it dilute the statutory obligation under Sections 46(4) and 46(4A) to make a true and correct declaration and to ensure the accuracy of the information furnished.

13.3.4 The further contention that the YOM must rest on manufacturing evidence and cannot be altered on the basis of registration details or Chartered Engineer assumptions is accepted in principle but does not assist the noticee. No manufacturing evidence whatsoever was produced to support the declared YOM 2023; the only contemporaneous physical evidence (the tampered/scratched identity plates), the Chartered Engineer's opinion, the supplier's verbal admission, and the importer's own amendment, all point to YOM 2021. The noticee's own VIN-decoding argument, even taken at its highest, yields 2022 and not the declared 2023. There is thus no material supporting the declared YOM 2023.

13.3.5 Accordingly, I hold that the declared description in BE No. 5239074 dated 22.10.2025, to the extent of "(YOM 2023)", is liable to be rejected, and the Year of Manufacture is re-determined as 2021.

13.4 Whether the declared assessable value of ₹86,92,600/- is liable to be rejected and re-determined to ₹94,90,900/-?

13.4.1 The SCN proposes rejection and re-determination of the declared assessable value of ₹86,92,600/- (USD 98,000 CIF) to ₹94,90,900/- (USD 1,07,000 CIF). The empanelled Chartered Engineer, after physical inspection and on the basis of the re-determined Year of Manufacture (2020-2021) and the physical condition of the machine, assessed the present assessable value at USD 1,07,000 (CIF), inclusive of repainting charges of USD 1,000, in accordance with Circular No. 25/2015 dated 15.10.2015. Repainting charges form part of the transaction value in terms of Section 14 of the Customs Act, 1962 read with Rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

13.4.2 The contention that there is “..no evidence of undervaluation” because the invoice value was paid through banking channels misses the point. The enhancement does not rest on any allegation of an additional remittance; it flows from the corrected (earlier) Year of Manufacture and the physical condition of the old and used machine, for which a Chartered Engineer’s valuation under the Board Circular is a recognized and accepted method. The depreciation has been factored by the Chartered Engineer with reference to the manufacturing year as re-determined, which is the correct basis.

13.4.3 Accordingly, I hold that the declared assessable value of ₹86,92,600/- is liable to be rejected and is re-determined to ₹94,90,900/-

13.5 Whether the differential duty of ₹2,21,408/- is liable to be appropriated at finalization?

13.5.1 The subject Bill of Entry was provisionally assessed in terms of Public Notice No. 08/2024 dated 04.07.2024. Consequent upon the re-determination of the Year of Manufacture and the assessable value, a differential duty of ₹2,21,408/- arises, which the importer has already deposited as part of the total duty of ₹26,32,302/- vide Challan No. 2058656630 dated 26.12.2025. Accordingly, I hold that the differential duty of ₹2,21,408/- is liable to be appropriated at the time of finalization of BE No. 5239074 dated 22.10.2025.

13.6 Whether the imported goods are liable to confiscation under Section 111(m) of the Customs Act, 1962?

13.6.1 The SCN proposes that the goods be held liable to confiscation under Section 111(m). Section 111(m) renders liable to confiscation any goods which do not correspond, in respect of value or in any other particular, with the entry made under the Act. For old and used machinery, the Year of Manufacture is a material particular, as it directly determines the assessable value and the duty liability. In the present case, the declared particular (YOM 2023) does not correspond with the goods (re-determined YOM 2021), and the declared value did not correspond with the assessed value. The ingredients of Section 111(m) are therefore squarely attracted.

13.6.2 In the judgements of *Northern Plastic Ltd.*, *Kirti Sales Corporation* and *Shree Ganesh International* which were relied upon by the noticee, the dispute was confined to the legal classification or exemption claimed bona fide on the basis of supplier documents, with no contrary physical evidence. In the present case, by contrast, the very identity particulars on the goods (VIN and

capacity) were found physically tampered/scratched with a fresh plate affixed; the declared YOM is contradicted by the physical condition, the Chartered Engineer's opinion and the supplier's admission; and the importer itself amended the declaration. The ratio of the cited judgments is therefore inapplicable on the facts.

13.6.3 It is also well settled that confiscation under Section 111 is a proceeding *in rem* against the goods, and that *mens rea* is not a pre-condition for sustaining confiscation; it is the offending status of the goods, and not the intent of the owner, that attracts confiscation. The bona fide plea does not save the goods from confiscation.

13.6.4 Accordingly, I hold that the crane imported vide BE No. 5239074 dated 22.10.2025 is liable to confiscation under Section 111(m) of the Customs Act, 1962. As the goods are not prohibited goods and have already been provisionally released to the importer, I consider it appropriate to give the importer the option to redeem the goods on payment of a redemption fine under Section 125 of the Act, as ordered hereinafter.

13.7 Whether penalty is imposable on the importer under Section 112(a) of the Customs Act, 1962?

13.7.1 Section 112(a) provides for penalty on any person who, in relation to goods, does or omits to do any act which renders such goods liable to confiscation under Section 111. Having held that the goods are liable to confiscation under Section 111(m), the precondition for Section 112(a) is satisfied. The importer's act of filing the Bill of Entry with an incorrect Year of Manufacture, derived from the tampered/altered identity particulars of the machine, is an act/omission which rendered the goods liable to confiscation.

13.7.2 The goods are dutiable and not prohibited. In terms of Section 112(a)(ii), the penalty shall not exceed 10% of the duty sought to be evaded or ₹5,000/-, whichever is higher. Having regard to the facts, including that the importer subsequently amended the Bill of Entry and deposited the differential duty, I consider a penalty under Section 112(a)(ii) to be just and proper.

13.8 Whether penalty is imposable on the importer under Section 114AA of the Customs Act, 1962?

13.8.1. The Show Cause Notice proposes imposition of penalty on the noticee namely M/s Ikoom Cranes International Pvt. Ltd. under Section 114AA of the Customs Act, 1962. Section 114AA of the Customs Act, 1962 reads as under:

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

If 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 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.

13.8.2. As per the facts presented in the instant matter, the imported goods bore tampered identity particulars; on physical examination, the VIN on the plate and on the chassis was found scratched/tampered, the original plate appeared to have been removed and a fresh plate affixed in its place, the capacity marking was scratched, and the model was painted as "STC 00". The identity plate of the

machine was found in a replaced condition; the declared particulars resting upon that plate could not, therefore, be accepted at face value, and it is for this very reason that the Year of Manufacture has been re-determined as 2021 on the basis of the physical condition of the machine and the Chartered Engineer's opinion.

13.8.3. During the investigation, the importer admitted in his statement under Section 108 that the supplier had verbally accepted the actual Year of Manufacture to be 2021. The importer further admitted that he operates two IECs, that about 10 cranes were imported under the present IEC and around 170 under the other (M/s Satkartar Crane Hiring, IEC No. 0811010813), and that a Show Cause Notice had earlier been issued to him under that other IEC for the very same modus operandi of mis-declaring the Year of Manufacture and lifting capacity. At the same time, I have to remain conscious of the fact the burden of proof in imposition of penal provisions of Section 114AA has to be borne by the Department. The investigation has nowhere adduced evidence to establish precisely where, when or by whom the original plate was removed and the fresh plate affixed, whether at the foreign supplier's end, in transit, or after the goods entered the Customs. The investigation in this matter has shown that the identification plates were changed, but it has not been able to bear the burden of proof for the claim that the said identification plates were actually changed, or altered, or manipulated in any form by the importer after the actual import.

13.8.4. The two key words in Section 114AA of the Customs Act, 1962, which are relevant at this time are *knowingly and intentionally*. The statute uses the phrase "...*knowingly or intentionally*..". The said provision expressly mandates knowing or intentional use of a false or incorrect document/declaration. The *mens rea* is *sine qua non* for attracting penalty under this section. Section 114AA requires strict construction and cannot be invoked unless it is established that the person had knowledge that the documents were false or incorrect.

13.8.5. The Noticee has relied upon the Hon'ble Supreme Court judgement of *Akbar Badruddin Jiwani Vs Collector of Customs*, wherein the Hon'ble Supreme Court came to the conclusion that the department must prove conscious knowledge and deliberate intent to breach the law before imposing harsh penalties for technical or venial breaches. Further the Noticee has relied upon the Hon'ble Supreme Court judgement of *M/s Hindustan Steel Vs State of Orissa* wherein the Hon'ble Supreme Court observed that penalty is the result of a quasi-criminal proceeding and that penalty should not be imposed for technical or venial infractions unless the party acted in conscious disregard, defiance of law, or with contumacious intent.

13.8.6. Section 114AA of the Customs Act, 1962 renders one liable to penalty only in case of mis-declaration with knowledge or intent in any proceeding under the Customs Act. The said Section is a penal provision strictly designed to punish individuals or businesses that knowingly or intentionally create, sign, or use false or fraudulent documents/declarations to evade customs duties or secure undue benefits. As discussed above, the declaration of Year of Manufacture 2023 was false and incorrect. However, neither any *mens rea* nor any factual evidence of tampering of the Year of Manufacture on part of the importer could be validated by the investigation in this matter. It is clear from

provisions of the said Section that *mens rea* is a mandatory ingredient for imposition of penalty. Having seen the factual matrix from both sides i.e. the department's side as well as the noticee's side, and in terms of the legal position in this regard as observed by the Hon'ble Supreme Court in the matters of *Akbar Badruddin Jiwani Vs Collector of Customs* and *M/s Hindustan Steel Vs State of Orissa*, I am of the considered view that penalty is not imposable on the importer under provisions of the said Section 114AA.

13.9. Whether the Bond and Bank Guarantee furnished at the time of provisional release are liable to be enforced or encashed respectively?

In the instant matter, the Bond and Bank Guarantee were deposited in compliance of provisions of Section 110A of the Customs Act, 1962 i.e. at the time of provisional release of the seized imported goods. The purpose of Bond and Bank Guarantee is to safeguard the interest of the revenue. Thus, I am of the opinion that the Bond and Bank Guarantee in this matter, to the extent they are required for safeguarding the interest of the department i.e. for recovery of redemption fine, recovery of differential duty (to the extent not already appropriated) or for recovery of other fine, penalty or interest in this matter are liable to be enforced and/or encashed respectively.

ORDER

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

I. I reject the declared Year of Manufacture "(YOM 2023)" in respect of the crane imported vide Bill of Entry No. 5239074 dated 22.10.2025 and re-determine the same as "(YEAR OF MANUFACTURE 2021)".

II. I reject the declared assessable value of ₹86,92,600/- and re-determine the assessable value of the imported crane to ₹94,90,900/- (USD 1,07,000 CIF @ ₹88.70 per USD).

III. I order appropriation of the differential duty of ₹2,21,408/- (Rupees Two Lakhs Twenty-One Thousand Four Hundred and Eight only), already deposited by the importer as part of the total duty payment of ₹26,32,302/- vide Challan No. 2058656630 dated 26.12.2025, towards the duty liability arising on final assessment of Bill of Entry No. 5239074 dated 22.10.2025.

IV. I hold the crane imported vide Bill of Entry No. 5239074 dated 22.10.2025 liable to confiscation under Section 111(m) of the Customs Act, 1962 for misdeclaration of the Year of Manufacture and consequential undervaluation. However, in terms of Section 125 of the Customs Act, 1962, I give an option to M/s Iloom Cranes International Pvt. Ltd. to redeem the goods on payment of a Redemption Fine of ₹9,49,000/- (Rupees Nine Lakhs Forty Nine Thousand only) in lieu of confiscation.

V. I impose a penalty of ₹22,000/- (Rupees Twenty Two Thousand only) on M/s Iloom Cranes International Pvt. Ltd. under Section 112(a)(ii) of the Customs Act, 1962.

VI. I hereby drop the penalty proposed under Section 114AA of the Customs Act, 1962 against M/s Iloom Cranes International Pvt. Ltd..

VII. I order that the Bond executed at the time of provisional release shall stand enforced and the Bank Guarantee furnished thereunder shall be liable to be invoked/appropriated, to the extent necessary, towards recovery of the Redemption Fine, duty liability not already appropriated, and the penalties imposed hereinabove.

15. This order is passed without prejudice to any other action which may be taken against the noticee or any other concerned person under the Customs Act, 1962, or any other law for the time being in force in the Union of India.

Arshdeep Singh
05/06/2026

(Arshdeep Singh)

Joint Commissioner of Customs

Import-I, New Custom House, Mumbai Customs Zone-I

To,

1. M/s Ikoorn Cranes International Pvt. Ltd. (IEC No. AAICI2440P), Block No. 135-A, Ring Road, Kamod, Daskroi, Ahmedabad - 382405. (Email: ikominternational61@gmail.com)

Copy to:

1. The Commissioner of Customs (Import-I), New Custom House, Mumbai.
2. The Additional Director General, Central Economic Intelligence Bureau, 6th Floor, B-Wing, Janpath Bhawan, Janpath, New Delhi - 110001.
3. The Joint Commissioner of Customs, SIIB(I), Import-I, New Custom House, Mumbai.
4. The Deputy Commissioner of Customs, Review Cell, Import-I, New Custom House, Mumbai.
5. The Deputy/Assistant Commissioner of Customs, Group-V, NCH, Mumbai.
6. EDI Section for upload on the Mumbai Customs Zone-I website.
7. Office Copy.
8. Notice Board.