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|  | भारत सरकार |
| | GOVERNMENT OF INDIA |
| | सीमा शुल्क प्रधान आयुक्त (बन्दरगाह) कार्यालय |
| | OFFICE OF THE PR COMMISSIONER OF CUSTOMS (PORT) |
| | सीमा शुल्क भवन, १५/१ स्ट्रैंड रोड, कोलकाता-७००००१ |
| CUSTOM HOUSE, 15/1, STRAND ROAD, KOLKATA —700 001 | |
| E-mail: prcommr-port-cuskol@gov.in, groupv.kolport@gov.in | |

DIN: 20251276NN0000444EEF

Date: 11-12-2025

SHOW CAUSE NOTICE NO. KOL/CUS/PR. COMM-R/PORT/GR. V/ 91/2025 DATED 11-12-2025 UNDER SECTION 124 READ WITH SECTION 17(4) OF THE CUSTOMS ACT, 1962

Subject: Import of Used Digital Multifunction Print & Copying Machines by mis-declaring the description and value of the goods and in violation of Foreign Trade Policy, BIS Registration, Equipment Type Approval & Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 by M/s Arahant Automation (IEC- ABVFA4881F) vide Bills of Entry No. 8467194 dated 20.02.2025, 7746397 dated 11.01.2025, and 8505472 dated 22.02.2025.

M/s Arahant Automation (IEC: - ABVFA4881F), with a registered address at Office No.722, 7th Floor, The Summit Business Bay, Andheri Kurla Road, Andheri East, Mumbai-400093 (*hereinafter referred to as "the importer"*), filed 03 (three) Bills of Entry for the clearance of goods declared as 'Used Highly Specialized Equipment - Digital Multifunction Print & Copying Machines'. The details of the Bills of Entry are as follow:

| Sl. No. | Particulars | Bill of Entry No. 8467194 dated 20.02.2025 | Bill of Entry No. 7746397 dated 11.01.2025 | Bill of Entry No. 8505472 dated 22.02.2025 |
|---------|-------------------------------------|--|--|--|
| 1. | Declared Description | Used Highly Specialized Equipment - Digital Multifunction Print & Copying Machines | Used Highly Specialized Equipment - Digital Multifunction Print & Copying Machines | Used Highly Specialized Equipment - Digital Multifunction Print & Copying Machines |
| 2. | CTH Declared | 84433100 | 84433100 | 84433100 |
| 3. | Gross weight | 37600 KGS | 29800 KGS | 13740 KGS |
| 4. | Invoice No. & Date | 3868 dated 23.01.2025 | 19956 dated 18.12.2024 | 9917-DKS-2024 dated 23.12.2024 |
| 5. | Invoice Value | 55650 USD (1USD= 88.40 INR) | 57950 USD (1USD= 86.6 INR) | 25400 USD (1USD= 87.75 INR) |
| 6. | Declared Assessable Value | 49,19,460/- | 50,18,470/- | 22,28,850/- |
| 7. | Duty Paid | 11,25,003/- INR | 10,92,007/- INR | 5,01,383/- INR |
| 8. | Assessable Value based on CE report | 62,50,016/- INR | 60,66,706/- INR | 27,85,460/- INR |
| 9. | Container No. | CAIUI1425860 (40'), CAIU4963844 (40') | MRKU5148139 (40') and TCKU7585829 (40') | BMOU5689213 (40') |
| | Notification | | | |

| | | | | |
|-----|-------------------------|--|---|---|
| 10. | benefit claimed for BCD | Notification no. 024/2005-customs Sl. No. 2 | Notification no. 024/2005-customs Sl. No. 2 | Notification no. 024/2005-customs Sl. No. 2 |
| 11. | Foreign supplier | J J International (FZC), Sharjah, United Arab Emirates | Al Faraeenah Elect. Devices, United Arab Emirates | DKS SP. Zo.O., Poland |
| 12. | No. of pkgs | 248 | 219 | 128 |

2.1 **Bill of Entry No. 8467194 dated 20.02.2025:**

2.1.1 The Bill of Entry No. 8467194 dated 20.02.2025 was pushed back to PAG with following departmental comment: -

"THE ITEMS ARE USED MFD AND APPEARS TO BE E-WASTE. THE IMPORT OF SUBJECT ITEMS IS RESTRICTED AND REQUIRES AUTHORIZATION FROM DGFT. HENCE B/E MAY BE PUSHED TO PAG/LOCAL PORT FOR FURTHER ACTION PLS."

2.1.2 The PAG assessing officer issued examination instructions on first check basis in presence of Empanelled government Approved Chartered Engineer, AC/DC shed and SIIB officers for 100% examination as per circular no. 07/2020-customs dated 05.02.2020 and also directed for compliance of para 2.31 (c) of Foreign Trade policy (FTP). It was also directed to verify/ imports are capital goods allowed for imports as per para 2.31 (d) of FTP. Examination order in this regard reads as follows: -

Exam Order: "check seal no. of all containers and cut the seal of selected containers in your presence, de-stuff and examine 100% of cargo located in all areas (1,2,3,4,5) of selected containers (other than iso liquid/gas container, dangerous cargo and bulk cargo): caiu4425860*** verify declared description, quantity, grade, model and brand. in case of mis-declaration examine 100% of all containers. -vfy goods are not restricted second hand/e-waste/hazardous waste as per para 2.31 of ftp
-by rms
de-stuff all cargo and open and examine 100% of cargo located in all areas (1,2,3,4,5) for all container and look for concealment, mis-declaration in description and quantity in presence of ac/dc shed, siib officers and approved ce, ensure compliance of rms ccr instructions, examine goods w.r.t. declaration relating to brand, make, quality, specifications, quantity and uqc. examine wrt ce report issued in form-a or form-b of circular 07/2020 as applicable. if goods are only parts/spares of machines, verify compliance to para 2.31(c) of ftp. verify description and classification. verify imports are capital goods allowed for imports as per ftp para 2.31(d). vfy quantity, model, sl. no., yom, coo, residual life, used, reconditioned/refurbished. ensure epr compliance, value suggested by ce should be endorsed by importer, its representative and shed officer to state in case the suggested value by ce is not acceptable as assessable value by the importer. Ensure the goods are destuffed before commencing examination. Examination order to be followed strictly."

2.1.3 The said consignment covered under Bill of Entry No. 8467194 dated 20.02.2025 were examined by Shed Officers in presence of SIIB and Empaneled Government Approved Chartered Engineer Bidisha Mukherjee, (Registration No.: M-1686784) and Assistant/Dy Commissioner of Customs, Phonex-CFS, and Shed has provided following examination report:

CFS PHONEX

B/E NO: 8467194 DT. 20.02.2025

CONTAINER NO: CAIU4425860 & CAIU4863844

IMPORTER: ARAHANT AUTOMATION


GOODS: USED HIGHLY SPECIALIZED EQUIPMENT DIGITAL MULTIFUNCTIONAL PRINT AND
COPYING MACHINE

PACKAGE FOUND: 248

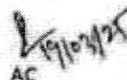
EXAMINATION REPORT

OPENED THE CONTAINERS AND EXAMINED THE GOODS 100% IN PRESENCE OF AC, CFS/PHONEX & SIIB & EMPANELLED GOVT APPROVED CHARTER ENGINEER BIDISHA MUKHERJEE, HAVING REGISTRATION NO M-1686784 AS PER EXAM ORDER AND RMS INSTRUCTION. CHECKED DESCRIPTION W.R.T. IMPORT DOCUMENTS. AS PER CE'S REPORT VIDE REF NO BM/INSP/CERT/ARAHANT/02/2024-25 DATED 17.03.2025, THE GOODS ARE OLD AND USED. MAKE, MODEL, COUNTRY OF ORIGIN, YEAR OF MANUFACTURING AND OTHER INFORMATION/QUERRIES, CE'S REPORT MAY BE REFERRED TO.




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CUSTOM HOUSE
KOLKATA


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[RUD 1: Panchanama dated 08.03.2025]

[RUD 2: CE Report No. BM/INSP/CERT/ARAHANT/02/2024-25 dated 17.03.2025]

2.2 Bill of Entry No. 7746397 dated 11.01.2025:

2.2.1 An Office Note dated 17.01.2025 was received from Appraising Group 5 (Port) vide which the subject Bill of Entry was transferred to SIIB (Port) for investigation. However, upon the scrutiny of the documents, the subject goods appeared to be as old and used and restricted as per para 2.31(1)(b) of FTP and the importer failed to upload the BIS, Import Authorization from DGFT, Equipment Type Approval (ETA) and Hazardous & other Wastes (Management and Transboundary Movement) Rules, 2016. For thorough enquiry regarding fulfillment of aforementioned and other policy angles, investigation was initiated by SIIB (Port).

[RUD 3: Office Note dated 17.01.2025 from Appraising Group 5 (Port)]

2.2.2 Bill of Entry No. 7746397 dated 11.01.2025 was pushed back to PAG from FAG with following comment:

"THE SUBJECT GOODS APPEAR TO BE RESTRICTED CATEGORY OF SECOND-HAND/E-WASTE/ HAZARDOUS WASTE AS PER PARA 2.31 OF FTP AND FURTHER REQUIRE DGFT IMPORT LICENSE AND BIS. HENCE B/E MAY BE PUSHED TO PAG/LOCAL PORT FOR

FURTHER NECESSARY ACTION PLEASE."

2.2.3 Further, Port Assessment Group (PAG) assessed the subject bill of entry on First Check basis with following examination order:

"DE-STUFF ALL CARGO AND OPEN AND EXAMINE 100% OF CARGO LOCATED IN ALL AREAS (1,2,3,4,5) FOR ALL CONTAINER AND LOOK FOR CONCEALMENT, MIS-DECLARATION IN DESCRIPTION AND QUANTITY IN PRESENCE OF AC/DC AND APPROVED CE. ENSURE COMPLIANCE OF RMS, CCR INSTRUCTIONS. EXAMINE GOODS W.R.T. DECLARATION RELATING TO BRAND, MAKE, QUALITY, SPECIFICATIONS, QUANTITY AND UQC. EXAMINE W.R.T CE REPORT ISSUED IN FORM-A OR FORM-B OF CIRCULAR 07/2020 AS APPLICABLE. IF GOODS ARE ONLY PARTS/SPARES OF MACHINES, VERIFY COMPLIANCE TO PARA 2.31© OF FTP. VERIFY DESCRIPTION AND CLASSIFICATION. VERIFY IMPORTS ARE CAPITAL GOODS ALLOWED FOR IMPORTS AS PER FTP PARA 2.31(D). VERIFY QUANTITY, MODEL, SL. NO., YOM, COO, RESIDUAL LIFE, USED, RECONDITIONED/REFURBISHED. ENSURE EPR COMPLIANCE. VALUE SUGGESTED BY CE SHOULD BE ENDORSED BY IMPORTER/ ITS REPRESENTATIVE AND SHED OFFICER TO STATE IN CASE THE SUGGESTED VALUE BY CE IS NOT ACCEPTABLE AS ASSESSABLE VALUE BY THE IMPORTER. THE SUBJECT GOODS APPEAR TO BE IN RESTRICTED CATEGORY OF SECOND HAND/E WASTE/ HAZARDOUS WASTE AS PER PARA 2.31 OF FTP AND FURTHER REQUIRE DGFT IMPORT LICENSE AND BIS, PLEASE EXAMINE. ENSURE THE GOODS ARE DESTUFFED BEFORE COMMENCING EXAMINATION. EXAMINATION ORDER TO BE FOLLOWED STRICTLY. PICTURES OF GOOD IN CE CERTIFICATE SHOULD CLEARLY SHOW GOODS IN DESTUFFED CONDITION. THE PICTURES UPLOADED IN THE CE REPORT SHOULD CLEARLY SHOW GOODS IN DE-STUFFED CONDITION DULY ATTESTED BY SHED OFFICERS. ENSURE STRICT COMPLIANCE."

2.2.4 The said consignment covered under Bill of Entry No. 7746397 dated 11.01.2025 were examined by Shed Officers in presence of SIIB and Empaneled Government Approved Chartered Engineer Saikat Konar, (Registration No.: M-129095-3) and Assistant/Dy Commissioner of Customs, CWC-CFS, and Shed has provided following examination report:


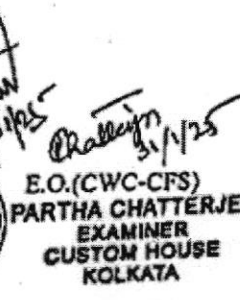
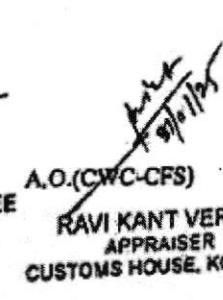
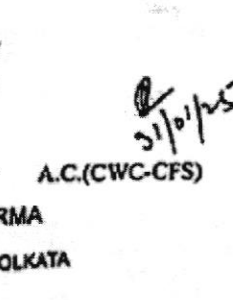
CWC-CFS

B/E No. : 7746397 dated 11.01.25
 Importer Name : M/S. Arahant Automation
 CHA : M/s Kshitiz Nirman Pvt Ltd
 Container No. : MRKU5148139/40, TCKU7585829/40
 Goods : Used highly specialized equipment digital multifunction print and copying machine

Total= 219 PKG

EXAMINATION REPORT

Opened the container and examined 100% of the goods in presence of Customs Broker and empanelled Govt. Approved Chartered Engineer Smt Saikat Konar, regn no. M129095-3 for appraisalment in presence SIIB (PORT), AC (CWC-CFS). Checked declaration vis-à-vis import document. As per C.E's report vide Ref No. ELBI/356/24-25 dated 27.01.25. The goods are old and used, make, model, country of origin, year of manufacturer and other information/ queries CB's report may be referred. Clearance of the goods withheld till further order from group.

   
 E.O.(CWC-CFS) PARTHA CHATTERJEE
 EXAMINER
 CUSTOM HOUSE
 KOLKATA
 A.O.(CWC-CFS) RAVI KANT VERMA
 APPRAISER
 CUSTOMS HOUSE, KOLKATA
 A.C.(CWC-CFS)

[RUD 4: Panchanama dated 22.01.2025]

[RUD 5: Chartered Engineer report no. ELBI/356/24-25 dated 27.01.2025]

2.3 Bill of Entry No. 8505472 dated 22.02.2025:

2.3.1 The examination order on first check basis of the instant Bill of Entry No. 8505472 dated 22.02.2025 by Faceless Assessment Group is as follows:

EXAMINE 100% UNDER W.R.T. THEIR DESCRIPTION, QUANTITY, WEIGHT, BRAND, MODEL, MAKE, YOM AND C/O WITH RESPECT TO B/E, INVOICE, P/L IN PRESENCE OF EMPANELED CE AND UPLOAD C.E CERTIFICATE. INSPECT LOT, CHECK MARKS AND NUMBERS.
 (I) VERIFY THAT THE GOODS ARE OLD AND USED CAPITAL GOODS. PLEASE STATE WHETHER COMPLETE MACHINERY OR PART ONLY.
 (II) STATE WHETHER THE GOODS ARE RE-CONDITIONED OR NOT. IF YES PLEASE STATE FAIR COST OF RE-CONDITIONING.
 (III) VERIFY AND STATE THE YEAR OF MANUFACTURE, MAKE, AND MODEL AND C/O.
 (IV) VERIFY AND STATE WHETHER THE PARTS AND ACCESSORIES ARE STANDARD AND ESSENTIAL. IF NOT, STATE THE FAIR VALUE AND CTH OF THE PARTS AND ACCESSORIES.
 (V) VERIFY WHETHER THE DECLARED VALUE IS FAIR. IF NOT PLEASE STATE FAIR VALUE DEPENDING ON THE PRESENT PHYSICAL CONDITION OF THE MACHINE.
 (VI) VERIFY WHETHER THE RESIDUAL LIFE IS MORE THAN FIVE YEARS.
 (VII) EXAMINE WRT BOARD CIRCULAR NO.25/2015-CUSTOMS DATED 15.10.2015. (VII) PLEASE VFY DECL CTH AND SUGGEST CTH IF THE DECLARED CTH IS FOUND WRONG.
 (VIII) VFY GOODS ARE ELIGIBLE FOR THE NOTIFICATION BENEFIT CLAIMED, IF ANY. VFY WT.
 (IX) FOLLOW RMS, DGO, CCR AND TARGET INSTRUCTION AND ENSURE COMPLIANCE THEREOF WHEREVER APPLICABLE. *
 (X) VERIFY THE COMPLIANCE OF ALL PROHIBITIONS/ RESTRICTIONS PRESCRIBED IN FTP/UNDER VARIOUS ALLIED ACTS OR THEIR RULES/REGULATIONS.


By 108XXXXX on 22/02/2025 at 03:09P.M.

2.3.2 The said consignment covered under Bill of Entry No. 8505472 dated 22.02.2025 were examined by Shed Officers in presence of SIIB and Empaneled Government Approved Chartered Engineer Bidisha Mukherjee, (Registration No.: M-1686784) and Assistant/Dy Commissioner of Customs, CWC-CFS, and Shed has provided following examination report:

CFS PHONEX
B/E NO: 8505472 DT. 22.02.2025
CONTAINER NO: BMOU5689213
IMPORTER: ARAHANT AUTOMATION
GOODS: USED HIGHLY SPECIALIZED EQUIPMENT DIGITAL MULTIFUNCTIONAL PRINT AND COPYING MACHINE
PACKAGE FOUND: 128

EXAMINATION REPORT

OPENED THE CONTAINER AND EXAMINED THE GOODS 100% IN PRESENCE OF AC, CFS/PHONEX & SIIB & EMPANELLED GOVT APPROVED CHARTER ENGINEER BIDISHA MUKHERJEE, HAVING REGISTRATION NO M-1686784 AS PER EXAM ORDER AND RMS INSTRUCTION. CHECKED DESCRIPTION W.R.T. IMPORT DOCUMENTS. AS PER CE'S REPORT VIDE REF NO BM/INSP/CERT/ARAHANT/01/2024-25 DATED 17.03.2025, THE GOODS ARE OLD AND USED. MAKE, MODEL, COUNTRY OF ORIGIN, YEAR OF MANUFACTURING AND OTHER INFORMATION/QUERRIES, CE'S REPORT MAY BE REFERRED TO.



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EXAMINER
KOLKATA CUSTOMS

SUMIT BISWAS
APPRAISER
CUSTOM HOUSE
KOLKATA

AC

[RUD 6: Panchanama dated 08.03.2025]

[RUD 7: CE Report no. BM/INSP/CERT/ARAHANT/01/2024-25 dated 17.03.2025]

2.3.3 Further, assessing officer has raised query regarding DGFT authorization, query raised and reply thereof is reproduced here for ready reference:

"Query 1: PLZ UPLOAD DGFT AUTHORIZATION

Reply: RESPECTED SIR, SINCE GOODS ARE OLD AND USED AND RESTRICTED IN POLICY

AND LICENCE FOR THE SAME IS NOT AVAILABLE WITH US, KINDLY SEND BACK TO PAG GROUP FOR FURTHER PROCESS."

Subsequently, subject bill of entry has been pushed to PAG for N/A.

3. Initiation of Investigation

The cases are investigated by SIIB(Port) with due approval from competent authority in file No. CUS/SIIB/MISC/49/2025-SIIB dated 21.01.2025.

4. Seizure

4.1 The consignment under Bill of Entry No. 8467194 dated 20.02.2025 was seized vide seizure memo dated 26.03.2025 (*issued with DIN: 20250376NN0000999EC7*) under Section 110 of the Customs Act, 1962, on the reasons to believe that these were liable to confiscation under Section 111 of the Customs Act, 1962.

4.2 The consignment under Bill of Entry No. 7746397 dated 11.01.2025 was seized vide seizure memo dated 04.02.2025 (*issued with DIN: 20250276NN00002202B3*) under Section 110 of the Customs Act, 1962, on the reasons to believe that these were liable to confiscation under Section 111 of the Customs Act, 1962.

4.3 The consignment under Bill of Entry No. 8505472 dated 22.02.2025 was seized vide seizure memo dated 25.03.2025 (*issued with DIN: 20250376NN0000424012*) under Section 110 of the Customs Act, 1962, on the reasons to believe that these were liable to confiscation under Section 111 of the Customs Act, 1962.

[RUD 8: Seizure Memo dated 26.03.2025, 04.02.2025 and 25.03.2025]

5.1. The Hon'ble Supreme Court Order:

In a case of similar issue related to import of Used Multifunction Device, Hon'ble High Court vide judgment dated 22.03.2024 in WPA No. 6749 of 2024 in the matter of M/s Atul Automation Pvt. Ltd., directed the department for provisional release of the seized goods upon submission of PD Bond and Bank Guarantee equal to 10% of the total price of the imported goods in question. An appeal against the Order dated 22.03.2024 passed by the Single Bench of the Hon'ble High Court, Calcutta was filed before the Division Bench. Division Bench vide order dated 14.05.2024 (MAT/674,675,676 and 677/2024) set aside the order dated 22.03.2024 and remanded the matter back to the Single Bench with a direction to the department to file an affidavit-in-opposition and reply, if any, by the petitioner. In the meantime, the importer M/s Atul Automation Pvt. Ltd. filed SLP(C) No. 13560/2024 before the Supreme Court against the Hon'ble High Court order dated 14.05.2024. The Hon'ble Supreme Court vide its interim order dated 18.11.2024 directed for the provisional release of the goods subject to the terms and conditions imposed by the Single Judge Bench. Thereafter, the Hon'ble Apex Court vide its order dated 28.11.2024 confirmed its interim order and further ordered that the provisional release of the goods shall be subject to the final orders to be passed by the department concerned in the adjudication proceedings.

[RUD 9: The Hon'ble Supreme Court Order dated 28.11.2024]

5.2. The Hon'ble Supreme Court passed Order dated 28.11.2024 in the matter of M/s Atul Automation Pvt. Ltd. However, legal opinion regarding precedential value (Ratio Decidendi) of the judgment had been sought from Shri Kaushik Dey (Senior Standing Counsel) in reply to which he, vide email dated 09.03.2025, opined that similarly situated importers of the same goods are also entitled to such relief or release of goods on such terms upon making appropriate application before the Department for Provisional Release as denying Provisional Release to such importers on such terms will amount to discrimination.

6. NOC for provisional release

Further, in light of the Hon'ble Supreme Court's Order dated 28.11.2024 in the matter of SLP (C) 13560/2024, SIIB (Port), vide Office Note dated 04.04.2025, issued NOC for the provisional release of goods imported vide Bills of Entry No. 8467194 dated 20.02.2025 and 8505472 dated 22.02.2025; and vide Office Note dated 06.02.2025, issued NOC for the provisional release of goods imported vide Bill of Entry No. 7746397 dated 11.01.2025, respectively, mentioning that SIIB (Port) has no objection to release the goods provisionally with the number of units of the same make and model up to 100 in a calendar year.

[RUD 10: SIIB Office Note dated 04.04.2025 and 06.02.2025]

Findings of the Investigation

7.1. During the examination of the goods:

It can be seen from the Examination Reports of the subject three consignments that the quantity found during examination was 248, 219 and 128 as were declared in the Bills of Entry Nos. 8467194 dated 20.02.2025, 7746397 dated 11.01.2025 and 8505472 dated 22.02.2025 respectively.

7.2 After the examination of the goods:

7.2.1 Bill of Entry No. 8467194 dated 20.02.2025:

The goods "Second Hand Highly Specialized Equipment Digital Multifunction Print & Copying Machines" under Bill of Entry No. 8467194 dated 20.02.2025 have been imported under Invoice No. 3868 dated 23.01.2025, with a total declared invoice Value (in C&F) of Rs. 49,19,460/- issued by the foreign supplier J J International (FZC), Sharjah, United Arab Emirates.

Further, the Empaneled Chartered Engineer (CE) Smt. Bidisa Mukherjee (Registration No. M-1686784) submitted her report vide Ref No. BM/INSP/CERT/ARAHANT/02/2024-25 dated 17.03.2025 wherein it was stated that the goods are old and used. Further, the make, model, Country of origin, year of manufacturing and other information along with the details of expected value of goods were also mentioned in the report. As per the report, the total redetermined value of the consignment is USD 68,250 while the declared value was USD 55,650, the details of which can be found in the CE Report and the commercial invoice respectively.

7.2.2 Bill of Entry No. 7746397 dated 11.01.2025:

The goods "Second Hand Highly Specialized Equipment Digital Multifunction Print & Copying Machines" under Bill of Entry No. 7746397 dated 11.01.2025 have been imported under Invoice No. 19956 dated 18.12.2024, with a total declared invoice Value (in C&F) of Rs. 50,18,470/- issued by the foreign supplier Al Faraeenah Elect. Devices, Industrial Area No. 6 Sharjah, United Arab Emirates.

Further, the Empaneled Chartered Engineer (CE) Mr. Saikat Konar (Registration No. M-129095-3) submitted his report vide Ref No. ELBI/356/24-25 dated 27.01.2025 wherein it was stated that the goods are old and used. Further, the make, model, Country of origin, year of manufacturing and other information along with the details of expected value of goods were also mentioned in the report. As per the report, the total redetermined value of the consignment is USD 69275 while the declared value was USD 57950, the details of which can be found in the CE Report and the commercial invoice respectively.

7.2.3 Bill of Entry No. 8505472 dated 22.02.2025:

The goods "Second Hand Highly Specialized Equipment Digital Multifunction Print & Copying Machines" under Bill of Entry No. 8505472 dated 22.02.2025 have been imported

under Invoice No. 9917-DKS-2024 dated 23.12.2024, with a total declared invoice Value (in C&F) of Rs. 22,28,850/- issued by the foreign supplier DKS SP. Zo.O., Energetyczna 15 80-180 Kowale, Poland.

Further, the Empaneled Chartered Engineer (CE) Smt. Bidisa Mukherjee (Registration No. M-1686784) submitted her report vide Ref No. BM/INSP/CERT/ARAHANT/01/2024-25 dated 17.03.2025 wherein it was stated that the goods are old and used. Further, the make, model, Country of origin, year of manufacturing and other information along with the details of expected value of goods were also mentioned in the report. As per the report, the total redetermined value of the consignment is USD 31,390 while the declared value was USD 25,400, the details of which can be found in the CE Report and the commercial invoice respectively.

[RUD 11: 03 Commercial Invoices]

8. Provisional Release Order

8.1 Bill of Entry No. 8467194 dated 20.02.2025:

In light of the judgement dated 28.11.2024 of Hon'ble Apex Court in the similar import case of M/s Atul Automation Pvt. Ltd., Provisional Release of the subject consignments vide Order No. KOL/CUS/PORT/PR.COMM/GR.5/27/2025 dated 20.05.2025 (DIN: 20250576NN000000BF20) impugned goods (**except 131 number of pieces i.e. twenty Five (25) pcs of Make and Model no. KONIKA MINOLTA Bizhub C308, Thirty Two (32) pcs of KONIKA MINOLTA Bizhub C368, Thirty Three (33) pcs of CANON IR Adv4525i, and Forty One (41) pcs CANON IR Adv4535i**) was ordered under Section 110A of Customs Act, 1962 subject to the fulfilment of the following conditions:

- (i) For goods under Bill of Entry No. 8467194 dated 20.02.2025, furnishing of Provisional Duty Bond amounting to Rs 60,33,300/- (estimated assessable value of the seized goods as per CE report)
- (ii) Furnishing of Bank Guarantee of Rs. 6,03,330/- against B/E No. 8467194 dated 20.02.2025 (10% of the Assessable value, as per direction of Hon'ble Supreme Court order dated 28.11.2024)

8.2 Bill of Entry No. 7746397 dated 11.01.2025:

Also, vide Provisional Release Order No. KOL/CUS/PORT/PR.COMM/GR.5/03/2025 dated 12.03.2025 (DIN: 20250376NN0000999C69) and corrigendum thereof dated 19.03.2025 impugned goods were released provisionally under Section 110A of Customs Act, 1962 subject to the fulfilment of the following conditions:

- (i) Furnishing of Provisional Duty Bond amounting to Rs 60,66,706/- (assessable value of the goods as per CE report) against Bill of Entry No. 7746397 dated 11.01.2025.
- (ii) Furnishing of Bank Guarantee of 10% of the Assessable value, as per direction of Hon'ble Supreme Court of Rs. 6,06,671/- against B/E No. 7746397 dated 11.01.2025 as per provisional assessment on the basis of value suggested by the C.E.

8.3 Bill of Entry No. 8505472 dated 22.02.2025:

Furthermore, vide Provisional Release Order No. KOL/CUS/PORT/Addl. Commr/GR.5/21/2025 dated 09.05.2025 (DIN: 20250576NN00008808C0) impugned goods (**except 22 pieces of make and model no. KYOCERA TASKALFA 4012i**) were released provisionally under Section 110A of Customs Act, 1962 subject to the fulfilment of the following conditions:

- (i) Furnishing of Provisional Duty Bond amounting to Rs 27,85,460/- (assessable value of the goods as per CE report) against Bill of Entry No. 8505472 dated 22.02.2025.

(ii) Furnishing of Bank Guarantee 10% of the Assessable value, as per direction of Hon'ble Supreme Court of Rs. 2,78,543/- against B/E No. 8505472 dated 22.02.2025 as per provisional assessment on the basis of value suggested by the C.E.

[RUD 12: Three (03) Provisional Release Orders dated 20.05.2025, 12.03.2025 with Corrigendum, and 09.05.2025]

9. Summon and Statement of the importer:

A summons dated 23.07.2025 (DIN – 20240776NN0000999BC6) was issued to the importer – M/s. Arahant Automation (IEC: - ABVFA4881F) to appear at office of SIIB (Port) on 23.07.2025 for statement regarding instant matter. Further, Shri Atul Kamdar, Director of M/s. Arahant Automation appeared before the officers of SIIB (Port) on 23.07.2025 and his voluntary statement was recorded u/s 108 of the Customs Act, 1962 on 23.07.2025. It is placed on record that the said statement was voluntarily given by Shri Atul Kamdar in his own handwriting, without any physical threat, fear, duress or coercion. Further, Shri Atul Kamdar has affirmed that the contents of his statement are true and correct to the best of his knowledge and belief. Relevant part of the recorded statement is as follows: -

"1. Please submit your valid Identity proof.

Answer: *submitted photocopy my AADHAR Card No. 4837 0225 8833 and showed its Original Copy.*

2. Please submit your authorization letter to appear against the summons dated 23.07.2025 to M/s ACE OFFICE SOLUTIONS (IEC: 0314060006), M/s ARAHANT AUTOMATION (IEC: ABVFA4881F), M/s ATUL AUTOMATION PVT. LTD. (IEC: ABVFA4881F), ATUL COMMODITIES PVT. LTD. (IEC: 0201009188), MECH & TECH (IEC: BNDPK6111M) TEQNOZO CERAMICS PVT. LTD. (IEC: AAHCT7979F) and M/s TEQNOZO POLYPLAST PVT. LTD. (IEC: AAICT0186F).

Answer: *I am the Director of the company (i) ACE OFFICE SOLUTIONS (ii) ARAHANT AUTOMATION (iii) ATUL AUTOMATION PVT LTD (iv) ATUL COMMODITIES PVT LTD and for the rest of the companies mentioned above; I have been duly authorized by the Director of the said Companies. I have submitted respective Authorization letters from the Companies.*

3. Please see the CE reports of the above-mentioned bills of entry. Do you agree with the said CE reports?

Answer: *Yes, I agree with all the C.E. Reports issued against each of the Bill of Entry.*

4. Earlier vide Bill of Entry No. 9293207 dated 18.12.2023 you have imported 'OLD & USED MULTIFUNCTION COPYING PRINTER MACHINES (248 PCS) by mentioning BIS NO. R-41265640 of CANON brand. Later on upon investigation by the Customs Department it was established that the BIS No. mentioned in the bill of entry was found to be forged as per reply received from the CANON India in this regard. Do you accept this allegation already imposed on you by the department?

Answer: *I do not accept this allegation of the department. I have original BIS license which I have procured from BIS, New Delhi Office.*

5. Later on you have imported the same 'OLD AND USED MULTIFUNCTION COPYING PRINTER MACHINES' vide above mentioned bills of entry by declaring the same item as "Used Highly Specialized Equipment Digital multifunctional printing & copying machines with standard accessories". Do you accept that the OLD AND USED MULTIFUNCTION COPYING PRINTER MACHINES (MFDs) and "Used Highly Specialized Equipment (HSE)

Digital multifunctional printing & copying machines' are the same items?

Answer: They are not the same items. I do not have more technical knowledge about HSE.

6. It is pertinent to mention that in the imports made by the importer M/s Atul Automation Pvt. Ltd. Vide Bills of Entry No. 8965697 dated 28.11.2023, 9293207 dated 18.12.2023, 9471935 dated 30.12.2023 and 9667906 dated 15.01.2024, the importer has mentioned their goods as **"Old & Used Multi-function Copying, Printer machine"** and in their current Bills of Entry, you have mentioning the same goods as **"Used Highly Specialized Equipment Digital Multi-function Print and copying machines"**. Hence, it is clear that the Order of the Hon'ble Supreme Court dated 28.11.2024 may not be applied in fresh cases as the description of the goods are not as is covered in the said Apex Court Order. Do you agree with the view of the department in this regard, if not how?

Answer: As per my remembrance Hon'ble Supreme Court Order dated 28.11.2024 is based on 'Old and Used HSE Digital Multifunction Printing and Copying Machines' and the said order is not related with 'Old and Used Multifunction Printing and Copying Machine'.

7. Para 2.02(d) of FTP, 2023:

"Except where it is clearly specified, Schedule 1 of the ITC (HS), Import Policy is for new goods and not for the Second-Hand goods. **For Second Hand Goods, the import policy regime is given in Para 2.31 of the FTP.**"

In the instant case, you have claimed exemption benefit of BCD vide notification no. 24/2005 dated 01.03.2005 (pertaining to electronics and IT goods) which is meant for new goods only (unless specifically stated). It has resulted into 'zero' BCD which is also not applicable. Do you agree with this the notification benefit has been wrongly claimed by you as it is available for the import of new IT goods?

Answer: I think, we have rightly claimed the above-mentioned BCD exemption Notification.

8. Under the Import Policy Condition to Chapter 84 as per ITC(HS), 2022: -

The goods falling under **Chapter 84** has to be complied with the **Policy Conditions** mentioned therewith. In respect of subject goods which are notified under CRO, 2012 as well as in CRO, 2021, it is noticed that the goods needed to comply with Policy Condition No. 2 to Chapter 84 as per ITC (HS), 2022, which reads as follows:

"Import policy for electronics and IT Goods: The import of Goods (new as well as second hand, whether or not refurbished, repaired or reconditioned) notified under the Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012, as amended from time to time, is prohibited unless they are registered with the Bureau of Indian Standards (BIS) and comply to the Labeling Requirements published by BIS, as amended from time to time, or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. 3022 dated 11.09.2013. The importer shall re-export such prohibited Goods reaching Customs Ports else the Customs Authorities shall deform the goods beyond use and dispose of the goods as scrap under intimation to MeitY."

In view of the above, it is noticed that in the instant case, the imported goods, for not containing BIS Registration as well as labeling requirements, are prohibited for importation. Do you agree with it?

Answer: Yes, imported goods fall under the Electronics & IT goods but they also fall

under the HSE category, hence they do not require BIS registration.

9. Under the Hazardous and Other Wastes (Management and Trans boundary Movement) Rules, 2016 [HW(MTM) Rules, 2016]:

The Used multifunction print and copying machines (MFDs) having been included under B1110 of Part D of Schedule III to the HW(MTM) Rules, 2016 and therefore, the importer needed to produce the documents as specified. Do you aware of it?

Answer: Imported goods are not MFDs printing and Copying Machines, hence above rules are not applicable in this case.

10. The aspect whether the imported models declared in the bills of entry as "Used Highly Specialized Digital Multi-Functional Printing and Copying Machines" under import could be considered as Highly Specialized Equipment (HSE) or as simply MFDs: -

*The aspect whether the imported models declared in the Bills of Entry as "Used Highly Specialized Digital Multi-Functional Printing and Copying Machines" under import could be considered as a Highly Specialized Equipment (HSE) or simply MFDs (which are basically printers with additional features like photo copy, scan, Fax etc. and are covered in the category 'Printers, Plotters'-this definition of MFDs has been provided in the Circular no. 01 of 2019 dated 02.05.2019 issued by the MeitY), can only be ascertained by the MeitY itself. Furthermore, **even if the goods are considered HSE, Authorization from DGFT is mandatory as second hand goods falls under Sl. No. II of the DGFT Para 2.31. Do you agree with this?***

Answer: No, I am not agreeing.

11. In view of the above said definition of HSE provided by the MeitY, it appears that HSE is meant for specialized equipment for which testing is not viable or not feasible because the import/ manufacturing is low in volume. Whereas, the goods under import, the MFDs cannot be considered as a Highly Specialized Equipment as they are being produced in huge quantities and also prone to be imported in more than 100 units in a calendar year. Thus, it appears that the impugned old & used MFDs of various models under import cannot be qualifying to be treated as HSE in order to exempt from application of CRO, 2021 and therefore, such goods appear imported into India without compliance to BIS registration and markings requirements. Consequently, the goods appear to be prohibited for importation in view of conditions to Para 2.31 I (b) of the FTP, 2023. Do you agree with this?

Answer: No, I do not agree.

12. As per C.E. clarification sought by the department, it has been found that the imported MFDs/HSEs are wireless LAN feature i.e. wi-fi enabled and hence require ETA (Equipment Type Approval) Certificate from Ministry of Communications from the Wireless Planning and Co-ordination Wing (WPC). But you have not provided the said certificate mandatory certificate. Do you accept it?

Answer: I am not aware that some of the imported Models, have Wireless Wi-fi, features."

[RUD 13: Summon dated 23.07.2025
RUD 14: Statement dated 23.07.2025]

10 . Whether imported MFDs (Multifunction Printers/Copiers) qualify as Highly Specialized Equipment (HSE) under MeitY CRO, 2021 amendment

The importer has imported Used Digital Multifunction Print & Copying Machines and claimed exemption from BIS registration under the **Highly Specialized Equipment (HSE)** category, as per the amendment made by MeitY to the **Electronics and IT Goods (Requirement of Compulsory Registration) Order, 2021 (CRO, 2021)**.

(i) **Analysis:**

| Criteria | HSE (as per MeitY amendment of CRO, 2021) | MFDs |
|----------------------------|---|---|
| Nature of product | Purpose-built, custom-designed, highly specialized equipment | Standard IT/office equipment |
| Target use | Specific applications in research, defense, aerospace, industrial control, niche professional systems | General commercial, office, and consumer use |
| Production volume | Very limited, often built to order | Mass-produced and widely marketed |
| Features | Unique technical or functional attributes not suitable for general use | Common printing, scanning, copying features suitable for any office |
| Market availability | Not widely sold; specialized supply channels | Widely available through distributors and retail |
| Integration | Usually part of a larger specialized system | Standalone equipment for ordinary office tasks |

(ii) **Regulatory position (as per CRO, 2021 and MeitY amendment):**

- HSE exemption applies only to equipment that is **non-standard, highly specialized, low-volume, and not meant for general consumer or mass commercial use**.
- MFDs are explicitly general-purpose IT/office equipment used in commercial establishments and therefore **do not qualify as HSE**.

(iii) **Conclusion:**

- The importer's claim that MFDs are Highly Specialized Equipment (HSE) is **incorrect and not supported by the regulatory definition provided by the MeitY**.
- MFDs are standard office products intended for mass commercial use and are produced in mass numbers, and hence **must comply with BIS registration requirements**.
- The importer has therefore deliberately **mis-declared/mis-represented** the goods to wrongfully claim the exemption under the HSE category to circumvent the compulsory requirement of BIS registration and DGFT authorization.

In view of the above, it is explicitly clear that the imported goods declared as old and used HSEs are not actually HSEs as per their features, functions they perform, specifications, production quantity etc. instead they are old and used MFDs.

11. Two letters both dated 25.03.2025 were sent to the Chartered Engineers for their comments on the printing capacity of the impugned goods and also intimate whether the impugned goods are Wi-fi enabled devices. The Chartered Engineer S. Konar in his clarifications through letter dated 01.04.2025 and Chartered Engineer Smt. Bidisha Mukherjee vide email id mukherjeebidisha17@gmail.com dated 08.04.2025 informed that the machines were capable of printing up to A3 sizes only. Further, it was also informed that all models of goods imported under the subject three Bills of Entry have either wireless LAN feature or can wirelessly print or receive data from mobile option, near field connectivity option.

[RUD 15: Letter dated 25.03.2025 to CEs for clarification]

[RUD 16: Letter dated 01.04.2025 and Email dated 08.04.2025 from CEs]

12. Restriction on the import of second-hand goods

12.1 Para 2.31 of DGFT Foreign Trade Policy, 2023 reproduced below, lays down the

import policy for various categories of second-hand goods: -

| S.No. | Category of Second-Hand Goods | Import policy | Conditions, if any |
|-------------------------------------|--|---------------|---|
| I. Second Hand Capital Goods | | | |
| I(a) | iii. Desktop Computers; iv. Refurbished/re-conditioned spares of re-furnished parts of Personal Computers/ Laptops; v. Air Conditioners; vi. Diesel generating sets | Restricted | Importable against Authorization |
| I(b) | All electronics and IT Goods notified under the Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time | Restricted | <ol style="list-style-type: none"> 1. Importable against an authorization subject to conditions laid down under Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time. 2. Import of unregistered/non-compliant notified products as in CRO, 2012 as amended from time to time is "Prohibited" |
| I(c) | Refurbished / re-conditioned spares of Capital Goods | Free | Subject to production of Chartered Engineer certificate to the effect that such spares have at least 80% residual life of original spare |
| I(d) | All other second hand capital goods (other than (a), (b) and (c) above) | Free | |
| II | Second Hand goods other than Capital goods | Restricted | Importable against authorization |
| III | Second Hand Goods imported for the purpose of repair/refurbishing / reconditioning or re-engineering | Free | Subject to condition that waste generated during the repair / refurbishing of imported items is treated as per domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/ Environmental / safety and health norms and the imported item is re-exported back as per the Customs Notification. |

12.2 From the above table it can be seen that all second-hand electronics and IT Goods notified under the Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012(hereafter referred to as CRO 2012) as amended from time to time (amended vide Electronics and IT goods (Requirements of Compulsory Registration) Order, 2021 dated 18.03.2021 and further amendments, are restricted and subject to the policy conditions:

- A) Importable against an authorization subject to conditions laid down under Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time.
- B) Import of unregistered/non-compliant notified products as in CRO, 2012 as amended from time to time is "Prohibited"

12.3 The registration under CRO 2012 was renewed under the provisions of "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021(hereafter referred to as CRO 2021) as stated in para 4 of CRO 2021. As such, CRO 2012 was amended vide CRO 2021.

12.4 The Sl. No. 7 of the schedule to the Electronics and IT goods (Requirements of Compulsory Registration) Order, 2021 dated 18.03.2021 is depicted below:

SCHEDULE

| S. No. | Goods or articles | Indian Standard | Title of Indian Standard |
|--------|---|---------------------------------|---|
| (1) | (2) | (3) | (4) |
| 1. | Electronic Games (Video) | IS 616:2017 | Audio, Video and Similar Electronic Apparatus - Safety Requirements |
| 2. | Laptops/Notebooks/Tablets | IS 13252 : Part 1 : 2010 | Information Technology Equipment Safety -General Requirements |
| 3. | Plasma/LCD/LED Televisions of screen size 32 inches & above | IS 616:2017 | Audio, Video and Similar Electronic Apparatus -Safety Requirements |
| 4. | Optical Disc Players with built in amplifiers of input power 200W and above | IS 616:2017 | Audio, Video and Similar Electronic Apparatus - Safety Requirements |
| 5. | Microwave Ovens | IS 302 : Part 2 : Sec 25 : 2014 | Safety of household and similar electrical appliances: Part 2 Particular requirements: Section 25 Microwave ovens |
| 6. | Visual Display Units, Video Monitors of screen size 32 inch & above | IS 13252 : Part 1 : 2010 | Information Technology Equipment - Safety - General Requirements |
| 7. | Printers/ Multi-Function Devices (MFD)/ Plotters | IS 13252 : Part 1 : 2010 | Information Technology Equipment - Safety - General Requirements |

12.5 It is apparent from the above that the imported goods i.e. OLD & USED MULTI-FUNCTION COPYING PRINTER MACHINE fall under the category of Sl. No. 7 which is Printers/Multi-Function Devices (MFD)/Plotters and therefore are covered under the Electronics and IT goods (Requirements of Compulsory Registration) Order, 2021 dated 18.03.2021.

[RUD 17: Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021 dated 18.03.2021]

12.6 The Ministry of Electronics and Information Technology (MeitY), vide their Office Memorandum bearing F. No. W-47/21/2022-IPHW dated 14.05.2024 furnished the following clarification / comments in this regard: -

...

1. i. Applicability of mandatory BIS certification on these goods:

(a) The Ministry of Electronics and Information Technology ("MeitY") has notified "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021" ("CRO") under Bureau of Indian Standards (BIS) Act 2016 and BIS Conformity Assessment Regulations 2018 mandating Indian Safety Standards for notified product categories. The Order has been notified for the safety of the consumers. The notified product categories are covered under the Order irrespective of the end use. Printers/ Multi-Function Devices (MFD) / Plotters are notified in the Order.

(b) Further, the import of second-hand goods is restricted under the provisions of Foreign Trade Policy. **For the import of second-hand goods, irrespective of product falling under HSE criteria, authorization from DGFT is required.**

(c) As per Para 2.31 I (b) of Foreign Trade Policy, the **import of all second-hand electronics and IT Goods notified under the Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012, as amended from time to time, is restricted and they are**

- i. Importable against an authorization from DGFT subject to conditions laid down under Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time and
- ii. Import of unregistered/non-compliant notified products as in CRO, 2012 as amended

from time to time is "Prohibited".

1.iii. Clarification with respect to exemption of HSE:

(a) The exemption of HSE is meant for specialized equipment for which testing is not viable or not feasible because the import/ manufacturing is low in volume. For the purpose of imports, the criteria of 100 unit per model per year is meant for import of a particular model through all the ports by all the importers, collectively

[RUD 18- OM of MeitY vide F. No. W-47/21/2022-IPHW dated 14.05.2024]

12.7 Accordingly, the imported goods i.e. OLD & USED MULTI-FUNCTION COPYING PRINTER MACHINE fall under sl. No. 1(b) of para 2.31 of FTP 2023. Therefore, the import policy for the impugned goods is restricted in view of the above discussion and as such require DGFT authorization for their import, which the importer has failed to submit and accordingly rendered the imported goods liable for confiscation u/s 111(d) of the Customs Act, 1962.

13. Requirement of BIS Registration

13.1 The imported goods i.e. OLD & USED MULTI-FUNCTION COPYING PRINTER MACHINE fall under the category of sl. No. 7 i.e. Printers/Multi-Function Devices (MFD)/Plotters of CRO 2021 as discussed in the above para. Therefore, the subject goods are importable against an authorization subject to conditions laid down under Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time. Accordingly, the impugned goods being Multi-Function Devices (MFD) also require a BIS Registration as per the Electronics and IT goods (Requirements of Compulsory Registration) Order, 2021 dated 18.03.2021(since CRO 2012 was amended vide CRO 2021).

13.2 Para 1(1) of Scheme-II of Schedule-II of BIS Conformity Assessment Regulations 2018 defines the Scope of the scheme and indicates that "*Under this Scheme which is based on Type C, licence to use or apply a Standard Mark, through registration based on self-declaration of conformity, may be granted by the Bureau for goods or articles, hereinafter referred to as products, manufactured in a manufacturing premises and conforming to all the requirements of the relevant Indian Standard(s).*"

13.3 As such, the impugned goods, lacking BIS registration, became non-compliant with BIS standards as per CRO 2021 and therefore prohibited u/s 2(33) of the Customs Act, 1962 and accordingly rendered liable for confiscation u/s 111(d) of the Customs Act, 1962.

14. Requirement of Equipment Type Approval from Wireless Planning Commission of the Ministry of Communications:

14.1 The Chartered Engineers in their clarifications through letter dated 01.04.2025 and email dated 08.04.2025 have stated that as per the information available from the brochures and internet all models of goods imported under subject Bills of Entry have either wireless LAN feature or can wirelessly print or receive data from mobile option, near field connectivity option.

14.2 It appears from the aforementioned para all imported goods under the subject three Bills of Entry by M/s. Arahant Automation, have either wireless LAN feature or can wirelessly print or receive data from mobile option, near field connectivity option. However, the importer has failed to submit an Equipment Type Approval (ETA) from the Wireless Planning and Coordination Wing (WPC) of the Ministry of Communications, which is in violation of the Office Memorandum bearing No. ETA-WPC/Policy/2018-19 dated 26.02.2019 issued by the Department of Telecommunications, WPC Wing, New Delhi to be read with Instruction No. 16/2022-Customs dated 21.07.2022 issued by the Central Board of Indirect Taxes and Customs (CBIC).

14.3 The impugned goods have not been imported for testing / prototype / sample / pre-launch purposes since the importer has not given any declaration or information regarding the same. Therefore, the subject goods are not exempt from the submission of ETA from WPC.

14.4 In view of the above, the imported goods have become prohibited goods and therefore

rendered liable for confiscation u/s 111(d) of the Customs Act, 1962.

[RUD 19- O.M. bearing No. ETA-WPC/Policy/2018-19 dated 26.02.2019]

15. Applicability of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016

15.1 The imported goods i.e. "OLD & USED MULTI-FUNCTION COPYING PRINTER MACHINE" are covered under **Basel Number B1110 of the Part D of Schedule III** of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (hereinafter referred to as HWM Rules, 2016), which is reproduced here for ready reference.

| (1) | (2) |
|-------|---|
| B1110 | Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse and not for recycling or final disposal |
| | - Used electrical and electronic assemblies imported for repair and to be re-exported back after repair within one year of import *** |
| | - Used electrical and electronic assemblies imported for rental purpose and re-exported back within one year of import *** |
| | - Used electrical and electronic assemblies exported for repair and to be re-import after repair |
| | - Used electrical and electronic assemblies imported for testing, research and development, project work purposes and to be re-exported back within a period of three years from the date of import *** |
| | - Spares imported for warranty replacements provided equal number of defective or non-functional parts are exported back within one year of the import *** |
| | - Used electrical and electronic assemblies imported by Ministry of Defence, Department of Space and Department of Atomic Energy *** |
| | - Used electrical and electronic assemblies (not in bulk; quantity less than or equal to three) imported by the individuals for their personal uses |
| | - Used Laptop, Personal Computers, Mobile, Tablet up to 01 number each imported by organisations in a year |
| | - Used electrical and electronic assemblies owned by individuals and imported on transfer of residence |
| | - Used multifunction print and copying machines (MFDs)*** |
| | - Used electrical and electronic assemblies imported by airlines for aircraft maintenance and remaining either on board or under the custodianship of the respective airlines warehouses located on the airside of the custom bonded areas. |

15.2 These goods are permitted for import to actual users or traders on behalf of the actual user, subject to the submission of certain documents that are required to be verified by the Custom Authorities, as specified under Sl. No. 4(j) of Schedule VIII of these rules, which are as follows: -

- The Country-of-Origin Certificate along with Bill of Lading and packaging;
- The certificate issued by the inspection agency as certified by the exporting country or the inspection and certification agency approved by Directorate General Foreign Trade (DGFT) **for functionality, having residual life of not less than five years** and serial number;
- Extended Producer Responsibility - Authorization under e-waste (Management and Handling) Rules, 2011 as amended from time to time as Producer;
- MFDs printing capacity of A3 size and above;
- An acknowledged copy of the annual return filed with concerned SPCB for import in the last financial year.

15.3 The importer has further failed to submit the certificate issued by the inspection agency as certified by the exporting country which is contrary to point 'b' as mentioned above.

15.4 The importer M/s. Arahant Automation, has submitted a copy of the Extended Producer Responsibility (EPR) Authorization bearing number B-29016(6709)(EPR)/24/WM-

III dated 29.02.2024, however it is pertinent to mention here that Extended Producer Responsibility Authorization (EPR Authorization) is issued under E-Waste (Management) Rules, 2016, to the producers of Electrical and Electronic Equipment (EEE) for taking responsibility of environmentally sound management of e-waste generated due to the sales in earlier years of their EEE notified under E-Waste Management Rules, 2016, therefore, EPR Authorization is not a permission for import but one of the documentary requirements for import of Multifunctional Peripheral Machines (MFDs) as detailed in Schedule VIII of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (HWM Rules, 2016).

15.5 In respect of point 'd' as mentioned above, it is intimated that the Chartered Engineer Mr. Saikat Konar through letter dated 01.04.2025 stated that all the imported printers have are capable to print up to A3 sizes only.

15.6 Therefore, it appears that the condition 'd' as mentioned above is also not satisfied for the import of subject old and used MFDs.

[RUD 20: B-29016(6709)(EPR)/24/WM-III dated 29.02.2024]

15.7 The chartered engineers vide their report nos. ELBI/356/24-25 dated 27.01.2025 and BM/INSP/CERT/ARAHANT/01/2024-25 & BM/INSP/CERT/ARAHANT/02/2024-25 both dated 17.03.2025 informed that the life spans of the impugned goods are expected to be more than 7 years and 8 years respectively, and subject to periodical overhauling and maintenance.

16. Valuation:

16.1 As per the chartered engineer reports, the following is illustrated:

| Sl No. | Bill of Entry No. & Date | CE Report No. & Date | Declared Assessable Value (C&F) | Estimated Assessable Value (C&F) as per CE |
|---------------|-------------------------------------|--|--|---|
| 1 | 8467194 dated 20.02.2025 | BM/INSP/CERT/ARAHANT/02/2024-25 | 49,19,460/- | 60,33,300/- |
| 2 | 7746397 dated 11.01.2025 | ELBI/356/24-25 dated 27.01.2025 | 50,18,470/- | 59,99,215/- |
| 3 | 8505472 dated 22.02.2025 | BM/INSP/CERT/ARAHANT/01/2024-25 dated 17.03.2025 | 22,53,924/- | 27,85,460/- |

16.2 In view of the above, it appears that the value of the imported goods declared by the importer cannot be considered to represent the true transaction value under rule 3 of Customs Valuation Rules (Determination of Value of Imported Goods), 2007 (*hereafter referred to as CVR 2007*) and the same is liable for rejection under rule 12 of the CVR 2007.

16.3 CBIC Circular no. 07/2020-Cus dated 05.02.2020 for valuation of second-hand machinery stipulates the following inter-alia:

To sum up, the following guidelines shall be followed:

(a) All imports of second-hand machinery/used capital goods shall be ordinarily accompanied by an inspection/appraisal report issued by an overseas Chartered Engineer or equivalent, prepared upon examination of the goods at the place of sale.

(b) The report of the overseas chartered engineer or equivalent should be as per the Form A annexed to this circular.

(c) In the event of the importer failing to procure an overseas report of inspection/appraisal of the goods, he may have the goods inspected by any one of the Chartered Engineers empaneled locally by the respective Custom Houses.

(d) In cases where the report is to be prepared by the Chartered Engineers empaneled by Custom Houses, the same shall be in the Form B annexed to this circular.

(e) The value declared by the importer shall be examined with respect to the report of the Chartered Engineer. Similarly, the declared value shall be examined with respect to the depreciated value of the goods determined in terms of the circular No. 493/124/86-Cus VI dated 19/11/1987 and dated 4/1/1988. If such comparison does not create any doubt regarding the declared value of the goods, the same may be appraised under rule 3 of the CVR, 2007. If there are significant differences arising from such comparison, Rule 12 of the CVR, 2007 requires that the proper officer shall seek an explanation from the importer justifying the declared value. The proper officer may then evaluate the evidence put forth by the importer and after giving due consideration to factors such as depreciation, refurbishment or reconditioning (if any), and condition of the goods, determine whether the declared transaction value conforms to Rule 3 of CVR, 2007. Otherwise, the proper officer may proceed to determine the value of the goods, sequentially, in terms of rule 4 to 9.

Since there is no inspection/appraisal report by the overseas chartered engineer or equivalent prepared upon examination of the goods at the place of sale as per Form A to the above circular, it appears that the declared value is liable to be rejected and valuation rules are to be applied sequentially from Rule 4 to determine the value of the goods.

16.4 Application of Rule 4 & 5 of CVR, 2007

Efforts were made to find the correct assessment value of the imported good. As the imported goods were found to have been old and used, it was not possible to find identical and similar goods which were old and used and of same description, brand, make, model, quantity and country of origin. As the contemporaneous data for the imports of identical or similar old and used goods was not available, rule 4 & 5 of CVR, 2007 cannot be applied for the determination of the value of the imported goods.

16.5 Application of Rule 6 of CVR, 2007

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.

Since the value of the goods could not be determined under the provisions of rules 3, 4 & 5, rules 7 to 9 will have to be applied sequentially.

16.6 Application of Rule 7 and 8 of CVR 2007

Since the imported goods were old and used, it was not possible to find identical or similar goods which were old and used and of the same description, brand, make, model, quantity and having similar residual life. The cost or value of the materials and fabrication and other processing employed in producing the imported goods was not possible to find out. Therefore, the value of the goods could not be determined under rule 7 and 8 of CVR 2007.

As the value of the imported goods cannot be determined under the provisions of rules 3,4,5,7 and 8 of CVR 2007, therefore in the present case transaction value has to be determined under rule 9 of CVR 2007.

16.7 Application of Rule 9 of CVR 2007

The imported goods were examined by the govt. empaneled chartered engineer in order to arrive at the correct value of the goods. The Chartered Engineer in his reports has estimated the value of these goods considering the following aspects:

1. Residual life considering the make/model/technology/COO
2. Physical condition/status of the equipment

3. Comparison of similar equipment prescribed in the past
4. Browsing information from internet for similar make and model.

16.8 Therefore, on the basis of chartered engineer's reports and rule 9 of the CVR 2007, the transaction value of the imported goods was determined.

16.9 Accordingly, the value of the goods imported vide the subject consignments have been re-determined based on CE Reports under section 14 of the Customs Act, 1962 read with Rule 9 of the CVR 2007 as mentioned below:

Table B

| Bill of Entry No. & Date | Declared Assessable Value in Rs. (C&F) | Declared Insurance (@1.125%) In Rs. | Exchange Rate | Declared CIF value (Rs.) | Assessable Value as determined by CE in Rs. (C&F) | Insurance (@1.125%) | Assessable Value as per CE report Rs. (CIF) |
|--------------------------|--|-------------------------------------|-------------------|--------------------------|---|---------------------|---|
| 8467194 dated 20.02.2025 | 49,19,460 | 55,344 | 1 USD = 88.40 INR | 49,74,804 | 60,33,300 | 67,874.6 | 61,01,175 |
| 7746397 dated 11.01.2025 | 50,18,470 | 56,457.79 | 1 USD = 86.60 INR | 50,74,927.79 | 59,99,215 | 67,431.17 | 60,66,706 |
| 8505472 dated 22.02.2025 | 22,28,850 | 25,074.56 | 1 USD = 87.10 INR | 22,53,924.56 | 27,54,472.5 | 30,987.82 | 27,85,460 |

16.10 Further, in the instant case, the importer has claimed exemption benefit of BCD vide notification no. 24/2005 dated 01.03.2005 (pertaining to electronics and IT goods) which is **meant for new goods only (unless specifically stated)**. It has resulted into 'zero' BCD which is also not applicable. Hence, the importer has wrongly availed the BCD exemption benefit and accordingly short paid BCD along with applicable SWS, differential IGST may be recovered consequent upon re-assessment under section 17(4) of the Customs Act 1962 along with applicable interest under section 28AA of the Customs Act, 1962.

17. Role played by the importer:

17.1 In the present case, the importer has deliberately mis declared the imported goods as "Highly Specialized Equipment (HSE)" instead of correctly classifying them as old & used Multifunction Printing and Copying Machines (MFDs). By doing so, the importer sought to wrongfully avail the exemption from mandatory BIS compliance requirements under the Electronics and IT Goods (Requirement of Compulsory Registration) Order, 2021 (CRO, 2021), and to bypass the need for a valid DGFT authorization applicable for import of second-hand goods under the Foreign Trade Policy, Equipment Type Approval from Wireless Planning Commission of the Ministry of Communications, and certain documents required under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 as discussed in above para(s).

17.2 The importer, by knowingly and willfully making a false declaration and submitting false documents or statements to Customs to secure clearance of the goods without valid BIS registration and DGFT permission, has thereby contravened the provisions of law. This act amounts to use of false and incorrect material particulars in declarations made before Customs, squarely attracting the provisions of Section 114AA of the Customs Act, 1962,

which provides for penal action in cases where any person knowingly or intentionally makes, signs, or uses false declarations, statements, or documents in the transaction of any business relating to Customs.

18. Legal Provisions

Section 2 (33) of the Customs Act, 1962

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

Section 17-Assessment of duty: -

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 46. Entry of goods on importation -

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

.....
.....

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

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

- a) the accuracy and completeness of the information given therein;
- b) the authenticity and validity of any document supporting it;
- 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.

Section 110. Seizure of goods, documents and things. -

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

Provided that where it is not practicable to remove, transport, store or take physical possession of the seized goods for any reason, the proper officer may give custody of the seized goods to the owner of the goods or the beneficial owner or any person holding himself out to be the importer, or any other person from whose custody such goods have been seized, on execution of an undertaking by such person that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Section 111. of the Customs Act, 1962:

Confiscation of improperly imported goods, etc.

"The following goods brought from a place outside India shall be liable to confiscation: -

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

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

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 1 [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty 4 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty 5 [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty 6 [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

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

"If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."

The Foreign Trade (Development and Regulation) Act, 1992**Section 11. Contravention of provisions of this Act, rules, orders and foreign trade policy.**

(1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

Foreign Trade (Regulation) Rules, 1993**Rule 11. Declaration as to value and quality of imported goods.-**

On the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents.

14. Prohibition regarding making, signing of any declaration, statement or documents

-

(1) No person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of obtaining a licence or importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

(2) No person shall employ any corrupt or fraudulent practice for the purposes of obtaining any licence or importing or exporting any goods.

19. Summary of the Investigation

19.1 M/s Arahant Automation (IEC- ABVFA4881F) has filed (03) EDI Bills of Entry bearing Nos. 8467194 dated 20.02.2025, 7746397 dated 11.01.2025 and 8505472 dated 22.02.2025 for import of item with description "Used Highly Specialized Equipment - Digital Multifunction Print & Copying Machines" of different make and model number. The subject Bills of Entry was pushed to PAG by the FAG for necessary actions as the goods appeared to be restricted. The PAG then sent these cases to SIIB since there appeared to violation of multiple import policy angles.

19.2 Thereafter 100% examination of consignments under subject Bills of Entry was conducted by shed officers in the presence of the Shed Officers, representatives of the respective CFSs, Chartered Engineers, SIIB officers and the CHA. The examination reports and CE inspection certificates confirmed that the goods were indeed old and used.

19.3 Further, the subject consignments were seized on 26.03.2025 (BE 8467194 dated 20.02.2025), 04.02.2025 (BE 7746397 dated 11.01.2025) and on 25.03.2025 (BE 8505472 dated 22.02.2025) under Section 110 of the Customs Act, 1962 for being allegedly liable to confiscation under Section 111. Following the Supreme Court's confirmation of provisional release terms and legal opinion from the Senior Standing Counsel that similarly placed importers are entitled to similar relief to avoid discrimination, SIIB (Port) issued NOC for provisional release on 06.02.2025 for Bill of Entry No. 7746397 dated 11.01.2025 and on 04.04.2025 for Bills of Entry Nos. 8467194 dated 20.02.2025 and 8505472 dated 22.02.2025. Consequently, the goods were provisionally released vide Provisional Release Orders dated 20.05.2025 (BE No. 8467194 dated 20.02.2025), 12.03.2025 (BE No. 7746397

dated 11.01.2025) and 09.05.2025 (BE No. 8505472 dated 22.02.2025) under Section 110A, subject to the importer furnishing a Provisional Duty Bond and a Bank Guarantee in each of the cases.

19.4 However, based on detailed examination, technical specifications, C.E. Report and the statement recorded under Section 108 of the Customs Act, 1962, it is clear that the so-called "HSE Digital multifunctional printing & copying machines" and "old & used MFDs" are **one and the same identical items** in terms of functionality, design and intended end use. The importer has mis-declared the item description only to avail the exemption from BIS available to genuine HSEs as per amendment made in the CRO, 2021 by the MeitY.

19.5 The import of OLD & USED MULTI-FUNCTION COPYING PRINTER MACHINES by M/s. Arahant Automation under subject Bills of Entry is found to be in violation of multiple regulatory frameworks. These goods fall under restricted category as per Para 2.31 of the Foreign Trade Policy, 2023 and are subject to mandatory BIS registration under the Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2021, which the importer has failed to provide. Furthermore, since the devices are WiFi-enabled, Equipment Type Approval (ETA) from the Wireless Planning and Coordination (WPC) Wing is mandatory but not furnished, rendering the goods prohibited under the Customs Act. Additionally, the import violates the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, due to non-submission of necessary certification regarding functionality and residual life, and because the devices only support printing up to A3 size, which fails to meet one of the prescribed conditions. As such, the goods are liable for absolute confiscation under Section 111(d) of the Customs Act, 1962 and penalty under section 112(a)(i) of the Customs Act, 1962.

19.6 Further, importer has wrongly availed the BCD exemption benefit under Notification No. 24/2005 dated 01.03.2005 and accordingly short paid BCD along with applicable SWS, differential IGST may recovered consequent upon re-assessment under section 17(4) of the Customs Act 1962 along with applicable interest under section 28AA of the Customs Act, 1962.

19.7 The investigation has established that the importer, M/s Arahant Automation, knowingly and intentionally made false declarations and used incorrect material particulars in the Bills of Entry and other documents submitted to Customs. The imported goods, being ordinary **old and used Multifunction Print/Copying Machines (MFDs)**, were deliberately mis-declared as **"Used Highly Specialized Equipment – Digital Multifunction Print & Copying Machines"**. This deliberate misdescription, despite knowledge of the correct nature of the goods (as confirmed by CE Reports, technical features, and MeitY's clarification), was made with the sole intent to circumvent mandatory regulatory compliances, including BIS registration, DGFT authorization (Para 2.31 of FTP), WPC Equipment Type Approval (ETA), and compliance under the Hazardous and Other Wastes Rules, 2016. Furthermore, the importer also **incorrectly claimed exemption of BCD under Notification No. 24/2005-Cus.**, which is applicable only to new IT goods, constituting a declaration false in a material particular relating to duty. These actions—the false description, the false exemption claim, and the willful concealment of mandatory compliance requirements—constitute deliberate misrepresentation in the transaction of business under the Customs Act, 1962. Accordingly, as the essential ingredients of Section 114AA of the Customs Act, 1962 are satisfied, the importer is liable for penal action thereunder for knowingly or intentionally making, signing, or using declarations or documents which are false or incorrect in material particulars.

20. Now, therefore in view of findings of the investigation as discussed in the foregoing paragraphs, the importer M/s Arahant Automation (IEC:- (ABVFA4881F), with a registered address at Office No.722, 7th Floor, The Summit Business Bay, Andheri Kurla Road, Andheri East, Mumbai-400093, is hereby called upon to Show Cause in writing to the Principal Commissioner of Customs (Port), Appraising Group 5, Custom House, 15/1 Strand Road, Kolkata -700001 within thirty (30) days of receipt of this notice as to why: -

- i. The declared Assessable Values i.e. Rs. 49,19,460/- (C&F) for B/E No. 8467194 dated 20.02.2025, Rs. 50,18,470/- (C&F) for B/E No. 7746397 dated 11.01.2025 and Rs. 22,28,850/- (C&F) for B/E No. 8505472 dated 22.02.2025 should not be rejected under Rule 12 of CVR, 2007 and the same should not be re-determined at Rs.

- 60,33,300/- (C&F), Rs. 59,99,215/- (C&F) and Rs. 27,54,473/- (C&F) respectively.
- ii. Benefit claimed under Notification No. 024/2005 dated 01.03.2005 should not be denied in the goods imported vide Bill of Entry No. 8467194 dated 20.02.2025, 7746397 dated 11.01.2025 and 8505472 dated 22.02.2025.
 - iii. The short-paid BCD along with applicable SWS and differential IGST should not be recovered consequent upon re-assessment under section 17(4) of the Customs Act 1962;
 - iv. Interest on short-paid duty should not be recovered under section 28AA of the Customs Act 1962.
 - v. The goods imported vide Bills of Entry No. 8467194 dated 20.02.2025, 7746397 dated 11.01.2025 and 8505472 dated 22.02.2025 should not be confiscated under Section 111(d) of Customs Act, 1962 in light of para 2.31(I)(b) of Foreign Trade Policy 2023 read with CRO 2021, CBIC Instruction No. 16/2022 dated 21.07.2022 and Department of Telecommunications Communication No. R-11018/02/2017-PP dated 06/07/2022.
 - vi. Penalty should not be imposed upon M/s Arahant Automation under Section 112(a)(i) of the Customs Act, 1962
 - vii. Penalty should not be imposed upon Importer under Section 114AA of the Customs Act, 1962.

21. The Noticee's written reply should be accompanied with documentary evidences, if any, in support of their written submission. Wherever photocopies are submitted, the original thereof should also be submitted to the Adjudicating authority for authentication.

22. The Noticee should also state in their written reply to this notice whether they desire to be heard in person. If no reply to this notice is received within the aforesaid period or if the noticee fails to appear for the Personal Hearing on the date and time so fixed, the case will be decided on the basis of available records without any further reference to them.

23. The department reserves its right to amend, modify or supplement this notice at any time on the basis of further evidence prior to the adjudication of the case.

24. This Notice is issued without any prejudice to any other action that may be taken against them in terms of the Customs Act, 1962 or any other law in force in Union of India.

Digitally signed by
ATUL SAXENA
Date: 11-12-2025
10:34:25

(ATUL SAXENA)
PRINCIPAL COMMISSIONER OF CUSTOMS
Appraising Group - V (Port)
Custom House, Kolkata

To,
M/s. Arahant Automation (IEC: -ABVFA4881F),
Office No.722, 7th Floor, The Summit Business Bay,
Andheri Kurla Road, Andheri East,
Mumbai-400093

Copy to,

1. The Deputy / Assistant Commissioner of Customs, Adjudication Cell (Port), 15/1 Strand

Road, Custom House, Kolkata – 700001 – *for kind information.*

2. The Deputy / Assistant Commissioner of Customs, Chief Commissioner's Office (CCO), 15/1 Strand Road, Custom House, Kolkata – 700001 – *for kind information.*

3. The Deputy / Assistant Commissioner of Customs, EDI Cell (Port), 15/1 Strand Road, Custom House, Kolkata – 700001 – *for uploading of the SCN on the official website of Kolkata Customs.*

4. The Deputy / Assistant Commissioner of Customs, SCH, 15/1 Strand Road, Custom House, Kolkata – 700001 – *for putting up of the SCN on the Notice Board.*

5. Office Copy

6. Guard File

ANNEXURE - A (LIST OF RELIED UPON DOCUMENTS)

| Sl. No. | RUD Description | RUD No. |
|----------------|--|-----------------|
| 1 | Panchanama dated 08.03.2025 | RUD - 1 |
| 2 | CE Report No. BM/INSP/CERT/ARAHANT/02/2024-25 dated 17.03.2025 | RUD - 2 |
| 3 | Office Note dated 17.01.2025 from Appraising Group 5 (Port) | RUD - 3 |
| 4 | Panchanama dated 22.01.2025 | RUD - 4 |
| 5 | Chartered Engineer report no. ELBI/356/24-25 dated 27.01.2025 | RUD - 5 |
| 6 | Panchanama dated 08.03.2025 | RUD - 6 |
| 7 | CE Report no. BM/INSP/CERT/ARAHANT/01/2024-25 dated 17.03.2025 | RUD - 7 |
| 8 | Seizure Memo dated 26.03.2025, 04.02.2025 and 25.03.2025 | RUD - 8 |
| 9 | The Hon'ble Supreme Court Order dated 28.11.2024 | RUD - 9 |
| 10 | SIIB Office Note dated 04.04.2025 and 06.02.2025 | RUD - 10 |
| 11 | 03 Commercial Invoices | RUD - 11 |
| 12 | Three (03) Provisional Release Orders dated 20.05.2025, 12.03.2025 with Corrigendum, and 09.05.2025 | RUD - 12 |
| 13 | Summon dated 23.07.2025 | RUD - 13 |
| 14 | Statement dated 23.07.2025 | RUD - 14 |
| 15 | Letter dated 25.03.2025 to CEs for clarification | RUD - 15 |
| 16 | Letter dated 01.04.2025 and Email dated 08.04.2025 from CEs | RUD - 16 |
| 17 | Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021 dated 18.03.2021 | RUD - 17 |
| 18 | OM of MeITY vide F. No. W-47/21/2022-IPHW dated 14.05.2024 | RUD - 18 |
| 19 | O.M. bearing No. ETA-WPC/Policy/2018-19 dated 26.02.2019 | RUD - 19 |
| 20 | B-29016(6709)(EPR)/24/WM-III dated 29.02.2024 | RUD - 20 |

All RUDs have been sent by email.