

	<p><b>प्रधान आयुक्त, सीमा शुल्क (आयात) का कार्यालय</b>  <b>OFFICE OF THE PR. COMMISSIONER OF CUSTOMS (IMPORT)</b>  <b>हवाई माल परिसर, सहार, अंधेरी (पूर्व), मुंबई - 400099</b>  <b>AIR CARGO COMPLEX, SAHAR, ANDHERI (E), MUMBAI - 400099</b>  <b>फोन: 022-26816610, फैक्स: 022-26828187</b>  <b>ईमेल: adjudication-acc@gov.in</b></p>
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**F.No.** GEN/ADJ/COMM/510/2025-Adjn

**Date of Order:** 27.02.2026

**Date of Issue:** 27.02.2026

**DIN No.** 202602790A000000E695

**Party's Name:** M/s. Quantum Equipment Company Private Limited (IEC: - 0397033711),  
(SCN No. 226/2025-26 dated 07.08.2025)

**PASSED BY:** Shri Manish Chandra,  
Principal Commissioner of Customs (Import),  
Air Cargo Complex, Mumbai-III

**CAO NO:** CC-MC/79/2025-26 Adj (I) ACC

**मूल आदेश /ORDER-IN-ORIGINAL**

- यह प्रति उस व्यक्ति के प्रयोग में लाये जाने के लिए निशुल्क दी जाएगी, जिसके लिए इसे जारी किया गया है।  
This copy is granted free of charge for the use of the persons to whom it is issued.
- यदि कोई व्यक्ति इस आदेश से असन्तुष्ट हो तो वह मांगे गये शुल्क, जहां शुल्क या शुल्क और जुर्माना विवादित हों अथवा जुर्माना जहां सिर्फ जुर्माना विवादित हो, के 7.5 प्रतिशत भुगतान के बाद सीमाशुल्क अधिनियम 1962 की धारा 129A के तहत उक्त न्यायाधिकरण के सहायक रजिस्ट्रार को संबोधित करते हुए, सीमाशुल्क, उत्पादशुल्क, सेवा कर न्यायाधिकरण, मुंबई (सी ई एस टी ए टी), पश्चिम क्षेत्रीय शाखा, 34 पी डिमेलो मार्ग, मस्जिद (पूर्व), मुंबई ४००००९, के समक्ष अपील दाखिल कर सकता है।  
Any person aggrieved by this order can file an appeal against this order to Customs, Excise, Service Tax Tribunal, Mumbai (CESTAT), Western Zonal Bench, 34, P.D'Mello Road, Masjid Bunder (East), Mumbai 400009, addressed to the Assistant Registrar of the said Tribunal under Section 129A of the Customs Act, 1962 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.
- अपील जैसा कि सीमाशुल्क (अपील) नियम, 1982 के नियम 6 में बताया गया है, इन नियमों से संलग्न फॉर्म सी. ए. 3 में की जानी चाहिए। अपील चार प्रतियों में निम्नलिखित के साथ होनी चाहिए:-  
The appeal is required to be filed as provided in Rule 6 of the Customs (Appeal) Rules, 1982 in form C.A. 3 appended to these rules. The Appeal should be in quadruplicate and shall be in quadruplicate and shall be accompanied by:-  
(i) विरुद्ध अपील आदेशों की चार प्रतियां (कम से कम एक प्रति प्रमाणित होनी चाहिए)  
Four copies of the order appealed against (at least one of which should be a certified copy)  
(ii) न्यायाधिकरण शाखा के सहायक रजिस्ट्रार अथवा शाखा से नजदीक स्थित किसी राष्ट्रीय कृत बैंक के पक्ष में उपयुक्त राशि का एक रेखांकित बैंक ड्राफ्ट  
A crossed Bank Draft of an applicable amount as mentioned below in favour of the Assistant Registrar, CESTAT, Mumbai.  
(iii) रु. १,०००/- जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५ लाख या कम हो  
Where the amount of duty and interest demanded and penalty imposed is five lakh rupees or less, one thousand rupees.  
(iv) रु. ५,०००/- जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५ लाख से अधिक पर रु. ५० लाख से ज्यादा न हो  
Where the amount of duty and interest demanded and penalty imposed is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees.  
(v) रु. १०,०००/- जहां शुल्क राशि एवं मांगा गया ब्याज और उगाहा गया जुर्माना रु. ५० लाख से अधिक हो  
Where the amount of duty and interest demanded and penalty imposed is more than fifty lakh rupees, ten thousand rupees.
- अपील, इस आदेश की संसूचना की तिथि से 3 माह के भीतर दाखिल की जा सकती है।  
Appeal can be filed within 3 months from date of communication of this order.
- विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क (अपील) नियम 1982, सीमाशुल्क, उत्पादशुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम 1982 का संदर्भ लिया जाए।

For the provisions of Law and Form as referred above and other related matters. Customs Act, Customs (Appeals) Rules, 1982, Customs, Excise, Service Tax Tribunal (Procedure) Rules, 1982 may be referred.

## **BRIEF FACTS OF THE CASE**

An Intelligence developed by the officers of Directorate of Revenue Intelligence, Jaipur Regional Unit (hereinafter referred to as 'the DRI, Jaipur') indicated that M/s Quantum Equipment Company Private Limited (IEC: - 0397033711) having address at 301, Rajshree Plaza, Opp. Shreyas Cinemas, L.B.S. Marg, Ghatkopar West, Mumbai, Maharashtra, (hereinafter also referred to as 'QECPL') was engaged in import of X-ray based Spectrometers (hereinafter referred to as the "imported goods") which are primarily used for assaying precious metals like gold and gold jewellery etc. The said Importer had misclassified the impugned goods in Customs Tariff Heading (CTH) 9027 and paid Nil rate of Customs duty by availing benefit of the Notification No. 24/2005-Customs dated 01.03.2005 whereas the 'X-Ray based Spectrometers' are correctly classifiable under Customs Tariff Heading (CTH) 9022 and attracted effective Basic Customs duty at 7.5% along with the applicable SWS and IGST.

### **2. INVESTIGATION:**

**2.1** Based on the intelligence, search was conducted on 19.02.2025 at the premises of M/s Quantum Equipment Company Private Limited, 301, Rajshree Plaza, Opp. Shreyas Cinemas, L.B.S. Marg, Ghatkopar West, Mumbai, Maharashtra in the presence of Shri Shreyas Satish Dake, Business Development Manager in M/s Quantum Equipment Company Pvt. Ltd. under Panchnama proceedings dated 19.02.2025. The documents related to import, purchase and sales invoices which appeared relevant to the investigation were seized. Further, one Dell Inspiron Laptop of Shri Shreyas Satish Dake and one internal hard disk were also seized.

**2.2** Forensic analysis of the devices i.e. One Dell Inspiron Laptop 14 5410 2 in 1 and one Internal Hard Disk- Toshiba 1 TB, seized under Panchnama dated 19.02.2025 drawn at M/s. Quantum Equipments Company Private Limited were conducted under Panchnama dated 20.03.2025. Various incriminating email correspondences were gathered from the analysis of the data retrieved from Toshiba 1 TB Hard Disk during forensic analysis. From the email correspondences it appeared that M/s Quantum Equipment Company Private Limited was engaged in the import of X-ray based Spectrometers and selling the same in the domestic market under the brand name Karatmeter.

**2.3** Further, during the course of investigation, statements of various persons connected with the case were recorded under Section 108 of the Customs Act, 1962, the brief details of which are as follows:

- i** In his statement dated 19.02.2025, Shri Shreyas Satish Dake, Business Development Manager of M/s QECPL, admitted that M/s QECPL imported X-ray based Spectrometers (Karatmeter) in CKD/SKD condition from suppliers like M/s Elvatech, M/s Bowman and M/s Sciaps. He confirmed that the machines operate on X-rays using detectors such as SDD and SiPin and were primarily used for testing gold/silver purity. He further acknowledged that X-ray based Spectrometers are correctly classifiable under CTH 9022, but were imported under CTH 9027. He also stated that the import/export work was handled by Shri Dattatray Maruti Musale. Further, in his statement dated 11.06.2025, he confirmed his presence during AERB testing conducted on 28.05.2025 and agreed with the AERB report that Karatmeter JL machine was X-ray based. He also stated that Director Shri D.M. Musale had instructed him to state during investigation that the machines were EUV based. However he maintained that the machines were always X-ray based and he disagreed with the facts mentioned in Shri Musale's letter and earlier statements claiming EUV technology.
- ii** In his statement dated 03.03.2025, Shri Puneet Saraswat, Associate Director of M/s Bluestone Jewellery, confirmed that M/s Bluestone Jewellery had purchased "Karatmeter JL" and "Karatmeter G Series" X-ray based Spectrometers from M/s QECPL for testing purity of gold. He confirmed that the working principle involved X-rays and also agreed that, as per the relevant Explanatory Notes, such machines are classifiable under CTH 9022 as X-ray based apparatus.
- iii** In his statement dated 08.05.2025, Shri Dattatray Maruti Musale, Director of M/s QECPL, initially admitted that he was responsible for deciding the CTH and filing Bills of Entry and that the goods were classified under CTH 9027 with an intention to evade Customs duty. However, he claimed that after 2019, M/s Elvatech supplied Extreme Ultra Violet (EUV) based Spectrometers instead of X-ray based Spectrometers. He attempted to dismiss email evidence and the Chartered Engineer's report as

outdated/erroneous and insisted that newer imports were EUV based. In his statement dated 09.05.2025, he continued to deny that the machines were X-ray based even after being confronted with photographic evidence of X-ray monitors/signs on the machines. He also contradicted himself by admitting that EUV based Spectrometers generally cannot be used for testing gold purity, while simultaneously insisting that his machines were EUV based and used for that purpose. Thereafter, in his statement dated 26.06.2025, he retracted his earlier statements dated 08.05.2025 and 09.05.2025 and finally admitted that all Spectrometers imported from all suppliers i.e. M/s Elvatech, M/s Bowman and M/s Sciaps were X-ray based. He accepted the AERB test report results and admitted that the goods were wrongly classified under CTH 9027 to evade applicable Customs duty. He also assured the authorities that the differential duty would be fully paid.

**iv** In his statement dated 08.07.2025, Shri Ganesh Dnyaneshwar Padwal, H Card holder of M/s Bon Freight, Customs Broker (C.B.) stated that his C.B. firm filed Bills of Entry based on documents provided by the Importer, wherein the Importer claimed that the goods were UV/IR based. He further stated that after initiation of DRI inquiry, the Importer informed him that they had misclassified the goods, which were actually X-ray based, to evade duty. He also acknowledged the final admissions made by Shri Dattatray Maruti Musale that all imported Spectrometers were X-ray based.

**2.4** An independent, government-approved Chartered Engineer, Er. Ravinder Singh, inspected two "Karatmeter JL" machines at the premises of M/s Bluestone Jewellers and M/s Motisons Jewellers. His report, dated April 23, 2025, confirmed his verification of the machines. The engineer noted the visible presence of X-ray signs and an X-ray tube monitor on the apparatus. He concluded in his professional opinion that these machines were operating on X-rays.

**2.5** The DRI, Jaipur vide email dated 22.05.2025 requested Atomic Energy Regulatory Board (herein after referred as 'AERB') for examination of the Spectrometer and whether the Spectrometer was working on X-rays or Ultraviolet rays. Further, at the request of the Directorate of Revenue Intelligence (DRI), the AERB conducted an independent test of a sample machine (Karatmeter JL, Serial No. J842) on 28.05 2025. The testing was performed

by scientists at the AERB Regional Regulatory Centre in Delhi in the presence of representatives from the DRI, the buyer (M/s. Bluestone Jewellery Life Style Limited), and the Importer. AERB in their report issued via email on 03.06.2025, confirmed that the equipment was indeed working on X-rays.

**2.6** During the course of investigation, analysis was also carried out from various publicly available websites of the supplier and Importer in order to ascertain the actual nature, working principle and correct classification of the imported goods described as Spectrometers. The website information indicated that the subject instruments are X-ray based Spectrometers (XRF analyzers), which work on the principle of X-ray fluorescence and are specifically designed for testing purity/composition of precious metals such as gold and silver. The online technical description of such instruments also showed that these machines contain X-ray generating components such as X-ray tube/source, detector modules (such as SDD/Si-PIN detectors), radiation warning labels and shielding arrangements, and are therefore covered under apparatus based on the use of X-rays. The online information further indicated that such machines are generally classified internationally as X-ray apparatus/XRF analyzers and are not UV/IR based optical Spectrometers.

### **3. ANALYSIS:**

**3.1** From the above discussion and investigation carried out, it appeared that M/s Quantum Equipment Company Private Limited, Mumbai had imported X-ray based Spectrometers declaring the description of the goods as “G110 Metal Spectrometer With Accessories”, “Spectrometer Basic Metal Spectrometer Kit (Item No. BW031) (S/N 2300318 TO 2300337) (MH-110 PIN)”, “JL Metal Spectrometer Kit With Accessories (Karatmeter)”, “Model KJL202 Metal Spectrometer Kit With Installation Accessories” , “X50-OEM Metal Spectrometer Kit With Installation Accessories”, “Metal Spectrometer Kits (DX200)” etc., which were rightly classifiable under CTH 9022. However, the said imported goods were misclassified by the Importer under CTH 9027 and wrongly availed the undue benefit of the Notification No. 24/2005-Customs dated 01.03.2005. They had imported the subject goods by filing 67 Bills of Entry at Air Cargo, Mumbai (INBOM4) falling under the jurisdiction of Mumbai Customs Commissionerate during the period from 11.08.2020 to 18.05.2024 as detailed in Annexure-A

of the Show Cause Notice for import of 856 Spectrometers having total assessable value of Rs. 38,79,75,063/- (Rupees Thirty Eight Crore Seventy Nine Lakh Seventy Five Thousand Sixty Three Only) by intentionally misclassifying the same and by not paying applicable Customs duty by availing undue benefit of the Notification No. 24/2005-Customs dated 01.03.2005. By virtue of misclassification and non-payment of applicable Customs duty and differential IGST, the Importer had apparently evaded Customs duty aggregating to Rs. 3,77,69,372/- (Rupees Three Crore Seventy-Seven Lacs Sixty-Nine Thousand Three Hundred Seventy-Two only) as detailed in Annexure-A attached to the Show Cause Notice.

**3.2** Further, it appeared that M/s Quantum Equipment Company Private Limited, Mumbai was engaged in supply of X-ray based Spectrometers, for which it imported various models of X-ray based Spectrometers, which were used for analysis of precious metals like gold, silver etc., and used mainly by precious metal testing and Hallmarking Centres etc. The Importer was fully aware that the 'X-Ray based Spectrometers' are correctly classifiable under Customs Tariff Heading 9022 and attracted Customs duty at 7.5%; however, despite being fully aware of the correct classification of the imported goods, the Importer had not properly declared the same before the Customs authority. The Importer had deliberately not written the actual description of the imported goods to misclassify the subject goods under CTI 90273010 wrongly so as to escape from detection by the Customs authorities. Thus, the facts and evidences discussed above appeared to show that the Importer resorted to wilful misclassification of the subject imported goods and suppression of facts that the subject goods were X-ray based Spectrometers falling under CTH 9022. The Importer misclassified these imported goods under CTH 9027 to avail the undue benefits of Notification No. 24/2005-Customs dated 01.03.2005 in the Bills of Entry with an ulterior motive of evading payment of the applicable Customs duty on the imported goods. Further, Shri Dattatray Maruti Musale in his statements dated 08.05.2025 and 09.05.2025 recorded under Section 108 of the Customs Act, 1962 did not disclose the true facts and he tried to mislead the investigation. Even after being confronted with the evidences, he tried to hide the true facts and gave false submissions that Spectrometers imported from M/s Elvatech Limited from 2020 to 2023 were not X-ray based. He accepted the truth in his statement dated 26.06.2025 only after the testing of Spectrometer by AERB, Delhi and its subsequent report dated 28.05.2025. This clearly shows that the intention was only to evade applicable Customs duty by way of not disclosing true facts before the department.

**3.3** The facts and pieces of evidence discussed revealed that the Importer had imported X-ray based Spectrometers from the suppliers and the Importer had willingly and knowingly mis-declared and mis-classified the subject imported goods under CTI 90273010 with intent to evade the applicable Customs Duty by availing undue benefits of Notification No. 24/2005-Customs dated 01.03.2005. The fact regarding non-applicability of Notification No. 24/2005-Customs dated 01.03.2005 on the subject imported goods had also been accepted by Shri Dattatray Maruti Musale, Director of M/s Quantum Equipment Company Pvt. Ltd. in his voluntary statement dated 26.06.2025 and the Customs Broker. Thus, it appeared that the Importer had wilfully evaded the applicable Customs Duty on the X-ray based Spectrometers imported vide Bills of Entry as detailed in Annexure-A attached to the Show Cause Notice.

**3.4** It appeared that the Importer, M/s Quantum Equipment Company Private Limited, Mumbai was well aware of the fact that benefit of Notification No. 24/2005-Customs dated 01.03.2005 was not available on the import of X-ray based Spectrometers covered under CTH 9022; however, they had wilfully mis-declared the imported goods under CTI 90273010 and wrongly availed the benefit of Notification No. 24/2005-Customs dated 01.03.2005. Therefore, they had evaded Customs Duty and differential IGST on the subjected imports. Thus, by the above acts and commission, the Importer had contravened the provisions of Section 17 and Section 46 of the Customs Act, 1962 in as much as the Importer had failed to assess and determine the levy of Customs duty levied on the import of X-ray based Spectrometers and had misclassified the subject imported goods under CTH 9027, though the same were correctly classifiable under CTH 9022, while filing Bills of Entry at the time of the importation of the subject goods. This was done to evade the payment of applicable Customs Duty and had resulted in short-payment of other Customs levies - IGST which forms part of the value for the computation of Customs duties. This wilful mis-declaration and mis-classification of the imported goods and non-payment of Customs Duty by the Importer, M/s Quantum Equipment Company Private Limited, Mumbai appeared to have rendered 856 Spectrometers of the subject imported goods valued at Rs.38,79,75,063/- (Rupees Thirty-Eight Crore Seventy-Nine Lakh Seventy-Five Thousand Sixty-Three Only) liable to confiscation under Section 111(m) of the Customs Act, 1962.

**3.5** It appeared that Importer had knowingly involved themselves in the non-payment of Customs duty applicable on the import of X-ray based Spectrometers falling under CTH 9022 by misclassifying the imported goods under CTH 9027 for availing undue benefit of nil rate of Customs duty under Notification No. 24/2005-Customs dated 01.03.2005. For these acts and commissions, M/s Quantum Equipment Company Private Limited appeared to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962. Further, the Importer had knowingly and intentionally made the declarations which were false and incorrect in material particular, and had wilfully misclassified the subject imported goods under CTH 9027 instead of its correct CTH 9022 and had wilfully mentioned the subject notification in the Bills of Entry to avail the benefit of Customs duty and therefore, the Importer appeared to have rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.

**3.6** It appeared that Shri Dattatray Maruti Musale as Director of M/s Quantum Equipment Company Private Limited was responsible for taking care of import clearances, filing of Bills of Entry, deciding of CTH of the imported goods as well as payment of Customs duty for the subject Importer. Shri Dattatray Maruti Musale in his statements recorded on 08.05.2025 and 09.05.2025 tried to mislead the investigation by giving false statements but he, in his statement dated 26.06.2025 recorded under Section 108 of the Customs Act, 1962, stated that they had declared the description of the imported goods as Spectrometers imported by them from suppliers M/s. Bowman Analytics Inc., USA, M/s. Elvatech Limited, Ukraine, M/s. SciAps Inc., USA and M/s. Sciaps Europe B.V, Netherlands which were correctly classifiable under CTH 9022. However, in order to evade applicable Customs duty by availing benefit of Customs Notification No. 24/2005, they were declaring the same under CTH 9027. Further, in order to be not found out by the Customs officers during import, they were not mentioning the actual description of the goods and sometimes, they have made submission that the machines imported by them were based on UV, but actually those were X-ray based Spectrometers. This clearly shows that their intention was only to evade applicable Customs duty by way of not disclosing true facts before the department. This shows wilful non-payment of Customs duty by the Importer. This act on the part of Shri Dattatray Maruti Musale had rendered the subject imported goods liable to confiscation under Section 111(m) of the Customs Act, 1962 and Shri Dattatray Maruti Musale liable to penalty under Section 112(a)(ii) of the Customs Act, 1962. Further, Shri Dattatray Maruti Musale being Director in M/s. Quantum Equipment Company Private

Limited knowing and intentionally produced false documents and made wrong declaration before the Customs authorities during filing of the Bills of Entry as detailed in Annexure-A of the Show Cause Notice. Further, during the investigation also he provided false facts during his statement recorded on 08.05.2025 and 09.05.2025 under Section 108 of the Customs Act, 1962. This act on the part of Shri Dattatray Maruti Musale appeared to have rendered him liable to penalty under Section 114AA of the Customs Act, 1962.

**4.** A Show Cause Notice No. 226/2025-26 dated 07.08.2025 was accordingly issued to M/s. Quantum Equipment Company Private Limited (IEC: 0397033711) asking them to show cause as to why:

**(i)** The self-assessment, with respect to the imported goods i.e. Spectrometers/Karatmeters imported vide Bills of Entry detailed in Annexure-A of the Show Cause Notice under CTI 90273010 should not be rejected, and the same goods should not be properly classified under CTI 90221900;

**(ii)** The differential amount of Customs duty (BCD+SWS+IGST) aggregating to Rs. 3,77,69,372/- (Rupees Three Crore Seventy-Seven Lakh Sixty-Nine Thousand Three Hundred Seventy-Two only) leviable on the imported Spectrometers/Karatmeters covered under Bills of Entry as listed in Annexure-A of the Show Cause Notice, should not be demanded and recovered from them as per the provisions of Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA of the Customs Act, 1962 and the Bills of Entry should not be re-assessed accordingly;

**(iii)** Rs.53,78,797/- (Rupees Fifty-Three Lakh Seventy-Eight Thousand Seven Hundred Ninety-Seven Only) deposited vide Challan No. 7770962189 dated 23.05.2025 by them towards differential duty during investigation should not be appropriated towards demand of Customs duty;

**(iv)** The goods imported vide Bills of Entry as listed in Annexure-A of the Show Cause Notice totally valued at Rs.38,79,75,063/- (Rupees Thirty-Eight Crore Seventy-Nine Lakh Seventy-Five Thousand Sixty-Three Only) should not be held liable to confiscation as per provisions of Section 111(m) of the Customs Act, 1962;

(v) Penalty should not be imposed on them under Section 114A and Section 114AA of the Customs Act, 1962.

**4.1** Further, Shri Dattatray Maruti Musale, Director in M/s Quantum Equipment Company Private Limited, was also called upon in the said Show Cause Notice to explain as to why:

(i) Penalty should not be imposed on him under Section 112(a)(ii) of the Customs Act, 1962;

(ii) Penalty should not be imposed on him under Section 114AA of the Customs Act, 1962.

## **5. WRITTEN SUBMISSION**

**5.1** A written reply dated 09.02.2026 has been submitted on behalf of the Noticee M/s. Quantum Equipment Company Pvt. Ltd. and its Director through their advocates in response to the subject Show Cause Notice. The Importer, in their written reply, has submitted that the allegations of misclassification, evasion of duty and wrongful availment of exemption are incorrect and legally unsustainable.

**5.2** The Noticee has submitted that the goods imported by them are Spectrometers used for assaying precious metals and the dispute in the SCN relates to classification of these goods either under CTH 9022 (as alleged by Revenue) or under CTH 9027 as declared by the Importer.

**5.3** Noticee submitted that the SCN wrongly assumes that the imported machines are X-ray based Spectrometers. According to them, the machines covered in the present proceedings are UV/optical radiation-based Spectrometers and therefore correctly classifiable under CTH 90273010.

**5.4** The Noticee has denied any intention to evade duty and submitted that all declarations in the Bills of Entry were made correctly and transparently. It is argued that merely because Revenue proposes a different classification, the same does not imply suppression or mis-statement.

**5.5** The Importer has further contended that statements of company officials relied upon in the SCN were recorded in a coercive atmosphere and contain incorrect facts; hence they should not be relied upon without independent corroboration.

**5.6** It is submitted that reliance placed by Revenue on the Chartered Engineer report dated 23.04.2025 is misplaced, as the report does not conclusively establish that the machine has an X-ray source. The noticee has requested cross-examination of the said Chartered Engineer.

**5.7** It is argued that the AERB communication dated 03.06.2025 only mentions radiation levels and does not establish whether the radiation was X-ray or UV as the report referred to in the SCN has been drawn on the basis of the details available in the eLORA registration of the equipment; hence the report is inconclusive and cannot form the sole basis of demand.

**5.8** The Noticee has relied upon a Chartered Engineer report dated 30.12.2023 issued during examination of imported goods which, according to them, confirms that the machines use UV/optical radiation and not X-rays. They submit that this report was accepted by Customs at the time of clearance and is binding on the department.

**5.9** The Importer has emphasized that identical goods were cleared earlier by Customs under the same classification and exemption, therefore the allegation of mis-declaration or fraudulent import is not sustainable.

**5.10** It was further submitted that in absence of any fraud, collusion or suppression, invocation of extended period under Section 28(4) of the Customs Act is not justified and consequently demand of duty and interest is not legally maintainable.

**5.11** The Noticee has also argued that when goods are classifiable under more than one Heading, Rule 3 of the General Rules of Interpretation requires classification under the most specific description; since their goods use optical radiation, CTH 9027 is more specific than CTH 9022.

**5.12** Regarding the amount deposited during investigation, the Importer has submitted that the payment of Rs. 53,78,797/- was made under protest and since no duty is payable, the same should not be appropriated and is liable for refund with interest.

**5.14** The Noticee has further submitted that IGST component is revenue neutral as credit is available, hence there was no motive to evade duty.

**5.15** On the issue of penalties, it is contended that no false declaration or fabricated document has been used and therefore penalties on the company as well as on the Director are not imposable under Sections 112, 114A or 114AA of the Customs Act, 1962.

**5.16** The Noticee has said that their declared classification be accepted, duty demand be dropped, confiscation and penalties be set aside, extended period not be invoked, and the amount deposited during investigation be refunded.

## **6. PERSONAL HEARING**

The personal hearing in this case was held on 10.02.2026 and attended by Shri R. K. Tomar, Advocate, who explained his case and re-iterated the Importer's reply to the SCN. He said that the imported goods are UV based machines and not the alleged X-Ray based machine (Spectrometer). He requested for the cross-examination of the Chartered Engineer Shri Ravinder Singh. The same machine was imported earlier and cleared from ACC, Mumbai. Mr. Tomar also challenged the AERB report. According to him, as the issue involves classification and similar goods were cleared in the past, extended period of time, the demand itself and proposed fines, penalties do not apply in the case.

## **7. DISCUSSION AND FINDINGS**

**7.1** I have gone through the Show Cause Notice (SCN) No. 226/2025-26 dated 07.08.2025, submissions made by the Noticee in writing as well as during personal hearing and material on record and accordingly, I proceed to decide the case. The main issue to be decided is to whether the imported goods i.e. 'Spectrometer' are classifiable under Heading 9022 as proposed in the SCN or under Heading 9027 as classified by the Noticee.

**7.2** I find that the Noticee/Importer has contended that the imported goods described as "Spectrometer/Karatmeter" are classifiable under CTH 9027 on the basis that the machines are

based on UV/IR/optical spectrometry and not on X-ray technology, and accordingly claimed benefit of Nil duty under the declared Tariff item. Heading 9027 covers instruments and apparatus for physical or chemical analysis such as optical Spectrometers, chromatographs, etc., which operate on optical/chemical analysis principles. However, the subject goods in the present case are not ordinary optical Spectrometers; rather, the evidence on record, including product literature, forensic retrieval of emails/documents, Chartered Engineer's examination, statements recorded under Section 108 of the Customs Act, 1962, and the AERB testing report, consistently establishes that the imported Karatmeters are X-ray based Spectrometers used for determining the purity/composition of precious metals such as gold and silver.

**7.2.1** I find that the working principle and construction of the imported goods demonstrate that they are based on X-rays. The technical literature and physical examination reveal the presence of X-ray generating components such as X-ray tube/source, detector assemblies (such as SDD/Si-PIN detectors), shielding arrangements, and radiation warning labels/monitors, which are typical characteristics of X-ray fluorescence (XRF) Spectrometers. Further, the Chartered Engineer's report and the AERB test conducted during investigation confirm that the machine operates on X-ray technology and emits X-ray radiation.

**7.2.2** I find that Heading 9027 covers instruments and apparatus for physical or chemical analysis, such as Spectrometers, spectrophotometers and spectrographs, which operate on optical radiations, namely ultraviolet, visible and infrared radiations. Optical radiations fall within the electromagnetic spectrum generally associated with UV/visible/IR ranges and are distinct from ionising radiations such as X-rays. I find that X-rays are not optical radiations; rather, they constitute a separate category of radiation and apparatus based on the use of X-rays are specifically dealt with under a separate Heading.

**7.2.3** Further, I find that the HSN Exclusion Note (e) to Heading 9027 explicitly provides that Heading 9027 excludes "X-ray, etc., apparatus (Heading 90.22)." Thus, the Tariff Scheme itself creates a clear demarcation between optical Spectrometers covered under Heading 9027 and X-ray based apparatus covered under Heading 9022. Therefore, once it is established, on the basis of the Chartered Engineer's inspection report, AERB testing report, technical literature/website information and statements recorded under Section 108 of the Customs Act, 1962, that the impugned goods operate on X-ray radiation (XRF principle), classification under Heading 9027

becomes legally barred. Accordingly, I reject the Importer's classification under CTH 9027. The Noticee's reliance on Rule 3 of the General Rules of Interpretation is misplaced. Rule 3 applies only where goods are prima facie classifiable under two or more headings. In the present case, once it is established that the apparatus is based on the use of X-rays, Heading 9022 applies by virtue of the explicit exclusion contained in Heading 9027 itself. Therefore, the question of applying Rule 3 does not arise.

### **7.3 CLASSIFICATION UNDER CTH 9022**

**7.3.1** I find that the Importer's reply and the technical literature on record indicate that the imported goods, described as "Karatmeter/Spectrometer" and imported in CKD/SKD condition from suppliers such as M/s Elvatech, M/s Bowman and M/s Sciaps, are instruments intended for determining the purity/composition of precious metals such as gold and silver. The records, including product literature, forensic retrieval of email communications and documents, as well as statements recorded under Section 108 of the Customs Act, 1962, show that the machines operate on the principle of X-ray fluorescence (XRF) and incorporate key components such as X-ray source/tube, detector assemblies (such as SDD/Si-PIN), shielding arrangements, radiation safety labels/monitors, and software for spectral analysis. The imported machines are used as Karatmeters for purity testing, and the technical features demonstrate that the analysis is performed through X-ray radiation interacting with the sample to generate characteristic emissions which are then detected and processed for determining the elemental composition. The reliance placed by the Noticee on the earlier Chartered Engineer report dated 30.12.2023 does not advance their case. Classification under the Customs Tariff is to be determined on the basis of the objective characteristics and technical functioning of the goods and not merely on an opinion expressed at the time of examination. It is settled law that an earlier assessment or examination does not create a binding precedent if subsequently it is found that the goods were mis-declared or incorrectly understood. In the present case, the later independent verification by AERB, the Chartered Engineer appointed during investigation, and the Importer's own admissions outweigh the earlier report and establish the true nature of the goods.

**7.3.2** From the functional and technical analysis, I find that the imported Karatmeter/Spectrometer is primarily designed as an apparatus based on the use of X-rays for analysis/testing of materials, particularly precious metals. Although the Importer has claimed that the goods are Spectrometers classifiable under Heading 9027, the evidence on record establishes that the essential and dominant function of the apparatus is X-ray based analysis. I find that any ancillary components such as display units, software, interface ports or data storage features are only supportive of the main X-ray based testing function and do not alter the essential character of the goods.

**7.3.3** I find that the statements recorded under Section 108 of the Customs Act, 1962, from persons connected with the imports and sale/use of the goods, support the investigation finding that the goods are X-ray based. The Business Development Manager of the Importer's firm Shri Shreyas Satish Dake has admitted that the Spectrometers operate on X-rays and were imported under CTH 9027 though correctly classifiable under CTH 9022. Further, the buyer/user of the machines has confirmed that the goods purchased from the Importer were X-ray based Spectrometers used for testing gold purity and has agreed that such machines merit classification under CTH 9022 as X-ray based apparatus. These statements corroborate the technical nature and use of the imported goods and negate the claim that the machines are non-X-ray/optical Spectrometers.

**7.3.4** Further, I find that the Director, Shri Dattatray Maruti Musale of the Importer's firm initially attempted to claim that the machines supplied after 2019 were EUV based and not X-ray based. However, this claim was contradicted by documentary evidence, technical examination and independent verification. The Director's statements were inconsistent, and he subsequently retracted his earlier stand and admitted that all Spectrometers imported from all suppliers were in fact X-ray based and were wrongly classified under CTH 9027 to evade applicable Customs duty. I find that this final admission, coupled with other evidences, establishes that the goods are X-ray based Spectrometers and that the declaration of classification under CTH 9027 was not based on bona fide interpretation but was intended to avail undue benefit of Nil duty. The Noticee has alleged that statements were recorded under coercion; however, I find that such allegation is unsupported by any contemporaneous

complaint, medical evidence, or retraction made within a reasonable time. On the contrary, the statements are corroborated by documentary evidence, technical reports, and third-party confirmations. It is well settled that a statement recorded under Section 108 of the Customs Act has evidentiary value unless proved otherwise, and mere subsequent denial does not invalidate it when supported by independent evidence. The retraction is not supported by any contemporaneous protest and appears to be an afterthought once investigation had progressed.

**7.3.5** I observe that, during the course of investigation, the subject machine was subjected to technical verification and testing by the Atomic Energy Regulatory Board (AERB), the competent statutory authority responsible for regulation and safety oversight of radiation-emitting equipment. The testing conducted by AERB established that the Karatmeter operates on X-ray technology and emits X-ray radiation during its functioning. This finding conclusively brings the apparatus within the scope of Heading 9022 and effectively negates the Importer's contention that the machine is EUV-based or non-X-ray in nature. The Noticee's argument that the AERB report was based merely on particulars furnished through eLORA registration is not borne out by facts, as available records show that AERB carried out physical verification and technical testing of the machine on 28.05.2025 in the presence of representatives of the Importer, the buyer, and DRI officials. I further note that the Electronic Licensing of Radiation Applications (eLORA) is a web-based regulatory platform administered by AERB for mandatory registration, licensing, and monitoring of radiation-emitting equipment in India. Since registration under eLORA requires submission of technical specifications for obtaining statutory safety clearance, the registration of the subject Spectrometers as X-ray equipment amounts to a formal self-declaration by the Importer regarding their technical characteristics. Accordingly, such registration constitutes an admission before the competent regulatory authority and stands in contradiction to the Importer's present claim, thereby lending additional support to the Revenue's position that the machines are, in fact, X-ray-based equipment.

**7.3.6** I find that the impugned goods are X-ray based Spectrometers/Karatmeters (XRF analyzers), wherein X-rays are generated and used as the fundamental radiation for analytical purposes. The analysis carried out by the apparatus is based on the interaction of X-rays with the material under examination, leading to determination of chemical composition and,

depending upon configuration, crystalline or structural characteristics. The essential character of the goods is thus that of X-ray spectrometry apparatus. Heading 9027 covers instruments and apparatus for physical or chemical analysis such as Spectrometers, spectrophotometers and spectrographs using optical radiations, namely ultraviolet, visible or infrared radiation. I find that X-rays do not fall within the scope of optical radiations.

Further, HSN Exclusion Note (e) to Heading 9027 explicitly provide that Heading 9027 excludes “X-ray, etc., apparatus (Heading 90.22).” In view of this explicit exclusion, any apparatus qualifying as X-ray apparatus under Heading 9022 stands statutorily barred from classification under Heading 9027. Heading 9022 covers apparatus based on the use of X-rays, irrespective of the field of application. As per Explanatory Notes to Heading 9022, the Heading 9022 specifically include X-ray diffraction and X-ray spectrometry equipment used for the examination of crystalline structure as well as chemical composition of materials. The Explanatory Notes do not restrict the scope of Heading 9022 only to structural analysis, nor do they mandate that chemical composition must be derived exclusively through crystalline structure examination. Thus, X-ray spectrometry equipment used for chemical composition analysis is squarely covered under Heading 9022/CTI 90221900.

**7.3.7** Classification under the Customs Tariff is governed by the General Rules for the Interpretation (GIR) of the Schedule, which are required to be applied sequentially. As per GRI 1, classification is to be determined according to the terms of the Headings and the relevant Section and Chapter Notes. In the present case, Heading 9022 specifically covers “apparatus based on the use of X-rays”. Since the impugned goods are apparatus based on the use of X-rays, they are appropriately classifiable under CTH 9022, and more specifically under CTI 90221900, in terms of GRI 1 itself.

**7.3.8** In view of the above discussion, I find that the imported goods covered under Annexure-A to the Show Cause Notice and described as Karatmeter/Spectrometer are X-ray based spectrometry apparatus and are appropriately classifiable under CTH 9022 as apparatus based on the use of X-rays. The declaration made by the Importer under CTH 9027 is therefore

incorrect and not sustainable in view of the objective characteristics and working principle of the goods, as also the explicit exclusion provided under Heading 9027 for X-ray apparatus.

**7.3.9** I further find that the Importer has imported such identical goods on multiple occasions over the period covered in the Show Cause Notice and consistently declared the goods under CTH 9027 attracting Nil duty, despite the goods being X-ray based apparatus. The consistent pattern of imports, combined with documentary evidence, technical reports (including AERB testing), and admissions made during investigation, establishes that the Importer was fully aware of the nature of the goods and the correct classification, yet deliberately declared them under an incorrect heading to avail undue exemption. Therefore, the Importer's conduct demonstrates wilful misdeclaration/suppression with intent to evade duty and supports invocation of the extended period under Section 28(4) of the Customs Act, 1962, as proposed in the Show Cause Notice. I also note the Noticee's argument that similar goods were cleared in the past under the same classification. However, it is a settled principle that there is no estoppel against statute and a wrong assessment in earlier consignments does not confer a legal right to continue claiming an incorrect classification. If the Importer had knowledge of the true nature of the goods and still chose to declare them under an incorrect heading, the earlier clearances cannot legitimize the misdeclaration nor defeat the demand raised in accordance with law. It is settled law that an assessment made without full knowledge of the technical characteristics of goods does not prevent the department from re-determining classification once correct facts emerge.

**7.3.10** I also note that the Noticee had sought cross-examination of the Chartered Engineer (C.E.), whose report were relied upon in the Show Cause Notice. I find that the request is not justified in the facts of the present case. The classification of the goods is primarily based on objective technical evidence such as the machine configuration, technical literature, Chartered Engineer's examination and the independent verification conducted by AERB, which is a statutory authority. The AERB report represents a technical determination and is not merely a testimonial statement requiring cross-examination. I further note that the Director and other officials of the Noticee have themselves accepted the X-ray based functioning of the equipment during investigation, and such admissions stand corroborated by independent material on

record. In these circumstances, permitting cross-examination would not materially alter the factual position and appears to be sought only to prolong the proceedings. It is well settled that cross-examination is not an absolute right and is required only where the demand is based solely on disputed testimonial evidence. Since the present case is founded on documentary and technical evidence, the request for cross-examination is rejected.

**7.3.11** I find that the Importer has claimed exemption/benefit of Nil duty by declaring the subject goods under CTH 9027 and availing the benefit of Notification No. 24/2005-Customs dated 01.03.2005, as applicable. However, as discussed above, the imported goods are X-ray based Spectrometers/Karatmeters (XRF analyzers) and are correctly classifiable under CTH 9022. Since the exemption claimed is linked to the declared classification under CTH 9027, and the goods do not fall under the said heading, the benefit of the said notification is not admissible. I further find that exemption notifications are to be construed strictly and can be extended only when the goods clearly satisfy the conditions and fall within the scope of the specified tariff entry. In the present case, the Importer has wrongly availed the exemption by mis-declaring the classification of X-ray based apparatus under a heading meant for other analytical instruments, thereby resulting in short-payment/ non-payment of applicable Customs duty. Accordingly, I hold that the exemption/benefit availed by the Importer under Notification No. 24/2005-Customs dated 01.03.2005. is not available and the differential duty is recoverable as proposed in the Show Cause Notice.

## **8. INVOKING EXTENDED PERIOD OF TIME TO RAISE DUTY DEMAND:**

**8.1** Having determined the true nature and classification of the goods, I now examine whether the extended period of limitation is invocable in the present case. I find that the extended period under Section 28(4) of the Customs Act, 1962 is invocable where duty has not been levied/has been short levied by reason of collusion, wilful misstatement or suppression of facts with intent to evade payment of duty. In the present case, the Importer declared the impugned goods in the Bills of Entry under descriptions such as “G-110 Metal Spectrometer With Accessories”, “Spectrometer Basic Metal Spectrometer Kit (Item No. BW031) (S/N 2300318 to 2300337) (MH-110 PIN)”, “JL Metal Spectrometer Kit With Accessories

(Karatmeter)”, “Model KJL202 Metal Spectrometer Kit With Installation Accessories”, “X50-OEM Metal Spectrometer Kit With Installation Accessories”, and “Metal Spectrometer Kits (DX200)” and classified them under CTH 9027, without disclosing the essential fact that the apparatus is based on the use of X-rays (XRF).

**8.2** I find that the above declared descriptions were not merely trade descriptions but were used in a manner which masked the true nature and working principle of the goods. The investigation has established, from technical literature and examination, that the goods are Karatmeters/Spectrometers working on X-ray fluorescence, incorporating X-ray tube/source, detector assemblies, shielding and radiation safety features. The use of generic descriptions like “Metal Spectrometer Kit” and “Spectrometer” without disclosure of the X-ray based working principle amounts to suppression of material facts relevant for correct classification and assessment. I find that Customs assessment is based upon declarations made in the Bills of Entry; therefore, withholding such essential particulars directly results in short levy/non-levy of duty.

**8.3** I further find that the conduct of the Importer, particularly its Director Shri Dattatray Maruti Musale demonstrates that the misdeclaration was wilful and not a bona fide classification dispute. During investigation, the Director initially attempted to project that the machines supplied after a certain period were UV/EUV based and not X-ray based, and accordingly sought to justify classification under Heading 9027. However, this stand was not supported by technical records and was contradicted by the machine configuration, literature and verification findings. Subsequently, the Director changed his stand and finally admitted that the imported goods were in fact X-ray based, and that classification under CTH 9027 was wrongly adopted.

**8.4** I also find it significant that the Business Head/Business Development Manager Shri Shreyas Satish Dake, in his statement recorded under Section 108, has categorically stated that the Director instructed him to depose before DRI that the goods are UV based. This clearly indicates an attempt to mislead the investigating agency and to suppress the true nature of the goods. Only at a later stage, after confrontation with evidence, Shri Dattatray Maruti Musale, Director, M/s. QECPL accepted that the goods are X-ray based. Such deliberate establishes intentional suppression/wilful misstatement.

**8.5** I find that the Importer's repeated imports of identical goods over the relevant period, consistently declared as "Metal Spectrometer Kits/Spectrometer" and classified under CTH 9027 to claim Nil duty, further evidences a pattern of deliberate misdeclaration. The continued adoption of an incorrect classification, despite knowledge of the X-ray based nature of the goods, and the attempt to project the goods as UV based during investigation, demonstrates mens rea and intention to evade duty.

**8.6** I find that the forensic examination of the seized digital devices, namely the 1 TB Toshiba internal hard disk and the Dell Inspiron Laptop, resulted in the recovery of incriminating email correspondences which establish evidence of the Noticee's knowledge and intent. The recovered records reveal that a quotation dated 29.09.2022 for the "Karatmeter JL" expressly described the Spectrometer as being X-ray based. Further, an email dated 11.10.2021 sent from xrf@karatmeter.com to indianoverseas@gmail.com and vasaviuniversal@gmail.com specifically identified the Karatmeter JL as an "XRF based Spectrometer." This description is further corroborated by another email dated 10.11.2020 sent from sales@karatmeter.com to amar365@hotmail.com, with copies marked to xrf@karatmeter.com, dmmusale@karatmeter.com, and mailout@karatmeter.com, wherein the equipment was similarly characterized as XRF based. I further observe that an email dated 02.11.2022 addressed to research@anulab.org, with copies to pranav@xscientific.tech and dmmusale@xscientific.tech, confirmed that the company was procuring XRF-based Spectrometers from the supplier M/s Elvatech. These electronic records, the authenticity of which was subsequently admitted by Shri D.M. Musale during investigation, conclusively demonstrate that the Noticee was fully aware that the imported goods were X-ray based Spectrometers and was marketing them as such in the domestic market, while simultaneously misclassifying the goods for Customs purposes with the intent to avail ineligible benefits and evade applicable customs duty.

**8.7** Accordingly, I hold that the ingredients of Section 28(4) are fully satisfied, as the short payment/non-payment of duty has occurred due to wilful misstatement and suppression of material facts regarding the essential nature and correct classification of the impugned goods, with intent to evade duty. Therefore, invocation of the extended period under Section 28(4) of the Customs Act, 1962 for recovery of differential duty is justified.

## 9. CONFISCATION:

**9.1** The SCN proposes confiscation of goods under the provisions of Section 111(m) of the Customs Act, 1962. Section 111(m) of the Customs Act, 1962 provides for confiscation in cases where goods do not correspond in respect of any other particulars in respect of which the entry made under this Act. As there is mis-declaration and mis-classification of goods as covered under Annexure-A to the SCN, resulting in short levy and short payment of duty, I find that the confiscation of the imported goods invoking Section 111(m) is legally justified for which penalty under Section 112(a) is to be imposed.

**9.2** As regards applicability of actual confiscation and redemption fine in terms of Section 125 of the Customs Act, 1962, I find that it is a settled position in law that redemption fine under Section 125 of the Customs Act, 1962 can only be imposed where goods are physically available for confiscation and subsequent redemption. This principle has been categorically affirmed by the Bombay High Court in *Commissioner of Customs (Import), Mumbai v. Finesse Creation Inc.*, 2009 (248) E.L.T. 122 (Bom.), wherein the Court held that the concept of redemption fine arises only if the goods are available and can be redeemed. In the absence of the goods, no redemption fine can be imposed. The Bombay High Court distinguished the Supreme Court judgment in *Weston Components Ltd. v. Commissioner of Customs*, 2000 (115) E.L.T. 278 (S.C.), noting that in *Weston*, the goods had been released on bond and were therefore constructively within the control of the Customs authorities. However, in *Finesse Creation Inc.*, the goods had already been cleared and were not available for seizure, nor had they been released on any bond or undertaking. The Bombay High Court further endorsed the reasoning of the Punjab and Haryana High Court in *Commissioner of Customs, Amritsar v. Raja Impex (P) Ltd.*, 2008 (229) E.L.T. 185 (P&H), which held that where goods are neither available nor covered by any bond, no redemption fine can be levied. This order of the High Court in *Finesse Creation Inc.*, stands accepted by the department, as Special Leave Petition (SLP) filed in the Supreme Court (C.A. No. 66/2009) was dismissed by order dated 12.05.2010. [2010 (255) E.L.T. A120 (S.C.)]

Accordingly, I am of the considered view that, since the goods in the present case have already been cleared and are no longer available for confiscation, the invocation of Section 125 of the Customs Act, 1962, lacks jurisdictional basis and is legally unsustainable.

## **10. REVENUE NEUTRALITY:**

**10.1** The Noticee contends that the proposed IGST differential duty demand is revenue neutral due to input tax credit eligibility. In this regard, it is important to note that the legal obligation to pay duties, including interest and penalties, arises from the statutory framework and the principle of compliance with the law, regardless of intent or revenue neutrality. Even if the taxpayer's actions were inadvertent or led to no loss of revenue, penalties can still be levied if the breach of law is proven. The ruling in *Lahari Impex Pvt. Ltd. v. Commr. of Cus. (Seaport-Import), Chennai* [2020 (374) E.L.T. 716 (Mad.)], upheld by the Supreme Court [2021 (377) ELT A118 (SC)], clarifies that the possibility of a subsequent duty drawback creating a revenue-neutral scenario does not permit disregarding the stipulated timelines for claiming the benefit. The plea of revenue neutrality does not apply in cases involving misdeclaration of goods at import stage and therefore does not affect the validity of the demand.

## **11. PENALTY:**

**11.1** I find that, in accordance with Section 114A of the Customs Act, 1962, once the requisite ingredients for invoking the extended period under Section 28(4) are established on record, the imposition of penalty becomes fully justified. In the present case, the Importer repeatedly imported the impugned goods and declared them in the Bills of Entry as “Metal Spectrometer/Karatmeter Kits” such as “G-110 Metal Spectrometer With Accessories”, “Spectrometer Basic Metal Spectrometer Kit (Item No. BW031)... (MH-110 PIN)”, “JL Metal Spectrometer Kit With Accessories (Karatmeter)”, “Model KJL202...”, “X50-OEM...”, and “Metal Spectrometer Kits (DX200)”, and classified them under CTH 9027 to avail Nil duty, despite the goods being X-ray fluorescence (XRF) based apparatus correctly classifiable under CTH 9022. This declaration suppressed the crucial fact of the X-ray based working principle, which is determinative for classification. I further find that technical literature, independent verification and other evidences establish that the goods incorporate X-ray source/tube, detector assemblies, shielding and radiation safety features, and are therefore X-ray based apparatus. I also find deliberate intent from the Section 108 statements, wherein the Business Development Manager admitted that the machines were X-ray based and were wrongly imported under CTH 9027 though classifiable under CTH 9022, and further stated that he was instructed by the Director to claim before DRI that the goods were UV based. The Director also initially claimed

UV/EUV basis but later admitted that all imported Spectrometers were X-ray based and were misclassified to evade duty.

**11.2** Further, as per the proviso to Section 114A, no separate penalty can be imposed under Section 112 or Section 114 if a penalty has already been levied under Section 114A. In compliance with this statutory mandate, and to avoid duplication of penal consequences for the same contravention, I refrain from imposing any separate penalty under Section 112(a) of the Act in the present matter.

**11.3** I find that M/s QECPL, as Importer, filed Bills of Entry and import documents declaring the impugned goods under descriptions such as “G110 Metal Spectrometer With Accessories”, “Spectrometer Basic Metal Spectrometer Kit (Item No. BW031)... (MH-110 PIN)”, “JL Metal Spectrometer Kit With Accessories (Karatmeter)”, “Model KJL202...”, “X50-OEM...”, “Metal Spectrometer Kits (DX200)” etc., and classified them under CTH 9027 to claim Nil duty. However, the evidence on record including product literature, website information, Chartered Engineer report and AERB test establishes that the goods are X-ray fluorescence (XRF) analyzers, i.e. apparatus based on the use of X-rays, correctly classifiable under CTH 9022. The nature of the impugned goods, being Karatmeters/Spectrometers used for purity testing of precious metals, is such that their working principle and essential character (X-ray fluorescence/XRF) is intrinsic to their design and operation. Thus, the declarations and documents filed by the Importer were false/incorrect in material particulars, namely the essential nature and correct classification of the goods. The Importer’s Business Development Manager Shri Shreyas Satish Dake admitted that X-ray based Spectrometers were correctly classifiable under CTH 9022 but were imported under CTH 9027. Further, the Director Shri Dattatray Maruti Musale later admitted that the goods were wrongly classified under CTH 9027 to evade duty. These admissions establish knowledge at the firm level and deliberate filing/use of incorrect declarations/documents. Therefore, the Importer has knowingly used false/incorrect declarations and documents in Customs transactions. Accordingly, I hold that M/s QECPL is liable to penalty under Section 114AA of the Customs Act, 1962.

**11.4** I find that Section 112(a) of the Customs Act, 1962 provides for imposition of penalty on any person who, in relation to any goods, does or omits to do any act which renders such goods liable to confiscation under Section 111, or who abets the doing or omission of such an

act. In the present case, the imported goods were declared as “G110 Metal Spectrometer With Accessories”, “Spectrometer Basic Metal Spectrometer Kit (Item No. BW031) (S/N 2300318 TO 2300337) (MH-110 PIN)”, “JL Metal Spectrometer Kit With Accessories (Karatmeter)”, “Model KJL202 Metal Spectrometer Kit With Installation Accessories”, “X50-OEM Metal Spectrometer Kit With Installation Accessories”, “Metal Spectrometer Kits (DX200)” etc., and were classified under CTH 9027 with Nil duty, whereas the evidence on record establishes that the goods are X-ray fluorescence (XRF) analyzers, i.e. apparatus based on the use of X-rays, correctly classifiable under CTH 9022. Such misdeclaration of essential nature/classification resulted in short payment of duty and renders the goods liable to confiscation under Section 111(m) of the Customs Act, 1962. I further find from the statements recorded under Section 108 of the Customs Act, 1962 that Shri Dattatray Maruti Musale, being the Director of the importing firm, was directly involved in and responsible for the import documentation and classification. In his statement dated 08.05.2025, he admitted that he was responsible for deciding the CTH and filing Bills of Entry and that the goods were classified under CTH 9027 with an intention to evade Customs duty. Although he subsequently attempted to claim that the goods were EUV based, his stand was contradicted by documentary evidence, technical literature, Chartered Engineer report and AERB test. Ultimately, in his statement dated 26.06.2025, he retracted his earlier version and admitted that all Spectrometers imported from all suppliers were X-ray based and were wrongly classified under CTH 9027 to evade duty.

I therefore find that Shri Dattatray Maruti Musale not only had knowledge of the true nature of the goods but was the principal person who decided and caused the wrong classification/description to be adopted, thereby committing acts/omissions which rendered the goods liable to confiscation and also abetted such misdeclaration. Accordingly, penalty on Shri Dattatray Maruti Musale is imposable under Section 112(a) of the Customs Act, 1962.

**11.5** I find that Section 114AA of Customs Act, 1962 provides for imposition of penalty on any person who 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 relating to the Customs Act. In the present case, the Bills of Entry and connected import documents were filed declaring the goods as “Metal Spectrometer/Karatmeter Kits” and classifying them under CTH 9027, thereby suppressing the crucial fact that the apparatus is based on the use of X-rays and correctly classifiable under

CTH 9022. I further find that the conduct of Shri Dattatray Maruti Musale demonstrates deliberate intent. Shri Shreyas Satish Dake, Business Development Manager of the Importer's firm, in his statement dated 11.06.2025, stated that the Director instructed him to state during investigation that the machines were EUV based, though the machines were always X-ray based. This establishes that Shri Musale attempted to project the goods as non-X-ray based in order to sustain the incorrect classification under CTH 9027 and evade applicable Customs duty. I also find that Shri Musale himself, in his statements dated 08.05.2025 and 09.05.2025, repeatedly denied that the imported machines were X-ray based and continued to claim that the goods supplied after 2019 were EUV based, despite being confronted with several evidences. He attempted to dismiss email communications, product-related documents and the Chartered Engineer report as outdated/erroneous and insisted that the newer imports were EUV based. Further, even after being shown photographic evidence indicating X-ray monitors/signage on the machines, he continued to deny that the goods were X-ray based. His denial was also inconsistent with the functional use of the machines for gold purity testing, as he himself admitted that EUV based Spectrometers generally cannot be used for such purpose, while simultaneously insisting that his machines were EUV based and used for gold purity testing. Such persistent denial, despite confrontation with technical evidence and statements of other persons, clearly establishes conscious and intentional misrepresentation of the nature of the goods. Thereafter, Shri Musale, in his statement dated 26.06.2025, retracted his earlier statements and finally admitted that all Spectrometers imported from all suppliers i.e. M/s Elvatech, M/s Bowman and M/s Sciaps. were in fact X-ray based and that the goods were wrongly classified under CTH 9027 to evade applicable Customs duty. I find that this sequence of denial despite evidence, followed by retraction and admission, establishes that the earlier declarations and statements were knowingly false and were made with the intent to mislead the investigating agency and to justify the incorrect classification adopted by the Importer.

In view of the above, I hold that Shri Dattatray Maruti Musale knowingly and intentionally caused false/incorrect declarations and statements to be made and used in Customs transactions and proceedings, and therefore penalty under Section 114AA of the Customs Act, 1962 is clearly attracted and imposable upon him.

**12.1** In view of the cumulative evidence comprising technical verification, statutory authority report, documentary records, third-party confirmations and admissions of responsible persons

of the importing firm, I find that the case is not one of mere classification dispute but one of deliberate misdeclaration adopted over multiple consignments. The defence raised by the Noticee does not displace the objective technical evidence on record and is therefore rejected.

**12.2** The Noticee has cited various case laws in their submission against the said SCN. I have gone through the same and I find that facts and circumstances of this case are not squarely covered by the case laws and judgements as referred by the Noticee in their written submissions, and they are not applicable in the subject case. I also place reliance of this finding on the following decision of Supreme Court in the matter of M/s Ispat Industries Ltd vs Commissioner of Customs, Mumbai [2006 (202) ELT 561 (SC)], wherein it was held that:

*"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect.*

### **ORDER**

**13.** In view of the foregoing, I pass the following order: -

- (i) I reject the declared classification of the imported goods "Spectrometers." covered under Bills of Entry as mentioned in Annexure-A to the Show Cause Notice, under CTI 90273010 of the Customs Tariff Act, 1975 and order to re-classify them under Customs Tariff Item 90221900. The Bills of Entry shall be re-assessed accordingly.
- (ii) I confirm the demand of differential duty amounting to Rs. 3,77,69,372/- (Rupees Three Crore Seventy-Seven Lakh Sixty-Nine Thousand Three Hundred Seventy-Two) under Section 28(4) of the Customs Act, 1962 along-with applicable interest thereon in terms of provisions of Section 28AA of the Customs Act, 1962, and order to recover the same from the Importer, M/s. Quantum Equipment Company Private Limited.
- (iii) I impose penalty equal to differential duty of Rs. 3,77,69,372/- (Rupees Three Crore Seventy-Seven Lakh Sixty-Nine Thousand Three Hundred Seventy-Two) and amount equal to interest leviable thereon on the Importer M/s. Quantum Equipment Company Private Limited under Section 114A of Customs Act, 1962. However, if such duty and the interest is paid within thirty days from the date of communication of this order, the

amount of penalty liable to be paid shall be twenty-five per cent of the duty and interest, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.

- (iv) As the Importer M/s. Quantum Equipment Company Private Limited has voluntarily paid the part differential duty along with interest. I order to appropriate the amount of Rs.53,78,797/- (Rupees Fifty-Three Lakh Seventy-Eight Thousand Seven Hundred Ninety-Seven) paid in respect of their duty liability under Section 28(4) of Customs Act, 1962 along with interest determined in this order.
- (v) I impose penalty of Rs. 1,00,00,000/- (Rupees One Crore) under Section 114AA of Customs Act, 1962 on the Importer, M/s. Quantum Equipment Company Private Limited
- (vi) I impose penalty of Rs. Rs. 1,00,00,000/- (Rupees One Crore) under Section 114AA of Customs Act, 1962 on Shri Dattatray Maruti Musale, Director, M/s. Quantum Equipment Company Private Limited
- (vii) I impose penalty of Rs. 25,00,000/- (Rupees Twenty-Five Lakh) under Section 112(a)(ii) of Customs Act, 1962 on Shri Dattatray Maruti Musale, Director, M/s. Quantum Equipment Company Private Limited.

**13.** This adjudication order is issued without prejudice to any other action that may be taken in respect of goods in question and/or the persons/firms concerned, under the provision of the Customs Act, 1962 and/or any other law for time being in force.

**(मनीष चन्द्रा)**  
**(MANISH CHANDRA)**  
प्रधान आयुक्त, सीमा शुल्क  
Pr. Commissioner of Customs  
आयात, एसीसी, मुंबई  
Import, ACC, Mumbai

To,

- 1.) **M/s Quantum Equipment Company Private Limited (IEC: - 0397033711)  
301, Rajshree Plaza, Opp. Shreyas Cinemas,  
L.B.S. Marg, Ghatkopar West, Mumbai, Maharashtra- 400 086**
  
- 2.) **Shri Dattatray Maruti Musale,  
Director, M/s. Quantum Equipment Company Private Limited,  
301, Rajshree Plaza, Opp. Shreyas Cinemas,  
L.B.S. Marg, Ghatkopar West, Mumbai, Maharashtra- 400 086**

Copy:

1. The Pr. Chief Commissioner of Customs, Mumbai Customs Zone III.
2. The Additional Director General, DRI, Jaipur Regional Unit.
3. The Dy. Commissioner of Customs, Group 5(B), ACC, Mumbai.
4. The Dy. Commissioner of Customs, TRC, ACC, Mumbai.
5. Notice Board through Superintendent, CHS
6. Master file.