IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 2
Customs Appeal No. 76208 of 2024

(Arising out of Order-in-Appeal No.KOL/CUS/PORT/KS/388/2024 dated 24.06.2024 passed by Commissioner of Customs, Kolkata)

M/s. General Agencies (Kolkata) Pvt. Ltd. **: Appellant**
24 N.S. Road, 1st Floor, Room Nos. 15 and 16, Kolkata-700001.

VERSUS

Commissioner of Customs (Appeals), Kolkata **: Respondent**
3rd Floor, Custom House, 15/1, Strand Road, Kolkata-700 001.

APPEARANCE:

Shri Biswajit Mukherjee, Shri Shovendu Banerjee, Shri Soumyajit Mishra, Advocatesfor the Appellant

Shri S.Debnath, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R.MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER (TECHNICAL)

FINAL ORDER NO. 75739/ 2026

DATE OF HEARING:16.06.2026

DATE OF DECISION:19.06.2026

Order : [Per Shri R.MURALIDHAR]

The appellant imported 'Kerosene Generator Sets' adopting CTH 85023990 for classification of the imported goods, for which Bill of Entry No. 8585641 dated 25/08/2020 was filed. They also enclosed all the relevant documents alongwith Emission Certificate issued by Envirotech East Pvt. Ltd. [Envirotech for short] laboratory, Ministry of Environment. Similarly one more consignment was imported on 26.10.2021 and along with all the documents including the Emission Certificate[Environment Certificates] were submitted.After due verification of the Bills of Entry and the other documents including the Environment Certificates, the Customs officers allowed the consignment to be cleared for home consumption. Subsequently, on 19.01.2023 a Show Cause Notice was issued alleging that the classification is required to be done under CTH 85022090 instead of CTH 85023990. The Show Cause Notice also alleged that the certificate issued was not in conformity with the conditions given under the Notification. After due process, the Adjudicating Authority held that the goods are required to be classified under CTH 85022090. He also imposed a penalty of Rs. 1500000 under Section 112(a)(i) and Rs. 25,00,000/- under Section 114AA of the Customs Act, 1962.Being aggrieved, the appellant filed their appeal before the Commissioner (Appeal) who has dismissed the same. Therefore, the appellant is before the Tribunal.

3. The Ld. Advocate appearing on behalf of the appellant makes the following submissions.

3. With reference to the relevant Notification issued by Ministry of Environment is GSR 535 (E) dated 7th August, 2013, he takes us through to page no. 51 & 52 of the appeal paper book. He submits that the "Emission standards" and the noise level standards are specified in this notification. He then takes us to Notification dated 15.11.2018 giving details of the empanelled firms which are authorized to take up the necessary tests and to issue the environment certificate. He points out that the certificate in respect of the goods imported by the appellant, have been issued by the M/s. Envirotech East Pvt. Ltd., who are listed at Sl No. 31 of the Notification dated 15.11.2018. He also takes us through to the certificate issued by this firmon closed at Page 62 of the appeal book.

4. He submits that the certificate issued was submitted alongwith other documents to the Customs officials at the time of imports. Only after thorough verification of all the documents, the Bills of Entry were assessed and the goods allowed to be cleared. He also submits that apart from filing the certificate from Envirotech, they have also submitted the Quality Report issued by the manufacturer Yancheng Slong Machinery & Electric Co. Ltd. [enclosed at Page 63 of the appeal book], wherein all the technical specifications have been given.

5. He submits that a harmonious reading of the Notifications and Certificate issued by the Envirotech and Technical Specification certified by the manufacturer would clarify that the imported goods meet all the conditions set under notification No. GSR 535(E) dated 07.08.2013. As per him the Revenue has gone on to issue the Show Cause Notice only on the ground that **"Type Approval"** certificate, as specified in the Notification dated 7.8.2013, was not issued by Envirotech. Taking this ground, the appellant has been imposed with the penalty of Rs. 15,00,000/- under Section 112 (a)(i) of the Customs Act, 1962 and penalty of Rs. 25,00,000/- under Section 114AA of the Customs Act, 1962. He submits that the non-providing of the 'Type Approval' on its own would not make the appellant to suffer the penalty under Section 114AA, as the appellant has provided the Certificate issue by the duly authorized agency by the Ministry of Environment.

6. He takes us through the value involved in the consignments which is to the extent of about Rs.

39,00,000/- in respect of both the consignments and the total Custom Duty involved is for about Rs. 11,00,000/-.

7. Considering these facts, even as the appellant submits that no penalty was required to be imposed, without prejudice to this stand, they submit that the penalties imposed disproportionate to the alleged contravention and the Customs Duty involved. He prays that the appeal may be allowed.

8. The Ld. Authorized Representative submits that the Notification dated 07.08.2013 specifies that Type Approval Certificate has to be obtained by the importer. He points out that the appellant failed to provide the Certificate on "type approval" basis. He submits that the certificate issued by Envirotech to does not contain any details of Noise Levels. As per the Notification if the Noise level is 86dBA, the Gen Sets would not meet the Environment specifications.. As the conditions set in the Notification has not been fulfilled, he justifies the penalties imposed on the appellant.

9. Heard both sides and perused the Appeal papers and documents submitted.

10. It would be important to go through some of the documents submitted by the appellant, which are extracted below:

1/16 June

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178	मैसर्स रोबस्ट मैटीरियल टेक्नोलॉजी प्राइवेट लिमिटेड, सं. 94, दूसरा तल, चिक्कमाला कम्पलेक्स, एन जी ई एफ लेआउट, नागरभावी, बैंगलोर-560072	(i) डा. के. आर रवीकुमार (ii) डा. ममता एस एन (iii) श्री संदेशा के एस	15 नवंबर, 2018 से 14 नवंबर, 2023"

[फा. सं. क्यू 15018/21/2017-सीपीडब्ल्यू]

बृजेश सिक्का, सलाहकार

टिप्पण : मूल अधिसूचना भारत के राजपत्र, असाधारण, में अधिसूचना संख्यांक का. आ. 1174(अ), तारीख 18 जुलाई, 2007 द्वारा प्रकाशित की गई थी और अधिसूचना संख्यांक का.आ.1539(अ), तारीख 13 सितम्बर, 2007, का.आ. 1811(अ), तारीख 24 अक्तूबर, 2007, का.आ. 55(अ), तारीख 9 जनवरी, 2008, का.आ. 428(अ) तारीख 4 मार्च, 2008, का.आ. 865(अ), तारीख 11 अप्रैल, 2008. का.आ. 1894 (अ) तारीख 31 जुलाई, 2008, का.आ. 2728(अ) 25 नवम्बर, 2008, का.आ. 1356 (अ) तारीख 27 मई, 2009, का.आ.1802(अ) तारीख 22 जुलाई, 2009, का.आ.2399 (अ) तारीख 18 सितम्बर, 2009, का.आ.3122(अ) तारीख 7 दिसम्बर, 2009, का.आ. 3123(अ), 7 दिसम्बर, 2009, का.आ. 142(अ) तारीख 21 जनवरी, 2010, का.आ.619(अ) तारीख 19 मार्च, 2010, का.आ. 1662(अ) तारीख 13 जुलाई, 2010, का.आ. 2390(अ) तारीख 30 सितम्बर, 2010, का.आ. 2904(अ) तारीख 8 दिसम्बर, 2010, का.आ.181(अ) तारीख 28 जनवरी, 2011, का.आ. 692(अ) तारीख 5 अप्रैल, 2011, का.आ. 1537(अ) तारीख 6 जुलाई, 2011, का.आ.1754(अ) तारीख 28 जुलाई, 2011, का.आ. 2609(अ) तारीख 22 नवम्बर, 2011, का.आ. 264(अ) तारीख 13 फरवरी, 2012, का.आ. 1150(अ) तारीख 22 मई, 2012, का.आ. 1295(अ), 6 जून, 2012 का.आ.2039(अ)'तारीख 5 सितम्बर, 2012, का.आ. 2850(अ) तारीख 7 दिसम्बर, 2012, का.आ.592(अ) तारीख 8 मार्च, 2013, का.आ. 945(अ) तारीख 8 अप्रैल, 2013, का.आ. 2287(अ) तारीख 27 जुलाई, 2013, का.आ. 3489(अ) तारीख 26 नवम्बर, 2013, का.आ.21(अ) तारीख 3 जनवरी, 2014, का.आ. 561(अ) तारीख 26 फरवरी, 2014, का.आ. 1190(अ) तारीख 2 जून, 2014, का.आ. 2003(अ) तारीख 9 अगस्त, 2014, का.आ.137 (अ) तारीख 12 जनवरी, 2015, का.आ. 1783(अ) तारीख 30 जून, 2015, का.आ. 2453(अ) तारीख 7 सितम्बर, 2015 का.आ. 1953(अ), तारीख 2 जून, 2016 और का.आ.388(अ) तारीख 10 फरवरी, 2017 और का.आ.सं. 857(अ) तारीख 26 फरवरी, 2018 द्वारा उनका अन्तिम संशोधन किया गया।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, 15th November, 2018

S.O. 5768 (E).— In exercise of the powers conferred by clause (b) of sub-section (1) of section 12 and section 13 of the Environment (Protection) Act, 1986 (29 of 1986), read with rule 10 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the notification of the Government of India in the erstwhile Ministry of Environment and Forests, vide number S.O. 1174(E), dated the 18th July, 2007, namely:-

In the said notification, in the table, -

(i) for serial numbers 29, 31, 38, 54 and 73 the entries relating thereto, the following serial numbers and entries shall be substituted, namely:-

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(1)	(2)	(3)	(4)
"29	M/s. Mahabal Enviro Engineers Pvt. Ltd. Plot No. 13,17,18, Grampanchayat Bokhara, 8 KM from Nagpur City, Opp. Patel Petrol Pump, Chhindwara Road, Post Koradi, Distt. Nagpur-441111, Maharashtra	(i) Mr. Harish Prabhakar Mendhi (ii) Mr. Kishor Chandrabhanji Yeole (iii) Mr. Sachin Subhash Gore	15th November, 2018 to 14th November, 2023
31	M/s. Envirotech East Pvt. Ltd. Bengal Ambuja Commercial Complex, UN-F-13, 1050/1, Survey Park, Kolkata-700075	(i) Mr. Asoke Kumar Bandyopadhyay (ii) Mr. Tapas Kundu (iii) Dr. Shibam Mitra	15th November, 2018 to 14th November, 2023
38	M/s. Envirocare Labs Pvt. Ltd. Enviro House, A-7, MIDC, Wagle Industrial Estate, Main Road, Thane-400604, Maharashtra	(i) Dr. Priti N. Amritkar (ii) Ms. Sneha Omkar Mathar (iii) Ms. Manisha Kharade	15th November, 2018 to 14th November, 2023
54	M/s. Eko Pro Engineers Pvt. Ltd., 32/41, South Side of G.T. Road, UPSIDC Industrial Area, Ghaziabad-201009, Uttar Pradesh	(i) Mr. Amit Saxena (ii) Ms. Divya Saxena (iii) Ms. Purnima Chauhan	15th November, 2018 to 14th November, 2023
73	M/s. KKB Micro Testing Labs Pvt. Ltd. Tarun plaza, #3-5-2 44, 2nd Floor, NFC Main Road, Krishna Nagar Colony, Moula Ali, Hyderabad-500040	(i) Mr. Ch. Ramakrishna (ii) Mrs. P. Rajeswari (iii) Mrs. Amrutha Nalini	15th November, 2018 to 14th November, 2023

(ii) after serial number 168 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:-

(1)	(2)	(3)	(4)
"169	M/s. Ecosystem Resource Management Pvt. Ltd. A'-Ashoka Pavillion, Opp. Kapadia Health Club, New-Civil Road, Surat-395001, Gujarat	(i) Mr. Sunil Kumar Pandey (ii) Mr. Patel Niravkumar BhagvatPrasad (iii) Mr. Patel Shirish Dhirubhai	15th November, 2018 to 14th November, 2023
170	M/s. SCS Enviro Services Pvt. Ltd. 7 Kesar Vihar, Opposite Khatu Shyamji Temple, Ramnagariya Road, Jagatpura, Jaipur-302017, Rajasthan	(i) Dr. D.S Parihar (ii) Mr. Jitendra Dixit (iii) Mr. Abhishek Gautam	15th November, 2018 to 14th November, 2023
171	M/s. Apex Enviro Laboratory 3-Dhebar Colony, Near I.T.I Pratapnagar, Udaipur, Rajasthan	(i) Dr. Y.L. Mehta (ii) Mr. Amit Saxena (iii) Mr. Kishan Lal Agrawal	15th November, 2018 to 14th November, 2023
172	M/s. Polytest Laboratories 22 Sonace Industrial Estates, Pirangut, Pune-412115, Maharashtra	(i) Mrs. Smita Ajay Kapadre (ii) Mr. Sachin Hari Kapade (iii) Mrs. Swati Mahendra Umarani	15th November, 2018 to 14th November, 2023
173	M/s. Ind Research & Development House Pvt. Ltd. C-10, Sector-6, Noida-201301, Uttar Pradesh	(i) Dr. SNA Rizvi (ii) Ms. Vandana Gupta (iii) Ms. Kavita Sharma	15th November, 2018 to 14th November, 2023
174	M/s. Winmet Technologies Private Ltd. Plot No. E-65, Site-IV, UPSIDC, Greater Noida-201306, Uttar Pradesh	(i) Mr. Kuldeep Singh Teotia (ii) Mrs. Upasna (iii) Mr. Sunil Kumar Bansal	15th November, 2018 to 14th November, 2023
175	M/s. Nexus Test Labs Pvt. Ltd. #29, Second Floor, 3rd Main,	(i) Mr. Vijaya Simha Reddy P.R (ii) Mrs. K. Krishnaveni	15th November, 2018 to

11. The above document clarifies that M/s Envirotech East Pvt. Ltd., is duly notified to carried out tests and issue the Certificate.

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Indian Customs EDI System - Imports V1.5R001
15/1 STRAND ROAD, CUSTOM HOUSE, KOLKATA - 700001
BILL OF ENTRY FOR HOME CONSUMPTION

[Custom Stn: INCCU1] CHA : AADFP3680JCH001 [P.G.MODAK & SONS]
BE No/Dt./cc/Typ:8585641/25/08/2020/N/H
Importer Details :0209009349 PAN : AAGCA3970QFT001 AD Code : 0410003
GENERAL AGENCIES (KOLKATA) PRIVATE LIMITED
0 :24, NETAJI SUBHAS ROAD, 1ST FLOOR,
,ROOM NO. 15 & 16
KOLKATA,WEST BENGAL
700001 Payment Method : Transaction

IGM No : 0/
Cntry Of Orgn.: CHINA
BL No : OOLU4108487180
Date : 13/08/2020
No. Of Pkgs. : 224 CTN
Marks:N/M
& Nos

Port Of Loading :Shanghai
Cntry Of Consgn.:
H/BL No :
Date :
Gross Wt. : 11028.000 KGS

Inv No & Dt. : 2020SLTR-IN086-0 10/08/2020
YANCHENG SLONG MACHINERY & ELECTRIC CO., LTD 6 YOUYI ROAD, CHANGZHOU HI-TECH INDUSTRIAL PARK, DAFENG, JIANGSU, CHINA, -0
Inv Val : 25895.00 USD TOI: CIF
Freight : 0.00
Insurance : 0.00
SVB Load(Ass) :
SVB Load(Dty) :
Misc. Charges: 0.00
Cust. House:
HSS Load Rate: 0.00% Amount: 0.00
0.00
Discount Rate: 0.00 Discount Amount: 0.00
EDD : 0.00
XBE Duty FG Int.: 0.00
Third Party:

BuyerSeller Reltd : No
Item Details
Exchange rate: 1.00 USD = 75.9000 INR

Slno / Qty / Unit	RITC	Description / Unit Price / Ass Val	CTH / CETH	C.Notn C.NSNO / E.Notn E.NSNO	RSP / Cus Dty Rt / Exc Dty Rt	Load PROV / BCD amt(Rs) / CVD amt(Rs)
1	85023990	KEROSENE GENERATOR (MODEL - SV3800EK) 2.8 KW/3.0 KW (EMISSION CERTIFICATE NO - 2020-21/EEPL/MON/1777 DT - 22/06/2020				
223.00 SET		115.000000	85023990	050/2017 487	7.50 %	145984.20
		1946455.50	NOEXCISE		0.00 %	0.00
		Educational Cess on CVDs :			0.00 %	0.00
		Sec & Higher Edu. Cess on CVD :			0.00 %	0.00
		Customs Educational Cess :			0.00 %	0.00
		Customs Sec & Higher Edu. Cess :			0.00 %	0.00
		Social Welfare Surcharge:			10.00 %	14598.40
		IGST		001/2017 III308B	18.00 %	379266.91
		GST Cess		001/2017 56	0.00 %	0.00

This is an advance Customs Clearance document. The actual duty leviable may change with variations in statutory rates of duty/exchange rate. Re-assessment can also be made by the Customs Department under section 17 of the Customs Act 1962 any time before clearance.
[NIC]
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12. The extract of the above Bill of Entry show the appellant has filed Emission Certificate No.2020021/EEPL/Mon/1777 dt 22.6.2020 at the time offering the imported consignment for inspection / Bill of Entry clearance.

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MINISTRY OF ENVIRONMENT

NOTIFICATION

New Delhi, the 7th August, 2013

G.S.R. 535(E).— In exercise of the powers conferred by sections 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules further to amend the Environment (Protection) Rules, 1986, namely:-

1. (1) These rules may be called the Environment (Protection) (Second Amendment) Rules, 2013.
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Environment (Protection) Rules, 1986, in Schedule I,-

   (a) for serial number 88, relating to "Emission standards for New Generator Sets (Upto 19 kilowatt) Run on Petrol and Kerosene with Implementation Schedule" and entries relating thereto, the following serial number and entries shall be substituted, namely,-

   "88 Generator Sets Run on Petrol and Kerosene

A. Emission Standards- The emission standards for Generator sets on Petrol and Kerosene shall be as follows:-

Class	Displacement (CC)	CO (g/kW-hr)	$HC+NO_x$ (g/kW-hr)
1	Upto 99	≤ 250	≤ 12
2	99 and upto 225	≤ 250	≤10
3	>225	≤ 250	≤8

(i) Test method shall be as specified in SAE J 1088 and the measurement mode shall be D1-3 mode cycle specified under ISO 8178: Part 4 (Weighting Factor of 0.3 for 100 percent load, 0.5 for 75 percent load and 0.2 for 50 percent load);

(ii) Any of the following institutions shall test and certify emission standards for the petrol and kerosene based generator sets, at manufacturing stage, namely: -

(a) The Automotive Research Association of India, Pune (Maharashtra);
(b) The International Centre for Automotive Technology, Manesar (Haryana);
(c) The Indian Oil Corporation, Research and Development Centre, Faridabad (Haryana);
(d) The Indian Institute of Petroleum, Dehradun (Uttarakhand); and

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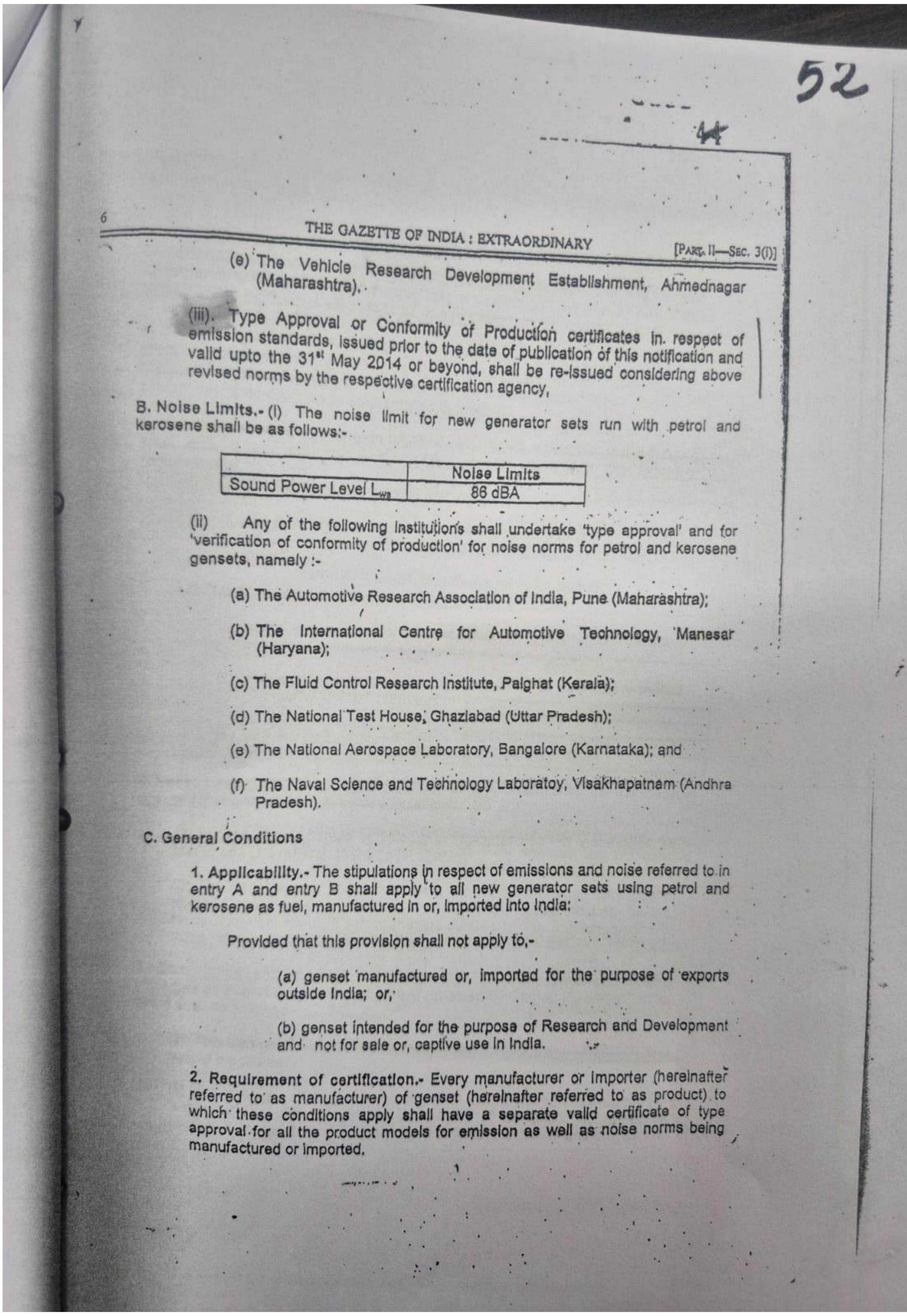

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(e) The Vehicle Research Development Establishment, Ahmednagar (Maharashtra).

(iii). Type Approval or Conformity of Production certificates in respect of emission standards, issued prior to the date of publication of this notification and valid upto the 31st May 2014 or beyond, shall be re-issued considering above revised norms by the respective certification agency.

B. Noise Limits.- (i) The noise limit for new generator sets run with petrol and kerosene shall be as follows:-

	Noise Limits
Sound Power Level L_{wa}	86 dBA

(ii) Any of the following institutions shall undertake 'type approval' and for 'verification of conformity of production' for noise norms for petrol and kerosene gensets, namely :-

(a) The Automotive Research Association of India, Pune (Maharashtra);

(b) The International Centre for Automotive Technology, Manesar (Haryana);

(c) The Fluid Control Research Institute, Palghat (Kerala);

(d) The National Test House, Ghaziabad (Uttar Pradesh);

(e) The National Aerospace Laboratory, Bangalore (Karnataka); and

(f) The Naval Science and Technology Laboratoy, Visakhapatnam (Andhra Pradesh).

C. General Conditions

1. Applicability.- The stipulations in respect of emissions and noise referred to in entry A and entry B shall apply to all new generator sets using petrol and kerosene as fuel, manufactured in or, imported into India:

Provided that this provision shall not apply to,-

(a) genset manufactured or, imported for the purpose of exports outside India; or,

(b) genset intended for the purpose of Research and Development and not for sale or, captive use in India.

2. Requirement of certification.- Every manufacturer or importer (hereinafter referred to as manufacturer) of genset (hereinafter referred to as product) to which these conditions apply shall have a separate valid certificate of type approval for all the product models for emission as well as noise norms being manufactured or imported.

13. The above documents forming part of Notification No.GSR 535(E) dated 7th August 2013, specifies the technical details which should be tested

and certified. It is also seen that the Notification specifies that 'Type Approval' Certificate should be issued. The maximum Noise Level has been specified as 86 dBA

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No. CUS/SIIB/INT/255/2022-SIIB-O/O PR COMMR-CUS-PORT-KOLKATA (Computer No. 424157)
/2022/SIIB-O/o Pr Commr-Cus-Port-Kolkata

Envirotech East Pvt. Limited
An ISO 9001:2015, ISO 14001:2015 & ISO 45001:2018 Certified Company
• Laboratory Recognised by MoEF&CC, Govt. of India

Envirotech

100, Kalikapur, Madurdaha, Kolkata – 700 107, West Bengal, India
☎ – +91 33 2443 8127/8128 | Fax – +91 33 2443 8128 | eeplkol@gmail.com, eeplkol2@gmail.com
CIN NO: U74210WB1989PTC047403

No. 2020-21/EEPL/MON/1777

22.06.2020

SAMPLE DETAILS

Name of Importer:	M/s. GENERAL AGENCIES (KOLKATA) PVT. LTD.
Address:	24, N.S Road, 1st Floor, Kolkata – 700 001
Date of Sampling:	18.06.2020
Sampling Point:	Exhaust of the Kerosene & Gasoline Generator Set
Description of Item :	Manufacturer : Yancheng Siong Machinery & Electric Co. Ltd. Model SV 3800EK, Brand – Super Vidhyut Shakti

ANALYSIS REPORT

Sl. No.	Parameter	Unit	Concentration (as per our sample drawing)
1.	CO	g/kWh	2.89
2.	NOx	g/kWh	3.23
3.	HC	g/kWh	2.41
4.	PM	g/kWh	0.36

OVERALL FINDINGS

Analysis of Sample drawn by us from the exhaust of SUPER VIDHYUT SHAKTI Brand Kerosene & Gasoline Generator Set Model No. SV 3800EK, 2.8 KW revealed that the emission characteristics in terms of CO, HC, NOx & PM are well within the stipulations of Bharat Stage-IV

ENVIROTECH EAST PVT. LTD. 100, Kalikapur, Madurdaha, Kolkata 700107.

For ENVIROTECH EAST PVT. LTD.

22/6/2020

(Authorized Signatory)

Contents of this report are meant for your guidance and should not be used for Advertisement, Evidence or Litigation

Ankit Nawalgaria

Scanned with CamScanner

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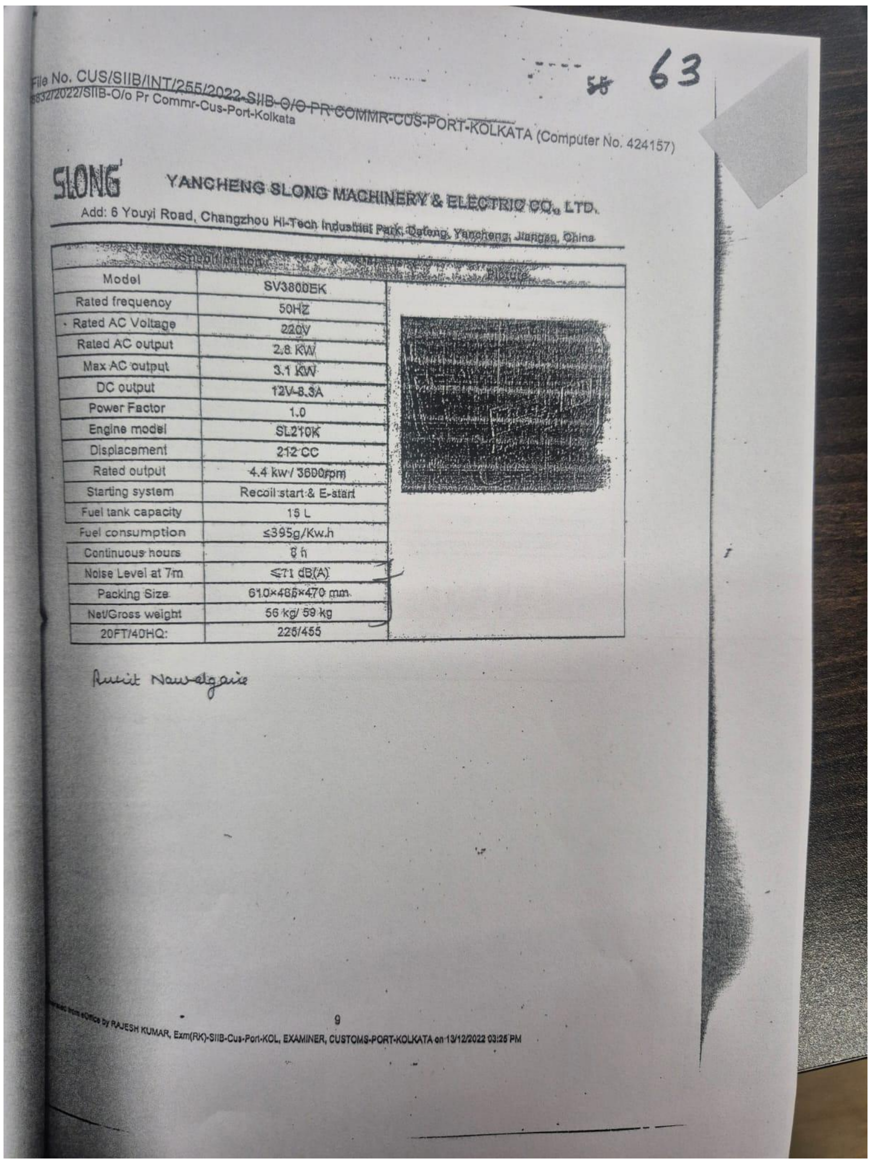
ed from eOffice by RAJESH KUMAR, Exm(RK)-SIIB-Cus-Port-KOL, EXAMINER, CUSTOMS-PORT-KOLKATA on 13/12/2022 03:25 PM

14. This is the certificate issued by duly authorized agency Envirotech. Admittedly, this Certificate was enclosed along with the Bills of Entry and submitted to Customs officials along with other documents. After more than 2 years from the date of clearance of the first consignment and after more than 1 year 3 months from the date of clearance of the second consignment, the SCN has been issued. The only ground taken in the SCN is about non-providing of the Certificate in 'Type Approval' form. Admittedly, the Certificate has been issued by the authorized agency Envirotech. After the Certificate issue was issued and presented before the Customs Officials, no objection was raised about the same not being in the nature of 'Type Approval'. The Notification dated 7th August 2013, was very much within the knowledge of the Customs Officials. But still no objection was raised. Even if for a moment it is taken that this has resulted in allowing a polluting Genset to be cleared out of the Customs area, we do not see as how this act of issuing the SCN could prevent the pollution, when the goods have been sold long back in the market. This is a classic case of the Revenue failing to prevent the clearance even after going through the Certificate. The appellant would have entertained Bonafide belief that when the Certificate is issued by an Authorize agency like Envirotech, they would have followed all the norms required under the Notification.



File No. CUS/SIIB/INT/255/2022-SIIB-O/O PR COMMR-CUS-PORT-KOLKATA (Computer No. 424157)
8832/2022/SIIB-O/o Pr Commr-Cus-Port-Kolkata

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SLONG YANCHENG SLONG MACHINERY & ELECTRIC CO., LTD.
Add: 6 Youyi Road, Changzhou Hi-Tech Industrial Park, Dafeng, Yancheng, Jiangsu, China

Specification		Picture
Model	SV3800EK	
Rated frequency	50HZ	
Rated AC Voltage	220V	
Rated AC output	2.8 KW	
Max AC output	3.1 KW	
DC output	12V-8.3A	
Power Factor	1.0	
Engine model	SL210K	
Displacement	212 CC	
Rated output	4.4 kw / 3600rpm	
Starting system	Recoil start & E-start	
Fuel tank capacity	15 L	
Fuel consumption	≤395g/Kw.h	
Continuous hours	8 h	
Noise Level at 7m	≤71 dB(A)	
Packing Size	610×485×470 mm	
Net/Gross weight	56 kg/ 59 kg	
20FT/40HQ:	225/455	

Amit Nawalgaria

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15. This is the Technical Specification of the Genset given by the manufacturer.

16. Revenue had access to all these documents. Only after verifying the Certificates issued by Envirotech, and other documents presented by the appellant, the goods were released for home consumption by the Customs Authorities.

17. At the time of hearing, the Ld. A R submits that one important test which has not been carried out by Envirotech towards the dBA. However, when we go through the product specification given by the

Manufacturer [reproduced above], the maximum permitted dBA by the manufacturer is less than or equal to 71 dBA, which is much less than the Noise level of 86 dBA mentioned in the Notification.

18. Considering the factual details discussed above, we do not find that any attempt was made by the appellant to suppress or conceal any facts. They have acted in a Bonafide way.

19. Section 112(a) and 114AA read as under:

> **112. Penalty for improper importation of goods, etc.**
>
> (a) Any person, 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,
>
> **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.

20. As per our discussions in the earlier paragraphs, the appellant has acted with Bonafide intention, submitting all the documents, Emissions Certificate issued by a duly authorized agency at the time of imports. The error of non-detection of the Type Approval certificate at the time of the import is on

the part of the Revenue, rather than it being any act of concealment on the part of the appellant. Therefore, we hold no case has been made out against the appellant to impose penalties under Section 112(a) and Section 114AA

21. Accordingly, we set aside the penalties imposed on the appellant.

22. The appeal stands allowed. The appellant would be eligible for consequential relief, if any as per law.

(Pronounced in open court on _19.06.2026_)

(R.MURALIDHAR)
MEMBER (JUDICIAL)

(**RAJEEV TANDON**)
MEMBER (TECHNICAL)

RG