



प्रधान सीमाशुल्क आयुक्त (आयात) का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT)
हवाई माल परिसर, सहार, अंधेरी (पूर्व), मुंबई - ४०००९९
AIR CARGO COMPLEX, SAHAR ANDHERI (EAST) MUMBAI -99
फोन नं. २६८२८९४७, फैक्स नं. २६८२८१८७
PHONE NO. 2682 8947/8149, FAX NO. 26828187

F. No. GEN/ADJ/COMM/295/2025-Adjn
DIN No. : 202603790A00000BD15

Date of Order : 27.03.2026
Date of Issue : 27.03.2026

Party's Name : M/s Cisco Commerce India Pvt. Ltd. (IEC No. 0711019673)
(SCN No.73/2025-26 dated 15.05.2025)

Passed by : Shri Manish Chandra,
Principal Commissioner of Customs (Import), ACC, Mumbai Zone-III

CAO NO : CC-MC/88/2025-26 Adj (I) ACC

मूल आदेश /ORDER-IN-ORIGINAL

1. 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.
 2. 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.
 3. 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.
 - अ) 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.
 - आ) 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.
 - इ) 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.
4. 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.
 5. 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.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

BRIEF FACTS OF THE CASE:

M/s. Cisco Commerce India Private Limited (IEC No. 0711019673) (hereinafter referred to as “Importer/Noticee”) having address at SEZ, Cessna Business Park, Sarjapur Marathalli Ring Road, Bangalore - 560103 had filed Bills of Entry as detailed in Annexure-A and Annexure-B to the Show Cause Notice No. 73/2025-26 dated 15.05.2025 (hereinafter referred as “SCN/Notice”), for import of goods i.e. Network Switches, namely “Ethernet Switches of various categories” (hereinafter referred to as “the subject goods”). The goods were classified under Customs Tariff Item (CTI) 85176290 and imported by availing benefits of concessional rate of Basic Customs Duty (BCD) under Serial No. 20 of Notification No. 57/2017- Customs dated 30.06.2017, as amended, at the Air Cargo Complex, Sahar, Andheri (East), Mumbai-400099. The total declared assessable value of the subject goods imported during the period August, 2020 to January, 2025 amounts to **Rs.4469,01,27,440/- (Rupees Four Thousand Four Hundred Sixty-Nine Crores One Lakh Twenty-Seven Thousand Four Hundred Forty only).**

1.2 Intelligence gathered by the officers of the Directorate of Revenue Intelligence, Pune Regional Unit of Mumbai Zonal Unit, indicated that the importer M/s. Cisco Commerce India Pvt. Ltd. has imported Network Switches, namely, “Ethernet Switches of various categories” under CTI 85176290 and availed the benefits of Sr. No. 20 of the Notification No. 57/2017-Customs dated 30.06.2017 (as amended) by declaring them as “Non-Carrier Ethernet Switches”. As per open-source data / information the subject goods are either Carrier Ethernet Switches including Multiprotocol Label Switching (MPLS) products or Packet Transport Node (PTN) products and excluded from Serial No. 20 of the Notification No. 57/2017-Customs dated 30.06.2017. Further, as per clarifications issued by CBIC vide Circular No. 08/2023 dated 13.03.2023, ‘IP-MPLS based equipment and PTN Products’ falls under the category of Carrier-grade Ethernet Switches are not eligible for notification benefits, and goods are liable to pay BCD at 20%.

1.3 Sr. No. 20 of Notification No.57/2017-Customs dated 30.06.2017 as amended, is as mentioned below: -

Sr. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate (Basic Customs Duty)	Condition No.
“20	8517 6290 or 8517 6990	All goods other than: - (a) Wrist wearable devices (commonly known as smart watches); (b) Optical transport equipment;	10%	-

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)

SCN No. 73/2025-26 dated 15.05.2025

M/s. Cisco Commerce India Pvt. Ltd.

		(c) Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS); (d) Optical Transport Network (OTN) products; (e) IP Radios; (f) Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers; (g) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS-TP) products; (h) Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) products;		
--	--	--	--	--

1.4 Further, for better understanding and more effective identification of products and equipment covered under Sr. No. 20 of Notification No. 57/2017- Customs dated 30.06.2017, amended by Notification No. 02/2019- Customs dated 29.01.2019, CBIC in consultation with the Department of Telecommunications (DoT) vide Circular No. 08/2023 dated 13.03.2023 issued technology related descriptions, specifically those at (b) to (h), amongst (a) to (h), in the Notification No. 57/2017- Customs dated 30.06.2017, to make stakeholders more aware in the matter. It should be noted that Circular No. 08/2023 dated 13.03.2023 is not amending the Notification No. 57/2017 dated 30.06.2017, it is only providing a better understanding of the technical specifications and more effective identification of products and equipment which are excluded from benefits of Sr. No. 20 of Notification No. 57/2017- Customs dated 30.06.2017. The same is reproduced below for reference:

(Annexure-I of the CBIC Circular No. 08/2023 dated 13.03.2023)

NOTIFICATION ITEM	NOTIFICATION DESCRIPTION	IDENTIFICATION OF PRODUCTS/EQUIPMENT COVERED
(b) and (d)	Optical transport equipment and Optical Transport Network products	Machines and apparatus covered include- i. OTN equipment; ii. Dense Wavelength Division Multiplexer (DWDM); iii. Coarse Wavelength Division Multiplexer (CWDM); iv. Elements of (i), (ii) or (iii) above: ROADMs, Booster Amplifiers, Pre-Amplifiers, Inline Amplifiers, Raman Amplifiers, Mux-demux, Transponders, Mux-ponders, OADM and Regenerators, Optical Power Monitoring and Optical Line Protection equipment.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

(c)	Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS)	The Machines /apparatus covered under this category include- i. Optical Line Terminal (OLT) for FTTX (GPON/ EPON/ XGSPON/10 GEAPON/ NG-PON 2/25 GPON/ 50 GPON etc.); ii. Optical Network Terminal (ONT) for FTTX (GPON/ EPON/ XGS PON/10 GEAPON/NG- PON 2/ 25 GPON/50 GPON etc.).
(e)	Internet Protocol (IP) Radios	The Machines /apparatus covered under this category include- i. Wi-Fi Access Point Equipment and Wi-Fi Controller; ii. Repeaters (RF/RF-over-Optical) & In-Building Solution (IBS)- Indoor/Outdoor including active and passive Accessories (2G/3G/ 4G/5G and onwards); iii. Wireless Radio Link-(IP/Hybrid) equipment.
(f)	Soft switches and Voice over Internet Protocol (VoIP)equipment, namely, VoIP phones, Media gateways, Gateway controllers and Session border controllers	Card/module or sub-systems converting analog voice signal into digital packets that are carried over internet protocol use one or more of these products. Some examples are- i. Internet Protocol Private Branch Exchange (IPPBX); ii. IP Multimedia Systems (IMS); iii. Unified communication systems (UCS).
(g)	Carrier Ethernet Switches, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS-TP) products	The Machines /apparatus covered under this category include- i. IP-MPLS Based equipment; ii. MPLS-TP based equipment; iii. SDN Based MPLS equipment; iv. PTN products for Carrier Ethernet Network (CEN) for Access and Aggregation Network Applications
(h)	Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) products	The Machines/apparatus covered under these categories include- i. 4G(LTE)products and their Elements, namely- e Node B, RRH, CU, DU, RU, BBU, EPC, MME, SGW, PGW, HSS, IMS, Network in a Box (NIB),4GCPE, etc.; ii. 5G products and its Elements, namely-g Node B, RRH, CU, DU, RU, BBU, 5GC, IMS, Network in a Box (NIB), 5G CPE, etc.; iii. 4G and 5G enabled NBIoT devices; iv. Equipment incorporating technologies beyond 5G.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

1.5 Accordingly, as per Annexure-I of the CBIC Circular No.08/2023 dated 13.03.2023, it is clarified that Entry (g) of Sr No. 20 of Notification No.57/2017-Customs dated 30.06 2017 includes 'IP-MPLS Based equipment, MPLS-TP based equipment, SDN Based MPLS equipment, and PTN products for Carrier Ethernet Network (CEN) for Access and Aggregation Network Applications'. Therefore, these goods are not eligible for the benefit in terms of Sr. No.20 of Notification No.57/2017-Customs dated 30.06.2017, and standard rate of BCD at 20% is applicable.

1.6 As per the subject SCN, during investigation, after analysis of the product data sheets of Cisco's Catalyst and Nexus series of Switches, it was revealed that these Switches support advance features/Carrier class features like MPLS, MPLS L3 VPN, EoMPLS, traffic engineering, precision timing, virtual extensible LAN, multi-tenancy, performance/network management etc. and are designed to meet the requirements of modern service provider networks, offering high availability, Quality of Service (QoS), reliability and security. They provide a control plane alternative for increased network scalability and virtualization by using multicast and multipoint topology. The Cisco Switches support the NX-OS operating system. NX-OS software, is a purpose-built operating system designed for performance, resiliency, scalability, and programmability at its foundation. It provides a robust and comprehensive feature set that meets the demanding requirements of virtualization and automation in present and future data communication networks. Further, as per the clarifications issued by CBIC vide Circular No. 08/2023 dated 13.03.2023, it is clarified that "IP-MPLS/PTN based equipment" falls under the category of Carrier-grade Ethernet Switches and is not eligible for the benefit of concessional rate of duty under Serial No. 20 of Notification No. 57/2017-Customs dated 30.06.2017, as amended.

1.7.1 Officers of Directorate of Revenue Intelligence, Pune Regional Unit conducted searches at the places (Bangalore, Bandra East and Bhiwandi) of the importer on 18.05.2023. During search conducted at warehouse premises at Bhiwandi some samples of Switches were resumed under Panchnama dated 18.05.2023 for further investigation and testing purpose, the subject goods being highly technical in nature. Drawn samples of Switches namely - C9300-48P-4X-E, C9500-48Y4C-A, N9KC93180YC-FX3 & C9200L-48PXG-4X-A were forwarded on 27.06.2023 for testing to M/s. Sunren Telecom Laboratory, Mumbai, by Telecommunication Engineering Centre (TEC) which is the nodal agency for the testing related work of telecommunication equipments, working under the Department of Telecommunication (DoT). The Laboratory test reports revealed that these Switches support all the Carrier grade features like MPLS-TP, IP-MPLS, Traffic Engineering, OAM (Operations, Administration & Management) functions, Precision Timing as IEEE standards, E-Line & E-LAN services, Ethernet OAM, & CFM and stated that

these Switches are Carrier Class Ethernet Switches and can be deployed as Carrier class Switch to provide Carrier Ethernet services. Reports given are as under for references:

330

Report No : STL-2307-ETH-1855 Page 5 of 16

SUNREN TELECOM LABORATORY


 TC-7995

Summary of Test Results

Report No : STL-2307-ETH-1855	Date of Issue: 24-07-2023
Title: Test report of LAN Switch	

Nomenclature	EUT Description
Make/Manufacturer	LAN Switch Cisco Systems, Inc. 170 ,West Tasman Drive , San Jose, California 95134-1706 USA
Model No. (s)	C9300-48P-4X-E
Serial No.(s) of product(s) tested	FOC2631Y2HT

Hardware / Software version(s)
NIL

No.	Test Parameter Name	Remarks	Observations	Results
01	Verification of carrier class features			
	1. MPLS-TP	Ok	Ok	EUT supports carrier class features
	2. IP-MPLS	Ok	Ok	
	3. OAM Functions	Ok	Ok	
	4. Traffic Engineering	Ok	Ok	
	5. Precision Timing	Ok	Ok	
	6. E-line and E-LAN	Ok	Ok	
	7. Ethernet OAM and Ethernet CFM functions	Ok	Ok	

EUT is a carrier class ethernet switch and can be deployed as carrier class switch to provide carrier ethernet services.

Report Verified By	Authorized by
 Name: NILESH RAUT Designation : Technical Manager	 Authorised Signatory Name: Sunil Shenoy Designation : CEO

Note : The Test Results presented in this report, pertain to the sample(s) tested.

5

345

Report No : STL-2307-ETH-1856

Page 5 of 15

SUNREN TELECOM LABORATORY



TC-7995

Summary of Test Results

Report No : STL-2307-ETH-1856	Date of Issue: 24-07-2023
Title: Test report of LAN Switch	

EUT Description	
Nomenclature	LAN Switch
Make/Manufacturer	Cisco Systems, Inc. 170 ,West Tasman Drive , San Jose, California 95134-1706 USA
Model No. (s)	C9500-48Y4C-A
Serial No.(s) of product(s) tested	FDO27130KU7

Hardware / Software version(s)
NIL

No.	Test Parameter Name	Remarks	Observations	Results
01	Verification of carrier class features			
	1. MPLS-TP	Ok	Ok	EUT supports carrier class features
	2. IP-MPLS	Ok	Ok	
	3. OAM Functions	Ok	Ok	
	4. Traffic Engineering	Ok	Ok	
	5. Precision Timing	Ok	Ok	
	6. E-line and E-LAN	Ok	Ok	
	7. Ethernet OAM and Ethernet CFM functions	Ok	Ok	

EUT is a carrier class ethernet switch and can be deployed as carrier class switch to provide carrier ethernet services.

Report Verified By	Authorized by
 Name: NILESH RAUT Designation : Technical Manager	 Authorised Signatory Name: Sunil Shenoy Designation : CEO

Note : The Test Results presented in this report, pertain to the sample(s) tested.

314

Report No: STL-2307-ETH-1857

Page 5 of 13

SUNREN TELECOM LABORATORY



TC-7995

Summary of Test Results

Report No : STL-2307-ETH-1857	Date of Issue: 24-07-2023
Title: Test report of LAN Switch	

EUT Description	
Nomenclature	LAN Switch
Make/Manufacturer	Cisco Systems, Inc. 170 ,West Tasman Drive , San Jose, California 95134-1706 USA
Model No. (s)	N9K-C93180YC-FX3 V06
Serial No.(s) of product(s) tested	FDO27132C7U

Hardware / Software version(s)
NIL

No.	Test Parameter Name	Remarks	Observations	Results
01	Verification of carrier class features			
	1. MPLS-TP	Ok	Ok	EUT supports carrier class features
	2. IP-MPLS	Ok	Ok	
	3. OAM Functions	Ok	Ok	
	4. Traffic Engineering	Ok	Ok	
	5. Precision Timing	Ok	Ok	
	6. E-line / E-LAN	Ok	Ok	

EUT is a carrier class ethernet switch and can be deployed as carrier class switch to provide carrier ethernet services.

Report Verified By	Authorized by
<i>N. S. Raute</i> Name: NILESH RAUT Designation : Technical Manager	<i>Sunil Shenoy</i> Authorised Signatory Name: Sunil Shenoy Designation : CEO

Note : The Test Results presented in this report, pertain to the sample(s) tested.

1.7.2 The officers of the Directorate of Revenue Intelligence (DRI) scheduled a meeting with the Importer on 26.07.2023 to discuss the outcome of the Laboratory reports and address various technical and legal aspects. However, the Importer's representatives did not fully concur with the facts presented or the test results. Subsequently, DRI asked on 28.07.2023 to the concerned Port authorities, advising that the Ethernet Switches imported by M/s. Cisco Commerce India Pvt. Ltd. may be finally assessed under CTI 85176290,

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

without the benefit of any applicable notifications. In case the importer does not agree with this assessment, the goods may be provisionally assessed under Section 18 of the Customs Act, 1962, till the finalisation of the issue.

1.8 Details of Statements recorded under Section 108 of the Customs Act, 1962 are as below:

- (i) **Shri Amit Gurkha, Director Software Testing dated 18.05.2023:**
During statement he said that he looking after the work related to Nexus 9200, 9300 and 9500 Series Switches. Further, he stated that multiple servers are connected through these Switches and provide connectivity and enable the transfer of data. These Switches are fiber optics enabled with QSFP ports having optical interfaces and can be used in the optical networks. These Switches work on IPv4 technology and Packet Transport technology (PTN). These Switches support forwarding of MPLS (Multiprotocol Label Switching) data packets, as mentioned in Cisco product data sheet available on website. Further, he stated that these Switches supports advance features like traffic engineering, multi-dwelling, virtualization, performance management, precision timing and network monitoring in a network.
- (ii) **Shri Kumaril Kapoor, Director Software Testing dated 19.05.2023:** During statement he said that he is looking after the work related to Catalyst 9200, 9300, 9400, 9500 and 9600 Series Switches. Further, he stated that C9300 and C9500 series support MPLS feature. These Switches are supplied to ITES providers such as Infosys, Wipro, Banks, etc. These Switches work on IP based Packet Transport technology (PTN) and Switches like C9300 and C9500 support forwarding of MPLS data packets. He also stated that these Switches support advance features like traffic engineering, multi-dwelling, virtualization, performance management, precision timing and network monitoring in a network.
- (iii) **Ms. Parul Vivek, Senior Manager Global Tax and Customs, dated 19.05.2023:** During statement she said that she has been handling work related to import compliance at M/s. Cisco since 2016. They imported mainly Nexus 9200, Nexus 9300, Nexus 9500, Catalyst 9200, Catalyst 9300, Catalyst 9400, Catalyst 9500, WS 3850 and Meraki Series Switches. Regarding notification benefits she stated that in Notification No. 57/2017-Customs dated 30.06.2017 (Sr. No. 20) Carrier Ethernet Switches are specifically excluded from the duty benefits and, Non-Carrier Ethernet Switches are not mentioned as an exclusion. Hence, they started mentioning additional description in the commercial invoice to be able to differentiate and to avail the benefits of the said notification. This decision with regard to

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

availment of duty exemption has been taken by their team based on the technical details provided by the technical team.

- (iv) **Shri Amit Ghadage, Customs Analyst, dated 08.08.2023**: During statement he said that he looks after import compliances like query replies, to attend personal hearing before Customs Authorities and before any decision he consulted with his team including his boss Ms. Parul Vivek. Further, he stated that as per facts/documents/Lab reports, subject Cisco Switches support Carrier grade features and have capabilities to function as Carrier Switch.
- (v) **Shri Kumaril Kapoor, Director Software Testing dated 27.09.2023**: During statement he said that the following are differences between Carrier and Non-Carrier Switches:

Feature	Carrier Switches	Non-Carrier Switches
MPLS-TP	Supported	Not Supported
IP-MPLS	Supported	Limited Supported
Traffic Engineering	Supported	Not Supported, or limited Supported
OAM functions	Supported	Not Supported, or limited Supported
MEF Certification	Certified	Not Certified
Ethernet Standardized Services	Supported	Not Supported
Precision Timing	Supported (IEEE 1588)	Limited Supported

He was asked about the standard or protocol adopted to determine a Carrier Class Switch vis-à-vis Non-Carrier Switch. He said that they did not refer to any standards or protocols or documents to determine a Carrier class Switch. However, this difference is based on MEF certification requirements. Further, he also stated that M/s. Cisco Commerce India Pvt. Ltd did not seek MEF certification, as per his knowledge and many features like MPLS-TP and Connectivity Fault Management (CFM) were not supported on Catalyst series of Switches and, hence, these Switches would have failed the certification. Further, he stated that as per Product Data Sheet of Catalyst 9400 and Catalyst 9600, these Switches support features such as MPLS, Traffic Engineering, IEEE 1588 Precision Timing, Virtual Extensible LAN (VXLAN), BGP EVPN VXLAN Protocols, Link Aggregation Control Protocol (LACP), Ethernet over MPLS (EoMPLS), MPLS L3 VPN. Further, he also stated that Catalyst 9400 & Catalyst 9600 Series Switches are similar to Catalyst 9300 & 9500 Switches and have similar specifications/capabilities. As per Lab test report of Cisco Catalyst Switches like C9300-48P-4X-E & C9500-48Y4C-A, these Switches support Carrier Class features such as MPLS-TP, IP-MPLS, Traffic engineering, E-Line/E-LAN services, OAM functions, Precision

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

Timing as per IEEE 1588, Ethernet OAM & Ethernet Connectivity Fault Management (CFM) and are Carrier grade Switches. In this regard, he stated that Catalyst Switches can be termed as Carrier grade only if all the above mentioned features are supported. Since MPLS-TP and CFM features may not be supported by the Catalyst Switches, then these may not be termed as Carrier grade.

(vi) **Shri Amit Gurkha, Director Software Testing dated 11.01.2024:**

During statement he confirmed the above-mentioned differences between Carrier and non-Carrier Switches and stated that they did not refer to any standards or protocol or documents to determine a Carrier /non-Carrier class Switches and the above-mentioned features are industry-based standards. He stated that all the Cisco Nexus series Switches support the following features i.e. MPLS-TP, IP-MPLS, OAM functions, Traffic Engineering, Precision Timing, E-Line/E-LAN services and the same was confirmed in test report issued for Cisco Nexus Series Switches – N9K-C93180YC-FX3 V06 by the M/s. Sunren Telecom Laboratory, TEC approved Lab, and he agrees with the contents of the test report. Further, he stated that license upgradation enables some additional advance and specific features in the Switches.

(vii) **Ms. Parul Vivek, Senior Manager Global Tax and Customs, dated 29.02.2024:**

During statement she said that they supply Catalyst Series, Nexus Series, Meraki Series, etc. of Cisco Switches, they supply to Tata, Reliance, Bharati, BSNL, IDEA, etc. are the Internet Service Providers (ISPs) or Telecom Service Providers (TSPs). She was also shown the test reports of the Cisco Switches. In this regard she stated that she would rely on the responses of their technical persons namely Mr. Kumaril Kapoor and Mr. Amit Gurkha recorded in earlier statements, as she is not the technical person. Regarding differences between Carrier and non-Carrier Switches, she stated that they did not refer to any standards or protocol or documents.

Further, she stated that based on test reports, data sheets, submissions made by them and statements recorded by their technical persons namely Mr. Kumaril Kapoor and Mr. Amit Gurkha, Carrier grade Switches supports the following features – MPLS-TP, IP-MPLS, Traffic engineering, E-Line/E-LAN/E-TREE services, OAM functions, Precision Timing as per IEEE 1588, Ethernet OAM & Ethernet Connectivity Fault Management (CFM) features, and their imported Catalyst Switches, Nexus Switches and Meraki Series Switches supported all features and all evidences are pointing towards the Carrier Grade Switches. Further, whenever, the queries were raised by the Customs authorities, they have discussed with their technical team and they were of the understanding that their

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

Switches do not support major Carrier class features to that extent and, hence, they have declared them as 'Non-Carrier Switches' and accordingly availed the benefits of the concessional rate of duty under Notification No. 57/2017-Customs dated 30.06.2017, as amended.

1.9 The product data sheets of various imported Catalyst and Nexus series Switches were downloaded from Cisco's website and were examined by the officers of DRI, Pune in terms of technical aspects and it was revealed that these imported switches of Cisco supports advance features/Carrier Class features such as QoS, MPLS, MPLS L3 VPN, EoMPLS, traffic engineering, precision timing, VPLS (Virtual Private LAN Services), VXLAN which provides multi-tenancy, performance management, etc. and are designed to meet the requirements of modern service provider networks, offering high availability, scalability and security.

(Data Sheet weblinks of the imported Cisco Switches)

Nexus 9200 (N9K)	https://www.cisco.com/c/en/us/products/collateral/switches/nexus-9000-series-switches/datasheet-c78-735989.html
Nexus 9300 (N9K)	https://www.cisco.com/c/en/us/products/collateral/switches/nexus-9000-series-switches/datasheet-c78-743149.html
Nexus 9500 (N9K)	https://www.cisco.com/c/en/us/products/collateral/switches/nexus-9000-series-switches/datasheet-c78-729404.html
Catalyst 9200	https://www.cisco.com/c/en/us/products/collateral/switches/catalyst-9200-series-switches/nb-06-cat9200-ser-data-sheet-cte-en.html
Catalyst 9300	https://www.cisco.com/c/en/us/products/collateral/switches/catalyst-9300-series-switches/nb-06-cat9300-ser-data-sheet-cte-en.html
Catalyst 9400	https://www.cisco.com/c/en/us/products/collateral/switches/catalyst-9400-series-switches/nb-06-cat9400-ser-data-sheet-cte-en.html
Catalyst 9500	https://www.cisco.com/c/en/us/products/collateral/switches/catalyst-9500-series-switches/nb-06-cat9500-ser-data-sheet-cte-en.html
Catalyst 9600	https://www.cisco.com/site/us/en/products/collateral/networking/switches/catalyst-9600-series-switches/nb-06-cat9600-series-data-sheet-cte-en.html
Cisco ME 1200	https://www.cisco.com/c/en/us/products/collateral/switches/me-1200-series-carrier-ethernet-access-devices/datasheet-c78-731467.html

From the product data sheets of the above Catalyst and Nexus Series of Switches, it is evident that these Switches support Carrier class features such as MPLS, MPLS L3 VPN, EoMPLS, EVPN, Traffic Engineering, Precision Timing, VXLAN, Multi-tenancy, VPLS (Virtual Private LAN Services), just like Carrier Grade Switches of Cisco i.e. ME 1200 & ME 3800 and can provide standardized services, reliability, scalability, Quality of Service, virtualization to meet the evolving needs of the service providers. Further, when the concerned personnel including technical persons of the company were confronted with these facts during the statements recorded under Section 108 of the Customs Act, 1962, they admitted that MPLS support, traffic engineering, precision timing as per IEEE 1588, multi-tenancy, OAM functions are Carrier class features and these features are not supported in

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

the Non-Carrier Ethernet Switches and stated that Cisco's said Catalyst & Nexus Switches support all these features.

1.10.1 Further, as per Circular No. 08/2023-Customs dated 13.03.2023, it is mandatory for the importer to declare additional declaration in Bill of Entry from 01.04.2023. As per this, the identifier code for IP-MPLS based equipment or Carrier Ethernet Switches is "TEG001". However, the Importer did not mention the said identifier code i.e. TEG001 at the time of filing Bills of Entry for import of these MPLS based Switches. Instead of doing that, they started mentioning others category code i.e. 'MAZ999' (all goods other than those covered in (a to h) of Sl. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017).

1.10.2 The importer vide email dated 02.02.2024 has submitted the list of Switches which are IP-MPLS based equipments. As per the said list, total 9 series of Switches - C9300, C9400, C9500, C9600, C6000, & C3850 of Catalyst Series and N9K (N9200, N9300, N9500), N3K (only 3100 & 3200 series) & N7K of Nexus Series support IP-MPLS functionality and are IP-MPLS based equipments. Hence, from the above, it can be deduced that all the above said Switches are Carrier Ethernet Switches. It was also gathered during the investigation that the said Switches also comply with SDN (Software Defined Networking) and, hence, these Switches also fall in the category of 'SDN based MPLS equipment' of the said Circular.

1.11 The Importer imported Carrier Grade Switches or Metro Ethernet Switches - ME 1200, ME 3400, ME 3600, ME 3800 etc. for their ISP/TSP customers - Tata, Reliance, Bharati, BSNL, IDEA etc., but they had declared end-of-sale for these Carrier class Switches around 2017-18, just before the exclusion of Carrier grade Switches from the duty benefit vide Notification No. 57/2017-Customs dated 30.06.2017, as amended. Further, during the investigation, it was revealed that they are supplying these Catalyst, Nexus and other series of Ethernet Switches to their same ISP/TSP customers, instead of the above said Metro Ethernet Switches. Ms. Parul Vivek, Senior Manager Global Tax & Customs, admitted the above facts during her statement dated 29.02.2024 recorded under Section 108 of the Customs Act, 1962, that the end user/ultimate consignee is an ISP/TSP.

1.12 As per Notification No. 02/2019-Customs dated 29.01.2019 (amending Notification No. 57/2017-Customs dated 30.06.2017) Carrier Ethernet Switches including Multiprotocol Label Switching Transport Profile (MPLS-TP) products were excluded from the benefits of concessional rate of duty under Sr. No. 20 of the said notification and attracts duty as per Tariff. Before, they imported these Ethernet Switches by declaring them as 'Networking Equipments' and after introduction of the said notification the Importer changed/modified the item description and started declaring these Switches

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

as 'Non-Carrier Ethernet Switch' instead of 'Networking Equipment' in all the import documents i.e. Commercial Invoice, Bill of Entry, etc. During statement dated 29.02.2024 they stated that Carrier Ethernet Switches are specifically excluded from the duty benefits, hence, they started mentioning additional description i.e. Non-Carrier Ethernet Switch in the import documents for duty benefits under the said Notification.

1.13 During the investigation of the Ethernet Switches imported by M/s. Cisco Commerce India Pvt Ltd, it was found that these Switches combine hardware and software, support Software-Defined Networking (SDN) with Cisco ACI and run on the NX-OS operating system. They come with two licenses: Network Essential, the basic license required for configuring the switch through Dynamic Network Access Control (DNAC), and Network Advantage, which enables advanced features like Software Defined Access (SDA), traffic monitoring, and automation. As per Test Reports of the said TEC designated Laboratory it is revealed that upgrading from Network Essential to Network Advantage unlocks additional capabilities, such as IP-MPLS and MPLS-TP. Cisco's personnel confirmed that the license upgrade enables these advanced features during statements recorded under Section 108 of the Customs Act, 1962.

1.14 During the investigation, email backups of Ms. Parul Vivek, Senior Manager (Global Tax & Customs), were examined, revealing communications suggesting that the imported Cisco Nexus N9K Switches are not merely non-carrier Ethernet switches and may be used for WAN connectivity and by Internet Service Providers (ISPs). An email dated 14.11.2022 from Shri Ankur Verma (Cloud Networking Sales Specialist -Cisco) indicated that Nexus Switches can be used for WAN connectivity, ISP usage, and WAN segregation or termination. During statement Shri Amit Gurkha, Director (Software), stated that he had never tested these switches for WAN or ISP use and was unaware of such functionality.

Further, email conversations dated 01.12.2022 between Shri Shrirang Rao (Head Commercial & Small Business-Cisco), Shri Prabhakar Venugopal (From Hitachi Team), and Shri Ankur Verma (from Cisco), later forwarded to Mrs. Parul Vivek on 15.02.2023, mentioned that *"All Cisco switches are supposed to attract 20% duty rate when imported into India. Cisco India Customs team has taken special approval for Special duty rate under the category of 'non-carrier ethernet switch'. India Customs office keeps checking/asking for proofs and documents once a year and we do submit the same"*. During statement recorded under Section 108 of the Customs Act, 1962, Ms. Parul Vivek, Senior Manager (Customs & Global Tax), stated that the emails were part of a sales discussion and not within her direct knowledge. She clarified that Cisco claims the concessional duty benefit under Serial No.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

20 of Notification No. 57/2017-Customs dated 30.06.2017, and confirmed that no special approval for the concessional rate was taken by her or her team from any authority.

1.15 Based on the evidence gathered during the investigation, including product literature, laboratory test reports, statements of concerned persons, incriminating documents, and emails, it appeared that the Ethernet Switches imported by M/s. Cisco Commerce India Pvt Ltd, are not Non-Carrier Ethernet Switches, but these are actually Carrier Ethernet Switches. These Switches support Carrier-grade features such as IP-MPLS, MPLS-TP, traffic engineering, OAM, IEEE 1588 precision timing, multi-tenancy, VPLS, QoS, and performance management, and are supplied to ISP/TSP customers such as Tata, Reliance, BSNL, and Bharti. Accordingly, it appeared that the importer mis-declared the goods as “Non-Carrier Ethernet Switches” instead of “Carrier Ethernet Switches” with the intent to evade Customs duty. Since the goods qualify as Carrier Ethernet Switches, they are not eligible for the concessional rate of duty under Serial No. 20 of Notification No. 57/2017-Customs dated 30.06.2017, as amended, in respect of the imported goods covered under the subject Show Cause Notice.

1.16 In view of above, the total differential duty worked out to be **Rs.403,26,44,760/-** as detailed in **Annexure-‘A’** to the subject SCN.

1.17 INQUIRY AND INVESTIGATION BY THE CUSTOMS AUDIT COMMISSIONERATE, NEW CUSTOM HOUSE, MUMBAI ZONE -I: -

During the Post Clearance Audit conducted by Customs Audit Commissionerate, New Custom House, Mumbai Zone-I, under Section 99A of the Customs Act, 1962 read with Customs Audit Regulations, 2018, it was observed that M/s. Cisco Commerce India Pvt. Ltd. imported goods i.e. Ethernet Switches and classified them under HSN 85176290/85176990 and availed benefits under Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017, as detailed in **Annexure-‘B’** of the subject SCN. However, based on the technical details of the Switches and open-source data, it appeared that the imported goods are actually Carrier Ethernet Switches which support Multiprotocol Label Switching (MPLS) or Packet Transport Network (PTN). Therefore, these goods are not eligible for the concessional duty benefits under Serial No. 20 of Notification No. 57/2017-Customs, as amended.

In view of above, it appeared that the imported goods, i.e. “Various switches of Nexus 9000 series, Nexus 9300 series, Catalyst 9300 Series, Catalyst 3850, Catalyst 4500-X, Catalyst 9400 series, etc.” as detailed and mentioned in Annexure-B of the subject SCN, fall under the category of Carrier Ethernet Switches or MPLS/PTN products. Therefore, the imported goods are not eligible for the benefits under Serial No. 20 of Notification No.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

57/2017-Customs dated 30.06.2017, as they are excluded under category (g) of the subject Notification and standard rate of BCD at 20% is applicable. It appeared that the importer intentionally availed of this concession, thereby evading the correct duty payment and causing a loss to the Government Revenue. The total differential duty worked out to be **Rs.176,81,33,786/-** as detailed in **Annexure-‘B’** to the subject SCN.

1.18 Details of the provisionally assessed Bills of Entry:

DRI had issued instructions on 28.07.2023 to the concerned Import Port authorities, advising that the Ethernet switches imported by M/s. Cisco Commerce India Pvt. Ltd. may be finally assessed under CTI 85176290, without the benefit of any applicable notifications. In case the importer does not agree with this assessment, the goods may be provisionally assessed under Section 18 of the Customs Act, 1962, till the finalisation of the issue. In response concerned Import Port authorities provisionally assessed the imported goods as ‘Ethernet Switches’. The detailed of the provisionally assessed Bills of Entry as mentioned in the **Annexure-‘C’** to the Subject SCN.

As per the above said investigation, it appeared that the imported Ethernet Switches are Carrier Ethernet Switches that supports MPLS, PTN, etc. Therefore, the details of the provisionally assessed goods as mentioned in the Annexure-C to the subject SCN, are not eligible for the benefits under Serial No. 20 of Notification No. 57/2017-Customs dated 30.06.2017. Further, the provisionally assessed Bills of Entry as detailed / mentioned in Annexure-‘C’ to the subject SCN are to be reassessed finally as per standard rate of duty i.e. BCD at 20%, as per the Tariff.

1.19 DIFFERENTIAL DUTY LIABILITY: -

The differential duty on account of above stated mis-statement/mis-declarations is as below: -

Sr. No.	Assessable Value (in Rs.)	Differential Duty (in Rs.)	Remarks
1.	31068141465	4032644760	Details in Annexure-‘A’ to SCN
2.	13621985975	1768133786	Details in Annexure-‘B’ to SCN
Total	4469,01,27,440/-	580,07,78,546/-	

The total differential duty works out to be Rs.580,07,78,546/- (Rupees Five Hundred Eighty Crores Seven Lakhs Seventy-Eight Thousand Five Hundred Forty-Six Only), as detailed / mentioned in Annexure-‘A’ and Annexure-‘B’ of the subject Show Cause Notice. This duty was either not levied or was short levied due to the mis-statement and suppression of facts, and is therefore liable to be recovered by invoking the extended period under Section

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

28(4) of the Customs Act, 1962, along with interest as per Section 28AA of the Customs Act, 1962.

1.20 The Importer having wrongfully availed the notification benefit on the impugned goods covered under the subject SCN, it appeared that in spite of having knowledge, the importer has wilfully mis-stated and suppressed the true nature of the subject goods from the department and wrongfully availed the notification benefit on the impugned goods. Therefore, it appeared that extended period of 5 years as provided under Section 28(4) of the Customs Act, 1962, is applicable for recovery of the short levies / short-paid Customs duties. For such acts/omissions and the said deliberate mis-declaration, wrongful availment of notification benefit, and wrong self-assessment of duty, the importer also appeared to have rendered themselves liable to penal action under Section 114A and Section 114AA of the Customs Act, 1962.

The Importer by mis-declaring the subject goods and by wrongfully availing the Notification benefit, in order to evade payment of applicable duties thereon, appeared to have contravened the provisions of Section 46(4) and Section 46(4A) of the Customs Act, 1962, and which in turn appeared to have rendered the subject goods liable to confiscation in terms of the provisions of Section 111(m) of the Customs Act, 1962.

1.21 Role of Ms. Parul Vivek, Senior Manager of M/s. Cisco: -

Mrs. Parul Vivek, Senior Manager of Global Taxes & Customs at Cisco, has been overseeing the import compliance (tax related aspects, classification of the goods, duty structure etc.) and clearance of Cisco's imported goods since 2016. The evidences gathered during the investigation or retrieved from the email back up suggests that she was aware of the correct duty structure (20% BCD) for the imported goods i.e. Ethernet Switches. However, after 2018, she mis-declared the Ethernet Switches as "Non-Carrier Ethernet Switches" when they were actually "Carrier Ethernet Switches", in an attempt to avail undue benefit of Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017, as amended. This mis-declaration misled the Customs authorities during the clearance of the subject imported goods.

For her act of commission and omission with the subject imported goods covered under the subject SCN, with intent to evade duty, imported goods are rendered liable to confiscation under Section 111(m) of the Customs Act, 1962. Consequently, Mrs. Parul Vivek being the decision making authority, appeared to have rendered herself liable for penalty under Section 112(a) of the Customs Act, 1962.

Mrs. Parul Vivek was fully aware, or had reasonable grounds to believe, that the descriptions of the imported goods in the Bills of Entry were inaccurate in key details. Despite this knowledge, she knowingly made,

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

signed, or caused others to make false or misleading declarations to the Customs authorities, certifying that the mis-declared information was true. As a result, Mrs. Parul Vivek appeared liable for a penalty under Section 114AA of the Customs Act, 1962.

1.22 During the course of investigation the Importer had made following payments (Under Protest) towards the total duty liability:

Sr. No.	Demand Draft No. & Date	Amount (in Rs.)	Challan No. & Date
1.	212135 dated 04.09.2023,	84,28,20,063	Mumbai-III/FY23-24/1009/14645
2.	191199 dated 12.04.2024	43,33,11,982	Mumbai-III/FY2023-24/0501/40766
Total		1,27,61,32,045/-	

During investigation Importer paid the Rs.127,61,32,045/-.

2. Accordingly, a Show Cause Notice No. 73/2025-26 dated 15.05.2025 was issued to M/s. Cisco Commerce India Pvt. Ltd. (IEC No. 0711019673) asking them to show cause to the Pr. Commissioner / Commissioner of Customs (Import), ACC, Sahar, Mumbai as to why:

- i. The total differential duty, as detailed in the Annexure 'A' and Annexure 'B' to the Show Cause Notice, amounting to **Rs. 580,07,78,546/- (Rupees Five Hundred Eighty Crores Seven Lakhs Seventy-Eight Thousand Five Hundred Forty-Six Only)**, which had not been paid due to wilful mis-statement and suppression of facts, should not be demanded and recovered, invoking the extended period, from M/s. Cisco Commerce India Pvt Ltd, Bangalore, under the provisions of Section 28 (4) of the Customs Act, 1962, along with interest, under the provisions of Section 28AA of the Customs Act, 1962.
- ii. The goods with declared assessable value of **Rs. 4469,01,27,440/- (Rupees Four Thousand Four Hundred Sixty-Nine Crores One Lakh Twenty-Seven Thousand Four Hundred Forty only)**, as detailed in Annexure-'A' and Annexure-'B' to the Show Cause Notice, should not be held liable to confiscation under Section 111(m) of the Customs Act, 1962.
- iii. The provisionally assessed Bills of Entry as detailed at **Annexure-C** to the Show Cause Notice should not be re-assessed finally with applicable standard rate of duty as per Tariff i.e. BCD at 20%.
- iv. Penalty should not be imposed in terms of Section 114A and Section 114AA of the Customs Act, 1962 on M/s. Cisco Commerce India Pvt Ltd, for the omission and commission as detailed above in relation to the said dutiable goods liable for confiscation.
- v. Penalty in terms of Section 112(a) of the Customs Act, 1962 should not be imposed on Ms. Parul Vivek, Senior Manager Global Tax and

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

Customs for her act of commission or omission, in relation to the said dutiable goods liable for confiscation.

- vi. Penalty in terms of Section 114AA of the Customs Act, 1962 should not be imposed on Ms. Parul Vivek, Senior Manager Global Tax and Customs, in relation to the said dutiable goods liable for confiscation.
- vii. The deposit of the part differential duty along with interest, in total amounting to **Rs.127,61,32,045/- (Rupees One Hundred Twenty-Seven Crores Sixty-One Lakhs Thirty-Two Thousand Forty-Five Only)** made by M/s. Cisco Commerce India Pvt Ltd, during investigation should not be appropriated against the aforesaid demand of duty, interest and penalty.

3. WRITTEN SUBMISSION OF M/s. CISCO COMMERCE INDIA PVT LTD: -

M/s. Cisco Commerce India Private Limited is engaged inter alia, in business of trading/distribution of Cisco products in India. They responded to the subject Show Cause Notice (SCN) vide their letter dated 23.01.2026. The main details of their reply are as under:

3.1 In the ordinary course of business, the Noticee imports two categories of Network Switches, namely Carrier Ethernet Switches and Non-Carrier Ethernet Switches. These two categories differ fundamentally in their technical features, functional capabilities, and intended deployment environments, which are decisive for correct classification and eligibility for concessional duty. Carrier Ethernet Switches are designed for use by Telecom Service Providers and ISPs in large-scale service provider networks, supporting high throughput and advanced routing. In contrast, Non-Carrier Ethernet (Enterprise) Switches are intended for use within enterprise, office, and campus LAN environments and are meant to meet standard internal networking requirements.

3.2 Noticee submitted the brief description of important Carrier Ethernet standards that characterize a Carrier Ethernet Switch:

Standard	Description	Remarks
IEEE 802.1ag	Connectivity Fault Management	Specifies continuity check. Loopback, and link trace protocols to detect, locate and isolate network faults.
IEEE 802.1ah	Provider Backbone Bridging (PBB)	Defines architecture and bridge protocols for interconnection of multiple Provider Bridge Networks
IEEE 802.3ah	Ethernet in the First Mile	Defines mechanisms for monitoring and troubleshooting Ethernet access links. A node can quickly send a message upstream, indicating it has suffered an unrecoverable local failure such as loss of power

Standard	Description	Remarks
ITU-T Y.1731	OAM Functions and Mechanisms for Ethernet-based Networks	Fault and performance monitoring including Frame Loss Ratio (FLR), Frame Delay (often called latency), and Frame Delay Variation (FDV) (often called jitter). These are important metrics for verifying customer SLAs and supporting high-performance services such as VoIP & video delivery
ITU-T G.8032	Ethernet Ring Protection Switching	ERPS provides sub-50ms protection and recovery switching for Ethernet traffic in a ring topology and at the same time ensuring that there are no loops formed at the Ethernet layer
ITU-T Y.1564	Ethernet Service Activation Test Methodology	Ethernet-specific test methodologies to provide verification of key service attributes at the time service is set up.
MPLS OAM	OAM Framework for MPLS based Transport	MPLS specific OAM functions to verify connectivity at the MPLS level (such as detecting and isolating path failures or label mismatches). MPLS-TP introduced these functions to provide for monitoring paths, identifying defects, and alerting the Network Management System (NMS) when critical events occur.
IETF RFC 5357	Two-Way Active Measurement Protocol (TWAMP)	Enables two-way performance measurements with TCP/IP. TWAMP can measure packet loss, latency, jitter, duplication, and out-of-order scenarios, among other things.

3.3 Carrier Ethernet Switches also have high-functioning capabilities which are not typically found in Non-Carrier Ethernet Switches. Some of the key features are tabulated below for comparison:

Sr. No.	Essential Features	Carrier Ethernet Switches	Non-Carrier Ethernet Switches
1	MPLS-TP	Supported	Not Supported
2	Traffic Engineering	Supported	Limited support only
3	E-Line Services	Supported	Supported
4	E-LAN Services	Supported	Supported
5	E-TREE Services	Supported	Supported
6	Multitenancy and multi-dwelling	Supported	Limited support only
7	MEF Certification	MEF Certified	Not MEF Certified
8	Multi Gig Interface	Not supported	Supported
9	PoE/PoE+ & UPoE	Not supported	Supported
10	Stack Power	Not supported	Supported
11	Standardized Services	MEF 6.2/ MEF 51/ MEF 53	None
12	Availability of Services	Minimum of Five Nines	No such requirement

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

	(Operational performance)		
13	Convergence time	Within 50 milliseconds	No such requirement
14	OAM functions	Supported	Not supported, or limited support
15	Precision timing	1EEE 1588 standard	Limited in nature for audio-video applications

The difference between Carrier Ethernet Switch and Non-Carrier Ethernet Switch are a combination of usage and technical characteristics of the Switch. The presence of overlapping features would not convert a Non-Carrier Ethernet Switch to a Carrier Ethernet Switch.

3.4 Noticee submitted that Carrier Ethernet Switches and Non-Carrier (Enterprise) Ethernet Switches have overlapping technical features, making pure technical testing insufficient to reliably distinguish between them. The Telecommunication Engineering Centre (TEC) - India's expert Telecom body has clarified that actual end-use by the ultimate customer is the decisive criterion for classification.

Further, Noticee submitted that on reference from the Chennai Customs Commissionerate, TEC advised that Switches should be classified as Carrier Ethernet only when:

- They are ordered by Telecom Service Providers (TSPs),
- Used for carrier/network applications, and
- Where ambiguity exists, supported by end-use certification (even if deployed for enterprise purposes by TSPs).

Although both Carrier and Non-Carrier Switches may support similar protocols (e.g., IP-MPLS), they are not technically interchangeable due to differences in design intent, performance expectations, reliability, scalability, and operational environments.

The Metro Ethernet Forum (MEF) is the globally recognized industry body that defines Carrier Ethernet standards and certifies Carrier-grade equipment. Only MEF-certified Switches are regarded by TSPs as Carrier Ethernet Switches. Absence of MEF certification is a strong indicator that a Switch is not intended for Carrier use. MEF defines Carrier Ethernet based on five key attributes: reliability, standardized services, scalability, quality of service (QoS), and service management.

In line with these principles, the Noticee classifies imported switches based on:

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

- (i) Actual usage, evidenced through back-to-back purchase orders, known ultimate consignees, and explicit declaration in commercial invoices as “Non-Carrier Ethernet Switches.”
- (ii) Technical characteristics, as the imported Switches are enterprise-grade, lack Carrier-grade redundancy and robustness, are not MEF-certified, and are not optimized or ordinarily deployed for Carrier applications.

3.5 The Noticee submitted that India is a signatory to the WTO Information Technology Agreement (ITA), effective from 01.07.1997, which mandates elimination of Customs duties on specified IT products, including network equipment such as Routers, Switches, and related Printed Circuit Assemblies. Attachment B of the ITA expressly covers LAN and WAN apparatus, and WTO practice has consistently treated Network Switches as ITA-covered products. To implement its ITA commitments, India issued Notification No. 24/2005-Cus., granting full BCD exemption to all goods under Heading 8517. This exemption remained intact until 10.07.2014. In the Union Budget 2014-15, Customs duty was introduced on telecommunication products outside the ITA’s scope, leading to Notification No. 11/2014-Cus., which excluded specific Telecom equipment, from the exemption.

Post-GST, Notification No. 57/2017-Customs dated 30.06.2017 initially restored nil BCD for goods under Tariff items 85176290 and 85176990. However, Notification No. 75/2018-Cus dated 11.10.2018 introduced a concessional BCD rate of 10% for the Sr. Nos 20 and 21 of the aforesaid notification. These provisions were consolidated under Notification No. 02/2019-Cus dated 29.01.2019, whereby Sr. Nos. 20 and 21 were merged and Sr. No. 21 was consequently omitted. The relevant extract of the notification is reproduced as under:

Sr. No. (1)	Chapter or Heading or Sub-heading or tariff item (2)	Description of goods (3)	Standard Rate (4)	(5)
“20	8517 62 90 or 8517 69 90	All goods other than following goods, namely: - (a) Wrist wearable devices (commonly known as smart watches); (b) Optical transport equipment; (c) Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS); (d) Optical Transport Network (OTN) products;	10%	-”

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

Sr. No. (1)	Chapter or Heading or Sub-heading or tariff item (2)	Description of goods (3)	Standard Rate (4)	(5)
		<p>(e) IP Radios;</p> <p>(f) Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers;</p> <p>(g) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching-Transport Profile (MPLS-TP) products;</p> <p>(h) Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) products</p>		

3.6 The distinction between Carrier and Non-Carrier Ethernet Switches is usage-based rather than feature-based. This position was clarified by the Department of Telecommunications (DoT) in its O.M. dated 18.11.2016, which states that classification depends on whether the Switches are used by TSPs/ISPs for transport of network traffic (Carrier) or by enterprises for internal LAN use (Non-Carrier). Based on this the Noticee stated that they have correctly classified their imports based on end-use, supported by purchase orders, invoices, and end-user declarations and consequently, concessional BCD benefits under Notification No. 57/2017-Cus (as amended) was correctly availed only for Non-Carrier Ethernet Switches while Carrier Ethernet Switches were excluded.

3.7 The Noticee imported the following Ethernet switches – Catalyst 1000, Catalyst 2000, Catalyst 3000, Catalyst 3850, Catalyst 4000, Catalyst 9200, Catalyst 9300, Catalyst 9400, Catalyst 9500, Catalyst 9600, Catalyst 9508, CDB, CMICR, ESS 3300, IE-1000, IE-3200, IE-3300, IE-3400, IE-9000, N5K, N7K, N9K, Nexus 3100, Nexus 3500, Nexus 3550, Nexus 3600, Nexus 5600, Nexus 9200, Nexus 9300, Nexus 9500, which are the subject matter of dispute under the subject SCN.

3.8 The Noticee imported the Catalyst 3850 Switches which were classified under CTH 85176290 as Non-Carrier Ethernet Switch and availed the benefits of Notification No. 57/2017 - Customs dated 30.06.2017, as amended. However, the department has contended that these goods are not eligible for the benefits under the aforesaid notification. Therefore, BEs were thereafter re-assessed and the benefits of the aforesaid notification was not extended to Catalyst 3850 Switches as it was considered to be an Ethernet

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

Switch. Aggrieved by the re-assessment the Noticee filed an appeal before Commissioner of Customs (Appeals), Mumbai Zone-3, which was subsequently rejected. Further, being aggrieved and dissatisfied with the rejection order passed by the Appellate Authority, the Noticee filed an appeal before the CESTAT. CESTAT *vide* its Final Order No. A/86011-86081/2024 dated 30.09.2024, unequivocally confirmed that the imported Switches are Non-Carrier Ethernet Switches and should not be classified as Carrier Ethernet Switches.

The Noticee has rightly classified the Imported goods as Non-Carrier Ethernet Switches:

3.9.1 The Noticee imports Cisco Catalyst 9200, 9300, 9400, and 9500 Series Switches, along with Nexus 9300 Series and similar models, all of which are Non-Carrier Ethernet Switches designed exclusively for enterprise LAN environments such as campuses, branches, and data centres. Their primary function is to interconnect end-user devices within a localized and private organizational network and they are not intended for deployment in public telecom or service provider networks.

3.9.2 The allegation in the SCN that these Switches should be classified as Carrier Ethernet Switches is erroneous and disregards the fundamental criteria governing such classification, namely intended use, deployment environment, and network architecture. The distinction between Carrier and Non-Carrier Ethernet Switches is well-recognized in industry practice and is not determined merely by optional technical features, but by whether the equipment is designed for Carrier-grade transport across public telecom infrastructure or for internal enterprise connectivity.

3.9.3 Carrier Ethernet Switches are purpose-built for Telecom Service Providers and are deployed at provider-edge or aggregation points to transport traffic over metro or wide-area networks. They support Carrier-grade functionalities such as MPLS-TP, advanced Ethernet OAM, synchronous Ethernet, stringent QoS and SLA enforcement, and MEF certification. In contrast, the Switches imported by the Noticee are enterprise-grade devices meant for private LANs, lacking essential Carrier-specific transport and service assurance features. Even if certain enterprise Switches can optionally support advanced features through additional software licensing, such capabilities do not alter their essential character or convert them into Carrier Ethernet Switches. The imported products are marketed, sold, and deployed solely in enterprise environments and are used by commercial entities operating closed internal networks, not by telecom service providers.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

3.9.4 A comparison of Cisco's product portfolio further reinforces this distinction, showing that Cisco separately categorizes and certifies Carrier Ethernet Switches and Non-Carrier Ethernet Switches. The Catalyst and Nexus series imported by the Noticee fall squarely within the Non-Carrier Ethernet category and are not MEF-certified, nor do they meet the mandatory attributes prescribed by MEF for carrier-grade equipment.

3.9.5 Accordingly, the classification adopted by the Noticee is technically, functionally, and commercially correct. The imported Switches cannot be regarded as Carrier Ethernet Switches under any recognized industry or technical standard. Consequently, the allegation of incorrect classification and wrongful availment of concessional duty is incorrect, and the benefit of the applicable exemption notification has been rightly availed by the Noticee.

Noticee has correctly availed the concessional duty of 10% under Notification No. 57/2017 as amended:

3.10 The SCN alleges that the Noticee wrongly availed concessional Basic Customs Duty at 10% under Notification No. 57/2017-Cus dated 30.06.2017 (as amended) as the imported goods are 'Carrier Ethernet Switches'. In this regard, the Noticee submitted that initially they paid *nil* BCD for goods imported under Tariff items 85176290 and 85176990. However, Notification No. 75/2018-Cus dated 11.10.2018 introduced a concessional BCD rate of 10% for the Sr. Nos 20 and 21 of the aforesaid notification where 'Carrier Ethernet Switches' were expressly mentioned as excluded under Sr. No. 21, along with other exclusions such as PTN products and MPLS-TP equipment. These provisions were consolidated under Notification No. 2/2019-Cus dated 29.01.2019, whereby Sr. Nos. 20 and 21 were merged and Sr. No. 21 was consequently omitted and BCD remained 10%. The concessional duty rate applies to all goods under the relevant Tariff headings except those specifically mentioned as exclusions. The exclusion of certain items, such as "Carrier Ethernet Switches," from the scope of the benefit implies that all other goods, which are not expressly mentioned, continue to remain eligible for the concessional duty. Therefore, Non-Carrier Ethernet Switches, which are not specifically excluded under either Serial No. 20 or 21, fall squarely within the ambit of the concessional duty benefit.

3.11 Further, Noticee submitted that it is a settled legal position that where an exemption notification contains a specific exclusion, the burden lies on the Revenue to prove that the goods fall within that exclusion. Exclusion clauses must be construed strictly. As held by the Supreme Court in *Union of India vs. Wood Papers Ltd. 1990 (47) E.L.T. 500 (S.C.)*, once goods are found to be covered by an exemption notification, the exemption must be interpreted liberally in favour of the assessee.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

3.12 Accordingly, since the imported goods fall within the scope of Notification No. 57/2017-Cus dated 30.06.2017 (as amended) and do not attract any of the exclusions specified therein, the concessional rate of 10% BCD was rightly availed by the Noticee. The proposal in the SCN to deny the benefit is therefore without merit and liable to be dropped in entirety.

Noticee has received a favourable order from CESTAT for a similar product – Therefore the issue is no longer res-integra:

3.13 The Noticee submitted that the present dispute concerns the classification of Catalyst 9000 series Ethernet Switches (including C9200, C9300, C9400, C9500, C9600 and similar models), which are the next-generation successors to the Catalyst 3850 Series previously imported by the Noticee for enterprise deployments. Following the global discontinuation of the 3850 Series, the Noticee transitioned to the Catalyst 9000 Series as its principal enterprise switching platform.

3.13.1 A similar classification dispute had earlier arisen in respect of the Catalyst 3850 series. In the Noticee's own case, the CESTAT, Mumbai, vide Final Order No. A/86011-86081/2024 dated 30.09.2024, conclusively held that the Catalyst 3850 Switches are Non-Carrier Ethernet Switches and are eligible for concessional BCD under Notification No. 57/2017-Cus. dated 30.06.2017 (as amended).

3.13.2 The present Switches are technologically advanced successors to the 3850 Series, incorporating improvements in performance and manageability. However, such enhancements represent normal technological evolution and do not alter the essential character, intended use, deployment environment, or end-user segment of the products. Like the 3850 Series, the Catalyst 9000 Switches are designed, marketed, and deployed exclusively in enterprise LAN environments and do not support Carrier-specific features such as MPLS-TP, MEF certification, or telecom transport functionalities.

3.13.3 Accordingly, the classification principles laid down by the CESTAT in relation to the 3850 Series apply with equal force to the Catalyst 9000 series. Hence, the Catalyst 9000 Series Switches is to be classified as Non-Carrier Ethernet Switches, in line with the CESTAT's Final Order dated 30.09.2024 and the same classification and duty benefit must necessarily be extended to the present imports.

IP-MPLS based equipment are excluded from the benefit of concessional duty under Serial No. 20 of Notification No. 57/2017-Customs read with CBIC Circular No. 08/2023 -Customs dated 13.03.2023:

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

3.14.1 They submitted that the SCN covers imports from August 2020 to March 2024, whereas CBIC Circular No. 08/2023-Customs was issued only on 13th March 2023 and, is expressly prospective, with stated effectiveness from 1st April 2023. A departmental Circular cannot be applied retrospectively to re-characterize imports already assessed prior to its issuance. The Noticee relied on *CCE v. Minwool Rock Fibres Ltd. (2012) 3 SCC 518 = 2012 (278) ELT 581 (SC)* and *State of Tamil Nadu v. India Cements Ltd. (2011) 13 SCC 247* according to which Circulars bind the Department, not assesseees or courts, and cannot be pressed into service to alter the legal character of past imports. Moreover, the Circular does not invoke Section 151A of the Customs Act, 1962, and therefore lacks statutory authority to operate as a binding instruction even on departmental officers.

3.14.2 The governing legal instrument remains Notification No. 57/2017-Customs (as amended). Serial No. 20 grants concessional duty to all eligible goods and excludes only “carrier ethernet switches.” A Circular cannot enlarge, curtail, or rewrite the scope of a statutory notification. Where a Circular conflicts with or travels beyond the notification, the notification prevails. The impugned Circular is primarily a procedural identification aid, intended to standardize declarations and facilitate identification, and does not impose any substantive legal obligation or create new exclusions.

3.14.3 Annexure-I to the Circular, effective from 1st April 2023, is explicitly framed for “effective identification” and does not purport to expand the exclusion under the notification. The reference to “IP-MPLS based equipment” under Carrier-grade categories is only a screening/identification aid, not a legal declaration that all IP-MPLS capable Switches are Carrier-grade. Such an interpretation would impermissibly widen the exclusion beyond the statutory phrase “carrier ethernet switches.”

3.14.4 Technically, IP-MPLS is a protocol, not a determinative test for Carrier-grade equipment. Enterprise Switches may support IP-MPLS for internal WAN overlays, VRF segmentation, or resiliency, without possessing Carrier-grade attributes such as MEF certification, Y.1731 OAM, SyncE/IEEE-1588v2 timing, NEBS hardening, or telecom-grade redundancy. The Department’s one-factor test equating IP-MPLS capability with Carrier-grade status is therefore technically flawed and legally untenable. This position is supported by expert opinions from IIT Bombay, independent technical white papers, and even contradicts the TEC’s own opinion that there is no functional difference between Carrier and Enterprise Ethernet Switches.

3.14.5 Further, the Catalyst 3850 Series stands covered by a binding and favourable CESTAT decision in the Noticee’s own case. The impugned goods include successor models (e.g., Catalyst 9000 Series) used in the same

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

enterprise/campus domain. In the absence of any change in law or material change in technical character, parity and consistency require that the same classification and benefit apply to successor models. Volume of imports is irrelevant to legal characterization.

3.14.6 For the relevant periods:

- **Aug 2020 – 12th March 2023:** The Circular did not exist and cannot be applied retrospectively.
- **13th March 2023 – 31st March 2023:** Even after issuance but before its stated effective date, the Circular cannot be used to deny benefits.
- **1st April 2023 – March 2024:** Even prospectively, the Circular is only an identification aid; eligibility continues to depend on whether the goods are genuinely carrier-grade, which the Noticee's switches are not.

3.14.7 Further, the SCN proceeds on an erroneous factual presumption that *all* imported Switches are "IP-MPLS based." A model-wise technical reconciliation shows that a substantial number of Switches do not support IP-MPLS functionality at all. The Department mechanically treated all "switches" as IP-MPLS based without verifying model-specific capabilities. Therefore, non-IP-MPLS-capable enterprise Switches and are liable to be excluded entirely from the demand.

3.14.8 Accordingly, reliance on CBIC Circular No. 08/2023-Customs to deny Serial No. 20 benefit and to demand 20% BCD is misplaced, legally unsustainable, and factually incorrect. The impugned goods are Enterprise (non-carrier) Ethernet Switches, eligible for concessional duty under Notification No. 57/2017-Customs, and the proposals in the SCN based on the said circular deserve to be dropped in toto.

3.15 Moreover, Noticee submitted that the contention that CBIC Circular No. 08/2023-Customs dated 13.03.2023 is inapplicable. It is submitted that even otherwise the Noticee has fully complied with the said Circular. Annexure-2 to the Circular expressly provides the residual alpha-numeric identifier "MAZ999" for goods not falling under items (a)-(h) of Serial No. 20 of Notification No. 57/2017-Customs, and since the imported goods are enterprise/non-carrier Ethernet Switches and do not qualify as Carrier Ethernet, MPLS-TP or PTN products, declaration of "MAZ999" was correct and in accordance with the Circular. The SCN's insistence on declaration of "TEG001" is based on an erroneous presumption that the goods are IP-MPLS based Carrier Ethernet Switches, whereas IP-MPLS is merely a networking protocol and its presence does not, by itself, confer Carrier-grade character. The Circular nowhere provides that IP-MPLS capability alone determines

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

Carrier classification. Accordingly, the declaration made by the Noticee accurately reflected the nature of the goods, cannot be treated as misdeclaration, and the denial of exemption under Notification No. 57/2017-Customs on this ground is wholly unsustainable.

End-User Declarations establish that Goods were not used in Carrier Ethernet Networks:

3.16.1 The Noticee submits that classification and exemption eligibility under the Customs Tariff Act, 1975 read with Notification No. 57/2017-Customs dated 30.06.2017 may be determined based on a comprehensive evaluation of the technical functionality, architecture, and intended end-use of the equipment, rather than on nomenclature alone. This is particularly important for sophisticated networking products where distinctions between Carrier and Non-Carrier equipment are technical in nature. In the subject case, the imported goods are Non-Carrier Ethernet Switches designed exclusively for enterprise and institutional networks such as LANs, campus IT infrastructure, and private data centres. They support internal data flow within closed networks and are neither intended nor technically capable of deployment in public telecom infrastructure or for Carrier-grade functions such as backbone transport, MPLS-TP, PTN, or SDN-based networking.

3.16.2 Although Serial No. 20 of Notification No. 57/2017-Customs excludes Carrier-grade equipment under clause (g), the exclusion applies only to devices capable of performing Telecom Carrier functions. The imported Switches lack the necessary hardware, software, and protocol support for such use. The Noticee stated that their customers have certified that the Switches were used exclusively in enterprise environments and not in public telecom networks or for providing WAN or Carrier Ethernet services. These documents conclusively establish the actual deployment and functional limitations of the imported goods.

3.16.3 The Noticee further relies on the DoT Office Memorandum dated 18.11.2016, which clarifies that the distinction between Carrier and Non-Carrier Ethernet Switches depends on usage and deployment environment, making end-use a relevant factor. Additionally, the Telecommunication Engineering Centre (TEC) has categorically clarified that Layer-2 unmanaged and half-managed Ethernet Switches are Non-Carrier Ethernet Switches, a clarification applicable to Notification No. 57/2017-Customs as it is identically worded to earlier and successor notifications. Accordingly, the imported Switches are correctly classifiable as Non-Carrier Ethernet Switches, the exemption has been lawfully availed, and no demand is sustainable.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

3.16.4 The SCN erroneously treats Switches supplied to ISP/TSP customers as “Carrier Ethernet Switches” solely on the basis of the purchaser’s identity, which is contrary to the TEC Office Memorandum and the settled principle that classification under Notification No. 57/2017-Customs must depend on the nature of the equipment and its intended end-use. The TEC OM expressly requires an end-use inquiry and clarifies that even where a TSP/ISP is the purchaser, Switches deployed at customer premises are to be treated as Enterprise/Non-Carrier, and only those used for transport or carriage within the operator’s network may be considered carrier equipment. The SCN relies merely on commercial invoices identifying TSP/ISP buyers and does not verify ultimate consignee purchase orders or obtain end-use certificates, as mandated by the OM, nor does it adduce any evidence of transport or carriage deployment. In the absence of such verification, the presumption that all TSP/ISP supplies are Carrier Switches is untenable, and the material on record instead supports enterprise/CPE deployment eligible for exemption.

3.16.5 The classification of the goods has consistently remained under HSN 85176290, both before and after Notification No. 02/2019-Cus., and there has been no change in classification. The post-2019 use of the description “Non-Carrier Ethernet Switch” was a bona fide, transparent, and accurate clarification necessitated by the amended notification, which specifically excluded Carrier Ethernet Switches, and was intended to assist Customs in proper identification and assessment. Describing the goods as “Networking Equipment” or more specifically as “Non-Carrier Ethernet Switches” is not contradictory but complementary, reflecting industry practice and the need for precision. The Noticee stated that detailed descriptions for exemption purposes does not amount to misdeclaration, particularly in technically complex matters. Noticee relied on *CC v. Wockhardt Life Sciences Ltd.*, 2012 (277) E.L.T. 299 (S.C.) and *Northern Plastics*, (1998 (101) E.L.T. 549)). Therefore, the allegation of deliberate modification of description to secure undue benefit is without merit and deserves to be dropped in entirety.

3.17 The Noticee submitted that the internal email communications of employees to allege misclassification is misplaced and legally untenable, as such emails are merely informal internal discussions and have no evidentiary value in determining Customs classification. Classification must be based on statutory Tariff entries, HSN Explanatory Notes, technical specifications, and binding judicial precedents, not on subjective or non-authoritative employee correspondence. The emails cited in the SCN neither establish the technical capabilities nor the intended function of the Nexus Switches and, as clarified in statements under Section 108, were not based on any technical testing or

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

classification exercise. Sales-related references such as “special approval” were colloquial and explicitly clarified as not reflecting any actual approval or misrepresentation. Supreme Court in case of *CC v. Dell International Services India Pvt. Ltd., 2017 (350) ELT 401 (SC)* and *Eicher Tractors Ltd. v. CC, 2000 (122) ELT 321 (SC)* held that classification must be governed by the terms of the Tariff entry read with interpretative rules and not on the basis of employee statements or correspondence. Accordingly, the department’s reliance on informal emails cannot override the correct classification supported by technical literature and established practice, and the allegations based on such emails deserve to be rejected.

3.18 In the absence of any statutory definition of “Carrier Ethernet Switch” under the Customs Act or the relevant exemption notification, classification must be determined on the basis of common trade parlance. Court held that the interpretation of product descriptions must be guided by how the product is understood in commercial practice by those who deal in it, rather than on isolated technical or laboratory analyses. Noticee relied on following judgements:

- (i) *Oswal Agro Mills Ltd. v. CCE – 1993 (66) E.L.T. 37 (SC)*
- (ii) *CCE v. Connaught Plaza Restaurant Pvt. Ltd. – 2012 (286) E.L.T. 321 (SC)*
- (iii) *Commissioner of Central Excise vs. Wockhardt Life Sciences Ltd., reported in 2012 (277) E.L.T. 299 (SC)*

3.19 In the subject case, the Switches are widely recognized in the industry as Non-Carrier Ethernet Switches, designed and deployed for enterprise LAN and data-centre environments and not for Carrier-grade telecom networks. Accordingly, reliance on the Sunren Laboratory report, which is divorced from trade usage, is misplaced and cannot override the common commercial understanding. Applying the settled common-parlance test, the classification adopted by the Noticee is correct and merits acceptance.

3.20 Notification No. 10/2025-Customs dated 01.02.2025 has expressly deleted the phrase “Carrier Ethernet Switch” from clause (g) of Serial No. 20 to Notification No. 57/2017-Customs, pursuant to industry representations highlighting ambiguity in the earlier wording. This amendment is clarificatory and curative in nature, intended to reflect the original legislative intent and not to introduce any new exemption. The deletion demonstrates that enterprise Ethernet Switches were never meant to be excluded from concessional duty, especially since, as per TEC opinion, there is no functional distinction between so-called Carrier-grade and Non-Carrier-grade Switches.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

3.21 It is settled law that clarificatory amendments must be applied retrospectively, as they merely explain or remove ambiguity in an existing provision, as held by the Supreme Court in case of *Allied Motors Pvt. Ltd. v. CIT, (1997) 224 ITR 677 (SC)* and *Zile Singh v. State of Haryana, (2004) 8 SCC 1*). The earlier inclusion of “Carrier Ethernet Switch” led to interpretational confusion and misclassification, which the Government has now resolved by omission of the phrase. Accordingly, the amendment confirms that enterprise-level Ethernet Switches, such as those imported by the Noticee, were always intended to fall within the scope of concessional duty. Denial of exemption on the ground that such Switches were excluded is therefore untenable, and no adverse inference can be drawn against the Noticee.

The time limit for final assessment of Provisionally Assessed BOEs has lapsed or time barred:

3.22.1 The SCN proposed finalisation of the provisionally assessed Bills of Entry at 20% BCD is legally unsustainable as it is barred by limitation under Section 18 of the Customs Act, 1962 read with the Customs (Finalisation of Provisional Assessment) Regulations, 2018. Once all documents and clarifications were furnished by the Noticee, an admitted position in the DRI’s own communication dated 28.07.2023, the proper officer was mandatorily required under Regulation 5 to finalise the provisional assessment within two months, i.e., by 27.09.2023. No extension was sought or granted under Regulation 4 or Regulation 5, and no further investigation remained pending. Consequently, the statutory time limit for finalisation has lapsed, and the BEs cannot now be finalised contrary to the Noticee’s self-assessment.

3.22.2 The subsequent email dated 19.04.2024, issued long after expiry of the prescribed timeline, cannot revive or extend the limitation period and, in any event, can apply only prospectively to future imports. Further, the newly inserted Section 18(1B) of the Customs Act, introduced by the Finance Act, 2025, prescribing a two-year period for finalisation, is prospective and does not apply to BEs pertaining to imports made between August 2020 and March 2024. Settled judicial principles prohibit revival of time-barred proceedings by subsequent legislative amendments. Noticee relied on following judgements:

- i. *S.S. Gadgil vs. Lal and Co. (AIR 1965 SC 171)*
- ii. *J.P. Jani Income Tax Officer vs. Induprasad Devsh*
- iii. *anker Bhatt (AIR 1969 SC 778)*
- iv. *New India Insurance Co. Ltd. vs. Shanti Misra [(1975) 2 SCC 840],*
- v. *T. Kaliamurthi Five Gori Thaikkal Wakf [(2008) 9 SCC 306],*

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

- vi. *Thirumalai Chemicals Ltd. vs. Union of India* [(2011) 6 SCC 739 = 2011 (268) E.L.T. 296 (S.C.)]
- vii. *Mafatlal Industries Ltd. v. Union of India* [(1997) 5 SCC 536 = 1997 (89) E.L.T. 247 (S.C.)]

Accordingly, Noticee contends that the proposal to finalise the provisional assessments contrary to the self-assessment is without jurisdiction and liable to be rejected.

Section 28(4) of the Customs Act, 1962, is not invocable in the subject case:

3.23.1 Under Section 28(1) of the Customs Act, 1962, the limitation period for issuing a show cause notice is two years, extendable up to five years only if duty shortfall arises from fraud, collusion, wilful misstatement, or suppression of facts. Judicial precedents clarify that mere errors, inaction, or incorrect declarations are insufficient; the extended period applies only where there is deliberate intent to evade duty. Noticee relied on the following judgements:

- *Anand Nishikawa Co. Ltd. v CCE, Meerut 2005 (188) ELT 149 (SC)*
- *CCE v. Chemphar Drugs & Liniments, 1989 (40) ELT 276 (SC)*
- *Padmini Products v. CCE, 1989 (43) ELT 195 (SC)*

3.23.2 In case of **Aban Loyd Chiles Offshore Ltd. v. Commissioner of Customs 2006 (200) ELT 370 (SC)**, it is held that “wilful” suppression or misstatement is a prerequisite, meaning the assessee knowingly and intentionally withheld correct information to avoid duty. Therefore, invocation of the extended five-year limitation requires proof of deliberate wrongdoing by the Noticee, which must be established to justify extending the time.

3.23.3 The Noticee submitted that the classification of the imported Switches was made in good faith, based on prior favourable order issued by CESTAT Final Order dated 30.09.2024 in case of Catalyst 3850, industry practice, and trade understanding. All relevant information was transparently disclosed to Customs at the time of import, with no suppression or misstatement of facts, and the Department was aware of these details. There is no evidence of mens rea, fraudulent intent, or wilful wrongdoing; merely having certain Carrier-class features does not make the Switches “Carrier Ethernet Switches,” and the Noticee firmly maintains they are eligible for the exemption. Since the dispute involves a bona fide classification and legal interpretation of the notification, invoking the extended limitation period under Section 28(4) is unjustified and legally unsustainable.

3.23.4 The Noticee submitted that the department bears the initial burden of proving fraud, wilful misstatement, or suppression of facts to justify invoking the extended limitation period. In the subject case, all relevant facts were fully disclosed to the Department, which was already aware of the classification dispute, including for similar earlier imports. Therefore, there can be no wilful suppression or mala fide intent, and invoking extended limitation is unjustified. They rely on following judgements:

- (i) Tamil Nadu Housing Board v. CCE 1994 (74) E.L.T. 9 (SC)
- (ii) D.D. Industries Ltd. v. CCE (2002 (142) E.L.T. 256 (Tri. - Del.)
- (iii) Collieries Co. Ltd. v. CCE (1988) 37 ELT 361 (Tri- New Delhi)
- (iv) Super Security Service v CCE, 2003 (157) ELT 433
- (v) Modipon Fibre Company Vs Commissioner of Central Excise, Meerut 2007 (218) ELT 0008 SC
- (vi) Uniworth Textiles Ltd vs Commissioner of Central Excise, Raipur, 2013 (288) ELT 161 (SC)

3.23.5 In view of the above, Noticee submitted that differential duty demanded in respect of BEs mentioned in Annexure A and B to the subject SCN, by invoking the provisions of Section 28(4) is clearly untenable and liable to be set aside.

3.23.6 The SCN erroneously proposes differential duty in respect of Bills of Entry (BEs) covered under Annexures A and B to the SCN, even though a substantial number of these BEs were cleared either under provisional assessment or under warehousing provisions, where no duty liability had crystallised. Such demands are premature, without jurisdiction, and legally unsustainable. (Details of the Security Appliance BEs submitted by the Noticee on 10.02.2026 via email, where duty is not liable to recoverable from them.) The details are as under: -

Type of BEs	No. of BEs	Differential Amount (in Rs.)	Total Amount (in Rs.)
Provisionally Assessed BEs	13 (Annexure A)	67,73619/-	Rs.86,89,405/-
	21 (Annexure B)	19,15,786/-	
Warehouse BEs	32 (Annexure-A)	3,55,21,946/-	Rs.4,32,54,696/-
	17 (Annexure-B)	77,32,751/-	
Security Appliance BEs	05 (Annexure-A)	36,70,557/-	Rs. 36,70,557/-

Accordingly, the differential duty proposed in the SCN amounting to Rs.86,89,405/- on provisionally assessed BEs and Rs.4,32,54,696/- on Warehousing BEs is wholly without authority of law and liable to be set aside in entirety. Further, stated that 5 Bills of Entry pertains to Security Appliances, where goods are different from Ethernet Switches, hence,

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

differential duty Rs.36,70,557/- is not recoverable. They relied on following judgements:

- *STI India Ltd. v. Commissioner reported in 2008 (222) E.L.T. 112*
- *Paras Fab International Vs Commr of Cus, Kandla, 2010 (256) ELT 556 (Tri -LB)*

Goods mentioned in Annexure A and B to the SCN are not liable for confiscation:

3.24.1 The proposal in the SCN to confiscate the goods under Section 111(m) of the Customs Act, 1962 is legally unsustainable. Confiscation under Section 111(m) can apply only to “imported goods,” which, as defined under Section 2(25), excludes goods that have already been cleared for home consumption. In the subject case, all goods covered under Annexures A and B have been cleared for home consumption and therefore have lost the character of “imported goods.” In case of **Bussa Overseas and Properties P. Ltd. v/s. C.L. Mahar, Asstt. C.C., Bombay reported in 2004 (163) E.L.T. 304 (Bom)**, it is held that goods cleared for home consumption cannot be confiscated unless the clearance order itself is first reviewed and set aside, which has not occurred here.

3.24.2 Further, even on merits, the Noticee’s claim to a concessional rate of duty was made under a bona fide belief based on its understanding of the exemption notification. Mere claim of exemption or concessional duty does not amount to misdeclaration or non-correspondence of particulars so as to attract Section 111(m). The Supreme Court in case of *Northern Plastics, (1998 (101) E.L.T. 549)* has clearly held that a bona fide claim to exemption, even if later found ineligible, cannot be equated with misdeclaration or intent to evade duty. Accordingly, the goods are not liable to confiscation, and the invocation of Section 111(m) in the SCN is without legal basis and deserves to be dropped.

No redemption fine can also be imposed in the present set of facts:

3.25 The SCN does not propose imposition of any redemption fine and, therefore, no such fine can be imposed at the adjudication stage. In any event, redemption fine under Section 125 of the Customs Act, 1962 can arise only when goods are held liable to confiscation and are physically available for redemption. In the subject case, the goods are neither liable to confiscation nor available for redemption, having already been cleared. In case of **Commissioner of Customs (Import) Vs Finesse Creation Inc 2009 (248) ELT 122 (Bom)** (affirmed by the Supreme Court), it is held that where goods are not available for confiscation, Section 125 cannot be invoked and no

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

redemption fine can be imposed. Accordingly, there is no legal basis for imposition of any redemption fine in the subject sent case.

No penalty under Section 114A of the Customs Act, 1962 can be imposed on the Noticee:

3.26 The Noticee submitted that there was no collusion, wilful misstatement, or suppression of material facts. The imported goods were correctly and transparently declared in the Bills of Entry as *Non-Carrier Ethernet Switches*, supported by commercial invoices and other documents. A classification adopted on a bona fide understanding of law, disclosed in full to the Department, cannot be characterised as suppression or misstatement. Therefore, it is submitted that the proposal to impose penalty under Section 114A of the Customs Act, 1962 deserves to be dropped in entirety. They rely on followings judgements:

- *Hindustan Steel Ltd Vs State of Orissa 1978 (002) ELT 0159 SC*
- *Cement Marketing Co. of India Ltd. v. Assistant Commissioner of Sales Tax, 1980 (6) E.L.T. 295 (S.C.)*

Penalty under Section 114AA of the Customs Act, 1962 cannot be imposed:

3.27.1 The proposal to invoke Section 114AA of the Customs Act, 1962 is ex-facie unsustainable in law and on facts. Section 114AA, being a stringent penal provision, can be invoked only when a person knowingly or intentionally makes or uses a declaration or document which is false or incorrect in a material particular in the course of Customs business. All these ingredients must co-exist. In the subject case, the Bills of Entry and all accompanying documents such as invoices, packing lists, and bills of lading accurately described the imported goods as *Non-Carrier Ethernet Switches*. These were genuine commercial documents generated in the ordinary course of trade. There is neither any allegation nor evidence of forgery, fabrication, falsification, or manipulation of documents. The dispute, relates only to the eligibility of a concessional rate under Notification No. 57/2017-Cus dated 30.06.2017, which is a pure interpretational issue.

3.27.2 Merely claiming a concessional rate of duty based on a bona fide interpretation of an exemption notification, fully disclosed in the Bills of Entry, cannot by any stretch be equated with making or using a “false document” under Section 114AA of the Customs Act 1962. The provision is intended to address cases of outright fraud and fabricated documentation, not interpretational disputes relating to classification or exemption. Further, Section 114AA expressly incorporates the requirement of mens rea, i.e.,

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

knowledge or intention. In the absence of deliberate intent or conscious wrongdoing, penalty under Section 114AA of the Customs Act 1962, cannot be sustained. Therefore, the proposal to impose penalty under Section 114AA of the Customs Act, 1962 deserves to be dropped in entirety. They rely on following judgements:

- (i) *Hindustan Steel Ltd. v. State of Orissa [1978 (2) ELT J159 (SC)]*
- (ii) *Sea Queen Shipping Services Private Limited Vs Commissioner of Customs, Chennai – VIII Commissionerate 2019 (12) TMI 248 - CESTAT Chennai*
- (iii) *Hera Shipping Solutions Pvt. Ltd. Versus Commissioner of Customs, Chennai 2022 (382) E.L.T. 552 (Tri. - Chennai)*
- (iv) *Parag Domestic Appliances vs. Commissioner of Customs, Cochin reported in 2018 (360) E.L.T. 547 (Tri. - Bang.)*
- (v) *Commr. of Cus., Sea, Chennai-II Versus Sri Krishna Sounds and Lightings 2019 (370) E.L.T. 594 (Tri. - Chennai)*
- (vi) *CCE v. Rajasthan Spinning & Weaving Mills [2009 (238) ELT 3 (SC)]*

Interest cannot be demanded under the provisions of Section 28AA of the Customs Act, 1962:

3.28 The proposal to recover interest under Section 28AA of the Customs Act, 1962 is unsustainable in law. Section 28AA applies only where a person is liable to pay duty in accordance with Section 28. As the proposed duty demand under Section 28 is itself not maintainable on facts or in law. In the absence of a valid duty liability, the basic precondition for invoking Section 28AA fails, and consequently no interest can be levied. Even otherwise, interest under Section 28AA is purely consequential and compensatory in nature and cannot be demanded independently of a lawful determination of duty. The Supreme Court in *Pratibha Processors v. Union of India [1996 (88) ELT 12 (SC)]* has categorically held that interest is merely accessory to the principal duty and where the duty itself is not payable, the question of charging interest does not arise. Accordingly, since there is no enforceable duty liability in the subject case, the proposal to recover interest under Section 28AA of the Customs Act, 1962 deserves to be dropped in toto.

3.29 The Noticee submitted that the amount of Rs.127,61,32,045/- deposited during the course of investigation was made without prejudice to its rights and contentions and only to demonstrate bona fides and cooperation in the investigation process. It is settled law that any amount deposited during investigation cannot be treated as acceptance of liability nor can it be unilaterally appropriated against a disputed demand before the same attains finality through adjudication.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

3.30 In the subject case, since the very basis of the proposed demand is under challenge and pending adjudication, any appropriation of the deposit would be premature, legally untenable, and violative of principles of natural justice. Accordingly, the proceedings initiated pursuant to the show cause notice deserve to be dropped in entirety; without prejudice, the Noticee requests for a personal hearing before any decision is taken in this case.

4. SUBMISSIONS ON PENALTY PROPOSED AGAINST MS. PARUL VIVEK:

4.1 Ms. Parul Vivek is an employee of the Company, working as Senior Manager, Global Tax. In the subject Show Cause Notice dated 15.05.2024, she has been proposed to be penalised under Sections 112(a) and 114AA of the Customs Act, 1962 on the allegation that, being the decision-making authority for Customs matters, she knowingly caused false or incorrect declarations in respect of imports of Non-Carrier Ethernet Switches, which the Department alleges to be Carrier Ethernet Switches and therefore ineligible for concessional duty under Notification No. 57/2017-Customs dated 30.06.2017.

4.2 During the course of investigation, Ms. Parul Vivek's statements were recorded under Section 108 of the Customs Act, 1962 and she fully cooperated with the DRI. She furnished all information sought, submitted product data sheets, explained business operations and technical characteristics of the goods, and facilitated interaction with relevant technical personnel. All disclosures were made truthfully and to the best of her knowledge and belief.

4.3 The proposal to impose penalty on Ms. Parul Vivek under Section 112(a) of the Customs Act, 1962 is wholly unsustainable in law and on facts. Penalty under Section 112(a) can arise only if the goods are liable to confiscation under Section 111 and if the person concerned has knowingly or intentionally committed or abetted an act rendering the goods so liable. As per Importer's submission there is no case for confiscation under Section 111(m) of the Customs Act, 1962 made out in the present matter. Once the goods are not liable for confiscation, no penalty under Section 112(a) of the Act can be levied.

4.4 Further, there is no evidence whatsoever to establish any mens rea, deliberate act, or conscious wrongdoing on the part of Ms. Parul Vivek. The investigation has not unearthed any incriminating material suggesting mala fide intent, wilful misdeclaration, or abetment by her. On the contrary, she has fully cooperated with the DRI, consistently explained her bona fide understanding of the goods based on discussions with technical teams, and

disclosed all relevant information. The classification of the goods as Non-Carrier Ethernet Switches was based on technical characteristics, international practices, and tariff interpretation, and at best constitutes a bona fide interpretational dispute.

4.5 Furthermore, it is submitted that there is no personal interest in mis-declaring by wrongly classifying the imported goods and she has not received any pecuniary benefits from such short payment of Customs duty by the Company. There is no allegation in the SCN on this count as well. Therefore, for her bona fide actions, done in due discharge of her official responsibilities and with adequate due diligence, no penal consequences contemplated under the Act ought to be fastened upon her. They rely in case of *Powercon Electricals vs Commissioner of Customs, Cochin, 2021 (376) E.L.T. 540 (Tri. - Bang.)*. Further, in case *Rama Nagappa Shetty vs Commissioner of Customs 2020 (374) E.L.T. 683 (Guj.)*, it is held that penalty cannot be imposed in the absence of contumacious conduct or guilty intent. Mere bald allegations, without proof of intentional misconduct, are insufficient to invoke Section 112(a) of the Customs Act, 1962. Accordingly, no penalty is leviable on Ms. Parul Vivek under Section 112(a) of the Act.

NO PENALTY CAN BE IMPOSED UNDER SECTION 114AA OF THE ACT ON Ms. Parul Vivek:

4.6 The proposal to impose penalty on Ms. Parul Vivek under Section 114AA of the Customs Act, 1962 is legally unsustainable. Section 114AA requires proof that a person knowingly or intentionally made, signed, or used any false or incorrect declaration or document, i.e., the presence of mens rea or mala fide intent is essential. In the subject case, there is no evidence to suggest that Ms. Vivek acted fraudulently or intentionally misrepresented any facts. The dispute merely arises from a bona fide difference in technical interpretation of the imported goods as Non-Carrier Ethernet Switches versus Carrier Ethernet Switches, and no false, fabricated, or misleading documents were submitted. There is no evidence available on record to suggest intentional making, signing, using or causing to make, sign or use of any declaration, statement or document. There is no allegation much less any evidence to this effect in the SCN. Therefore, the invocation of Section 114AA is wholly misconceived and unwarranted in the subject case. In absence of intentional wrongdoing, penalties under Section 114AA are not imposable. Therefore, the levy of penalty on Ms. Vivek under Section 114AA is wholly misconceived and should be set aside. They rely on following judgements:

- *Parag Domestic Appliances vs. Commissioner of Customs, Cochin reported in 2018 (360) E.L.T. 547 (Tri. - Bang.)*

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

- *Sea Queen Shipping Services Private Limited Versus The Commissioner of Customs, Chennai – VIII Commissionerate 2019 (12) TMI 248 - CESTAT Chennai*
- *Hera Shipping Solutions Pvt. Ltd. Versus Commissioner of Customs, Chennai 2022 (382) E.L.T. 552 (Tri. - Chennai)*
- *Commr. of Cus., Sea, Chennai-II Versus Sri Krishna Sounds and Lightings 2019 (370) E.L.T. 594 (Tri. - Chennai)*

4.7 Further, it is submitted that since the SCN already proposes penalties under Sections 112(a) and 114AA of the Customs Act, 1962 on the Company, imposing the same penalties on its employees, including Ms. Parul Vivek, would amount to double penalisation. In case of *Zenith Drugs & Allied Agencies Vs Commr. of Cus., Shillong, 2003 (160) E.L.T. 600 (Tri. - Kolkata)*, it is held that levy of penalty on the managing directors and partners is unsustainable when the same has been levied on the Company as it would amount to double penalisation. Accordingly, the proposed penalties on Ms. Parul Vivek under Sections 112(a) and 114AA are incorrect and unsustainable, and therefore, be set aside in view of the principle against double penalisation.

5. ADDITIONAL WRITTEN SUBMISSION OF IMPORTER DATED 05.02.2026:

5.1 M/s. Cisco Commerce India Private Limited further submitted additional written submissions in response to the Show Cause Notice vide letter dated 05.02.2026. The main details of their reply are as under:

5.2 The Noticee submitted that the issue of classification of Cisco Catalyst 3850 Series Ethernet Switches and the admissibility of concessional rate of duty under Notification No. 57/2017-Customs dated 30.06.2017 stands conclusively settled by the CESTAT, Mumbai, vide Final Order No. A/86011-86081/2024 dated 30.09.2024. The said order has been affirmed by the Bombay High Court in Civil Appeal No. 25 of 2025 vide judgment dated 28.01.2026.

5.3 The Noticee further submitted that the Bombay High Court examined the relevance and applicability of the O.M. dated 18.11.2016 issued by the Department of Telecommunications and held that the classification of Ethernet Switches as Carrier Ethernet Switches or Non-Carrier Ethernet Switches can be determined only on the basis of the purchase order issued by the ultimate consignee. It was further held that the actual end-use by the ultimate customer constitutes the determinative criterion for classification.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

5.4 The Noticee submitted that it is well settled that where a superior constitutional court has pronounced upon an issue after examining the relevant technical, factual, and legal material, the same cannot be disregarded or diluted by the adjudicating authority by adopting a different interpretational approach in respect of the very same class of goods.

5.5 Accordingly, the Noticee submitted that in view of the binding judgment of the Bombay High Court, the unrebutted end-user evidence available on record, and the settled legal position emanating therefrom, the benefit of Notification No. 57/2017-Customs dated 30.06.2017 availed by them is fully justified in law. Any proposal to deny the said benefit would be unsustainable, contrary to binding judicial precedent, and therefore liable to be dropped in toto.

OEM Declaration-Independent and Authoritative Evidence:

5.6 The Noticee placed reliance on the formal declaration issued by the Original Equipment Manufacturer (OEM), M/s Cisco Systems, Inc., being the designer, developer, and manufacturer of the impugned Ethernet Switches. It was submitted that the said OEM declaration conclusively establishes that the impugned goods are Enterprise-class (Non-Carrier) Ethernet Switches and are, therefore, fully eligible for the benefit of Notification No. 57/2017-Customs dated 30.06.2017. Accordingly, the Noticee contended that the allegations made in the subject Show Cause Notice stand untenable and are liable to be rejected on technical, factual, and legal grounds.

No demand can be sustained in respect of Catalyst 9200 Series in the absence of IP-MPLS/Carrier-Grade functionally:

5.7 The Noticee submitted that the Catalyst 9200 Series Switches (C9200L-48PXG-4X-A) do not support IP-MPLS or Carrier-grade transport features. Accordingly, it was submitted that the proposal to deny the exemption and to demand differential duty in respect of the said Switches is unsustainable in law and is liable to be dropped in toto.

6. ADDITIONAL WRITTEN SUBMISSION OF IMPORTER DATED 27.02.2026:

6.1 M/s. Cisco Commerce India Private Limited further submitted another additional written submission in response to the Show Cause Notice vide letter dated 27.02.2026. The main details of their reply are as under:

6.2 The Noticee stated that they had already filed a detailed and comprehensive reply dated 16.01.2026. In the said reply, they provided

factual, technical, and legal submissions along with supporting documentary evidence, technical literature, end-use certifications, reconciliations, and annexures addressing each of the allegations raised in the Notice. Further, the Noticee also made additional submissions on 05.02.2026, wherein reference was made to the judgment of the High Court of Bombay dismissing the appeal filed by the Revenue and affirming the order of the CESTAT on the very same classification issue; and submitted a declaration issued by the OEM certifying, on a model-wise basis, that the subject imported Switches are Enterprise (Non-Carrier) Ethernet Switches.

6.3.1 The Noticee stated that in their reply dated 16.01.2026 they submitted that the classification between Carrier and Non-Carrier Ethernet Switches is governed by the Office Memorandum dated 18.11.2016 issued by the Department of Telecommunications (DoT), which prescribes end-use based criteria. As per the said Memorandum, Switches supplied to non-TSP/ISP entities or used at customer premises are to be treated as Enterprise (Non-Carrier) Ethernet Switches, whereas Switches supplied to TSP/ISP for use in their telecom network for carriage or transport are to be treated as Carrier Ethernet Switches. The Noticee emphasized that the decisive factor for classification is the actual deployment and end-use of the Switches and not merely their technical specifications.

6.3.2 The Noticee also submitted Bill of Entry-wise self-declarations specifying the end users of the imported Switches covered under the subject Show Cause Notice. In this regard, the Noticee stated that the said Switches were supplied to non-licensed Enterprise entities and, therefore, cannot be regarded as being deployed in Carrier-grade Networks. Accordingly, such supplies are to be treated as pertaining to Enterprise (Non-Carrier) deployments.

6.3.3 The Noticee also submitted that very few demands relate to supplies made to certain customers who may hold TSP/ISP registrations; however, the Switches were deployed only for internal LAN/WAN or data-centre environments and not for carriage of Telecom traffic. In support, the Noticee furnished End-Use Certificates from the customers confirming Non-Carrier deployment. Further, the OEM has issued a model-level declaration certifying that the imported Switches are Enterprise Class (Non-Carrier) Ethernet Switches. Accordingly, the Noticee contended that none of the impugned Switches were deployed in Carrier Networks and therefore the entire demand proposed in the Show Cause Notice is unsustainable and liable to be dropped.

6.4 The Noticee submitted that the proposed demand is not sustainable for the following reasons, the details of which are mentioned as under: -

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

Sr. No.	Particulars	Annexure-A of the SCN	Annexure-B of the SCN	Remarks
1.	Imports prior to 01.04.2023 – Circular No. 08/2023 not retrospectively applicable	2,72,60,92,196/-	72,98,44,626/-	The Noticee submitted that the demand relating to imports prior to 01.04.2023 is not sustainable, as the Circular is applicable only prospectively from 01.04.2023, and are therefore liable to be dropped.
2.	Models not supporting IP-MPLS / Carrier-grade functionality – outside scope of allegation	4,89,26,935/-	1,76,67,19,453/-	The Noticee submitted that this part of the demand relates to non-IP-MPLS capable Switches, which fall outside the scope of the allegations in the SCN, and are therefore liable to be excluded from the proposed demand.
3.	Security / Network Appliances (not Ethernet Switches) – fundamentally misclassified	36,70,557/-	1,31,289/-	The Noticee submitted that the demand relating to Firepower 9300 Series (Security Appliances) equipment is not valid, as these are Network Security Appliances and not Ethernet Switches, and is therefore liable to be dropped.
4.	Layer-2 Switches – categorically recognised as Non-Carrier under O.M. dated 18.11.2016	-	20,20,98,882/-	The Noticee submitted that these Switches are Layer-2 Switches, which are recognized as Non-Carrier Switches under the Office Memorandum dated 18.11.2016 (TEC), and accordingly, the demand is not sustainable.
5.	Provisional Bills of Entry – finalisation barred by limitation under Section 18 read with 2018 Regulations	67,73,619/-	19,15,786/-	The Noticee submitted that since the provisional assessments were not finalized within the statutory time limits prescribed under Section 18 of the Customs Act, 1962, the proposed demand is liable to be dropped.
6.	Warehousing Bills of Entry – no duty leviable at warehousing stage;	3,55,21,947/-	77,32,752/-	The Noticee submitted that this demand pertains to Warehousing (into-bond) Bills of Entry;

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

	demand without jurisdiction			therefore, the demand is premature and liable to be dropped.
7.	Catalyst 3850 Switches – issue already finally decided by CESTAT and affirmed by Hon'ble High Court (re-litigation impermissible)	1,33,785/-	-	The Noticee submitted that this demand relates to Catalyst 3850 Switches, a matter already decided by the CESTAT and subsequently the said order affirmed by the Bombay High Court, and is therefore demand is liable to be dropped.

6.5 Further, the Noticee submitted that the factual and legal submissions made earlier clearly demonstrate the absence of any suppression of facts, misstatement, intent to evade duty, or any contumacious conduct on its part. Accordingly, the proposals for invocation of the extended period of limitation, as well as for imposition of interest, penalties, and confiscation, are wholly unsustainable and the subject SCN is liable to be dropped.

7. PERSONAL HEARING:

The online hearing was held on 06.02.2026 attended by Shri Vivek Pachisia, authorised representative by M/s. Cisco Commerce India Pvt Ltd, Ms Parul Vivek – Sr Manager-Customs, Shri Aditya Venkataraman - Manager-Customs and Shri Amit Ghadage - Manager-Customs.

Shri Vivek explained his case in detail referring to the notification of which exemption was taken, Circular No. 08/2023 dated 13.03.2023, O.M. of DoT dated 18.11.2016.

The noticee -importer has been importing the subject Switches from Cisco Overseas (M/s. Cisco Systems, INC, USA,) for more than a decade declaring these as 'Enterprises Switches' and mainly sold to Enterprise customers with very few said to be sold to TSP/ISP or Telecom operators.

Shri Vivek says that they do not import Carrier grade Switches at all. Carrier Switches are used in TSP/ISP networks whereas Non- Carrier Switches are used in enterprise LAN-WAN environment. The main issue in the subject case is the type of Switches imported- Carrier or Non- Carrier, the former being excluded from the purview of the said exemption notification. The Switches imported were assessed and cleared in the past without any issues.

Shri Vivek says that as per the O.M. of DoT dated 18.11.2016, end use is the relevant criterion. The Importer - noticee has submitted such end use

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

certificates, OEM declarations and Test Reports to justify their case. IIT Mumbai opinion has also been submitted to the same effect.

Shri Vivek refers to CESTAT Order upheld by Bombay High Court Order in their own case said to be applicable to the subject proceedings. The High Court has held the Circular No. 08/2023 dated 13.03.2023 to be prospectively applicable. The amount involving Rs. 345 Cr. (Approx.) duty pertains to the period prior to 01.04.2023.

Shri Vivek says that Test Reports have been submitted evidencing that IP/MPLS functionality was not present in many of the Switches imported and that the duty involvement for such Switches is Rs 183 Crores (Approx.) as demanded in the SCN. There are other Switches which are Layer 2 Category Switches as per O.M. of DoT dated 18.11.2016 (Para (a)) involving Rs 20 Cr (Approx.) duty demand in the SCN. These Switches are therefore not Carrier Switches.

Shri Vivek says that Warehouse Bills of Entries were double counted (Into Bond and corresponding Ex Bond) and thereby inflating the duty demand by Rs 4.3 Crores (Approx.). Bills of Entries are Provisionally Assessed since 2023 and not finalized within 2 months as per the Customs (Finalisation of Provisional Assessment) Regulations, 2018.

Shri Vivek says that considering that they had been regularly importing the subject goods since a long period of time and there being no willful misdeclarations/misstatement and suppressions, the extended period of time under Section 28(4) interest, confiscation, personal penalty on Ms. Parul Vivek and Penalties under Section 114A, 114AA cannot be imposed.

8. DISCUSSION AND FINDINGS:

8.1 I have gone through the Show Cause Notice No. 73/2025-26 dated 15.05.2025 issued under Section 28(4) of the Customs Act, 1962, relied upon documents, submissions made by the Noticee in writing as well as during personal hearing and material available on record.

8.2 The SCN has alleged that the Noticee has cleared various consignments of "Ethernet Switches of various categories i.e. Catalyst 9200, Catalyst 9300, Catalyst 9400, Catalyst 9500, Nexus 9200, Nexus 9300, Nexus 9500, WS 3800 and Meraki Series" under the Bills of Entry mentioned in the subject SCN by classifying the same under CTI 85176290 and wrongly claiming benefit of Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017 as amended, as the subject goods are "Carrier Ethernet Switches" which are excluded from the Notification benefit. These Ethernet Switches are IP-MPLS equipment and based on certain parameters are covered under Entry (g) of

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

Sr. No.20 of Notification No.57/2017-Customs dated 30.06.2017 read with Circular bearing No. 08/2023 dated 13.03.2023, and are not eligible for the said Notification benefit. The wrong availment of ineligible notification has resulted in short levy / short payment of Customs duties, and the same is liable to be recovered along with interest from the importer. The importer has wilfully suppressed the true nature of the goods to wrongfully avail the notification benefit, and hence, the subject goods are liable to confiscation under Section 111(m) of the Customs Act, 1962, and the importer has rendered themselves liable to penalty under Section 114A and 114AA of the Customs Act, 1962. The SCN also alleges that Ms. Parul Vivek, Sr. Manager, Cisco also liable to penal action under Section 112(a) and 114AA of the Customs Act, 1962.

8.3 As the notification benefit is not available to Carrier Ethernet Switch, therefore, before dealing with the issues of exclusions and eligibility of notification benefit under Entry (g) of Sr. No. 20 of Notification No.57/2017-Customs dated 30.06.2017 as amended, it is important to address the main inherent question which is whether the imported goods covered under the subject SCN are Carrier Ethernet Switch or otherwise. After having identified and framed the main issues for determination, I proceed to examine each issue individually, with reference to the facts and circumstances of the case, the provisions of the Customs Act, 1962, and the nuances of the various relevant judicial pronouncements.

8.4 To address this inherent question of qualification of goods as Carrier Ethernet Switch or otherwise, I have to go through the submissions made by the Noticee and other reference material available on the manufacturer's website. In the process I observed that in the submission of the Noticee, they themselves attempted to differentiate between Carrier and Non-carrier Switches on the basis of intended use, Standards Compliance (MEF) & Multiprotocol Label Switching Transport Profile (MPLS-TP).

8.5 I referenced the issue of categorization of Switch to have a better understanding of the technical key features and found a following few important information on official websites of CISCO.

- (i) An Ethernet Switch is a type of network hardware that is foundational to networking and the internet. Ethernet Switches connect cabled devices, like computers, Wi-Fi access points, PoE lighting and IoT devices, and servers, in an Ethernet LAN so they can communicate with each other and to the internet.
- (ii) Ethernet technology is designed to solve the problem of packet collision in a shared network by having network-connected devices follow a set of rules that allow devices to talk to each another without

talking over each other. These network-connected devices are physically connected with a cable to an Ethernet Switch that then manages the flow of data between devices, applications, data, cloud services and the internet.

- (iii) Connectivity over longer distances and higher data rates are some of the major differences that separate Carrier Ethernet from traditional wired Ethernet. Essentially, Ethernet is a LAN that connects devices via physical cables and carries data over a limited distance. Carrier Ethernet, on the other hand, is a set of services that carry data over long distances. Network service providers offer Carrier Ethernet to connect geographically distributed facilities within an enterprise or connect enterprises to other enterprises and the internet. Enterprises can also take advantage of Carrier Ethernet capabilities to build networks and connect their facilities without relying on a network service provider.
- (iv) Carrier Ethernet is a set of services specified by MEF, an organization of service providers and equipment vendors that define services to connect Ethernet LANs within a metropolitan area. MEF developed Carrier Ethernet in response to the growing need to connect networks over larger areas. Carrier Ethernet can connect distant Ethernet LANs like they are all part of a single bridged LAN. It can connect geographically distributed remote workers to databases or applications executing on Servers as if they are located in a facility housing these services.
- (v) Ethernet Switches connect multiple devices together by physically cabling those devices to the same Switch or devices connected to another Switch that is connected to the same network. These cables include coaxial, fiber, and Ethernet cable twisted-pair.
- (vi) Once a device is connected to a port, the Ethernet Switch manages the flow of data between the device and other devices, applications, data, cloud services, and the internet. The switching process directs incoming and outgoing data to the correct port on the Switch based on the port of the sending device and the sending and destination MAC addresses. The MAC address of both sender and destination are included, with the data being sent in an Ethernet frame. Every Ethernet compatible device has a hardcoded physical address called a MAC address that the connecting Switch uses to uniquely identify a device.
- (vii) IP-MPLS (Internet Protocol-Multi-Protocol Label Switching) based equipments refer to networking devices that use the IP and MPLS protocols for forwarding data packets in a network. These devices

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

typically operate at the network layer (Layer 3) of the OSI (Open Systems Interconnection) model and are used for routing and switching data packets across Wide Area Networks (WANs). They can provide advanced features such as Quality of Service (QoS), traffic engineering, and Virtual Private Networks (VPNs) to ensure reliable and efficient transport of data packets over the network.

- (viii) Carrier Ethernet Switch is basically designed for telecommunication carriers, service providers and large-scale networks. They are used in Metro Ethernet, WAN and other access networks, to deliver services to customers. They support SLA's, MEF (Metro Ethernet Forum) standards like E-Line, E-LAN, E-Tree services, Advanced QoS (Quality of Service), redundancy, OAM (Operations, Administration and Management). They are designed to scale across thousands of customers and services, have high port density and throughput (10G, 40G, 100G+), offer services provisioning and remote diagnostics and are built for high availability. They are more expensive due to advanced features and higher performance capabilities. Non-Carrier Ethernet Switches on the other hand are used in Enterprise, Campus or Data Center Networks (DCNs) and are meant for internal network switching, not for delivering commercial services to customers. They are typically limited to the needs of a single enterprise and have simpler features, are more affordable.

8.6.1 Metro Ethernet Forum (MEF) is an organization that defines Carrier Ethernet standards and frameworks. As per MEF, Carrier Ethernet is a network service that extends Ethernet technology beyond local area networks (LANs), allowing businesses to connect one or more sites over long distances. Typically used to build wide area networks (WANs), it provides high capacity Ethernet connectivity between geographically dispersed locations. Traditional Ethernet is designed to connect devices within a single site, such as an office or campus while Carrier Ethernet uses a network service provider's managed infrastructure to connect one or more sites, often over greater distances or across geographically dispersed locations.

Ethernet vs Carrier Ethernet

	Traditional Ethernet	Carrier Ethernet
Geography	Connects devices within your local area network (LAN)	Connects one or more geographically dispersed business sites via a service provider
Management	Managed internally by your IT team	Fully managed service with monitoring and SLAs
Distance	Limited to a single site, like an office or campus	Suitable for metro, regional, or geographically dispersed links

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

Delivery	Runs over your internal cabling and hardware	Delivered via a provider's managed infrastructure
Speed	Typically, up to 1Gbps, though higher LAN speeds (e.g. 10Gbps) are possible	Often supports 1Gbps to 100Gbps, depending on the service
Scalability	Limited by your existing LAN infrastructure	Easily scalable to meet growing bandwidth demands
Resilience	Depends on your on-site setup	Built-in redundancy and carrier-grade fault tolerance
Standards	IEEE Ethernet standards (e.g. 802.3)	IEEE Ethernet standards plus Metro Ethernet Forum (MEF) specifications
Typical uses	Connecting computers, printers and servers on-site	Linking branch offices, data centres or cloud services

8.6.2 Carrier Ethernet is a collection of service types standardised by the Metro Ethernet Forum (MEF) to meet different business needs. Here are the main service types for end-user subscribers.

- (i) E-Line (point-to-point or point-to-multipoint) : **E-Line**, provides a dedicated point-to-point (P2P) connection between two sites. Also known as **Ethernet Private Line (EPL)**, it provides a P2P Ethernet Virtual Connection (EVC) between a pair of user network interfaces (UNIs). It's ideal for businesses that need a secure, high-capacity link between two fixed locations. To connect Multiple sites E-Line in Ethernet Virtual Private Line (EVPL) configuration. EVPL supports point-to-multipoint (P2MP) connectivity by enabling multiple EVCs per UNI.
- (ii) E-LAN (multipoint-to-multipoint) : Enabling any-to-any connectivity, **E-LAN**, also known as **Ethernet Virtual Private LAN**, is the carrier equivalent of Virtual Private LAN Service (VPLS). E-LAN allows three or more sites to exchange data directly with each other. This is suitable for organisations with distributed branches requiring consistent performance between sites.
- (iii) E-Tree (rooted-multipoint/hub-and-spoke): **E-Tree** connects a central site to multiple sites, but the "leaves" (branch nodes) of the tree don't exchange data directly. It's commonly used in scenarios that require point-to-multipoint (P2MP) connectivity with strict traffic separation, such as data centre, enterprise and service provider networks.
- (iv) E-Access (network-to-network): Designed for service providers, **E-Access** provides a local access connection to another carrier's network via an external network-to-network interface (NNI). It enables to extend Ethernet services beyond own footprint, for example, to reach off-net customer locations in last-mile scenarios. A subset of E-

Access, **Transit E-Access**, allows a network service provider to hand off traffic to another operator without using an external NNI.

8.6.3 Carrier Ethernet works by using standard Ethernet protocols to deliver high capacity connectivity over a telecom provider's managed network. It combines Ethernet with carrier-grade standards to ensure scalability, reliability and Quality of Service over longer distances.

Carrier Ethernet standards:

8.6.4 First standardised in 1983 as IEEE 802.3, Ethernet initially used coaxial cables to transmit data at a maximum of 10Mbps across LANs up to around 500m. As demand for Ethernet-style simplicity grew beyond local area networks, service providers began delivering Ethernet over fibre networks in a metropolitan area, a model known as Metro Ethernet.

8.6.5 Founded in 2001, the Metro Ethernet Forum (MEF) introduced a set of global standards for Metro Ethernet. In time, these evolved into Carrier Ethernet, which delivers high-bandwidth data transmission over longer distances regional, national or international wide area networks.

Building on IEEE Ethernet standards, Carrier Ethernet adds MEF-defined features, including:

- Standard service types like **E-Line**, **E-LAN**, **E-Tree** and **E-Access**
- Guidelines for traffic management to ensure Quality of Service
- Operations, Administration and Maintenance (OAM) standards for fault management and performance monitoring
- Service-level agreements (SLAs) to ensure performance, uptime and support

These standards ensure Carrier Ethernet delivers the scalability and reliability needed for business-critical networks, whether connecting sites within a city or across regions and countries.

8.6.6 Connecting two locations or building a multi-site network, Carrier Ethernet offers a high-performance, cost-effective alternative to legacy WAN technologies. Here are some of its key advantages:

- **High bandwidth:** Scalable speeds from 10Mbps to 100Gbps
- **Scalability:** Easy to add bandwidth or connect new sites
- **Flexibility:** Supports point-to-point, multipoint and hybrid network topologies
- **Cost efficiency:** Typically lower cost than traditional WAN technologies like MPLS or leased lines
- **Reliability:** Built-in redundancy, Quality of Service guarantees and SLAs for uptime and performance

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

- **Interoperability:** Based on open standards that support integration across providers, networks and equipment vendors.

8.6.7 A wide variety of sectors rely on Carrier Ethernet to connect locations and users with consistent performance. Typical users include:

- **Enterprises:** connecting branch offices, data centres and cloud services
- **Service providers:** extending reach and delivering managed Ethernet services
- **Retail chains:** linking stores, warehouses and payment systems
- **Media companies:** transmitting live video across production and post-production sites
- **Financial services:** enabling secure, low latency connectivity between offices, data centres and trading environments
- **Public sector:** supporting secure, private networks for health care, education, local authorities and government departments

(Reference: <https://www.mplify.net/service-standards/underlay-services/carrier-ethernet/> (MEF)
<https://neosnetworks.com/resources/blog/what-is-carrier-ethernet/>
<https://www.tutorialspoint.com/what-is-carrier-ethernet>
<https://www.sciencedirect.com/topics/computer-science/carrier-ethernet-network>)

8.7.1 The links directing to the manufacturer's official website for the Switches imported under the subject SCN are provided in the table below.

Nexus 9200 (N9K)	https://www.cisco.com/c/en/us/products/collateral/switches/nexus-9000-series-switches/datasheet-c78-735989.html
Nexus 9300 (N9K)	https://www.cisco.com/c/en/us/products/collateral/switches/nexus-9000-series-switches/datasheet-c78-743149.html
Nexus 9500 (N9K)	https://www.cisco.com/c/en/us/products/collateral/switches/nexus-9000-series-switches/datasheet-c78-729404.html
Catalyst 9200	https://www.cisco.com/c/en/us/products/collateral/switches/catalyst-9200-series-switches/nb-06-cat9200-ser-data-sheet-cte-en.html
Catalyst 9300	https://www.cisco.com/c/en/us/products/collateral/switches/catalyst-9300-series-switches/nb-06-cat9300-ser-data-sheet-cte-en.html
Catalyst 9400	https://www.cisco.com/c/en/us/products/collateral/switches/catalyst-9400-series-switches/nb-06-cat9400-ser-data-sheet-cte-en.html
Catalyst 9500	https://www.cisco.com/c/en/us/products/collateral/switches/catalyst-9500-series-switches/nb-06-cat9500-ser-data-sheet-cte-en.html
Catalyst 9600	https://www.cisco.com/site/us/en/products/collateral/networking/switches/catalyst-9600-series-switches/nb-06-cat9600-series-data-sheet-cte-en.html
Cisco ME 1200	https://www.cisco.com/c/en/us/products/collateral/switches/me-1200-series-carrier-ethernet-access-devices/datasheet-c78-731467.html

8.7.2 I find that, as per technical specifications, architecture, and functional capabilities of the Nexus 9000 Series, Catalyst 9000 Series, ME 1200 Series and other Switches mentioned in the subject SCN, the said goods are designed

and equipped to perform Carrier Ethernet switching functions in Telecom and service provider networks. The architecture of these Switches enables high-capacity, deterministic Layer-2 and Layer-3 Ethernet forwarding with scalability, resilience, and service assurance features characteristic of Carrier-grade Ethernet equipment and distinct from conventional enterprise LAN Switches.

8.7.3 I further find that the subject imported Switches support MEF-aligned Carrier Ethernet service constructs, including point-to-point and multipoint Ethernet services, implemented over Carrier transport technologies such as MPLS, EVPN, and segment-based forwarding. These capabilities permit provisioning, isolation, and management of multiple independent Ethernet services for different subscribers over a shared physical infrastructure, which constitutes a defining functional attribute of Carrier Ethernet Switches.

8.7.4 I also find that the subject Switches incorporate advanced Quality of Service (QoS) mechanisms, including granular traffic classification, hierarchical queuing, traffic policing, and shaping, enabling enforcement of committed and excess bandwidth profiles and prioritization of traffic in accordance with service level agreements (SLA). Such deterministic QoS enforcement is essential for Carrier networks and is not merely incidental or ancillary in nature.

8.7.5 I further find that the subject Switches implement comprehensive Ethernet Operations, Administration, and Maintenance functionalities, including IEEE 802.1ag Connectivity Fault Management and performance monitoring for delay, jitter, and frame loss, enabling continuous fault detection, monitoring, and assurance of Ethernet services on a per-service basis, as required in Carrier-grade environments.

8.7.6 I also find that the hardware and software architecture of the subject Switches provides carrier-grade availability through redundancy, fast convergence, and in-service software upgrade capabilities, ensuring uninterrupted operation in always-on telecom networks. The presence of synchronization capabilities such as Synchronous Ethernet and Precision Time Protocol further enables their deployment in mobile fronthaul and backhaul networks.

8.7.7 In view of the foregoing discussion, I hold that the Nexus 9000 Series, Catalyst 9000 Series, ME 1200 Series, and other Switches mentioned in the subject SCN, by virtue of their technical specifications, functional characteristics, and intended deployment, are **Carrier Ethernet Switches**. These Switches are capable of operation across the access, aggregation, and

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

core layers of telecom and service provider networks and are accordingly classifiable and treated as Carrier Ethernet Switches.

8.8.1 During the search conducted at the locations of the importer, samples of the imported Switches were resumed under Panchnama dated 18.05.2023 for the purpose of technical examination, the subject goods being highly technical in nature. The drawn samples, namely C9300-48P-4X-E, C9500-48Y4C-A, N9KC93180YC-FX3, and C9200L-48PXG-4X-A, were forwarded on 27.06.2023 for testing to M/s. Sunren Telecom Laboratory, Mumbai, an accredited laboratory, through the Telecommunication Engineering Centre (TEC), the nodal agency under the Department of Telecommunications (DoT) for testing and certification of telecommunication equipment.

8.8.2 The test reports issued by the said laboratory reveal that the subject Switches support Carrier-grade functionalities such as **MPLS-TP, IP-MPLS, Traffic Engineering, Operations, Administration and Management (OAM) functions, Precision Timing, E-Line and E-LAN services, Ethernet OAM, and Connectivity Fault Management (CFM)**. The laboratory has certified that the tested Switches are **Carrier Class Ethernet Switches** and are capable of deployment for providing **Carrier Ethernet services**.

8.8.3 I find that the above technical findings conclusively establish that the subject goods imported in the subject SCN, possess Carrier-grade architecture, protocols, and service capabilities. Accordingly, all the Switches imported under the subject SCN are held to be **Carrier Ethernet Switches**. Sample Test Reports are as under for reference:

Report No : STL-2307-ETH-1855

Page 5 of 16

SUNREN TELECOM LABORATORY



TC-7995

Summary of Test Results

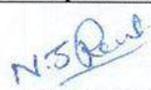
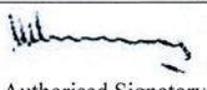
Report No : STL-2307-ETH-1855	Date of Issue: 24-07-2023
Title: Test report of LAN Switch	

EUT Description	
Nomenclature	LAN Switch
Make/Manufacturer	Cisco Systems, Inc. 170 ,West Tasman Drive , San Jose, California 95134-1706 USA
Model No. (s)	C9300-48P-4X-E
Serial No.(s) of product(s) tested	FOC2631Y2HT

Hardware / Software version(s)
NIL

No.	Test Parameter Name	Remarks	Observations	Results
01	Verification of carrier class features			
	1. MPLS-TP	Ok	Ok	EUT supports carrier class features
	2. IP-MPLS	Ok	Ok	
	3. OAM Functions	Ok	Ok	
	4. Traffic Engineering	Ok	Ok	
	5. Precision Timing	Ok	Ok	
	6. E-line and E-LAN	Ok	Ok	
	7. Ethernet OAM and Ethernet CFM functions	Ok	Ok	

EUT is a carrier class ethernet switch and can be deployed as carrier class switch to provide carrier ethernet services.

Report Verified By	Authorized by
 Name: NILESH RAUT Designation : Technical Manager	 Authorised Signatory Name: Sunil Shenoy Designation : CEO

Note : The Test Results presented in this report, pertain to the sample(s) tested.

Report No : STL-2307-ETH-1856
SUNREN TELECOM LABORATORY



TC-7995

Summary of Test Results

Report No : STL-2307-ETH-1856	Date of Issue: 24-07-2023
Title: Test report of LAN Switch	

EUT Description	
Nomenclature	LAN Switch
Make/Manufacturer	Cisco Systems, Inc. 170 ,West Tasman Drive , San Jose, California 95134-1706 USA
Model No. (s)	C9500-48Y4C-A
Serial No.(s) of product(s) tested	FDO27130KU7

Hardware / Software version(s)	NIL
--------------------------------	-----

No.	Test Parameter Name	Remarks	Observations	Results
01	Verification of carrier class features			
	1. MPLS-TP	Ok	Ok	EUT supports carrier class features
	2. IP-MPLS	Ok	Ok	
	3. OAM Functions	Ok	Ok	
	4. Traffic Engineering	Ok	Ok	
	5. Precision Timing	Ok	Ok	
	6. E-line and E-LAN	Ok	Ok	
	7. Ethernet OAM and Ethernet CEM functions	Ok	Ok	

EUT is a carrier class ethernet switch and can be deployed as carrier class switch to provide carrier ethernet services.

Report Verified By	Authorized by
<i>N.S.Raut</i>	<i>Sunil Shenoy</i>
Name: NILESH RAUT Designation : Technical Manager	Authorised Signatory Name: Sunil Shenoy Designation : CEO

Note : The Test Results presented in this report, pertain to the sample(s) tested.

Report No: STL-2307-ETH-1857

SUNREN TELECOM LABORATORY



TC-7995

Summary of Test Results

Report No : STL-2307-ETH-1857	Date of Issue: 24-07-2023
Title: Test report of LAN Switch	

EUT Description	
Nomenclature	LAN Switch
Make/Manufacturer	Cisco Systems, Inc. 170 ,West Tasman Drive , San Jose, California 95134-1706 USA
Model No. (s)	N9K-C93180YC-FX3 V06
Serial No.(s) of product(s) tested	FDO27132C7U

Hardware / Software version(s)	NIL
--------------------------------	-----

No.	Test Parameter Name	Remarks	Observations	Results
01	Verification of carrier class features			
	1. MPLS-TP	Ok	Ok	EUT supports carrier class features
	2. IP-MPLS	Ok	Ok	
	3. OAM Functions	Ok	Ok	
	4. Traffic Engineering	Ok	Ok	
	5. Precision Timing	Ok	Ok	
	6. E-line / E-LAN	Ok	Ok	

EUT is a carrier class ethernet switch and can be deployed as carrier class switch to provide carrier ethernet services.

Report Verified By	Authorized by
<i>N.S.Raut</i>	<i>Sunil Shenoy</i>
Name: NILESH RAUT Designation : Technical Manager	Authorised Signatory Name: Sunil Shenoy Designation : CEO

Note : The Test Results presented in this report, pertain to the sample(s) tested.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.9 The Noticee has claimed the impugned goods as “Non-Carrier Ethernet Switches”; however, no documentary evidence has been produced to substantiate this claim. In the absence of any such proof, reliance necessarily rests on the intrinsic known technical capabilities of the goods as well as the laboratory test reports obtained during investigation. The test reports categorically establish that the impugned goods support Carrier-grade features such as **IP-MPLS, advanced Quality of Service (QoS), high availability, scalability, Operations, Administration and Management (OAM) functions, and other Carrier Ethernet service capabilities**, and conclude that the goods are **Carrier Class Ethernet Switches** capable of deployment for Carrier Ethernet services. These features are indicative of Carrier Ethernet functionality. Mere self-declaration in commercial invoices or generalized descriptions cannot be accepted as determinative for classification purposes. I therefore find that the Noticee has failed to discharge the burden of proof cast upon it, and accordingly, the impugned goods are held to be **classifiable as Carrier Ethernet Switches**.

8.10.1 The Noticee’s contention that the imported goods were neither supplied to ISP/TSP entities nor capable of deployment in Carrier networks is found to be untenable. In view of the highly technical nature of the goods, the Department caused the equipment to be subjected to technical examination by an authorised and accredited laboratory to ascertain their functional capabilities and specifications. The laboratory test reports, which are independent and based on objective technical parameters, conclusively certify that the imported Switches are **Carrier-grade Ethernet switches**. These reports clearly establish that the goods support Carrier-grade functionalities and are suitable for use to provide Carrier Ethernet services, thereby decisively rebutting the Noticee’s claim that the Switches are merely enterprise-grade or non-carrier equipment.

8.10.2 Further, the Noticee’s assertion that the goods were not sold to ISP/TSPs is contradicted by its own contemporaneous commercial invoices, which explicitly identify **M/s. Bharti Airtel Ltd., M/s. Vodafone Idea Ltd.** and **M/s. Reliance Jio Infotech Ltd.** who are undisputedly licensed TSPs/ISPs as the end users of the imported goods. Samples of such commercial invoices were recovered during investigation and form part of the relied-upon documents of the subject SCN. The subsequent reliance placed by the Noticee on post-facto certificates claiming exclusive enterprise use is therefore misconceived and misleading, as such certificates cannot override either the categorical technical findings recorded in the test reports or the Noticee’s own commercial records. The claim of the Noticee that its customers have certified that the Switches were used “exclusively in enterprise environments and not in TSP/ISP networks” is **misconceived, misleading,**

and an afterthought. This assertion is directly contradicted by the Noticee’s own invoices, which explicitly mention TSP/ISP entities as the end users. The Noticee’s attempt to rely on post-facto certificates to negate what is clearly stated in its statutory and commercial documents as a deliberate effort to dilute the evidentiary value of its own records.

8.10.3 In view of the conclusive findings of the authorised laboratory and the contradictions evident in the Noticee’s documentary record, I hold that the defence put forth by the Noticee is devoid of merit. The plea that the impugned goods were meant exclusively for enterprise environments and were not capable of Carrier use is accordingly rejected as factually incorrect, legally untenable, and unsupported by credible evidence.

Sample Commercial Invoices of the Importer indicating that the end users are Telecom Service Providers (TSPs) / Internet Service Providers (ISPs):

Commercial Invoice

Commercial Invoice No. & Date

Ultimate Consignee

Item Description

Commercial Invoice
 Page 1 of 2
 COMMERCIAL INVOICE NO. 123832541
 COMMERCIAL INVOICE DATE 20 JUN 2018
 SALES ORDER NO./SHIP SET NO. 10550587-3
 PURCHASE ORDER NO. BAL NO./MCO/VA PRADSH/UR/33827
 PAYMENT TERMS NOG ORDER TYPE STANDARD CISCO - IN
 INCOTERMS/FREIGHT TERMS CIP - IMPORT POINT - DUTY UNPAID - PREPAID
 SHIP METHOD SCHENKER 4 DAY AIR
 SELLER CISCO SYSTEMS INTERNATIONAL BV
 HANLERSBERG/PARK
 HANLERSBERGOWEG 17-18
 AMSTERDAM ZD 1101 CH
 NETHERLANDS
 SHIP FROM SCHENKER INTERNATIONAL, S.A. DE CV
 AV. GUADALUPE 800-B
 GUADALAJARA TECHNOLOGY PARK
 ZAPOPAN JALISCO 45910
 MEXICO
 BILL TO CISCO COMMERCE INDIA PVT LTD
 163-172, GALANG, 1-16
 DARPODA ROAD, MARIKOLJ NAKA
 BHIRWADI
 THANE MH 421301
 INDIA
 SHIP TO CISCO COMMERCE INDIA PVT LTD
 163-172, GALANG, 1-16
 DARPODA ROAD, MARIKOLJ NAKA
 BHIRWADI
 THANE MH 421301
 INDIA
 END USER: SHARTI ARTEL LTD INDORE INDIA
 ULTIMATE CONSIGNEE
 SHARTI ARTEL LTD
 TC/XPB/HUB/CI SUPPLY CHAIN SOLUTIONS,
 SURVEY NO 690 & 1002
 VILLAGE: PEER KARADIYA, RATWARI HALKA
 NO. SL, AT POST MANGUA,
 TAHSIL BANWAR
 INDORE MP 458771
 INDIA
 PO LINE# CIBR0035
 NRK-C01180YCFX
 NEXUS 3300 WITH 48P 1025G GPP, 6P 100G QSP, MAXSEC IP
 NDK-C3884-ACC-KI
 NDA-FAN-10CFM-F
 PO LINE# CIBR0010
 NDA-PDC-32W-PE
 CAB-48DC-48P-8AVG
 NDL-7037-1
 ACI-10-KF
 Total No. Cartons = 20
 CARTON ID 111405058 SERIAL NO FDC0224000 COUNTRY OF ORIGIN MEXICO
 CARTON ID 111405071 SERIAL NO N/A
 CARTON ID 111405082 SERIAL NO FDC02240040 COUNTRY OF ORIGIN MEXICO
 CARTON ID 111405095 SERIAL NO N/A
 CARTON ID 111405080 SERIAL NO FDC02240041 COUNTRY OF ORIGIN MEXICO
 CARTON ID 111405091 SERIAL NO N/A
 CARTON ID 111405101 SERIAL NO FDC02240020 COUNTRY OF ORIGIN MEXICO
 CARTON ID 1114401105 SERIAL NO N/A
 CARTON ID 111405113 SERIAL NO FDC0224004W COUNTRY OF ORIGIN MEXICO
 CARTON ID 111405115 SERIAL NO N/A
 CARTON ID 111405132 SERIAL NO FDC0224004X COUNTRY OF ORIGIN MEXICO
 PL25790511028248V1
 88-44762340-470-4541028248V1

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.



COMMERCIAL INVOICE

SELLER
 CISCO SYSTEMS, INC.
 170 W TASMAN DR
 SAN JOSE CA 95134
 UNITED STATES

SHIP FROM
 SCHENKER INTERNATIONAL (H.K.) LTD.
 G/F, 1/F, CHINA MERCHANTS LOGISTICS CENTRE
 38 TSING YI HONG WAN ROAD
 NEW TERRITORIES
 TSING YI
 HONG KONG

COMMERCIAL INVOICE NO. / DELIVERY ID NO.	COMMERCIAL INVOICE DATE
69376909	08-APR-2023
SALES ORDER NO. / SHIP SET NO.	PURCHASE ORDER NO.
115568439-6	4501400865
PAYMENT TERMS	ORDER TYPE
N80	STANDARD CISCO - IN
INCOTERMS / FREIGHT TERMS	
CIP:IMPORT POINT-DUTY UNPAID-PREPAID	
SHIP METHOD	
EXPEDITORS CONSOL AIR	

BILL TO	SHIP TO	ULTIMATE CONSIGNEE
CISCO COMMERCE INDIA PVT LTD 27AAECC2704Q1ZG.C/O SCHENKER INDIA PVT. LTD. ANTARIKSH LOGIDROME,BLDG NO.F-1, PADGHA - KALYAN ROAD,NR. VASHERE PETROL PUMP, MUMBAI - NASHIK HIGHWAY, BHIWANDI MAHARASHTRA 421302 INDIA	CISCO COMMERCE INDIA PVT LTD 27AAECC2704Q1ZG.C/O SCHENKER INDIA PVT. LTD. ANTARIKSH LOGIDROME,BLDG NO.F-1, PADGHA - KALYAN ROAD,NR. VASHERE PETROL PUMP, MUMBAI - NASHIK HIGHWAY, BHIWANDI MAHARASHTRA 421302 INDIA	NTT INDIA PRIVATE LIMITED A-85, GROUND FLOOR, DDA SHED, OKHLA INDUSTRIAL PHASE II NEW DELHI DL 110020 INDIA

END USER BHARTI AIRTEL LTD, NEW DELHI, INDIA

LINE NO.	PART NUMBER	ITEM DESCRIPTION	EXPORT CONTROL NO. / AUTH CODE	ORDER QUANTITY	SHIP QUANTITY	UNIT PRICE	EXTENDED PRICE	CURRENCY CODE
6	N9K-C9336C-FX2	NEXUS 9300 SERIES, 38P 40/100G QSFP28-NON-CARRIER ETHERNET SWITCH	5A002.a VENDOR	8	8	443,817.89	3,550,543.12	INR

Unit and Extended Prices include:194710.11 INR for embedded software: C1A1T9N9300XF-7Y(Ship Qty 8).

NXX-ACC-KIT-1RU	NEXUS 3K9K FIXED ACCESSORY KIT, 1RU FRONT AND REAR REMOVAL	8	8
NXA-FAN-65CFM-PI	NEXUS FAN, 65CFM, PORT SIDE INTAKE AIRFLOW	24	24
NXA-PAC-1100W-PI2	NEXUS AC 1100W PSU - PORT SIDE INTAKE	16	16
CAB-C13-C14-IN	POWER CORD JUMPER, C13-C14 CONNECTORS,1.4 METER LENGTH INDIA	16	16
ACI-N9KCK9-15.2	NEXUS 9500 OR 9300 ACI BASE SOFTWARE NX-OS REL 15.2	8	8
SWITCHMODEAPIX	SWITCH MODE	8	8
MODE-ACI-LEAF	MODE SELECTION BETWEEN ACI AND NXOS	8	8
AIRFLOWMODEA4AL	AIRFLOW MODE	8	8
NXX-AF-PI	DUMMY PID FOR AIRFLOW SELECTION PORT-SIDE INTAKE	8	8

Total No. Cartons = 8

CARTON ID	1107317974	SERIAL NO	FDO27110X8V	COUNTRY OF ORIGIN	CHINA
CARTON ID	1107317976	SERIAL NO	FDO27110XA4	COUNTRY OF ORIGIN	CHINA
CARTON ID	1107317985	SERIAL NO	FDO27110X5T	COUNTRY OF ORIGIN	CHINA



COMMERCIAL INVOICE

SELLER
 CISCO SYSTEMS, INC.
 170 W TASMAN DR
 SAN JOSE CA 95134
 UNITED STATES

SHIP FROM
 SCHENKER INTERNATIONAL (H.K.) LTD.
 G/F, 1/F, CHINA MERCHANTS LOGISTICS CENTRE
 38 TSING YI HONG WAN ROAD
 NEW TERRITORIES
 TSING YI
 HONG KONG

COMMERCIAL INVOICE NO. / DELIVERY ID NO.	COMMERCIAL INVOICE DATE
69416906	13-APR-2023
SALES ORDER NO. / SHIP SET NO.	PURCHASE ORDER NO.
115446426-31	76-C6318
PAYMENT TERMS	ORDER TYPE
N80	STANDARD CISCO - IN
INCOTERMS / FREIGHT TERMS	
CIP:IMPORT POINT-DUTY UNPAID-PREPAID	
SHIP METHOD	
EXPEDITORS CONSOL-AIR	

BILL TO	SHIP TO	ULTIMATE CONSIGNEE
CISCO COMMERCE INDIA PVT LTD 27AAECC2704Q1ZG.C/O SCHENKER INDIA PVT. LTD. ANTARIKSH LOGIDROME,BLDG NO.F-1, PADGHA - KALYAN ROAD,NR. VASHERE PETROL PUMP, MUMBAI - NASHIK HIGHWAY, BHIWANDI MAHARASHTRA 421302 INDIA	CISCO COMMERCE INDIA PVT LTD 27AAECC2704Q1ZG.C/O SCHENKER INDIA PVT. LTD. ANTARIKSH LOGIDROME,BLDG NO.F-1, PADGHA - KALYAN ROAD,NR. VASHERE PETROL PUMP, MUMBAI - NASHIK HIGHWAY, BHIWANDI MAHARASHTRA 421302 INDIA	INGRAM MICRO INDIA PRIVATE LIMITED SR# 557/11 PRT.57/13 PRT.63/2 PRT.68/5 PRT.68/6, BUILDING NO 11 PRT FALLING IN K SQR,INDUSTRIAL PRK BHIWANDI MH 421101 INDIA

END USER RELIANCE JIO INFOCOMM LTD, MUMBAI, INDIA

LINE NO.	PART NUMBER	ITEM DESCRIPTION	EXPORT CONTROL NO. / AUTH CODE	ORDER QUANTITY	SHIP QUANTITY	UNIT PRICE	EXTENDED PRICE	CURRENCY CODE
31	C9300-48T-A	CATALYST 9300 48-PORT DATA ONLY, NETWORK ADVANTAGE-NON-CARRIER ETHERNET SWITCH	5A002.a VENDOR	20	20	181,375.82	3,627,516.40	INR

Model Number C9300-48T
 Unit and Extended Prices include:66636.24 INR for embedded software: C9300-DNA-A-48(Ship Qty 20).

C9300-NW-A-48	C9300 NETWORK ADVANTAGE, 48 PORT LICENSE	20	20
C9300-DNA-A-48	C9300 DNA ADVANTAGE, 48-PORT TERM LICENSES	20	20
SC9300UK9-178	CISCO CATALYST 9300 XE 17.8 UNIVERSAL UNIVERSAL	20	20
PWR-C1-350WAC-P	350W AC 80+ PLATINUM CONFIG 1 POWER SUPPLY	20	20
PWR-C1-350WAC-P/2	350W AC 80+ PLATINUM CONFIG 1 SECONDARY POWER SUPPLY	20	20
CAB-TA-IN	INDIA AC TYPE A POWER CABLE	40	40
CAB-CONSOLE-USB	CONSOLE CABLE 8FT WITH USB TYPE A AND MINI-B	20	20
STACK-T1-50CM	50CM TYPE 1 STACKING CABLE	20	20
CAB-SPWR-30CM	CATALYST STACK POWER CABLE 30 CM	20	20
TE-C9K-SIN	TE AGENT FOR IOSXE ON C9K	20	20

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

		COMMERCIAL INVOICE			Page 1 of 2			
		COMMERCIAL INVOICE NO. / DELIVERY ID NO. 68247759		COMMERCIAL INVOICE DATE 17-DEC-2022				
SELLER CISCO SYSTEMS, INC. 170 W TASMAN DR SAN JOSE CA 95134 UNITED STATES		SHIP FROM SCHENKER INTERNATIONAL (H.K.) LTD. G/F, 1/F, CHINA MERCHANTS LOGISTICS CENTRE 38 TSING YI HONG WAN ROAD NEW TERRITORIES TSING YI HONG KONG		SALES ORDER NO. / SHIP SET NO. 114638835-8		PURCHASE ORDER NO. B30306138/B30306132/B30306127-DTA/PUNE		
		PAYMENT TERMS N60		ORDER TYPE STANDARD CISCO - IN				
		INCOTERMS / FREIGHT TERMS CIP-IMPORT POINT-DUTY UNPAID-PREPAID						
		SHIP METHOD EXPEDITORS CONSOL-AIR						
BILL TO CISCO COMMERCE INDIA PVT LTD 27AAECC2704Q1ZG.C/O SCHENKER INDIA PVT. LTD. ANTARIKSH LOGIDROME,BLDG NO.F-1, PADGHA ? KALYAN ROAD,NR. VASHERE PETROL PUMP, MUMBAI ? NASHIK HIGHWAY, BHIWANDI MAHARASHTRA 421302 INDIA		SHIP TO CISCO COMMERCE INDIA PVT LTD 27AAECC2704Q1ZG.C/O SCHENKER INDIA PVT. LTD. ANTARIKSH LOGIDROME,BLDG NO.F-1, PADGHA ? KALYAN ROAD,NR. VASHERE PETROL PUMP, MUMBAI ? NASHIK HIGHWAY, BHIWANDI MAHARASHTRA 421302 INDIA		ULTIMATE CONSIGNEE REDINGTON INDIA LTD GAT NO 923, KESANAND ROAD, KALEODHA WAGHOLI,PUNE HAVELI MH 412207 INDIA				
END USER VODAFONE IDEA LTD, INDORE, INDIA								
LINE NO.	PART NUMBER	ITEM DESCRIPTION	EXPORT CONTROL NO. / AUTH CODE	ORDER QUANTITY	SHIP QUANTITY	UNIT PRICE	EXTENDED PRICE	CURRENCY CODE
8	N9K-C9336C-FX2	NEXUS 9300 SERIES, 36P 40/100G QSFP28-NON-CARRIER ETHERNET SWITCH	5A002 a VENDOR	6	6	473,124.61	2,839,747.66	INR
	NXK-ACC-KIT-1RU	NEXUS 3K9K FIXED ACCESSORY KIT, 1RU FRONT AND REAR REMOVAL		6	6			
	NXA-FAN-65CFM-PI	NEXUS FAN, 65CFM, PORT SIDE INTAKE AIRFLOW		18	18			
	NXA-PDC-1100W-PI	NEXUS 1100W PLATINUM DC PS, PORT SIDE INTAKE AIRFLOW		12	12			
	NO-POWER-CORD	ECO FRIENDLY GREEN OPTION, NO POWER CABLE WILL BE SHIPPED		12	12			
	ACI-N9K09-15.0	NEXUS 9500 OR 9300 ACI BASE SOFTWARE NX-OS REL 15.0		6	6			
	SWITCHMODEAPIX	SWITCH MODE		6	6			
	MODE-ACH-EAF	DUMMY PID FOR MODE SELECTION		6	6			
	AIRFLOWMODEA4AL	AIRFLOW MODE		6	6			
	NXK-AF-PI	DUMMY PID FOR AIRFLOW SELECTION PORT-SIDE INTAKE		6	6			
Total No. Cartons =				6				
	CARTON ID	1107175270	SERIAL NO	FDO264601G3	COUNTRY OF ORIGIN	CHINA		
	CARTON ID	1107175275	SERIAL NO	FDO26470EGZ	COUNTRY OF ORIGIN	CHINA		
	CARTON ID	1107175281	SERIAL NO	FDO26470EGE	COUNTRY OF ORIGIN	CHINA		

8.11 The reliance placed by the Noticee on the CESTAT, Mumbai Final Order No. A/86011-86081/2024 dated 30.09.2024 (upheld by Bombay High Court in Customs Appeal No. 25 of 2025 vide judgment dated 28.01.2026) in respect of the Catalyst 3850 series is misplaced and not applicable to the subject case. The said order was rendered specifically in relation to the technical features, design, and functional characteristics of the Catalyst 3850 series of Switches. The present dispute, however, pertains to different and distinct models, namely the Catalyst 9000 Series and Nexus 9000 Series and others, which are technologically advanced platforms with enhanced architecture, scalability, and network capabilities. Classification under the Customs Tariff is required to be determined based on the specific technical attributes and functionality of the goods under import, and a decision rendered for one product series cannot be mechanically extended to other models without independent examination. Accordingly, the CESTAT order dated 30.09.2024, being confined to the specific technical configuration and functional profile of the Catalyst 3850 Series, cannot be relied upon as a binding or determinative precedent for the classification of the impugned goods in the subject case, which require an independent assessment based on their own distinct features and capabilities. Therefore, the CESTAT Order dated 30.09.2024 (Upheld by Bombay High Court on 28.01.2026), is not applicable in the subject case involving different goods with distinct technical characteristics.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.12.1 The Noticee has placed considerable reliance on end-user certificates and post-import deployment declarations to contend that the imported Switches were used only in Enterprise environments and not in Carrier Ethernet Networks. This contention is legally untenable and contrary to the settled position of law laid down by the Supreme Court in *Commissioner of Customs (Import) v. Welkin Foods* (in Civil Appeal No. 5531 OF 2025 reported on 08.01.2026 [2026 INSC 19]).

8.12.2 In the aforesaid judgment, the Supreme Court has categorically held that actual end-use after import is irrelevant for the purposes of Tariff classification, as the taxable event occurs at the time of importation and classification must be determined strictly with reference to the condition of the goods as imported. The Court has further clarified that consideration of “use” or “adaptation” is permissible only where the Tariff heading itself expressly or inherently refers to use, and even in such cases, only the intended use discernible from the objective characteristics and properties of the goods at the time of import may be taken into account.

8.12.3 The Supreme Court has also expressly held that post-import factors, such as deployment certificates, end-user declarations, customer-specific usage claims, or network-level configurations, are subjective in nature and cannot override statutory interpretation or the “as-imported” principle. Permitting reliance on such post-import material would introduce subjectivity and uncertainty into classification and enable manipulation of Tariff treatment through tailored declarations.

8.12.4 Applying the above ratio to the subject case, it is evident that the Noticee’s reliance on end-user certificates and deployment declarations is misplaced. The Tariff entries applicable to Ethernet / Networking Switches do not classify goods based on post-import deployment environment, customer profile, or whether the equipment is used in Enterprise or Carrier networks. Classification must therefore be determined solely on the basis of the objective technical characteristics of the Switches as imported.

8.12.5 Further, examination of the sample commercial invoices on record clearly establishes that the imported goods were supplied to Telecom Service Providers (TSPs) / Internet Service Providers (ISPs). This factual position directly contradicts the Noticee’s assertion that the goods were intended exclusively for Enterprise environments. The Noticee’s attempt to rely on post-import deployment declarations to negate this fact is not legally sustainable.

8.12.6 Even otherwise, assuming without admitting that some of the impugned Switches were deployed in Enterprise environments after import,

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

such actual deployment is legally irrelevant, as expressly held by the Supreme Court in case of *Welkin Foods*. Classification cannot vary depending upon how or where the buyer chooses to deploy the equipment after clearance.

8.12.7 It is well established that the taxable event for Customs duty occurs at the time of import, not at the time of use. The condition of the article at the time of import is the crucial factor for classifying the product. Therefore, the end use of a product does not determine its classification for Customs duty purposes. Reliance is placed on ***Dunlop India Ltd vs Union of India***, reported in (1976) 2 SCC 241, ***Indian Aluminium Cables Ltd vs Union of India & Ors***, reported in (1985) 3 SCC 284, ***Shantilal Khushaldass & Bros. Pvt. Ltd. & Anr v. Assistant Collector of Customs, Goa***, reported in (1998) 9 SCC 180, ***Union of India & Anr v. V.M. Salgaoncar and Bros. Ltd. & Ors***, reported in (1998) 4 SCC 263, and ***Akbar Badrudin Giwani v. Collector of Customs, Bombay***, reported in (1990) 2 SCC 203. Under Customs law classification and eligibility to exemption notification is based on description, composition and objective characteristics of the goods at the time of import not on now the importers intends to use them.

8.12.8 In view of the above, I hold that post-import end-user certificates, deployment declarations, or subjective claims of usage cannot determine Tariff classification or eligibility for exemption. The classification of the impugned Switches must be decided solely on the basis of their objective technical characteristics and properties as imported, read with the applicable Tariff entries and statutory Notes. The Noticee's reliance on end-use documentation is therefore rejected.

8.13.1 The Noticee's reliance on common parlance or trade parlance for classification of the impugned Carrier Ethernet Switches is legally untenable and contrary to the settled position of law laid down by the Supreme Court in *Commissioner of Customs (Import) v. Welkin Foods* (in Civil Appeal No. 5531 OF 2025 reported on 08.01.2026).

8.13.2 The Supreme Court has unequivocally held that the common or trade parlance test is not a rule of universal application and can be invoked only in situations where the statute is silent and no statutory, technical, or objective guidance exists for classification. The Court clarified that where the Tariff structure itself through Tariff Headings, Section Notes, Chapter Notes, or technical standards provides a determinative framework, reliance on commercial understanding or market perception is impermissible.

8.13.3 The Court further cautioned that indiscriminate application of common parlance, particularly in technically complex goods, would undermine the certainty and predictability of Tariff classification and open

the door to subjective interpretation based on nomenclature, marketing strategy, or buyer profile.

8.13.4 Applying the above ratio to the subject case, it is observed that:

(i) Carrier Ethernet Switches are technologically complex networking equipment, whose classification turns on objective technical characteristics, including but not limited to:

- Switching architecture and capacity
- Control and data plane functionality
- Protocol support (e.g., MPLS, VLAN, QoS, SyncE, etc.)
- Throughput, latency, redundancy, and resilience features

(ii) The Tariff entries applicable to networking equipment are technology-driven and structured around technical identity, and not around how the goods are described in trade or perceived by buyers or network operators.

(iii) The test report on record clearly establishes that the imported goods possess Carrier-grade technical specifications, as per internationally recognised networking standards. Once such objective technical determination is available, there is no legal vacuum warranting recourse to common or trade parlance.

(iv) The mere fact that the goods are referred to in the market as “Carrier-grade Switches” or are supplied to Telecom Service Providers does not create a distinct commercial identity capable of overriding statutory classification, as expressly disapproved by the Supreme Court.

8.13.5 Further, in case of *Welkin Foods* it is clear that commercial nomenclature or buyer perception cannot be used to defeat a classification that is otherwise determinable on the basis of statutory and technical parameters. Where technical standards exist and are applied, common parlance recedes entirely.

8.13.6 Accordingly, in the subject case, I observed that classification is governed exclusively by the objective technical specifications of the impugned Switches as established by the test report, and not by how the goods are described, marketed, or perceived in trade. The Noticee’s attempt to invoke common or trade parlance is therefore misplaced, legally impermissible, and liable to be rejected.

8.14 The rationale behind this principle is that the purpose of a fiscal statute is to generate revenue, and the Legislature assumes it is addressing the public

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

and traders, not scientists or technical experts. Therefore, the terms used in the statute are based on the understanding of those dealing with the said goods. If a specific scientific meaning had been intended, the statute would have included an explicit definition to that effect. [See ***Indo International Industries v. Commissioner of Sales Tax, Uttar Pradesh***, reported in **(1981) 2 SCC 528**, ***Pappu Sweets and Biscuits v. Commissioner of Trade Tax, U.P.***, reported in **(1998) 7 SCC 228**, ***Asian Paints India Ltd v. Collector of Central Excise***, reported in **(1988) 2 SCC 470**, and ***United Offset Process (P.) Ltd v. Asst. Collector of Customs, Bombay***, reported in **1989 Supp (1) SCC 131**].

8.15.1 I have carefully examined the email correspondences retrieved during investigation by the investigation agency and the statements recorded under Section 108 of the Customs Act, 1962. The email dated 14.11.2022 from Shri Ankur Verma, Cloud Networking Sales Specialist – Cisco, clearly indicates that the imported Switches are capable of being deployed for WAN connectivity, ISP usage, and WAN segregation/termination. This communication also establishes that the technical capabilities of the imported Switches extend beyond simple Non-Carrier Enterprise applications.

8.15.2 Further, the internal email chain dated 01.12.2022 exchanged between Shri Shrirang Rao (Head – Commercial & Small Business, Cisco), Shri Prabhakar Venugopal (Hitachi Team), and Shri Ankur Verma (Cisco), and subsequently forwarded to Ms. Parul Vivek on 15.02.2023, categorically records that “***All Cisco switches are supposed to attract 20% duty rate when imported into India***”. This email communication clearly reflects internal awareness within M/s. Cisco Commerce India Pvt. Ltd. that the standard applicable rate of duty on such switches is 20%.

8.15.3 Although Ms. Parul Vivek, in her statement under Section 108 of the Customs Act, 1962, attempted to characterize the emails as part of a sales discussion and denied any special approval having been taken for the concessional rate from Customs, the contents of the correspondence unmistakably demonstrate that the Company was conscious of the fact that, in the absence of eligibility under Serial No. 20 of Notification No. 57/2017-Customs dated 30.06.2017, the imported Carrier Ethernet Switches would attract Basic Customs Duty at the rate of 20%.

8.15.4 The above documentary evidence, read in conjunction with the admitted technical capabilities of the imported Switches for WAN and ISP deployment, establishes that the Noticee was fully aware of the applicable higher duty rate and yet continued to classify and clear the goods as “non-carrier ethernet switches” to avail concessional duty. This conduct evidences deliberate misdeclaration and suppression of material facts with intent to

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

evade payment of the correct duty, thereby attracting the provisions of Section 28(4) of the Customs Act, 1962.

Internal e-mail communication between employees of M/s. Cisco:

I hope this email finds you well, My name is Dhananjaya.K.S, and I'm the Logistics Manager at HVIPL. I'm reaching out to you to discuss further about the trailing email.

I am writing to request more information about the category of Non-Carrier ethernet switch and the duty structure of ~11% (10% general duty + 10% surcharges) for the switching portfolio.

Our team is currently working on this topic with the customs officials, and we believe that a deeper understanding about categorising of CISCO switches under "Non-carrier ethernet switch under Harmonized System Code of 85176290" will be crucial to its success.

I would like to know more about the special approval that CISCO has obtained i.e., "Cisco India customs team has taken special approval for Special Duty Rate under the category of "Non-carrier ethernet switch" – Can I assume that this is a sort of a SVB (Specialized Valuation Branch) approved by the customs SVB Cell for importing the switches from the related parties?

Or Can we also submit import declaration/BOE for the ~11% (10% general duty + 10% surcharges) when importing these switches into India by declaring the description of switches under the same category?

To Justify the category of " Non-carrier ethernet switch" to the customs authority, could we have a supporting document/datasheet/catalogue from Cisco?

We would greatly appreciate any additional information or resources you could provide on this topic. If you have any further insights or suggestions, we would be happy to hear them.

Thank you in advance for your help. Please let me know if you have any questions or concerns.

Regards,
 Dhananjaya.K.S

From: Shrirang Rao (shrirrao) <shrirrao@cisco.com>
 Sent: 01 December 2022 14:25
 To: Prabhakar Venugopal <prabhakar.venugopal@hitachivantara.com>; Ankur Verma (ankverma) <ankverma@cisco.com>
 Subject: Re: Duties for Cisco SAN Switches

***** EXTERNAL EMAIL *****

Dear Prabhakar,

Greetings!!!

This email is for PID Special Duty Rate for MDS portfolio.

This is same for all other switching portfolio for Cisco. All switches are supposed to pay 22.16% duty charges (20% general duty rate + 10.16% surcharges) when imported into India.

Cisco India customs team has taken special approval for Special Duty Rate under the category of "Non-carrier ethernet switch under Harmonized System Code of 85176290" for most of our switching portfolio to have duty of ~11% (10% general duty + 10% surcharges). India Customs office keeps checking/asking for proofs and documents once a year and we do submit the same.

Looping in Ankur Verma who runs the MDS business for India & SaarC.

Trust you find the above in order and Ankur will be glad to assist you for any further queries.

Ankur- Kindly do ratify the above and help support Prabhakar Venugopal from Hitachi for any other follow up queries that he may have.

Thanks.

Regards & Thanks

Shrirang Rao
 Head- Commercial & Small Business- CISG
 India & SaarC.
 +91-96197-89660

For more information please visit: <http://www.cisco.com/go/datacenter>

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

8.16 In view of above, I find that the evidence brought on record during the course of investigation, including product literature, laboratory test reports, statements of concerned persons, internal correspondence, incriminating documents, and email communications, clearly establishes the true technical nature and functional capabilities of the imported goods. The material evidence demonstrates that the Ethernet Switches imported by M/s. Cisco Commerce India Pvt. Ltd. are not “Non-Carrier Ethernet Switches” as declared, but are in fact “Carrier Ethernet Switches” possessing Carrier-grade functionalities.

8.17 Eligibility of Notification No. 57/2017 dated 30.06.2017 as amended:

8.17.1 The Noticee had filed Bills of Entry as mentioned in the subject SCN for the clearance of goods i.e. “Various Switches of Catalyst 9000 Series, Nexus 9000 series and Other series” by classifying the same under CTI 85176290 and cleared the goods at 10% Basic Customs duty, by availing duty exemption benefit available under Sr. No. 20 of Notification No.57/2017-Cus dated 30.06.2017 as amended.

7.17.2 Sr. No. 20 of Notification No.57/2017-Customs dated 30.06.2017 as amended, is as mentioned below: -

Sr. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate (Basic Customs Duty)	Condition No.
“20	8517 6290 or 8517 6990	<p>All goods other than: - (a) Wrist wearable devices (commonly known as smart watches); (b) Optical transport equipment; (c) Combination of one or more of Packet Optical Transport Product or Switch (POTP or POTS); (d) Optical Transport Network (OTN) products; (e) IP Radios; (f) Soft switches and Voice over Internet Protocol (VoIP) equipment, namely, VoIP phones, media gateways, gateway controllers and session border controllers; (g) Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching Transport Profile (MPLS-TP) products;</p>	10%	-

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

		(h) Multiple Input/Multiple Output (MIMO) and Long-Term Evolution (LTE) products;		
--	--	---	--	--

8.17.3 From the foregoing discussion, it stands conclusively established that the goods covered under the subject Show Cause Notice are Carrier Ethernet Switches. This conclusion is based on the test reports, the technical specifications and functional characteristics available on the manufacturer's official website, and other corroborative material on record. It is further observed that Carrier Ethernet Switches are expressly covered under Entry (g) of Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017, which specifically excludes such goods from the scope of the said exemption. Accordingly, the subject goods are not eligible for the concessional rate of Basic Customs Duty prescribed under Sr. No. 20 of the said notification.

8.17.4 In view of the above, I hold that the Noticee was not entitled to avail the benefit of Notification No. 57/2017-Customs dated 30.06.2017 (as amended) in respect of the subject imported goods. The exemption claimed has, therefore, been wrongly availed and is liable to be denied, and the goods are correctly chargeable to Basic Customs Duty at the applicable standard rate. I further find that the Noticee claimed the said exemption despite the clear exclusion of Carrier Ethernet Switches from the notification, which evidences suppression of material facts and mis-declaration of the nature of the goods, with an intent to avail an inadmissible exemption and thereby evade payment of duty.

8.18 I find that the reliance placed by the Noticee on Notification No. 10/2025-Customs dated 01.02.2025 is misplaced and legally untenable, as the imports in the subject case pertain to a period prior to the issuance of the said notification. It is a settled principle that exemption notifications are to be strictly applied as they exist at the time of importation, and any subsequent amendment cannot be applied retrospectively unless expressly provided. The said notification does not contain any provision indicating retrospective applicability. Further, the deletion of the phrase "Carrier Ethernet Switch" from the earlier entry constitutes a substantive amendment altering the scope of the exemption and cannot be treated as merely clarificatory or curative in nature in the absence of any express legislative intent to that effect. In view of the above, I hold that Notification No. 10/2025-Customs dated 01.02.2025 has no applicability to the subject case, and the Noticee's contention in this regard is rejected.

8.19 The contention of the Noticee that the Circular (08/2023 dated 13.03.2023) cannot change the meaning of the legislation in force and therefore cannot be applied retrospectively is not acceptable. CBIC Circular No. 08/2023-Customs does not seek to amend, modify, or expand the scope

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

of Notification No. 57/2017-Customs (as amended), which already excludes “Carrier Ethernet Switches” from concessional duty. The Circular merely clarifies the operational and technical parameters for identifying such excluded goods, in order to remove ambiguity and ensure uniformity in assessment. As the Circular is clarificatory and explanatory in nature, it does not alter the legal meaning of the notification but only elucidates its application. It is a settled principle of law that such clarificatory instructions can be applied retrospectively for determining the correct classification and eligibility of exemption in pending and ongoing proceedings. I rely on the Supreme Court judgement in case of *State of Bihar vs Ramesh Prasad Verma* [(2017) 5 SCC 665], where held that “it is trite that any legislation or instrument having the force of law, which is clarificatory or explanatory in nature and purport and which seeks to clear doubts or correct an obvious omission in a statute, would generally be retrospective in operation.”

8.20.1 The reliance placed by the Noticee on the Department of Telecommunications Office Memorandum dated 18.11.2016 is misplaced and not applicable to the subject case, as the said instructions were issued prior to the issuance of Notification No. 57/2017-Cus dated 30.06.2017, which governs the relevant period and field of operation. Once a specific exemption notification is issued under the Customs Act, 1962, the classification of goods and eligibility to any concessional rate of duty must be determined strictly in accordance with the language, scope, and conditions prescribed therein. Administrative instructions issued prior thereto cannot override, substitute, expand, or curtail the operation of a statutory notification issued in exercise of delegated legislative powers.

8.20.2 An Office Memorandum (OM) issued by a Department, being in the nature of internal administrative guidance, does not have the force of law and cannot amend, modify, or dilute the provisions of a notification issued under the Customs Act, 1962. It is settled law that executive or departmental instructions cannot prevail over statutory provisions or notifications issued thereunder. Therefore, even if the OM dated 18.11.2016 contains certain clarifications or interpretations, the same cannot be imported into or read as part of Notification No. 57/2017-Cus, nor can it confer any substantive right or exemption contrary to the express terms of the notification.

8.20.3 Accordingly, I hold that the DoT instructions dated 18.11.2016, being in the nature of internal administrative communication without statutory force, cannot alter, control, or supersede the legal effect of the exemption notification issued under the Customs Act, and therefore cannot be relied upon to claim classification or exemption in the subject case.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.21.1 The Noticee's reliance on the Information Technology Agreement (ITA) and Notification No. 24/2005-Customs to contend that the benefit of exemption/concessional rate under Notification No. 57/2017-Customs ought to be extended is legally untenable and misconceived.

8.21.2 I find that Notification No. 24/2005-Customs was issued pursuant to India's international obligations under the WTO Information Technology Agreement (ITA). The exemption granted therein was treaty-driven, unconditional in nature, and aimed at eliminating Customs duties on ITA-bound goods at a time when the domestic electronics manufacturing ecosystem in India was at a nascent stage. However, Notification No. 57/2017-Customs has not been issued on the basis of ITA commitments. The said notification has been issued under Section 25 of the Customs Act, 1962 read with the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, which lay down a conditional and regulated framework for availing concessional duty based on specified descriptions of goods, conditions, compliances, and explicit exclusions.

8.21.3 I find that the very structure and wording of Notification No. 57/2017-Customs demonstrate a conscious policy shift by the Government of India from unconditional treaty-based exemptions to a selective, conditional and policy-driven concessional duty regime, aimed inter alia at promoting domestic manufacturing and safeguarding critical telecom infrastructure. Further, I also find that there is no provision, reference, or cross-linking mechanism in Notification No. 57/2017-Customs which adopts, incorporates, or makes its applicability dependent upon Notification No. 24/2005-Customs or ITA commitments. In the absence of such statutory linkage, the two notifications must operate independently within their respective legal frameworks.

8.21.4 I therefore hold that ITA commitments and Notification No. 24/2005-Customs are not relevant for determining eligibility under Notification No. 57/2017-Customs, which is governed exclusively by the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 and the specific inclusions and exclusions contained therein.

8.22 I find that while availing notification benefit on the said goods having complex technical specifications, the end use of the product cannot guide the notification benefit. The end use whether for Enterprise purpose or for other purpose becomes irrelevant. Further, I find that Carrier class Switches can be used as Enterprise Switches. The case of the department is also that if Carrier Class Switches are used as Enterprise Switches, they still are to be treated as Carrier Class Switches at the time of import and end use is irrelevant.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.23 I find that the Noticee in their submission has relied upon the recent decision of CESTAT, Mumbai in the matter of Cisco Commerce India Pvt. Ltd on the issue of eligibility of 'Cisco Catalyst 3850 series Ethernet Switches' to exemption benefit under Sr. No. 13 of the Notification No. 11/2014-Customs dated 11.07.2014 / Sr. No. 20 of Notification No.57/2017-Cus dated 30.06.2017. The aforesaid CESTAT Order No. A/86011-86081/2024 dated 30.09.2024 (upheld by the Bombay High Court in Civil Appeal No. 25 of 2025 on 28.01.2026) examined essential features of the Carrier Ethernet Switches vis-à-vis Non-Carrier Ethernet Switches and concluded that Catalyst 3850 is Non- Carrier Ethernet Switches. The Catalyst 3850 Switch cannot be compared with the subject other Series Switches of this case. In the clarification issued by Department of Telecommunication, Ministry of Communication in the issue of O.M. dated 18.11.2016 i.e. Para (b) it is stated that Managed Ethernet Switches and web managed Ethernet Switches can both be Carrier or Non-Carrier Ethernet Switch/Enterprise Ethernet Switches. In Para (c) it is stated that Carrier Ethernet Switch and Enterprise Ethernet Switches may have overlapping features. I find that as event and incidence of duty calculation cannot be left on the basis of future usage by service provider, the capacity of product can be the only ground for its duty calculation or exemption available. The importer cannot claim that he won't be using the product in a certain manner when the product has the enabling capacity for that usage. I am of the opinion that CESTAT here did not appreciate that it should not be left on declaration of the intent of usage by the consignee to reach to calculation and levy of appropriate classification and eventual duty collection but the nature and functional capabilities of the products in import. The importer can any day upgrade its operations to use the product in enhanced capacity if the product so imported has that capacity. Revenue shall have no control on the use of product once it's cleared through the Customs barrier. The duty event is defined in Customs Act and that is at the time of import or entering Indian waters. It has nothing to do with how the product shall be used by the importer after clearance. The technical specification and expert opinions clearly demonstrate that the goods have Carrier-grade functionalities, which make them ineligible for concessional BCD. The legal principle that exemption notifications must be interpreted strictly cannot be ignored. The subject imported goods clearly falls under the exclusion clause of the said notification, as amended, thereby making them ineligible for concessional BCD.

8.24 I also find that every case is different in facts and circumstances and new facts can bring new aspects to the adjudications. I find that it is a well settled position of law that sub-silentio judgment has no precedence value for the future cases as held by the Supreme Court in the case of *Arnit Das Vs. State of Bihar - (2000) 5 SCC 488*. The Apex Court in the case of *Purbanchal*

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

Cables & Conductors (P) Ltd. Vs. Assam SEB, (2012) 7 SCC 462, also held that a decision which is not express and is not founded on reasons nor it proceeds on consideration of issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. Uniformity and consistency are core of judicial discipline. Any declaration or conclusion arrived without application of mind or preceded without any reason cannot be deemed to be declaration of law or authority of a general nature binding as a precedent. Restraint in dissenting or overruling is for sake of stability and uniformity but rigidity beyond reasonable limits is inimical to the growth of law.

8.25 It is also noteworthy that the Apex Court in the case of *Coromandel Fertilisers Ltd V/s UOI & Others 1984 (17) ELT 607 (S.C.)*, held that 'a wrong decision in favor of any particular party does not entitle any other party to claim the benefit on the basis of wrong decision'. There is no estoppel in taxation matters and the Department can set right a wrong that has crept into the system in the past.

8.26 Further, it is a settled principle of law that any exemption notification is to be interpreted strictly and the scope of exemption cannot be expanded, even by the Courts. The judgment of Supreme Court in the case of *Commissioner of Customs (Import), Mumbai vs. Dilip Kumar & Company*, reported in 2018 (361) ELT 577 (SC) applies. Thus, as discussed above, such judgments have no precedence value for the future cases. I find that, the interpretation of the Noticee that the said goods being "Non-Carrier Ethernet Switch", (though this term Non-Carrier is not used by the manufacturer for their products), are not covered by any of the 8 categories of exceptions specified in the Sr. No. 20 of the Notification No.57/2017-Customs dated 30.06.2017, is misconceived, incorrect and not tenable.

8.27 It is settled law that any interpretation which renders the words and phrases used in an exemption notification redundant should be avoided. The Exemption Notification should be considered as a whole, so as to give meaning to every word and phrase used in the notification. It is not at liberty to add or modify the words of the entry while interpreting the scope of the exemption Notification. The case law of *Saraswati Sugar Mills v. Commissioner of C. Ex. Delhi-III, 2011(270) E.L.T. 465 (S.C.)*, *Hotel Leela Venture Ltd. Vs. Commissioner of Customs (Gen.), Mumbai, 2009 (234) E.L.T. 389 (S.C.)* and *Commissioner of C. Ex. Jaipur Vs. Mewar Bartan Nirman Udyog, 2008 (221) E.L.T. 27 (S.C.)* applies.

8.28.1 As per Notification No. 02/2019-Customs dated 29.01.2019, which amended Notification No. 57/2017-Customs dated 30.06.2017, "Carrier Ethernet Switches", including Multiprotocol Label Switching Transport Profile (MPLS-TP) products, were specifically excluded from the benefit of concessional rate of duty under Serial No. 20 of the said notification and were liable to duty as per the applicable Tariff. It is observed that prior to

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

the issuance of the said amending notification, the Noticee was importing the subject Ethernet Switches by declaring them as “Networking Equipment”. However, subsequent to the introduction of the said exclusion, the Noticee altered the description of the goods in import documents such as commercial invoices and Bills of Entry and began declaring the same as “Non-Carrier Ethernet Switch”.

8.28.2 I find that, in statement dated 29.02.2024 of Ms. Parul Vivek, Sr. Manager of M/s. Cisco has admitted that since Carrier Ethernet Switches were specifically excluded from the benefit of concessional duty, they started mentioning the description “Non-Carrier Ethernet Switch” in order to avail the benefit under the said notification. This admission clearly establishes that the change in description was not incidental but was consciously adopted after the exclusion was introduced.

8.28.3 I therefore find that such change in description, without any corresponding change in the nature, technical specifications, or functionality of the goods, clearly indicates that the Noticee intentionally modified the description of the goods with the sole objective of availing undue benefit under the said notification, and the same amounts to deliberate misdeclaration for the purpose of claiming ineligible exemption.

8.29 Importer’s case with respect to Catalyst 3850 Switches:

8.29.1 I find that the issue relating to Catalyst 3850 Series Switches stands covered by the decision of the CESTAT, Mumbai, in Final Order No. A/86011-86081/2024 dated 30.09.2024, wherein it has been held that *Catalyst 3850 switches are Non-Carrier Ethernet Switches* and are eligible for concessional rate of Basic Customs Duty under Notification No. 57/2017-Customs dated 30.06.2017. I further note that the said order of the Tribunal has been upheld by the Bombay High Court vide Civil Appeal No. 25 of 2025 dated 28.01.2026. This judgement covered only Catalyst 3850 Series Switch only and therefore, cannot apply in other models of Switches imported by the Noticee.

I observe that in the subject case, the following Bills of Entry pertain to the import of Catalyst 3850 Series Switches:

Sr. No.	BE No.	BE Date	Goods description	Assessable Value (in Rs.)	Differential Duty (in Rs.)
1	8750127	09-09-2020	WS-C3850-12S-S CISCO CATALYST 3850 12 PORT GE SFP IP BASE-NON-CARRIER ETHERNET SWITCH	302045	39205
2	8787857	12-09-2020	WS-C3850-48T-S CISCO CATALYST 3850 48 PORT DATA IP BASE NON-CARRIER ETHERNET SWITCH	343007	44522
3	9498313	09-11-2020	C1-WSC3850-24XS-S CISCO ONE CATALYST 3850 24 PORT 10G FIBERSWITCH IP BASE	597658	77576

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

			(NON-CARRIER ETHERNET SWITCH)		
4	9954074	10-08-2022	C1-WS3850-12S/K9 CISCO ONE CATALYST 3850 12 PORT FIBER SWITCH (NON-CARRIER ETHERNET SWITCH)	385652	50058
Total				1628362	211361

7.29.2 Accordingly, I find that the goods covered under Annexure-A of the subject Show Cause Notice, to the extent they relate to Catalyst 3850 Series Switches, involve a total assessable value of Rs.16,28,362/- and a proposed differential duty amounting to **Rs.2,11,361/-**. In view of the settled legal position as of now and as discussed above, the said differential duty is not sustainable in law and is not liable to be recovered from the importer.

**However, it is made clear that in the event the Department files an appeal against the aforesaid judicial pronouncements and the outcome of such proceedings is decided in favour of the Department, the importer shall be liable to discharge the aforesaid differential duty, along with applicable interest and penal consequences, in accordance with law.*

8.30 Annexure-C to the subject SCN (Bills of Entry assessed provisionally on account of DRI Investigation ongoing in this case):

8.30.1 I find that a meeting was convened by the officers of DRI, Pune on 26.07.2023 with the authorised representatives of M/s. Cisco Commerce India Pvt. Ltd. to discuss the outcome of the laboratory test reports and the related technical and legal issues; however, the representatives of the importer did not fully agree with the conclusions drawn there. Thereafter, DRI vide letter dated 28.07.2023, asked the jurisdictional Port of Import, namely Air Cargo Complex, Mumbai, that the Ethernet Switches imported under CTH 85176290 be finally assessed by denying the benefit of concessional rate of duty under Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017, as amended, and further stipulating that in case of non-acceptance by the importer, the goods may be subjected to provisional assessment under Section 18 of the Customs Act, 1962, till the finalisation of the issue. The Bills of Entry were provisionally assessed accordingly denying the exemption benefit.

8.30.2 I find that the Noticee's objection on the ground of limitation under Section 18 of the Customs Act, 1962 read with the Customs (Finalisation of Provisional Assessment) Regulations, 2018 is untenable and devoid of merit. The provisional assessments in the subject case were resorted to pending detailed investigation into the correct classification of the imported goods and their eligibility under the claimed exemption notification. In terms of Regulation 5(1)(c) of the said Regulations, the period for finalisation commences only upon receipt of the investigation or verification report and

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

completion of the requisite inquiry. In the subject case, the Adjudication proceedings have remained pending and are yet to attain finality, inter alia, on account of repeated requests for adjournment and extension of time by the Noticee for filing replies and additional submissions, including adjournments sought in November and again during the personal hearing held on 06.02.2026, wherein a further period of one month was requested. The Regulations do not contemplate automatic lapse of jurisdiction on account of delay. Adjudication proceedings following investigations are distinct and separate and have to be concluded as per law under Section 28(4) of the Customs Act, 1962 in the subject case.

8.30.3 Section 18(1B) of the Customs Act, 1962, as amended by the Finance Act, 2025, provides that the proper officer shall finalise the provisional assessment within a period of two years from the date of such assessment, with a further extendable period of one year by the competent authority for sufficient cause. Further, the second proviso to Section 18(1B) clearly stipulates that in respect of provisional assessments pending as on the date of enactment of the Finance Act, 2025, the period of two years shall be reckoned from the date of such enactment i.e. 29.03.2025. Thus, the statutory timeline itself stands reset for pending cases, and the subject proceedings cannot be treated as time-barred. In view of the above statutory provisions and factual position, I hold that the provisional assessment proceedings in the subject case are well within the prescribed legal framework and limitation period, and the contention of the Noticee regarding time-bar is devoid of merit and accordingly rejected.

8.30.4 Further, as discussed and held in the foregoing paragraphs, the imported goods have been determined to be “Carrier Ethernet Switches” and are, therefore, not eligible for the benefit of Sr. No. 20 of Notification No. 57/2017-Customs dated 30.06.2017, as amended. Consequently, the provisional Bills of Entry mentioned in Annexure-C to the subject Show Cause Notice are to be finalised accordingly, by denying the benefit of the said notification. I, therefore, hold that the provisionally assessed Bills of Entry shall be finalised in terms of the above findings and in accordance with law.

8.31 Warehouse Bills of Entry:

8.31.1 The Noticee submitted that 32 Bills of Entry listed in Annexure-A and 17 Bills of Entry listed in Annexure-B to the Show Cause Notice are Warehouse Bills of Entry, and that the differential duty proposed therein is not recoverable at this stage. Details of the Bills of Entry are as under:

(Warehouse Bills of Entry in Annexure-A to SCN)

Sr. No.	BE No.	BE Date	Assessable Value (in Rs.)	Differential Duty as per SCN (in Rs.)	Remarks
----------------	---------------	----------------	----------------------------------	--	----------------

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

1	4845814	02-08-2024	2985371	387501	
2	4873752	03-08-2024	5136981	666780	
3	4873772	03-08-2024	4931597	640121	
4	4878030	04-08-2024	6765284	878134	
5	4898131	05-08-2024	2311497	300032	
6	4898135	05-08-2024	1322673	171683	
7	4898139	05-08-2024	22643898	2939178	
8	4898232	05-08-2024	2894271	375676	
9	4898325	05-08-2024	10781712	1399466	
10	4898411	05-08-2024	9987917	1296432	
11	4914599	06-08-2024	983536	127663	Duty demanded in respect of Ex-Bond BE in the subject SCN.
12	4914601	06-08-2024	1780218	231072	
13	4914608	06-08-2024	24329789	3158006	
14	4933977	07-08-2024	37703998	4893979	
15	4933991	07-08-2024	6993364	907739	
16	4934497	07-08-2024	751699	97570	
17	4934504	07-08-2024	5246813	681036	
18	4934610	07-08-2024	6789999	881342	
19	4934997	07-08-2024	3128771	406114	
20	4935058	07-08-2024	43466807	5641992	
21	4952367	08-08-2024	5836009	757514	
22	4977553	09-08-2024	8586197	1114488	
23	4994963	10-08-2024	4557760	591597	
24	5000311	11-08-2024	8356050	1084615	
25	5040132	13-08-2024	539385	70012	
26	5040134	13-08-2024	12214161	1585398	
27	5040269	13-08-2024	13690181	1776985	
28	5176539	21-08-2024	1798389	233431	
29	5176619	21-08-2024	1333904	173141	
30	5242546	25-08-2024	2632518	341701	
31	5242548	25-08-2024	11329191	1470529	
32	5253200	26-08-2024	1856835	241017	
Grand Total			273666771	35521946	

(Warehouse Bills of Entry in Annexure-B to SCN)

Sr. No.	BE No.	BE Date	Assessable Value (in Rs.)	Differential Duty as per SCN (in Rs.)	Remarks
1	2271716	23-02-2024	140947	18295	Duty demanded in respect of Ex-Bond BE in the subject SCN.
2	4845814	02-08-2024	1471380	190985	
3	4873772	03-08-2024	2251256	292213	
4	4877915	04-08-2024	1332206	172920	Duty demanded in

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

					respect of Ex-Bond BE in the subject SCN.
5	4878030	04-08-2024	734302	95312	
6	4898131	05-08-2024	880889	114339	
7	4898135	05-08-2024	6611230	858138	
8	4898337	05-08-2024	501687	65119	Duty demanded in respect of Ex-Bond BE in the subject SCN.
9	4898409	05-08-2024	315299	40926	Duty demanded in respect of Ex-Bond BE in the subject SCN.
10	4914295	06-08-2024	74688	9694	Duty demanded in respect of Ex-Bond BE in the subject SCN.
11	4977555	09-08-2024	12171469	1579857	Duty demanded in respect of Ex-Bond BE in the subject SCN.
12	4978280	09-08-2024	12448468	1615811	Duty demanded in respect of Ex-Bond BE in the subject SCN.
13	4994963	10-08-2024	4297959	557875	
14	5000311	11-08-2024	2718851	352907	
15	5176539	21-08-2024	5162625	670109	
16	5176619	21-08-2024	7437313	965363	
17	7769663	13-01-2025	1023789	132888	Duty demanded in respect of Ex-Bond BE in the subject SCN.
Grand Total			59574357	7732751	

8.31.2 I find that the above-mentioned Bills of Entry are Warehouse Bills of Entry having assessable value of **Rs.33,32,41,128/-** (Rs.27,36,66,771/- in Annexure-A and Rs.5,95,74,357/- in Annexure-B) and total duty amount of **Rs.4,32,54,697/-** (Rs.3,55,21,946/- in Annexure-A and Rs.77,32,751/- in Annexure-B). Further, I find that the goods covered under these Warehouse Bills of Entry have already been cleared for home consumption through the filing of respective Ex-Bond Bills of Entry.

8.31.3 I note that in respect of the following Warehouse Bills of Entry, the duty pertaining to the corresponding Ex-Bond Bills of Entry has already been demanded under the subject Show Cause Notice, the details of which are as under:

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

Sr. No	WH BE No.	BE Date	Assessable Value (Rs.)	Differential Duty (Rs.)	Annexure
1	4914599	06-08-2024	983536	127663	A
Total (Annexure-A)			983536	127663	
1	2271716	23-02-2024	140947	18295	B
2	4877915	04-08-2024	1332206	172920	B
3	4898337	05-08-2024	501687	65119	B
4	4898409	05-08-2024	315299	40926	B
5	4914295	06-08-2024	74688	9694	B
6	4977555	09-08-2024	12171469	1579857	B
7	4978280	09-08-2024	12448468	1615811	B
8	7769663	13-01-2025	1023789	132888	B
Total (Annexure-B)			28008551	3635510	
Total (Annex-A and B)			2,89,92,087/-	37,63,173/-	

8.31.4 I find that in respect of the above-mentioned Warehouse Bills of Entry, duty has been demanded both at the stage of Warehouse Bills of Entry and again at the stage of the corresponding Ex-Bond Bills of Entry, resulting in a double demand of duty; accordingly, I hold that the demand of **Rs.37,63,173/-** in respect of such Warehouse Bills of Entry is not sustainable and is liable to be set aside, as the duty has already been demanded in the corresponding Ex-Bond Bills of Entry. Further, I find that the demand in respect of the remaining Warehouse Bills of Entry is proper, as the goods have already been cleared for home consumption, and the same is liable to be recovered from the importer.

8.31.5 The benefit of exemption notification claimed by the Noticee in the impugned Warehouse Bills of Entry is not admissible, for the reasons discussed in the foregoing paragraphs. Therefore, the said Warehouse Bills of Entry are liable to be reassessed accordingly.

8.32 Further, the Noticee submitted that 13 Bills of Entry listed in Annexure-A and 21 Bills of Entry listed in Annexure-B to the Show Cause Notice are provisionally assessed Bills of Entry, and that the differential duty proposed therein is not recoverable at this stage. In this regard, I find that the SVB investigates the cases related to the valuation of goods imported by importers from their related suppliers. However, in the subject case the issue involved is related to notification exemption, which is different from the issue of valuation. Therefore, I find that all the Bills of Entry mentioned in Annexure-A and Annexure-B to the SCN are fit for adjudication. The order issued in this case will have no effect on the SVB decision regarding valuation and finalisation of the provisional assessments.

8.33 Further, the Noticee submitted that 5 Bills of Entry in Annexure-A to the SCN goods are related to Security Appliances and not Ethernet Switches

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

and differential duty is not recoverable. Details of the Bills of Entry are as under: -

Sr. No.	Bill of Entry	BE Date	Item Description	Ass. Value	Diff. Duty
1	5448068	05-09-2024	(FOC) FPR-C9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY-SECURITY APPLIANCES(FOC) FPR-C9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPL	13985911	1815371
2	5344236	31-08-2024	FPR-CH-9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY, 2PSU/4 FANS-SECURITY APPLIANCESFPR-CH-9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY, 2	3573161	463796
3	4914295	06-08-2024	FPR-CH-9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY, 2PSU/4 FANS-SECURITY APPLIANCESFPR-CH-9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY, 2	3573161	463796
4	5344244	31-08-2024	FPR-CH-9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY, 2PSU/4 FANS-SECURITY APPLIANCESFPR-CH-9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY, 2	3573161	463796
5	4978280	09-08-2024	FPR-CH-9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY, 2PSU/4 FANS-SECURITY APPLIANCESFPR-CH-9300-AC FIREPOWER 9300 CHASSIS FOR AC POWER SUPPLY, 2	3573161	463796
Total				28278555	3670555

Upon examination, it is observed that the above-mentioned Bills of Entry pertain to Security Appliances, which are distinct in design, function, and technical characteristics from the Carrier Ethernet Switches that form the subject matter of the subject SCN. The scope of the SCN is confined to issues relating to the exemption benefits and duty liability of Carrier Ethernet Switches, and does not extend to Security Appliance equipment. Since the goods covered under the aforesaid five Bills of Entry are security appliances and not Ethernet Switches, the differential duty amounting to Rs.36,70,555/- attributed to these Bills of Entry under Annexure-A of the SCN is not sustainable and is therefore not liable to be recovered from the Noticee.

8.34.1 The Noticee vide their submissions dated 05.02.2026 and 27.02.2026, has contended that no demand can be sustained in respect of the Catalyst 9200 Series Switch (Model: C9200L-48PXG-4X-A), on the ground that the said model does not possess IP-MPLS or carrier-grade functionality. It has been argued that the denial of exemption under Notification No. 57/2017-Customs in the subject SCN is premised on the allegation that the goods qualify as "IP-MPLS based equipment" or "Carrier-grade Ethernet Switches", which, according to the Noticee, is not applicable to this model.

8.34.2 I have examined the test report issued by M/s. Sunren Telecom Laboratory, an accredited laboratory under the Telecommunication Engineering Centre (TEC), in respect of the said model. The test report clearly

records that the equipment under test does not support MPLS-TP, IP-MPLS, traffic engineering, precision timing, or Connectivity Fault Management (CFM) functions, and that most carrier-grade features are “not supported”. It is further noted that the Switch is limited to E-Line functionality and basic Ethernet OAM, without the presence of comprehensive Carrier-grade transport and service assurance features. The test report is as under for reference:

Page 335

Report No : STL-2308-ETH-1906 Page 5 of 12

SUNREN TELECOM LABORATORY

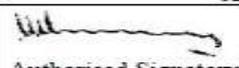


Summary of Test Results

Report No : STL-2308-ETH-1906		Date of Issue: 13-10-2023	
Title: Test report of LAN Switch			
EUT Description			
Nomenclature	LAN Switch		
Make/Manufacturer	Cisco Systems, Inc. 170 ,West Tasman Drive , San Jose, California 95134-1706 USA		
Model No. (s)	C9200L-48PXG-4X-A		
Serial No.(s) of product(s) tested	FOC271153J9		
Hardware / Software version(s)			
NIL			

No.	Test Parameter Name	Remarks	Observations	Results
01	Verification of carrier class features			
	1. MPLS-TP	Not Supported	Not Supported	The EUT is having E-Line feature only.
	2. IP-MPLS	Not Supported	Not Supported	
	3. OAM Functions	Not Supported	Not Supported	
	4. Traffic Engineering	Not Supported	Not Supported	
	5. Precision Timing	Not Supported	Not Supported	
	6. E-line and E-LAN	Not Supported	Not Supported	
	7. Ethernet OAM and Ethernet CFM functions	Ok Not Supported	Ok Not Supported	

The EUT is having E-Line feature only.

Report Verified By	Authorized by
 Name: NILESH RAUT Designation : Technical Manager	 Authorised Signatory Name: Sunil Shenoy Designation : CEO

Note : The Test Results presented in this report, pertain to the sample(s) tested.

8.34.3 I find that the basis of denial of exemption in the subject SCN rests on the allegation that the subject goods qualify as “IP-MPLS based equipment” or “Carrier-grade Ethernet Switches” in terms of the applicable notification and Circular No. 08/2023 dated 13.03.2023. However, in the case of the Catalyst 9200 Series (C9200L-48PXG-4X-A), the essential technical attributes required for such classification are not satisfied, as evidenced by the independent laboratory test report. In the absence of IP-MPLS capability and Carrier-grade functionalities, the said model cannot be categorized as a Carrier Ethernet Switch for the purpose of denial of exemption.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.34.4 In view of forgoing paras, I hold that the benefit of Notification No. 57/2017-Customs cannot be denied in respect of the Catalyst 9200 Series Switches, and consequently, the demand of duty proposed in the subject SCN for this Series is not sustainable. Accordingly, the duty amount of Rs.125,66,60,801/- (Rupees One Hundred Twenty-Five Crore Sixty-Six Lakh Sixty Thousand Eight Hundred One only) pertaining to Catalyst 9200 Series of Switches is not recoverable from the Noticee and is liable to be dropped.

8.35 Quantification of Differential Duty:

8.35.1 The total demanded differential duty is Rs.580,07,78,546/- (Rupees Five Hundred Eighty Crores Seven Lakhs Seventy-Eight Thousand Five Hundred Forty-Six Only), as detailed and mentioned in Annexure-A and Annexure-B of the subject Show Cause Notice.

8.35.2 As per foregoing discussion, I find that Bills of Entry related to Security Appliances (Other than Carrier Ethernet Switches), Catalyst 3850 Switches and Catalyst 9200 Switches are covered in the subject SCN, where duty is not liable to be recovered from the Noticee. Therefore, revised duty recoverable from the Noticee is as under:

Details of Assessable Value and Diff. duty	Assessable Value (in Rs.)	Differential Duty (in Rs.)	Remarks
As per SCN (Total)	4469,01,27,440/-	580,07,78,546/-	As per subject SCN
Security Appliances	2,82,78,555/-	36,70,555/-	Not recoverable
WH BE where duty already demanded in Ex-Bond BEs	2,89,92,087/-	37,63,173/-	Not recoverable
Catalyst 3850 Switches	16,28,362/-	2,11,361/-	Not recoverable
Not supporting IP-MPLS/Carrier grade functionality (Model: C9200)	968,15,16,147/-	125,66,60,801/-	Not recoverable
Revised (Total)	3494,97,12,289/-	453,64,72,656/-	Recoverable

8.35.3 Accordingly, revised differential duty works out to be Rs.453,64,72,656/- (Rupees Four Hundred Fifty-Three Crores Sixty Four Lakhs Seventy-Two Thousand Six Hundred Fifty Six) instead of the previously stated amount in SCN of Rs.580,07,78,546/- (Rupees Five Hundred Eighty Crores Seven Lakhs Seventy-Eight Thousand Five Hundred Forty-Six). The

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

revised differential duty amount of **Rs.453,64,72,656/- (Rupees Four Hundred Fifty-Three Crores Sixty Four Lakhs Seventy-Two Thousand Six Hundred Fifty Six)**, therefore, is recoverable from the Importer under Section 28(4) of the Customs Act, 1962, which has not been paid or short paid on account of misdeclaration of the nature and eligibility of the goods for the said exemption by the Noticee.

8.36 The Noticee was well aware that the said goods were Carrier Ethernet Switch. However, the Noticee suppressed the correct declaration and true nature of the imported goods to wrongfully claim the ineligible notification benefit. The Importer being the subsidiary company of the manufacturer of the said goods, was well aware of the functionality, essential character and description of the impugned goods but chose to mis-declare the said goods for evading payment of applicable Customs duties. Thus, it is clear that the Noticee failed in their primary responsibility of declaring the goods correctly. On the contrary the Noticee willfully mis-declared the said goods. The action of the Importer to mis-declare the said goods is an act of willful misstatement and suppression of facts.

8.37 I find that, the Importer cleared the impugned goods, without paying the appropriate legitimate duty against the goods. The Importer resorted to suppressing the crucial fact that the imported goods are Carrier Ethernet Switch with respect to the notification availed and paid duty at the lower rate than that applicable to the goods. The said evasion of duty amounts to non-payment/ short payment of duty with respect of the impugned goods which is now liable to be recovered.

8.38 As per Section 17 of the Customs Act, 1962, an Importer entering any imported goods under Section 46, or an exporter entering any export goods under Section 50, shall, save as otherwise provided in Section 85, self-assess the duty, if any, leviable on such goods. In the subject case, the Noticee could have examined the facts carefully before filing the subject Bills of Entry and should have classified/availed the notification benefits on the subject goods correctly. I find that the Noticee, despite being fully aware of the nature and composition of the imported goods, deliberately withheld relevant information and wilfully misclassified/availed the notification benefits the said goods. It is clear that they failed in their primary responsibility of declaring the goods appropriately and with due diligence.

8.39 Thus, I find that the Importer wilfully mis-stated and mis-declared the subject imported goods and wrongfully availed the benefits of the exemption notification, with intention to evade payment of applicable Customs duties. The mis-statement, mis-declaration and suppression of facts attracts invocation of extended period of Limitation in terms of Section 28(4) of the Customs Act, 1962. As such, the demand for differential duty in respect of the Bills of Entry listed in Annexure-A and B (except BEs mentioned in Para

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.35 above) to the Show Cause Notice is justified and recoverable under Section 28(4) of the Customs Act, 1962, along with applicable interest as provided under Section 28AA of the said Act.

8.40 The Importer having deliberately mis-declared and wrongfully availed the benefits of the exemption notification on the goods in question, which resulted into short payment of Customs duty, the differential duty of **Rs.453,64,72,656/- (Rupees Four Hundred Fifty-Three Crores Sixty Four Lakhs Seventy-Two Thousand Six Hundred Fifty Six)** is recoverable under Section 28(4) of the Customs Act, 1962.

8.41 Once differential duty is confirmed under Section 28 of the Customs Act, 1962, interest on the unpaid duty becomes automatically payable. Therefore, the importer is legally liable to pay the applicable interest under Section 28AA of the Act.

8.42 The SCN proposes confiscation of goods under the provisions of Section 111(m) of the Customs Act, 1962. Section 111(m) provides for confiscation in cases where goods do not correspond in respect of any other particulars in respect of which the entry was made under the Act. This would also cover subject case of wilful mis-statement, mis-declaration/wrongful notification benefits of the subject goods by suppressing the fact of their true nature by the Noticee. As there is wilful mis-declaration to pay lower rate of duty, resulting in short levy and short payment of duty, I find that the confiscation of the imported goods covered under Bills of Entry under Annexure A and B to the SCN, invoking Section 111(m) is justified and sustainable. I therefore hold that this intentional mis-declaration and suppression of facts by the Importer with the intent to evade payment of applicable duty have rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and they have consequently rendered themselves liable to penalty under Section 112(a)(ii) of the Customs Act, 1962. It should be noted however that as per the proviso to Section 114A of the Customs Act, 1962, separate penalty cannot be imposed under Section 112 of the Customs Act when a penalty has been imposed under Section 114A of Customs Act 1962.

8.43 I find that the Importer has knowingly availed ineligible benefits under Sr. No. 20 of Notification No. 57/2017 dated 30.06.2017 in order to pay lesser Customs duty. Since, the impugned goods have already been held liable to confiscation under Section 111(m) of the Customs Act, 1962 and duty is demanded under Section 28(4) of the Customs Act, 1962 along with applicable interest, the Importer has rendered themselves liable to Penalty under Section 114A of the Customs Act, 1962 for acts/omissions and the above said deliberate mis-statement, mis-declaration and wrong self-assessment of duty which are in the clear nature of supersession of facts.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.44 The Noticee argues that the imposition of penalty under Section 114A of the Customs Act, 1962 can only be imposed in cases where duty has not been paid or short/part paid because of collusion or wilful mis-statement or suppression of facts. They have submitted that they have not committed any offence or made no omissions or commissions in the entire matter and then conduct was bona-fide. However, as established in the preceding paragraphs, the Noticee, despite being fully aware of the nature and composition of the imported goods, deliberately withheld relevant information and wilfully mis-declared the said goods, as uncovered during the DRI, investigation, thereby clearly indicating the existence of *mens rea*. Even otherwise, the Supreme Court in *UOI v. Dharmendra Textile Processors* [2008 (231) E.L.T. 3 (SC)] clarified that *mens rea* is not a prerequisite for civil penalties under tax laws unless specifically stated. Similarly, in *Chairman, SEBI v. Shriram Mutual Fund* [(2006) 5 SCC 361], the Apex Court held that for contraventions under civil statutes, proving intention is unnecessary—mere breach of the statutory obligation attracts penalty. Further support is drawn from *Comex Co. v. Collector of Customs, Madras-I* [1997 (96) E.L.T. 526 (Mad.)], where the Madras High Court held that under Section 112(a), *mens rea* need not be established for imposition of personal penalties in departmental proceedings; proof of contravention suffices.

8.45 Regarding the Noticee's defense of acting under a bona fide belief, it is well settled that blind reliance cannot substitute for a genuine bona fide belief. In *Winner Systems v. CCE & C, Pune* [2005 (191) E.L.T. 1051 (Tri. - Mumbai)] and *Interscape v. CCE, Mumbai-I* [2006 (198) E.L.T. 275], the Tribunals held that claims based merely on blind or mistaken interpretation do not constitute valid grounds to evade liability, particularly where duty evasion has occurred. I find that the Importer intentionally mis-declared the subject goods to reduce the Customs duty payable. Since, the impugned goods have already been held liable to confiscation under Section 111(m) of the Customs Act, 1962 and duty is correctly demanded under Section 28(4) of the Customs Act, 1962 along with applicable interest, the Importer has rendered themselves liable to penalty under Section 114A of the Customs Act, 1962 for acts/omissions and the above said deliberate mis-statement, mis-declaration and wrong self-assessment of duty.

8.46.1 Section 114AA of the Customs Act, 1962 provides for imposition of penalty where any 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 course of any business relating to Customs. Thus, the essential ingredients for invocation of Section 114AA are (i) existence of a declaration or document used in Customs proceedings, (ii) falsity or incorrectness in a material particular, and

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

(iii) knowledge or intent on the part of the person making or using such declaration.

8.46.2 In the subject case, it is evident that the core issue relates not merely to exemption benefit availed illegally, but to the correctness and truthfulness of the declarations made at the time of import. From the investigation, it emerges that after the exclusion of “Carrier Ethernet Switches” from the scope of concessional duty under Notification No. 57/2017-Customs (as amended), the Importer consciously began declaring the impugned goods as “Non-Carrier Ethernet Switches” in the Bills of Entry and commercial documents. This change was not incidental but directly aligned with the statutory exclusion and was admittedly adopted to distinguish the goods from the excluded category. Such deliberate alteration in the description of goods, having direct bearing on duty liability, constitutes a material declaration affecting assessment.

8.46.3 Further, statements recorded under Section 108 of the Customs Act, 1962 from technical officials of the Importer establish that the Catalyst and Nexus Series Switches support advanced Carrier-grade functionalities including IP-MPLS, MPLS-TP, Traffic Engineering, OAM functions, IEEE 1588 Precision Timing, VXLAN, and related features. These admissions are corroborated by laboratory test reports issued by a TEC-approved laboratory confirming the presence of Carrier-class capabilities. Despite this technical knowledge, the Importer continued to declare the goods as “Non-Carrier Ethernet Switches” for the purpose of availing concessional Basic Customs Duty, thereby demonstrating that the declarations were not made under any bona fide misunderstanding of facts.

8.46.4 The investigation further revealed internal email communications retrieved during investigation indicating awareness within the organization that Cisco Switches generally attract 20% duty and that concessional rate was being availed under the “non-carrier” category. Such correspondence evidences prior knowledge of the higher applicable duty and supports the conclusion that the declarations were consciously structured to secure concessional assessment.

8.46.5 Additionally, after issuance of Circular No. 08/2023-Customs, the Importer was required to declare the specific identifier code applicable to IP-MPLS based or Carrier-grade equipment. Instead of declaring the prescribed identifier, the Importer chose to declare the residual code applicable to goods not covered under the excluded categories. In view of the admitted MPLS capabilities of several imported models, this declaration assumes material significance and cannot be dismissed as a clerical or technical lapse.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.46.6 It is further observed that the commercial invoices pertaining to the imported goods clearly mention end users such as Bharti Airtel, Reliance Jio and Vodafone-Idea, who are recognized Telecom Service Providers/ISPs. However, during the course of statements recorded under Section 108 of the Customs Act, 1962, as well as in their written submissions, the Noticee contended that the goods were not intended for TSPs/ISPs. This inconsistency between contemporaneous documentary records and the subsequent statements made by the Noticee reflects a material contradiction and indicates that incorrect information was furnished despite the existence of clear documentary evidence regarding the identity and nature of the goods.

8.46.7 The cumulative effect of the evidence, technical admissions, laboratory reports, internal communications, conscious modification of description post-exclusion, incorrect identifier declaration, and contradictory statements regarding end use, clearly establishes that the Importer was fully aware of the technical attributes of the goods and the consequential duty implications. The declarations made in the Bills of Entry directly influenced eligibility under the exemption notification and therefore constitute misstatements in material particulars.

8.46.8 Accordingly, the ingredients of Section 114AA of the Customs Act, 1962 stand satisfied in the subject case. The Importer knowingly made and used declarations which were incorrect in material particulars relating to classification and exemption eligibility. The conduct goes beyond a mere interpretational difference and reflects conscious and deliberate action aimed at availing an ineligible benefit. Therefore, imposition of penalty under Section 114AA is legally justified and warranted in the facts and circumstances of the subject case.

8.47 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 of 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

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

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 subject 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.

8.48 The SCN also proposes penalty on the Ms. Parul Vivek, Senior Manager of M/s Cisco Commerce India Pvt. Ltd. under Section 112(a)(ii) and/or 114AA of the Customs Act, 1962. In this regard, I find substance in Importer's contention that it has been time and again held by the Courts that in such matters, penalty cannot be imposed on the employee of the Company. Interpretation of the benefit of notification on the imported goods is not decided by a single individual but is based on multitudes of points. Additionally, there is no evidence relied upon in the subject SCN which proves that the employee has derived any personal benefit. Hence, subject case being highly technical in nature though involving suppression, misstatement and misdeclaration, I refrain from imposing penalty on employee (Ms. Parul Vivek) of the Company.

8.49 I find that the Importer has paid an amount of **Rs.127,61,32,045/-** during course of the investigation. The said amount is required to be appropriated against the demanded duty. The payment details are below: -

Sr. No.	Demand Draft No. & Date	Amount (in Rs.)	Challan No. & Date
1.	212135 dated 04.09.2023,	84,28,20,063	Mumbai-III/FY23-24/1009/14645
2.	191199 dated 12.04.2024	43,33,11,982	Mumbai-III/FY2023-24/0501/40766
Total		1,27,61,32,045/-	

The deposited amount of Rs.127,61,32,045/- is to be appropriated against the demanded differential duty, interest and penalty now confirmed. It is also pertinent to mentioned that payment made earlier of this amount is also indicative of prior knowledge about the true nature of the subject imported goods which the Importer later in a turnaround decided to challenge on various baseless ground as found above.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
SCN No. 73/2025-26 dated 15.05.2025
M/s. Cisco Commerce India Pvt. Ltd.

8.50 The Noticee has cited various case laws in their submission against the said SCN. I have gone through them 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 hence, those are not applicable in the subject case. I also place reliance of this finding in view of the following decision of the Apex 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

9. In view of the foregoing discussion and findings, I pass the following order:

- (i) I deny the benefits of exemption of duty availed under Sr. No. 20 of Notification No. 57/2017-Cus dated 30.06.2017 as amended in respect of Bills of Entry covered under Annexure- ‘A’ and ‘B’ to the subject SCN and as modified and said in Para 8.35 imported by M/s. Cisco Commerce India Private Limited, and order to re-assess the same with applicable Customs duties as mentioned in the Annexure-A to the subject SCN.
- (ii) I confirm the demand of differential duty amounting to **Rs.453,64,72,656/- (Rupees Four Hundred Fifty-Three Crores Sixty Four Lakhs Seventy-Two Thousand Six Hundred Fifty Six)** in respect of Bills of Entry mentioned in Annexure-‘A’ and ‘B’ to the subject SCN and as modified and said in Para 8.35 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 Cisco Commerce India Private Limited.
- (iii) I impose a penalty equal to differential duty of **Rs.453,64,72,656/- (Rupees Four Hundred Fifty-Three Crores Sixty Four Lakhs Seventy-Two Thousand Six Hundred Fifty Six) and the amount equal to interest leviable thereon**, on the Importer M/s. Cisco Commerce India Private Limited under Section 114A of the Customs Act, 1962. However, if this 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.

F. No. GEN/ADJ/COMM/295/2025-Adjn(I)
 SCN No. 73/2025-26 dated 15.05.2025
 M/s. Cisco Commerce India Pvt. Ltd.

- (iv) I order to finalise the Bills of Entry mentioned in Annexure-C to the subject SCN without benefit of Sr. No. 20 of the Notification No. 57/2017-Customs dated 30.06.2017.
- (v) I impose penalty of **Rs.350,00,00,000/- (Rupees Three Hundred Fifty Crores)** on Importer M/s. Cisco Commerce India Private Limited under Section 114AA of the Customs Act, 1962.
- (vi) I order to appropriate the amount paid by the Importer M/s. Cisco Commerce India Private Limited of **Rs.127,61,32,045/- (Rupees One Hundred Twenty Seven Crore, Sixty One Lakh, Thirty-Two Thousand, Forty-Five)** against the duty, interest and penalty as confirmed in this order.

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.

(Manish Chandra)

Pr. Commissioner of Customs (Import)
 Air Cargo Complex, Mumbai

To,

1. M/s. Cisco Commerce India Private Limited,
 SEZ, Cessna Business Park,
 Sarjapur Marathalli Ring Road,
 Bangalore - 560103.
2. Ms. Parul Vivek (Sr. Manager Customs)
 M/s. Cisco Commerce India Private Limited,
 SEZ, Cessna Business Park,
 Sarjapur Marathalli Ring Road,
 Bangalore - 560103.

Copy: -

1. The Pr. Chief Commissioner of Customs, Mumbai Customs Zone - III.
2. The Commissioner of Customs, Audit Commissionerate, New Custom House, Mumbai-I.
3. The Additional Director, DRI, Pune Regional Unit, 04, Riverside Villas, Lane No.1, Boat Club road, Pune - 411 001.
4. The Dy./Asstt. Commissioner of Customs, Gr.5A, ACC, Mumbai-III.
5. The Dy./Asstt. Commissioner of Customs, TRC, ACC, Mumbai-III.
6. E-Office file.