CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH- COURT NO. I

Customs Appeal No. 51772 of 2021

(Arising out of Order-in-Original No. 72/2020-21/SJ/PC dated 22.02.2021 passed by Pr. Commissioner of Customs, ACC Imports, New Delhi.)

M/s. Elektron Lighting Systems Private Ltd ...... **Appellant**
9, Rajasthan Udyog Nagar,
G.T. Karnal Road,
New Delhi-110033

Versus

Pr. Commissioner of Customs ...... **Respondent**
Air Cargo Complex (Import),
New Custom House,
Near IGI Airport,
New Delhi-110037

APPEARANCE:

Mr. B.L. Narasimhan, Shri Anurag Kapur and Shri Ashwin Sundaram, Advocates for the Respondent
Mr. Rajesh Singh, Authorised, Authorised Representatives of the Department

AND

Customs Appeal No. 50540 of 2022

(Arising out of Order-in-Appeal No. CC(A) CUS/D-1/IMPORT/NCH/1727/2021-22 dated 27.10.2021 passed by Pr. Commissioner of Customs, ACC (Import), New Delhi.)

Principal Commissioner of Customs, ACC Import Commissionerate ...... **Appellant**
New Custom House,
New Delhi-110037

Versus

...... **Respondent**
M/s. Elektron Lighting Systems Private Ltd
9, Rajasthan Udyog Nagar,
G.T. Karnal Road,
New Delhi-110033

APPEARANCE:

Mr. Rajesh Singh, Authorised, Authorised Representatives of the Department

Mr. B.L. Narasimhan, Shri Anurag Kapur and Shri Ashwin Sundaram, Advocates for the Respondent

CORAM:

HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

DATE OF HEARING: 08.07.2026
DATE OF DECISION: 07.08.2026

FINAL ORDER NO's. 51286-51287/2026

DR. RACHNA GUPTA

The present order disposes off two appeals though arising out of two separate orders but pertaining to the same importer and involving the same issue. Details of both the appeals are as follows:

Particulars	**C/51772/2021**	**C/50540/2022**
Appellant	**M/s Elektron Ligthting**	**Department**
Order-in-Appeal No.	-	Order-in-Appeal No. CC(A)/CUS/D-1/Imp/NCH/1727 dated 27.10.2021
Order-in-Original No.	Order-in-Original No. 72/2020-21/SJ/PC dated 22.02.2021	Order-in-Original No. 01/2019-2020/Elektron/JC/SIIB/ACC Import dated 02.04.2019
SCN	Show Cause Notice No. 10/2020/PC/ACC (Import) dated 24.02.2020	
Period of dispute	23.02.2015 to 20.12.2018	30.01.2019

2. The facts relevant for the present adjudication are that the appellant M/s Electron Lighting Systems Private Ltd[1], the importer has imported a consignment under Bill of Entry No. 9853835 dated

1 The appellant

30.01.2019 importing Light Emitting Diode[2] module for manufacturing of LED light and fixtures declaring under Chapter Tariff Heading[3] 8538 11090 with total import value of Rs. 7823 228 Basic Customs Duty[4] @ of 10% was paid. However, on the basis of routine analysis on ICES, department noticed that the imported goods being raw material for manufacturing of LED light and fixtures were more appropriately classifiable under CTH 9405 9900 attracting BCD @ 20%. With this observation, the aforesaid consignment was put on hold and got 100% examined on 01.02.2019 by the officers of SIIB. Statement of the Director of the appellant namely Shri Vikas Nagpal was recorded on 05.03.2019. The goods of the said Bill of Entry, the reassessment thereof was adjudicated vide aforementioned order-in-original dated 02.04.2019, where the differential duty amounting to Rs. 10,15,456/- was ordered to be recovered from the importer. The goods were ordered to be confiscated with an option to get those redeemed of payment of redemption fine of Rs. 2 lakh. Penalty of Rs. 50,000/- under section 112(a) and Rs. 50,000/- under section 112AA of Customs Act was also imposed already paid duty of Rs. 10,32,150/- was ordered to be appropriated. The appeal against the said order has been allowed against which the department is an appeal as recorded in the table above.

3. Based on the aforesaid OIO dated 02.04.2019 and further observing that the importer had been importing the similar goods earlier also that the investigation in respect of past clearances of importer was also conducted. The information was compiled as

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2 LED
3 CTH
4 BCD

obtained from ICES with respect of 20 Bill of Entries filed by the appellant during the period 23.02.2015 to 20.12.2018 wherein also the same goods were imported under CTH 8541 4020. However, in four of those Bill of Entries/ later ones, the CTH was declared as 85311090. The goods under all the said Bill of Entries were also found to be LED module for manufacturing of LED "light and fixtures" with applicable rate of BCD at 10%. In the statement dated 05.03.2019, the importer-appellant had acknowledged that classification, as per their best knowledge, is CTH 85399090 but the applicable rate of BCD is still at 10%. However, the department formed an opinion that under CTH 853110, it is only burglar or fire alarm and similar apparatus which can be classified and under CTH 8539, it is only LED lamps which can be covered. The imported goods since are LED modules, hence the correct classification is under CTH 9405 which attracts BCD @ 20%. With these observations, short payment of custom duty was alleged even in the past imports made by the appellant. Vide show cause notice dated 24.02.2020, as mentioned in table, the differential custom duty amounting to Rs. 72,81,852/- was proposed to be recovered alongwith the interest under section 28AA of the act and the penalties under section 112(a)(ii) and 114A of the Customs Act, 1962 was proposed to be imposed. Show cause notice was issued invoking the extended period of limitation and the appellant was called upon to explain as to why the same should not be invoked. The proposal has been confirmed vide the order-in-original dated 22.02.2021 as tabulated above. Being aggrieved of the said order that the importer M/s Elektron Lighting System Pvt Ltd is before this Tribunal.

4. We have heard Mr. B.L. Narasimhan, learned counsel assisted by, Shri Anurag Kapur and Shri Ashwin Sundaram for the appellant and Shri Rajesh Singh, learned authorised representative for the department.

5. Learned counsel for the appellant have submitted that the impugned goods are correctly classifiable under CTH 8541 4020 which covers LED (Elektro Luminescent Diodes). The HSN Explanatory Note to the said CTH provides that the LEDs are the devices which convert electric energy into visible light rays, however the goods do not have the control driver to control the input electricity so as to be usable LED irrespective the same is arranged on printed circuit board[5]. Since the multiple LEDs on one single panel are meant only to ensure increased intensity of lightening but the essential character of the said goods to be that of an LED does not get alter. The HSN Note also clarifies that LED assembly is an LED package mounted on PCB which may include optical elements: thermal, mechanical and electrical interfaces except the control circuitry to rectify AC power and control DC current to lead the said LEDs usable. In support of the said submissions, decision of Hon'ble Supreme Court in the matter of **Collector of Central Excise, Shilong vs. Woodcraft Products Ltd 1995 (77) E.L.T. 2023 Supreme Court** is relied upon.

6. Learned counsel further submitted that without prejudice and in alternative, the impugned goods are classifiable under CTH 8539 9090 which covers the light emitting diodes (LED lamps) and its parts thereof. The HSN Note to the said chapter provides that LED lamps are lamps which provide light through one or more LEDs. These lamps

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5 PCB

contain LED, glass or plastic envelop, circuitry to modify current, based for fixing lamp holder and the heat sinks. Learned counsel impressed upon it to be the undisputed fact that the impugned goods arranged in a particular fashion with connector heating and optical lens can readily be considered as LED lamps except that the assembly need to be combined to a control gear/circuitry modifying electric current. The said submission, the appellant was though free to question the rate of duty once the assessment was reopened by the department but the submissions about CTH 8539 9090 was not considered vide the OIO dated 22.02.2021. The decision in case of **Lili Foam Industries (P) Ltd. vs Collector of Central Excise reported as 1990(46) E.L.T 462 Tribunal** is relied upon.

7. Learned counsel further submitted that the impugned goods are not at all classifiable under CTH 9405 9900. The said CTH covers such lamps and light fitting and parts whereof which are not elsewhere included. It is impressed upon that this tariff entry (CTH 9405) is thus residuary in nature. Thus if an article is covered under any other heading of any other section of customs tariff, it cannot be covered under Chapter 94 as parts of the lamp covered under CTH 9405. Reliance is placed on general rule of interpretation, Rule no. 3 (a) according to which the heading that provides the most specific description of the goods shall be preferred to the headings providing a more general description. Learned counsel submitted that the goods in question are the parts of LED street lamps, appellant being the manufacturer of LED street lights. The entry which cover LEDs i.e. CTH 8541 4020 is more specific. The residuary entry i.e. CTH 9405 9900 cannot prevail over the said specific entry. decision in the case of

Mauri East India Pvt. Ltd vs. State of UP reported as 2008 (225) ELT 321 S.C. and in the case of **Dunlop India Ltd and Madras Rubber Factory Ltd vs. Union of India and others reported as 1983 (13) ELT 1566 S.C.** The department reliance on the advance ruling issued by GST authority for advance ruling Tamil Nadu is not acceptable in the light of the aforesaid submissions and the decisions.

8. Finally while submitting about the extended period of limitation under 28(4) of the Customs Act, that the same is not invokable, it is mentioned that all the facts with respect to the import of impugned goods were well within the knowledge of the department. Many Bills of Entries were filed by the appellant-importer classifying the impugned goods under CTH 8541 4020 which had been cleared in past without any objection being raised by the department. It is only with respect to bill of Entry dated 30.01.2019 that for the first time, the classification declared by the appellant was objected. The classification was rather changed from CTH 8541 4020 to CTH 8538 1090 at the instance of the department as is apparent from para 40 in OIO dated 22.02.2021. The Commissioner (Appeals) in the department appeal against said OIO vide OIA dated 02.04.2019 has held the impugned goods to be classifiable under CTH 8539 9090. Since there were the contrasting views within the department itself with respect to the classification of the impugned goods the extended period has wrongly been invoked while issuing the show cause notice following two decisions have been relied upon:

i) Muskan Engineering Industries, Parveen Bansal, Authorised Signatory vs. CCE, Panchkula, 2018 (10) TMI 959-CESTAT Chandigarh

ii) Holyland Marketing Pvt Ltd vs. Commissioner of Customs (Import) ICD, Tughlakabad, New Delhi, 2023(12)-CESTAT New Delhi

9. For the said reason, neither appellant is liable to pay any interest nor the penalty is imposable. With these submission, the order-in-original dated 22.02.2021 is prayed to be set aside and the appeal filed by the appellant is prayed to be allowed. The department's appeals is prayed to be disposed of, accordingly.

10. While rebutting the submissions, on behalf of the appellant, learned departmental representative has reiterated the findings arrived at in both the orders-in-original dated 22.02.2021 wherein the impugned goods are held to be the parts of lamps for exterior lightening example street light and hence they are more appropriately classifiable under CTH 9405 9900 of the tariff. It is mentioned that differential duty has rightly been confirmed as under the said tariff, the BCD is to be paid @ 20%. Decision in the case of **M/s Luker Electric Technologies Pvt Ltd vs. Commissioner of Customs** reported as **2025 (12) TMI 247** where this Tribunal, Chennai Bench has held that imported LED lighting fixtures are correctly classifiable under CTH 9405 and thus are not eligible for concessional duty benefit. Decision of Hon'ble Supreme Court in the case **of Commissioner of Customs (Import) vs. Welkin Foods** reported as **(2026) 38 Centax 104 S.C.** has been relied upon. With these submissions, the appeal filed by the department is prayed to be allowed whereas appeal filed by the appellant is prayed to be dismissed.

11. Having heard both these parties, it is observed and held as follows:

The present both the appeals are observed to have the classification issue. The goods imported by the appellant i.e. LED modules for manufacturing of LED lights and fixtures are classifiable under CTH 854100/ 8539 9090 as claimed by the importer-appellant. Department on the other hand has alleged that the goods are classifiable under CTH 9405 9900.

We observe that Classification of imported goods under the first schedule of Customs Tariff Act, 1975 is governed by the General Rules for Interpretation[6] of Import Tariff. As per Rule 1 of GRI, classification of goods shall be determined according to the terms of the headings and any relative Section or Chapter Notes. For the purposes of Rule 1 of GIR, the relative Section and Chapter Notes apply, unless the context otherwise requires. This is the first Rule to be considered in classifying any product. In other words, if the goods to be classified are covered by the words in a heading and the Section and Chapter Notes do not exclude classification in that heading, that heading would apply to the said goods. If such headings or notes do not otherwise require then the classification is to be determined in accordance with Rule 2 to 6 of said Rules. Rule 2(b) of GRI stipulates that the classification of goods consisting of more than one material or substance shall be according to the principle laid down in Rule 3 of GRI. Rule 3(a) stipulates that the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to a part only of the materials or substances contained in

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6 GRI

mixed or composite goods, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a precise or complete description of the goods. Rule 3(b) stipulates that mixtures, composite goods consisting of different materials which cannot be classified under Rule 3(a) shall be classified as if they consisted of the material or component which gives them essential character. Also, as per Rule 3(c) of the Rules of Interpretation, when goods cannot be classified by a reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. If the product is classified based on the specific heading read with Section and Chapter Notes, then the classification of the product has to be done in the said heading only as was held by Hon'ble Apex Court in the case of **Commissioner of Central Excise, Nagpur vs. Simplex Mills Company Ltd reported in (2005) 3 SCC 51**.

12. We find that the appellant has imported LED lighting fixtures. As this makes it a LED lighting product, it is being classified under the Tariff Heading 9405 which specifies finished lights with fixtures whereas LED bulb alone will merit classification under Chapter 85 deals with Electrical Components like the LED bulbs in conjunction with electrical machinery and parts thereof. Chapter 94 specifically excludes lamps and lights of Chapter 85. The HSN 8539 covers Light Emitting Diode (LED) lamps only whereas a specific HSN 9405 includes LED lightings or fixtures. As the specific latter entry covers the fixtures along with LED lamps, this will squarely be applicable to the applicant, who imports both LED lamps and fittings. Therefore, the import of LED

lamps & fittings may be classified under CTH 9405 rather than CTH 8539. The above discussion about classification of LED Lamps, LED Lights or LED Luminaires has been necessitated due to the Appellant's contentions that LED Lamps are not classifiable under CTH 9405 and distinguishable characteristics of these.

13. It is the settled position of law that GRIs 1-4 must be applied sequentially as held by hon’ble apex court in the case of **Commissioner Excise, Nagpur v. Simplex Mills Co. Ltd., reported in (2005) 3 SCC 51 and Secure Meters Limited V. Commissioner Customs, New Delhi, reported in (2015) 14 SCC 239).** As already observed above GRI 1, which gives primacy to the headings and notes, is the non- negotiable starting point. GRI 2, which deals with incomplete, unassembled or composite goods or mixtures, often acts as an extension of GRI 1, by deeming the headings to include incomplete/unassembled goods or mixtures or combinations of a material or substance. GRI 3 is only invoked when the application of GRI 1 and/or GRI 2 results in a good being prima facie classifiable under two or more competing headings. GRI 3 exists solely to resolve this tie. GRI 4, the rule of last resort, is mutually exclusive to GRI 3 and is only invoked if GRI 1 and 2 have failed to find even one possible heading for the good.

14. Further we observe that the official interpretation of the HSN is provided in the Explanatory Notes published by the World Customs Organisation (hereinafter Explanatory Notes"). Therefore, these Explanatory Notes form the foundation for interpreting the HSN. Given their importance for classification, it is apposite to understand how they can be used when addressing questions of classification under the

First Schedule of the Act, 1975. Hon'ble Supreme Court in **Commissioner of Central Excise, Salem v. Madhan Agro Industries (India) Private Ltd., reported in 2024 SCC online SC 3775**, while dealing with classification dispute under excise law, made the following pertinent observations regarding consideration of the Explanatory Notes:

> "16. Ergo, in resolving disputes relating to tariff description and classification, a ready reckoner is the internationally accepted nomenclature in the HSN. That being said, we must hasten to reiterate what Products Ltd. If the headings/entries in the was pointed out in Wood Craft Products Ltd.. If the headings/entries in the First Schedule to the Act of 1985 are different from the headings/entries in the HSN or if they are not fully aligned, reliance cannot be placed upon the HSN for the purpose of classifying those goods under the Act of 1985.
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> 17. To sum up, the First Schedule to the Act of 1985 is based on the HSN, which is an internationally standardized system developed and maintained by the World Customs Organization for classifying products, and unless the intention to the contrary is found within the Act of 1985 itself, the HSN and the Explanatory Notes thereto, being the official interpretation of the Harmonized System at the international level, would be of binding guidance in understanding and giving effect to the headings in the First Schedule. It is only when a different intention is explicitly indicated in the Act of 1985 itself that the HSN would cease to be of guidance. In effect, the legislative intention to depart from the HSN must be clear and unambiguous. For instance, in Camlin Ltd. v. Commissioner of Central Excise, Mumbai, this court found that there was an inconsistency between the Central Excise Tariff description and the entry in the HSN and, therefore, reliance upon the HSN entry was held to be invalid. It was affirmed that it is only when the entry in the HSN and the tariff description in the First Schedule to the Act of 1985 are aligned that reliance would be placed upon the HSN for the purpose of classification of such goods under the correct tariff description."

15. Before deliberating further we take a look of Tariff entries,

(a) The CTH 8539 reads as under:

8539 - Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc-lamps; **light-emitting diode (LED) lamps,**

as per Explanatory Notes, the CTH 8539 covers filament lamps, gas or vapour discharge lamps, arc-lamps and light-emitting diode (LED) lamps. Detailed HSN Explanator, Notes of the said CTH reads as follows:

(F) Light-Emitting Diode (LED) lamps

The light from these lamps is produced by one or more light-emitting diodes (LED). These lamps consist of glass or plastic envelope, one or more light-emitting diodes (LED), circuitry to rectify AC power and to convert voltage to a level useable by the LEDs, and a base (e.g. screw, bayonet or bi-pin type) for fixing in the lamp holder. Certain lamps may also contain a heat sink.

These lamps are of various shapes, e.g. spherical (with or without a neck); pear or onion shaped; flame shaped; tubular (straight or curved); special fancy shapes for illuminations, decorations, Christmas trees, etc

PARTS

Subject to the general provisions regarding the classification of parts, parts of the goods of this heading are also classified here. They include:

(I) Bases for incandescent and discharge electric lamps and bulbs

(2) Metal electrodes for discharge lamps and tubes.

Furniture; Bedding, Matteresses, Mattress Supports, Cushions and similar Stuffed Furnishings; Lamps and Lighting Fittings, not elsewhere specified or included: Illuminated Signs, Illuminated Name plates and the like; prefabricated Buildings

(b) CTH 8541 ---- from tariff

(c) CTH 9405 reads as under:-

"Lamps and lighting fittings including searchlights and spotlights and Parts thereof, **not elsewhere specified or included;** illuminated signs, illuminated name plates and the like, having a permanently fixed light source, and parts thereof nor elsewhere specified o included"

Subheadings**:** -

940510.....

940520.....

940530.....

940540 Other electric lamps and lighting fittings

940550.....

940560.....

- Parts

94059100 of glass

94059200 of plastics

94059900 other

Accordingly, the parts of other electric lamps and lighting fittings as per their constituent material are covered under their respective tariff heading.

Detailed HSN Explanatory Notes of CTH 9405 reads as under:

(I) Lamps and lighting fittings, **Not elsewhere specified or included**

Lamps and lighting fittings of this group can be constituted of any material (excluding those materials described in Note 1 to Chapter 71) and use any source of light (candles, oil. petrol, paraffin (or kerosene), gas, acetylene, electricity, etc.). Electrical lamps and fittings of this heading may be equipped with lamp-holders, switches, flex and plugs, lighting transformers, etc., or, as in the case of fluorescent strip fixtures, a starter or a ballast.

This heading covers in particular:

(1) Lamps and lighting fittings normally used for the illumination of rooms, e.g. hanging lamps; bowl lamps; ceiling lamps; chandeliers; wall lamps; standard lamps; table lamps; bedside lamps; desk lamps; night lamps; water-tight lamps

(2) Lamps for exterior lighting, e.g.: street lamps; porch and gate lamps; special illumination lamps for public buildings, monuments, parks.

(3) Specialised lamps

4) Lamps and lighting fittings for the vehicles of Chapter 86, for aircraft or for ships or Boats.

16. Reverting to the facts of the present case, it is an appellant's admitted fact on record that the impugned goods contain multiple LEDs arranged in a definite fashion or structure to produce more luminance compared to a single LED. The presence of multiple LEDs does not alter the characteristic of the impugned goods from being LEDs. Further, the impugned goods do not contain any active elements such as a driver or control gear. Without a driver or control gear the impugned goods cannot be used i.e., it is a dead part. Hence the product is denied to be lamp or even

part of street lamp as claimed by appellant. Moreover, in the present case, as far as LEDs are concerned, there was no change in the scope of the Customs Tariff Item in the First Schedule of the Tariff Act except for a mere change in the CTI number. However, an amendment was introduced in the HSN EN to CTH 8541 which clarified and widened the scope of LED to include LED packages and LED assemblies retrospectively.

17. The CTH 8541, the Chapter heading thereof includes light emitting diodes (LED), though this entry covers diodes, transistors etc. whether or not assembled in modules or made up into panels to LED is separated by the same can hence the condition of whether or not assembled in modules or made up into panels does not apply to LED, hence for any good to be covered under 8541 it should be one single light emitting diode. As already observed above the impugned gods are several LEDs on one panel converting the goods into LED module. The goods in question are denied to be covered under CTH 8541. Chapter Heading for 8531 as few of the Bills of Entries have declared the impugned goods under the said entry, covered electric sound, visual signaling apparatus like burglar or fire alarms apparatus. LED cannot be considered as a part of such alarm system.

18. The chapter heading for 8539 as quoted above covers the light emitting diode (LED lamps), the light from which is produced by one or more LEDs circuitry to rectify AC power and to convert voltage to a level usable by LED and a base for fixing lamp holder with a heat sink. Since the product in question is LED module i.e. a combination of various light emitting diodes on a panel having a PCB, the heat sink etc. except for the circuitry the modules were imported admittedly for the manufacture of street lights/lamps. Though the street lights are covered under CTH 9405 but the usage/utility of the imported goods is

not relevant for deciding classification as has been held by Hon'ble Apex Court in **Welkin Food (Supra)** decision, though relied upon by the department. Also CTH 9405 covers only such lamps and lightening fittings and parts thereof which are not elsewhere specified or included as already observed above that LED lamps are specifically covered under CTH 8539. The impugned goods being capable of performing as lamp but for the electric circuitry, this Tribunal in **Rico foods Company Ltd Vs. Commissioner of Central Excise, Pune** reported as **2001 (127) ELT 73** has held that residuary heading i.e. "not elsewhere specified" means not specified elsewhere in the entire tariff. The Hon'ble Apex Court in **Pioneer Embroideries Ltd vs. Commissioner of Customs, Mumbai** reported as **2015 (322) ELT 602 S.C.** has held that the essential character of imported goods to be determined for classification with reference to their state at the time of importation and not with reference to purpose of import. The impugned goods without being assembled into these street light assemblee as being manufactured by the appellant can still act as a LED lamp provided the electric supply is connected. We hold that the impugned goods cannot be classified as street lamp/ search light of CTH 9405.

19. As the result of above discussion, the goods are held to be appropriately classifiable under CTH 8539. The said entry also required BCD to be paid @ 10% as it has been paid by the appellant classifying the product under 8541 4100. Hence we hold that present is not the case of short payment of customs duty as alleged by the department. The findings arrived at in both the Orders-in-Original (1) dated 22.02.2021 and another dated 02.04.2019 are therefore hereby set

aside. The Order-in-Appeal dated 27.10.2021 is hereby upheld. Consequent thereto, the appeal filed by the department is hereby dismissed and the one filed by the appellant is hereby allowed.

(Order pronounced in the Open Court on 07.08.2026)

(RACHNA GUPTA)
OFFICIATING PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

Shenaj