

 सत्यमेव जयते BHARAT SARKAR	सीमाशुल्क प्रधानआयुक्तकाकार्यालय)एनएस(1- OFFICE OF PR. COMMISSIONER OF CUSTOMS (NS-1) जवाहरलालनेहरूकस्टमहाउस, न्हावा-शेवा JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA ताल-उरण, जिला -रायगढ़ ,महाराष्ट्र-400 707 TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707	 INDIAN CUSTOMS
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F.No: CUS/APR/MISC/3993/2025/Gr. IIG/JNCH
Date:30/09/2025

SCN No.1065/2025-26/JC/Gr. IIG/NS-I/CAC/JNCH
S/10-455/2025-26/Adj/JC/Gr. IIG/NS-I/CAC/JNCH
DIN No. : 20251078NX000000A53E

DEMAND CUM SHOW CAUSE NOTICE UNDER SECTION 28(4) OF THE CUSTOMS ACT, 1962 READ WITH SECTION 124 OF THE ACT.

M/s. **Sosan International (IEC- 0896001466)**, having their address at Property shop No. 3 2253 Salabat PU, Ground Floor Surat - 395003 (hereinafter referred to as The importer) filed Bill(s) of Entry as mentioned below in Table Amentioned below for clearance of goods under CTH- 39199020.

2. During post clearance audit (PCA), conducted in accordance with the provisions of Section 99A of the Customs Act, 1962 read with Section 157(k) of the Customs Act, 1962 and Customs Audit Regulation, 2018, it was observed that the importer imported “HOT FIX TAPE” under heading CTH 39199020 and paid BCD @ 10%. Since the said items i.e. Cellulose tape is different from Self-Adhesive tapes. Cellulose tape does not contain plastic but natural ingredients such as wood pulp, natural rubber and natural resin. Since the said items are self-adhesive tapes or tapes other than Cellulose Adhesive Tapes, the same cannot be classified under the CTH 39199020 (Cellulose Adhesive Tape). These items should have been classified under the CTH 39199090 and levied BCD@ 15% as above.

Table - A

Sr. No	B/E No.	B/E Dt.	Description	CTH	Assessabl e Value (in Rs.)	Duty (Item)	Diff of duty(37.47 %-30.98% of AV)
1	522949 7	28-08-21	HOT FIX TAPE -	3919902 0	1545151	478687.8	100280.4
2	638147. 0	24-11-21	HOT FIX TAPE	3919902 0	1547854	479525.1	100455.7
3	474091 6	20.07.202 1	HOT FIX TAPE	3919902 0	1675107	518948.2	108714.4
Total Differential Duty							309450.5

3. It appears that the importer imported the impugned goods “Hot Fix Tape” by wilfully mis-classifying the same under CTH 39199020, with an intention to pay custom duty at lower rate. Thus the provisions of Section 28 (4) of the Customs Act, 1962 are

invokable in this case.

4. On account of miss-classification of the said goods by the importer, there appears to be short payment of Customs duty amounting to Rs. 3,09,451/- (Rs. Three Lakh Nine Thousand Four Hundred Fifty One only) recoverable from the importer u/s 28 (4) of the Customs Act, 1962. In addition to duty, interest on delayed payment of duty is also recoverable from the importer u/s 28AA of the Customs Act, 1962.

5. The importer has imported the impugned goods improperly by not complying with the provisions of section 17(1) and 46(4) of the Customs Act, 1962. Thus, the goods appear to be liable for confiscation under section 111 (m) of the Customs Act, 1962.

6. Since the importer has imported the goods in contravention of the provisions of Customs Act, 1962 stated in forgoing para, therefore they are liable for penalty under section 112(a) and/or 114(A) of the Customs Act, 1962 for their act of commission and omission.

7. Relevant legal provisions are reproduced here for the sake of brevity.

7.1 After the introduction of self-assessment vide Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including applicable rate of duty, value, exemption notification claimed if any.

7.2 Section 17(1) Assessment of duty, reads as: *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.*

7.3 Section 28: [Recovery of duties not levied or not paid or short-levied or short-paid] or erroneously refunded.

7.3.1 Section 28 (4) *Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-*

(a) collusion; or

(b) any wilful miss-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

7.4 SECTION 46. Entry of goods on importation, subsection 46(4) reads as:

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

7.5 Section 111: Confiscation of improperly imported goods, etc.

Section 111 (m): [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;

7.6 Section 112: Penalty for improper importation of goods, etc.

Any person, -

Section 112 (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, shall be liable to penalty.

7.7 Section 114A (Penalty for short-levy or non-levy of duty in certain cases).

"Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful miss-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under 9 [sub-section (8) of section 28] shall, also be liable to pay a penalty equal to the duty or interest so determined.

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 115."

8. Self-Assessment in Customs has been implemented with effect from 08.04.2011 vide Finance Act, 2011 by making suitable changes to Sections 17, 18, 46 and 50 of the Customs Act, 1962. The Central Board of Excise and Customs has issued Circular No.17/2011-Customs dated 08.04.2011 regarding implementation of Self-assessment in Customs. In order to sensitise the people of trade about its benefit and consequences of misuse; Government of India has also issued 'Customs Manual on Self-Assessment, 2011'. Self- Assessment interalia requires importers/exporters to correctly declare value, classification, description of goods, exemption notifications, etc. and self-assess the duty thereon, if any. With the introduction of self-assessment, more faith is bestowed on the

importers/exporters, as the practices of routine assessment, concurrent audit etc. have been dispensed with. Para 3(a) of Chapter 1 of the above Manual further stipulates that the importer/exporter is responsible for self-assessment of duty on imported/export goods and for filing all declarations and related documents and confirming these are true, correct and complete.

9. Whereas, it appears from the foregoing narration and legal provisions cited above/below, that the importer has declared the wrong classification in respect of the goods imported and cleared the goods without payment of applicable Duty, in contravention of the provisions of the Customs Act, 1962. As per extant instructions, the onus of providing the correct declaration rests on the importer and all facilitation is conditional to the same. Further, being a regular importer, the auditee is well aware of their products and the Customs' rules and regulations including those relating to self-assessment, classification and applicable duties. With the introduction of self-assessment under Section 17, more faith is bestowed on the importers, as the practices of routine assessment, concurrent audit etc., have been dispensed with and the importers have been entrusted with the responsibility to correctly self-assess the duty. However, in the instance case, the Auditee intentionally abused this faith placed upon it by the law of the land. Therefore, it appears that the Auditee has wilfully violated the provisions of Section 17(1) of the Act inasmuch as they have failed to correctly classify the goods and has also wilfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act. Therefore, it appears that in respect of Bill of Entry mentioned in Table- A, such miss-declaration of country of origin of impugned goods, has resulted into short levy of duty along with applicable interest and penalty which is recoverable from the Auditee under the provisions of Section 28AA and Section 28(4) of the Customs Act, 1962.

10. In view of above, it appears that the importer has short paid the BCD as well as SWS & IGST by misclassifying the impugned goods under heading 39199020. Further, it appears that importer had not complied with the provision of Section 17(1) and 46(4) of the Customs Act, 1962.

11. Now, therefore, in exercise of the powers conferred by Section 124 read with Section 28(4) of the Customs Act, 1962, the importer, **M/s. Sosan International (IEC-0896001466)**, is called upon to Show Cause to the Joint/Addl. Commissioner of Customs, Group- IIG, NS-I, Jawaharlal Nehru Customs House, Nhava Sheva, Raigad within 30 days of receipt of this notice as to why:

- i. The Classification of the goods imported under Bill of Entry listed in Table-A under CTH 39199020 should not be rejected and re-classified under CTH 39199090 and the Bill of Entry should not be assessed to merit duty accordingly.
- ii. The differential duty amounting to Rs. 3,09,451/- (Rs. Three Lakh Nine Thousand

Four Hundred Fifty One only) should not be recovered from them under Section 28 (4) of the Customs Act, 1962.

- iii. Interest under Section 28AA of the Customs Act, 1962 should not be recovered from them.
- iv. The subject goods imported vide Bill of Entry as mentioned under Table-A should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- v. Penalty under Section 112(a) and/or 114A of the Customs Act 1962 should not be imposed on them.

12. The notice(s) is/are required to submit reply in writing to the Adjudicating Authority, as above, within 30 days from the date of receipt of this notice. In their written reply, the notice(s) may also state as to whether they would like to be heard in person. In case, no reply is received within the time limit stipulated above or any further time which may be granted to them by the Adjudicating Authority and/or if they fail to appear for personal hearing, when the case is posted for the same, the case will be decided ex-parte on the basis of evidence on record and without any further reference to the noticee(s).

13. This notice is issued without prejudice to any other action that may be taken in respect of the above goods and / or the persons / firms mentioned in the notice under the provisions of the Customs Act, 1962 and / or any other law for the time being in force, in the Republic of India.

14. The Department reserves its rights to amend the show cause notice in case new facts emerge at a later stage. This show cause notice is issued without prejudice to any other action that may be taken against the notice or any other person under the Customs Act, 1962 or any other law for the time being in force.

Digitally signed by
Parul Singhal
Date: 30-09-2025
15:48:12

(डॉ. पारुल सिंघल/Dr. Parul Singhal)
Joint Commissioner of Customs,
Gr. IIG, NS-I, JNCH,
Nhava Sheva

To
M/s. Sosan International (IEC- 0896001466),
Property shop No. 3
2253 Salabat Pura, Ground Floor
Surat – 395003

Copy to:

1. The Dy. Commissioner of Customs, Centralized Adjudication Cell, JNCH
2. The Dy. Commissioner of Customs, IAD
3. The Dy. Commissioner of Customs, EDI
4. Office copy
5. Notice Board