



आयुक्त, सीमाशुल्क (एनएस- V) काकार्यालय,

**OFFICE OF THE COMMISSIONER OF
CUSTOMS (NS- V),**

जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,

**JAWAHARLAL NEHRU CUSTOM HOUSE,
NJAVA SHEVA,**

तालुका- उरण, जिला- रायगढ, महाराष्ट्र- ४००७०७.

**TALUKA- URAN, DISTRICT- RAIGAD,
MAHARASHTRA - 400 707.**



F. No. S/26-Misc-402/2025-26/Gr.VA/JNCH

Date: १५ /१०/2025

F.No. S/2-Audit -Gen-128/2023-24/JNCH/Admn

Show Cause Notice No. 1347 /2025-26/JC/Gr. VA/CAC/JNCH

S/10- 1143/2025-26/Adj/JC/Gr.VA/NS-V/CAC/JNCH

DIN No. 20251128MX0000003439

**SHOW CAUSE NOTICE ISSUED UNDER SECTION 28(4) OF THE
CUSTOMS ACT, 1962**

M/s Prozeal Green Energy Pvt. Ltd. (IEC: 815007132) having address at 12th Floor, West Wing 1209 & 1210, Stratum Venus Grounds, Near Jhansi Ki Rani Statue, Nehrunagar, Ahmedabad, Gujarat 380015 (hereinafter referred to as 'the importer') had cleared their imported items as per Annexure-A (hereinafter referred to as 'the subject goods') vide various Bills of Entries mentioned Annexure 'A', filed by CHA M/s Yusen Logistics (INDIA) Pvt Ltd in Annexure-A, by classifying the same under CTH-85044090. The IGST paid on the said item was 5% as per Serial No. I-234 of Schedule- I of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017.

2. However, it was noticed that the said Sr. No provides 5% IGST for the goods classifiable under chapter 84, 85 and 90, whereas the benefit of IGST for the goods described at Sr. no. I-234 of Notification no. 01/2017- Integrated Tax (Rate) dated 28.06.2017 was available to the following goods-

Following renewable energy device & parts for their manufacture-

- (a) Bio-gas plant
- (b) Solar power-based devices
- (c) Solar power generating system
- (d) Wind mills, Wind Operated Electricity Generator (WOEG)
- (e) Waste to energy plants / devices
- (f) Solar lantern / solar lamp
- (g) Ocean waves/tidal waves energy devices/plants

3. It was further noticed that importer was not involved in manufacturing process and still the importer had claimed IGST Sr. no. I-234 of Notification No. 01/2017 dated 28.06.2024 instead of IGST on the imported goods to be paid @ 18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017. Therefore, the goods imported by the importer attracts levy of IGST @18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017-

Integrated Tax (Rate) dt. 28.06.2017. The details of description of goods, Bills of Entry, applicability of correct IGST amount, are as per Annexure-A to the Audit Report.

4. Hence, it appears that the importer had willfully mis-declared the subject goods by way wrong IGST Schedule for the purpose of importing the same, declaring IGST @5% as per Sr. No. 234 of Schedule-I instead of 18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017, thereby paying lower duty than applicable and thus the provisions of Section 28 (4) are invokable in this case.

5. Accordingly, a Consultative Letter No. 25/24-25 dated 23.04.2024 issued vide F. No. Audit-Gen-128/2023-24/JNCH/ADMN was issued to the importer for payment of short levied duty along with applicable interest and penalty. Vide the aforementioned Consultative letter, the importer was advised to pay the Differential IGST along with interest and penalty in terms of Section 28(4) of the Customs Act 1962. The importer was further advised to avail the benefit of lower penalty in terms of Section 28(5) of the Customs Act, 1962, by early payment of short paid IGST duty and interest along with penalty@15%. The Consultative letter was issued considering the Pre-Notice Consultation Regulations, 2018. However the importer has failed to pay the dues even after the issuance of CL and he didn't submit any reply of the same as well.

6. Relevant Legal Provisions: After the introduction of self-assessment vides Finance Act, 2011, the onus is on the Importer to make true and correct declaration in all aspects including Classification and calculation of duty, but in the instant case the subject goods have been misclassified and IGST amount has not been paid correctly.

7. Relevant legal provisions for recovery of duty that appears to be evaded are reproduced here for the sake of brevity which are applicable in this instant case:

7.1 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.

7.2 Section 28 (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded) reads as:

(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 willful mis-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.

(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub- section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5).

7.3 Section 28AA- Interest on delayed payment of duty

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest, at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day

of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

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

(4) 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.) reads as: The following goods brought from a place outside India shall be liable to confiscation (m) Any goods which do not correspond in respect of value or in any other particular with the entry made under this Act.....;

7.6 Section 112 (Penalty for improper importation of goods etc.) reads as:

“Any person-

(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, -
(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is greater;
(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten percent of the duty sought to be evaded or five thousand rupees, whichever is higher.”

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 mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA, and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation. - For the removal of doubts, it is hereby declared that -

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.

8. Acts of omission and commission by the Importer:

8.1 As per section 17(1) of the Act, "An Importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods." Thus, in this case the importer had self-assessed the Bills of Entry and appears to have Short-levy of IGST due to wrong selection of IGST Schedule. As the importer got monetary benefit due to said act, it is apparent that the same was done deliberately by willful mis-classification of the said goods in the Bills of Entry during self-assessment. Therefore, differential duty is recoverable from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the said Act.

8.2 It appears that the importer has given a declaration under section 46(4) of the Act, for the truthfulness of the content submitted at the time of filing Bill of Entry. However, the applicable IGST rate on the subject goods was not paid by the Importer at the time of clearance of goods. It also appears that the Importer has submitted a false declaration under section 46(4) of the Act. By the act of presenting goods in contravention to the provisions of section 111(m), it appears that the importer has rendered the subject goods liable for confiscation under section 111(m) of

the Act. For the above act of deliberate omission and commission that rendered the goods liable to confiscation. Accordingly, the Importer also appears liable to penal action under Section 112 (a) and /or 114 A and of the Customs Act, 1962.

9. From the foregoing, it appears that the Importer has willfully misclassification the goods; that the Importer have submitted a false declaration under section 46(4) of the said Act. Due to this act of omission of Importer, there has been loss to the government exchequer equal to the differential duty.

10. Therefore, in exercise of the powers conferred by Section 124 read with Section 28(4) and Section 28AAA of the Customs Act, 1962. **M/s Prozeal Green Energy Pvt Ltd (IEC: 815007132)** having address at 12th Floor, West Wing 1209 & 1210, Stratum Venus Grounds, Near Jhansi Ki Rani Statue, Nehrunagar, Ahmedabad, Gujarat 380015 may be show caused in writing, as to why:-

- (i) The IGST rate claimed under Schedule- I, Sr. No. 234 of IGST levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 for the subject goods should not be rejected.
- (ii) The IGST rate @18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 should not be levied.
- (iii) Differential IGST amount of **Rs. 2,36,886/- (Rupees Two Lakh Thirty Six Thousand Eight Hundred Eighty Six only)** with respect to the items covered under Bill of entry as mentioned in Annexure A to this notice should not be demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.
- (iv) The subject goods as detailed in Annexure-A to this notice having a total assessable value of **Rs.16,41,622/- (Sixteen Lakh Forty One Thousand Six Hundred Twenty Two Only)** should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- (v) Penalty on the duty should not be recovered under the provisions of section 28(5) of the Customs Act, 1962.
- (vi) Penalty should not be imposed under Section 112(A) & 114(A) of the Customs Act, 1962.

11. It is also advised that the importer may avail the benefit of reduced penalty @15% of duty and interest so specified in this notice in terms of Section 28(5) of the Customs Act, 1962 by payment of duty and interest within 30 days of receipt of this notice, failing which importer may be subject to higher penalty equal to the duty and interest so determined.

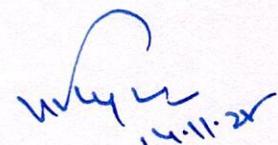
12. The written explanation/reply should be filed by the noticee to the **Joint Commissioner of Customs**, NS-V, JNCH, Nhava-Sheva, Tal.- Uran, Distt. Raigad, Maharashtra-400707 within 30 days from the date of this

notice. They are further required to intimate in their written reply whether they wish to be heard in person before the case is adjudicated.

13. If no cause is shown against the action proposed to be taken or the importer and CHA does not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on merits.

14. The department reserves its right to amend, modify or supplement this notice at any point of time prior to the adjudication of the case.

15. This present show cause notice is issued without prejudice to any other action that may be taken against the notice or any other firm(s) or person(s) under the provisions of the Customs Act, 1962 or any other law for the time being in force in the Union of India.



14.11.20

(Mazid Khan)
Joint Commissioner of Customs
NS-V, NAVA SHEVA, JNCH

M/s Prozeal Green Energy Pvt. Ltd. (IEC: 815007132)

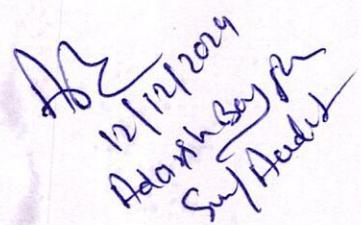
12th Floor, West Wing 1209 & 1210,
Stratum Venus Grounds, Near Jhansi Ki Rani Statue,
Nehrunagar, Ahmedabad, Gujrat 380015

Copy to:

1. The Asst./Dy. Commissioner of Customs, CAC, JNCH (adjudication)
2. The Dy. Commissioner of Customs, Circle- C3, Audit, JNCH
3. Notice Board (CHS Section).
4. Office.

ANNEXURE-A

BE Number	BE Date	IEC Name	IEC Code	Full Item Description	Assessable Value Amount	BCD Amount	IGST Notification	IGST Notification Serial Number	IGST PA ID @5%	IGST PAYABLE @18%	Differential duty
2112 824	26/12/ 2020	PROZE AL GR EEN E NERG Y PRIV ATE LI MITED	81500 7132	GW120 K-HT SOLAR INVERTER GW1 20K-HT SOLAR INVERTER	16416 22.5	16416 2.3	001/20 17	1234	91110. 0515	327996. 1854	236886. 1339


 12/12/2024
 Adashayam
 Sujith

10/11/54
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10/11/54