



भारतसरकार/ Government of India
वित्तमंत्रालय / Ministry of Finance
कार्यालय/ Office of

आयुक्त सीमाशुल्क -(एनएस-1)

Commissioner of Customs-(NS-I)

Jawaharlal Nehru Custom House (JNCH)

Nhava Sheva, Tal: Uran, Dist: Raigad, Maharashtra-400 707



**INDIAN
CUSTOMS**

**BHARAT
SARKAR**

F. No. CUS/APR/MISC/10756/2023-Gr 2(G)-O/Gr. IIG/JNCH

Dt: 03.08.2025

SCN No.-926/2025-26/Pr. Commr./Gr. IIG/NS-I/CAC/JNCH

S/10-312/202-26/Adj./Pr. Commr. /Gr. IIG/NS-I/CAC/JNCH

DIN No.-20250978NW0000444BFF

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

M/s. Tetra Pack India Private Limited (IEC: 0589030621), having their address at Plot No B-53, MIDC Chakan, Phase II, Village-Vasuli, Taluka-Khed, Pune, Maharashtra-410501 (hereinafter referred to as The importer) filed Bills of Entry mentioned below for clearance of goods under CTH-39201019.

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 "Laminated Plastic Film Strip" under heading CTH 39201019 and paid BCD @ 10%. Since the said items are Laminated Plastic Film Strip and not Sheets of Polyethylene, the same cannot be classified under CTH 39201019. These items should have been classified under the CTH 39209999, and consequently BCD should have been levied at the rate of 15%. The misdeclaration in classification of the goods resulted in short levy of BCD alongwith the applicable IGST, details of which are shown in Table-A.

Table-A

Sr.No	B/E No.	B/E Dt.	Description	CTH	Assessable Value (in Rs.)	Duty (Item)	Diff of duty (37.47%-30.98% of AV)
1.	3462606	06-04-2021	A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	14686180	4549779	953133
2.	3597582	16-04-2021	A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	14217614	4404617	922723.3
3.	3727154	27-04-2021	A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	2493731	772557.9	161843.2
4.	4119997	29-05-2021	A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	14584599	4518309	946540.4
5.	5923953	20-10-2021	A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	12445660	3855655	807723.3
			A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	12412238	3845311	805554.2

			FILM-STRIP)				
6.	6076051	30-10-2021	A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	1461280	452704.5	94836.97
			A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	165708	51336.33	10754.45
7.	6220730	12-11-2021	A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	5678450	1759184	368531.4
			A885495101 LS-STRIP MWM JR7.5/0.080 (LAMINATED PLASTIC FILM-STRIP)	39201019	888409.53	275229.3	57657.78
TOTAL DIFF. OF DUTY TO BE PAID							5129298

3. It appears that the importer imported the impugned goods "**LAMINATED PLASTIC FILM-STRIP**" by wilfully mis-classifying the same under CTH 39201019, with an intention to pay custom duty at lower rate. Thus the provisions of Section 28 (4) of the Customs Act, 1962 are invocable in this case.
4. On account of mis-classification of the said goods by the importer, there appears to be short payment of Customs duty amounting to **Rs.51,29,298/- (Rs. Fifty-One Lakhs Twenty-Nine Thousand Two Hundred Ninety-Eight 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 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.

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).

8. 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 39201019. Further, it appears that importer had not complied with the provision of Section 17(1) and 46(4) of the Customs Act, 1962.

9. 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. Tetra Pack India Private Limited (IEC: 0589030621), is called upon to Show Cause to the Principal 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 imported goods should not be re-classified under CTH 39209999.
- II. The differential duty amounting to **Rs.51,29,298/- (Rs. Fifty-One Lakhs Twenty-Nine Thousand Two Hundred Ninety-Eight 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 Bills 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.

10. The Noticee/s should state clearly in their written reply to the Principal Commissioner of Customs, NS-I, JNCH, Nhava-Sheva, Raigad, as to whether they want to be heard in person before the case is adjudicated. If no reply is received within the stipulated period of one month of this notice, failed to appear before the Principal Commissioner of Customs, Gr. II G, NS-I on the date of Personal Hearing, the case will be decided ex-parte, on the basis of the facts available on record, without giving any further intimation to the Noticee/s.

11. This Show Cause Notice is being issued without prejudice to any other action that may be taken in respect of the impugned 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.

Digitally signed by
Yashodhan Arvind Wanage
Date: 03-08-2025
23:06:42

(Yashodhan Arvind Wanage)
Principal Commissioner of Customs,
Gr. IIG NS-I, JNCH,
Nhava Sheva

To,

M/s. Tetra Pack India Private Limited (IEC: 0589030621), EM718639345IN,
Plot No B-53, MIDC Chakan, Phase II,
Village-Vasuli, Taluka-Khed, Pune,
Maharashtra-410501
dt. 16/9/2025

Copy to:

1. The Dy. Commissioner of Customs, Central Adjudication Cell,
JNCH **For Adjudication**
2. The Dy. Commissioner of Customs, CRAC, JNCH.
3. Notice Board. **CHS**
4. Office Copy

