

S



आयुक्त, सीमाशुल्क (एनएस- V) काकार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS
(NS- V),
जवाहरलालनेहरु सीमाशुल्क भवन, न्हावाशेवा,
**JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA
SHEVA,**
तालुका- उरण, जिला- रायगढ, महाराष्ट्र- ४००७०७.
**TALUKA- URAN, DISTRICT- RAIGAD,
MAHARASHTRA - 400 707.**



F. No. S/26-Misc-377/2025-26/Gr. VA JNCH

Date: 01 / 10/2025

F. No. CADT/CIR/ALRT/16/2022-23-D1

Show Cause Notice No. १०६६ /2025-26/AC/Gr. VA/CAC/JNCH

S/10459 /2025-26/Adj/AC/Gr.VA/NS-V/CAC/JNCH

DIN No. 20251078N×0000 00 FCE 0

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

On the basis of the Analytics Report- 02 /2022-23 dated 08.04.2022 regarding Mis- classification of goods under CTH 85312000 to avail the BCD exemption vide Notification no. 24/2005-customs dated 01.03.2005, data pertaining to imports made by various importers through JNCH (INNSA1) was analysed in detail.

While analyzing the data, it is observed that **M/s. SURAJ SEMICONDUCTORS & DEVICES(IEC : AACPN6797R)** having address at FLOOR-1ST, PLOT-48/50, JANARDH V A PATEL MARG, PROCTOR ROAD WARD-D, Mumbai, Maharashtra-400007, have imported goods having description such as LCD DISPLAY under CTH 8531 2000 (as detailed mentioned in TABLE-A) and importer has availed BCD exemption vide Notification no. 24/2005-customs dated 01.03.2005. However, on scrutiny it appears that the impugned goods imported were the parts for electrical sound or visual signalling and not Complete Apparatus which falls under CTH 8531 9000 and attracts 10% duty.

2. The relevant extract of CTH 8531 of the Custom Tariff is reproduced herein below:

8531 ELECTRIC SOUND OR VISUAL SIGNALLING APPARATUS (FOR EXAMPLE, BELLS, SIRENS, INDICATOR PANELS, BURGLAR OR FIRE ALARMS), OTHER THAN THOSE OF HEADING 8512 OR 8530

8531 10 - Burglar or fire alarms and similar apparatus:

8531 10 10 --- Burglar alarm u 10%

8531 10 20 --- Fire alarm u 10%

8531 10 90 --- Other u 10%

8531 20 00 --- Indicator panels incorporating liquid crystal ... u...
Free

devices (LCD) or light-emitting diodes (LED)

8531 80 00 --- Other apparatus u 10%

8531 90 00 --- Parts kg 10%

2.1 Relevant Explanatory Notes to the Harmonized System of nomenclature reads as below:

"With the exception of signaling apparatus used on cycles or motor vehicles

(heading 85.12) and that for traffic control on roads, railways, etc. (heading 85.30), this heading covers all electrical apparatus used for signaling purposes, whether using sound for the transmission of the signal (bells, buzzers, hooters, etc.) or using visual indication (lamps, laps, illuminated numbers, etc.).

Static signs, even if lit electrically (e.g., lamps, lanterns, illuminated panels, etc.) are not regarded as signaling apparatus. They are therefore not covered by this heading but are classified in their own appropriate headings (headings 83.10, 94.05, etc.). Indicator panels and the like. These are used (e.g., in offices, hotels and factories) for calling personnel, indicating where a certain person or service is required, indicating whether a room is free or not.

They include:

(1) Room indicators. These are large panels with numbers corresponding to a number of rooms. When a button is pressed in the room concerned the corresponding number is either lit up or exposed by the falling away of a shutter or flap.

(1) Number indicators. The signals appear as illuminated figures on the face of a small box; in some apparatus of this kind the calling mechanism is operated by the dial of a telephone. Also clock type indicators in which the numbers are indicated by a hand moving round a dial.

(2) Office indicators, for example, those used to indicate whether the occupant of a particular office is free or not. Some types are merely a simple "come in" or "engaged" sign illuminant at will by the occupant of the office.

(3) Lift indicators. These indicate, on an illuminated board, where the lift is and whether it is going up or down.

(4) Engine room telegraph apparatus for ships.

(5) Station indicating panels for showing the times and platforms of trains.

(6) Indicators for race courses, football stadiums, bowling

alleys, etc. The heading also excludes:

a. Switches and switch panels, whether or not incorporating simple indicating lights (heading 85.36 or 85.37).

b. Fire alarms incorporating smoke detectors containing a radioactive substance (heading 90.22).

c. LCD displays are only classified under this heading when they do not meet the criteria for a monitor (heading 84.71), video monitor (heading 85.28) or a television receiver (heading 85.28)"

2.2 On conjoint reading of the above notes, it appears that only the complete apparatus used for electrical sound or visual signaling are to be classified under CTH 8531. Parts of these apparatus are covered under CTI 85319000. Those signaling apparatus incorporating LCD/LED displays merits classification under CTH 8531 2000 with the BCD exemption to the said goods. Other Parts, other apparatus, Monitors/displays used as inputs for further processing are to be classified in their respective headings.

2.3 In the instant case, the importer has availed BCD exemption vide Notification no. 24/2005-customs dated 01.03.2005 by claiming the goods under CTH 8531 2000 which is for the complete apparatus used for electrical sound or visual signalling. However, it appears that the goods imported were the parts for electrical sound or visual signalling and not

Complete Apparatus are covered under CTH 85319000 which attracts 10% duty. From the above, it appears that the said exemption Notification is applicable to Complete apparatus used for electrical sound or visual signalling, whereas the goods imported were the parts of electrical sound or visual signalling. Therefore, they were ineligible of benefit of Notification No. 24/2005-customs dated 01.03.2005.

3. In view of the above, **Consultative letter No. 2298 dated 23-12-2021** was issued for the Bills of Entry (detailed mentioned in TABLE-A) of rounded value of ₹ 32,522/- to the Importer advising for payment of the same along with applicable interest and penalty. However, no reply or submission is given by importer in this regard.

Table-A

BE Number	BE Date	Full Item Description	Assessable Value Amount	Total Duty Amount	Duty applicable @ 30.98	Differential duty
9217712	17-10-2020	LED MODULE (CHN) LED MODULE (CHN)	32521.5	5853.9	10075.161	4221.26
			32521.5	5853.9	10075.161	4221.2607

4. The total assessable value of the BE items so imported is ₹ 32,522/- and it appears that a short levy of duty amounting to ₹ 4,221/- (**as detailed in TABLE 'A' above**) is recoverable from the Importer along with applicable interest and penalty.

5. 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:

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 classification and calculation of duty, but in the instant case the subject goods have been mis-classified and duty amount has not been paid correctly. **Section 17 (Assessment of duty)**, subsection (1) 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.'

5.1 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
- (a) any willful mis-statement; or
- (b) 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.

5.1 Section 46 (Entry of goods on importation), subsection (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.'

5.2 Section 111 (Confiscation of improperly imported goods etc.) reads as:

'The following goods brought from a place outside India shall be liable to confiscation:

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

5.3 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, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, 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 the 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 per cent.

of the duty sought to be evaded or five thousand rupees, whichever is higher.'

5.4 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 willful 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.'

6 Whereas, consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in customs clearance. Section 17 of the Customs Act, effective from 08.04.2011 [CBEC's (now CBIC) Circular No 17/2011 dated 08.04.2011] provides for self-assessment of duty on imported goods by the Importer himself by filing a bill of entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the Importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self- assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service center, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the Importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the Importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods

7 Therefore, in view of the above facts, it appears that the importer has deliberately not paid the duty by willful mis-statement as it was his duty to declare correct CTH in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to **₹ 4221.260000000002/- (Rupees Four Thousand Two Hundred and Twenty One Only)** (as detailed mentioned in TABLE - 'A'). Therefore, the differential duty, so not paid, is liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

8 Section 111(o) of Customs Act, 1962 provides for confiscation of the goods if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law

for the time being in force, in respect of which condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

9 It appears that the Importer has failed to comply with the conditions mentioned above; therefore, it also appears that the imported goods are liable for confiscation under Section 111(o) of the Customs Act, 1962.

10 It further appears that the Importer for the acts of omission and commissions mentioned above has rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act. 1962.

11 In view of the above, the importer, **M/s. SURAJ SEMICONDUCTORS & DEVICES (IEC: AACPN6797R)** having address at #22, First Floor, Augusta Point, Golf Course Road, Sector 53, Gurugram, Haryana, India - 122002, is hereby called to show cause to the **Assistant Commissioner of Customs, Gr.5A, JNCH, Nhava- Sheva, Distt. Raigad, Maharashtra- 400707** within 30 days of the receipt of this notice as to why:

- (i) The imported goods should not be classified with the machine of which the imported good is a part, or CTH 8531 9000.
- (i) Differential/short paid Duty amounting to **₹ 4,221/Rupees Four Thousand Two Hundred and Twenty One Only** for the subject goods imported vide Bills of Entry as detailed mentioned above should not be demanded under Section 28(4) of the Custom Act, 1962.
- (ii) In addition to the duty short paid, interest on delayed payment of Custom Duty should not be recovered from the Importer under section 28AA of the Customs Act. 1962.
- (iii) The said subject goods imported vide Bills of Entry as detailed mentioned above having assessable value of **₹ 32,522/- (Rs. Thirty Two Thousand Five Hundred and Twenty Two Only)** should not be held liable for confiscation under Section 111(o) of the Customs Act, 1962.
- (iv) Penalty should not be imposed on them under Section 112(a) of the Customs Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.
- (v) Penalty should not be imposed under Section 114A of Customs Act, 1962 for short levy of duty.

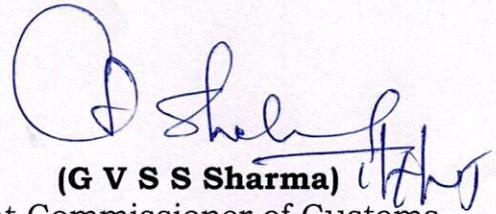
12. It is also advised that the importer may avail the benefit of reduced penalty @15% of duty and interest so specified in this notice in terms of Section 28(5) of the Customs Act, 1962 by payment of duty and interest within 30 days of receipt of this notice, failing which importer may be subject to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

13. The written explanation/reply should be filed by the noticee to the **Assistant Commissioner of Customs, Gr. VA, 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.

14. 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.

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

16. 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.



(G V S S Sharma)

Assistant Commissioner of Customs
GR.VA, NS-V, NAVA SHEVA, JNCH

M/s. SURAJ SEMICONDUCTORS & DEVICES (IEC: AACPN6797R)

FLOOR- 1ST, PLOT-48/50, JANARDH V A PATEL MARG,
PROCTOR ROAD WARD-D, Mumbai, Maharashtra – 400007

Copy to:

1. The Asst./Dy. Commissioner of Customs, CAC, JNCH (information)
2. The Dy. Commissioner of Customs, Circle- D1, Audit, JNCH
3. Notice Board (CHS Section).
4. Office.