



**F. No. - CUS/APR/SCN/301/2023-Group 4
S/10-1375/2025-26/ADJ/AC/GR.IV/NS-III/CAC/JNCH**

Date: 10-12-2025

SCN No. - 1574/2025-26/AC/GR.IV/NS-III/CAC/JNCH

DIN - 20251278NV0000777AED

**SHOW CAUSE NOTICE ISSUED UNDER SECTION 124 OF CUSTOMS ACT,
1962 READ WITH SECTION 28 OF CUSTOMS ACT, 1962**

Whereas, **M/S Cooks Arena (IEC: 3416903765)** situated at A-1 169, Gidc Ankleshwar, Ankleshwar, Bharuch, Gujarat, 393002(hereinafter referred as 'Importer') had imported consignments of items namely 'Aluminium Cladded Circles' of various grades under CTH73269070 (hereinafter referred to as 'the said goods") as detailed in **Annexure-A**.

S. No.	BO E N O.	Dated	ITE M S .NO	Description of Goods	ASSES SABL E VAL UE	BCD@ 7.5%	AV FOR CAL. O F CVD	CVD @18.95%	SW @ 10%	IGST 18%(Incl uding CVD)	Total Duty Payable	BCD paid as per B	SW S Paid as per BE	IGST paid a	Total Duty paid as per BE	Differential Duty	
												E	N	O.	C	N	BCD@ 7.5%
1	47269071	19.07.2021	C N	Aluminium Cladded Circles 3 ply (thickness 2mm)	3521374.35	264103	3785477	717348	26410.3	815262	1823124	352137	352137	703571	1090922	732202.0096	
2	47269071	19.07.2021	C N	Aluminium Cladded Circles 3ply (thickness 2.5mm)	2070613.31	155296	2225909	421810	15529.6	479385	1072020	207061	207061	413709	641476	430544.1785	
3	23141021	11.01.2021	C N	Aluminium Cladded Circles (thickness 3.8 mm)	131833.65	9887.52	1417216.2	2685752	988.752	30522	68254.3	131834.834	131834.834	26340.4	40842.06	27412.26972	
4	23141021	11.01.2021	C N	Aluminium Cladded Circles (thickness 3.8 mm)	172411.19	12930.8	1853422.3	35120.08	12930.08	39916	89262.6	17241.411	17241.411	34447.8	53412.99	35849.58805	
5	23141021	11.01.2021	C N	Aluminium Cladded Circles (thickness 3m)	457216.78	34291.3	4915080.8	93140.8	34290.8	105854	236715	45721.7	45721.7	91351.9	14164.5.8	95069.42798	
6	23141021	11.01.2021	C N	Aluminium Cladded Circles (thickness 3m)	1376233.79	103218	1479451	280356	10321.8	318623	712519	137623	137623	274972	426357.2	286161.3241	
7	23141021	11.01.2021	C N	Aluminium Cladded Circles (thickness 3m)	612735.01	45955.1	65869022	124822	45955.51	141859	317232	61273.5	61273.7.35	122424	189825.3	127406.4502	
8	23141021	11.01.2021	C N	Aluminium Cladded Circles (thickness 3m)	1775725.29	133179	1908905	361737	13317.9	411113	919348	177573	177573.57.3	354790	550119.7	369227.8913	
	685693	28.12.2021	C	Aluminium Cladded Circles (thickness 2.5)	12794	95960	1.4E+0	2606	9596		662425	12794127	12794127	25563	39638	2660428.4	

9	7	1	N	1	mm)	780.96	9	7	457	0.9	3E+06	2	78	948	97	23	01
10	685 993 7	28. 12. 202 1	C N	2	Aluminium Cl added Circles (thickness 2.5 mm)	18428 3.07	13821 .2	198104	3754 0.8	1382 .12	42665	95409	18428 .3	184 2.83	36819 .8	57090. 9	38318.116 96
11	289 872 9	24. 02. 202 1	C N	1	Aluminium Cl added Circles 3 ply (thickne ss 2.5mm)	52099 56.92	39074 7	560070 4	1061 333	3907 4.7	1E+06	269735 5	52099 6	520 99.6	10409 49	16140 45	1083310.2 5
12	210 244 1	24. 12. 202 0	C N	1	Aluminium Cl added Circles 3 ply(thicknes s 2.5mm)	22612 66.15	16959 5	243086 1	4606 48	1695 9.5	523524	117072 7	22612 7	226 12.7	45180 1	70054 0.3	470186.76 65
13	210 244 1	24. 12. 202 0	C N	2	Aluminium Cl added Circles (thickness 2.1 mm)	69278 30.97	51958 7	744741 8	1411 286	5195 8.7	2E+06	358675 1	69278 3	692 78.3	13841 81	21462 42	1440509.0 89
14	715 774 7	20. 01. 202 2	C N	1	Aluminium Cl added Circles (thickness 3m m)	12750 569.24	95629 3	1.4E+0 7	2597 450	9562 9.3	3E+06	660136 2	12750 57	127 506	25475 64	39501 26	2651235.4 25
15	298 148 7	02. 03. 202 1	C N	1	Aluminium Cl added Circles (thickness 2.5 mm)	52742 63.68	39557 0	566983 3	1074 433	3955 7	1E+06	273064 8	52742 6	527 42.6	10537 98	16339 67	1096681.6 03
16	258 671 4	01. 02. 202 1	C N	1	Aluminium Cl added Circles(thickness 2.5 mm)	25787 40.47	19340 6	277214 6	5253 22	1934 0.6	597025	133509 3	25787 4	257 87.4	51523 2	79889 3.8	536199.44
17	258 671 4	01. 02. 202 1	C N	2	Aluminium Cl added Circles(thickness 2.5 mm)	71613 44.08	53710 1	769844 5	1458 855	5371 0.1	2E+06	370764 8	71613 4	716 13.4	14308 37	22185 84	1489063.6 46
18	698 874 7	07. 01. 202 2	C N	1	Articles of Clad Metals(Tripl y Circles)	59497 69.8	44623 3	639600 3	1212 042	4462 3.3	1E+06	308037 9	59497 7	594 97.7	11887 64	18432 39	1237140.0 97
					71210 949												14806946

2. During the course of post clearance audit, it has been observed that the Importer has mis-classified the said goods in order to evade the applicable CVD of 18.95% on 'Aluminium Cladded Circles' as per Notification No.1/2017-Customs (CVD) dated 07.09.2017. As per the said notification, CVD of 18.95% was imposed on all 'Flat rolled products of stainless steel; originating in or exported from PR China and classified under CTH 7219 or 7220. The only product exempted from the CVD was 'razor blade grade steel'.

3. In order to arrive at proper CTH for Aluminium Cladded Circles, it is necessary to understand the scheme of distribution of different items under Chapter 72 and 73 of Section XV of the Customs Tariff Act, 1975:

3.1. The Section XV (Base Metals and Articles of Base Metal) of Customs Tariff consists of two chapters of Iron and Steel:-

Chapter 72 – Iron and Steel and Chapter 73 – Articles of Iron and Steel.

To understand the difference between the items of Chapter 72 and the items of Chapter 73, it is important to take a look at the description of goods in some of the chapter headings (CTH) in both the said chapters.

3.1.1. Chapter Heading in CTH 72

Chapter Heading	Description of goods
7201	PIG IRON AND SPIEGELEISEN IN PIGS, BLOCKS OR OTHER PRIMARY FORMS.
7203	FERROUS PRODUCTS OBTAINED BY DIRECT REDUCTION OF IRON ORE AND OTHER SPONGY FERROUS PRODUCTS, IN LUMPS, PELLETS OR SIMILAR FORMS; HAVING A MINIMUM PURITY BY WEIGHT OF 99.94% IN LUMPS, PELLETS OR SIMILAR FORMS.
7205	GRANULES AND POWDERS, OF PIG IRON, SPIEGELEISEN, IRON OR STEEL GRANULES.
7206	IRON AND NON-ALLOY STEEL IN INGOTS OR OTHER PRIMARY FORMS (EXCLUDING IRON OF HEADING 7203)
7207	SEMI-FINISHED PRODUCTS OF IRON OR NON-ALLOY STEEL
7208	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, HOT-ROLLED NOT CLAD, PLATED OR COATED
7213	BARS AND RODS, HOT-ROLLED, IN REGULARLY WOUND COILS, OF IRON OR NON-ALLOY STEEL
7219	Flat-rolled products of stainless-steel, of a width of 600mm or more - Not Further Worked Than Hot-rolled, In Coils.
7220	Flat-rolled products of stainless steel, of a width Of Less Than 600mm - Not Further Worked Than Hot-rolled.

On careful examination of description of goods viz. pig iron, granules, iron ingots, bars etc., it seems apparent that neither of the goods qualify as finished product. It consists of primary material, semi-finished products and flat-rolled products of iron and different type of steel (Non alloy/Stainless/Other Alloys).

3.1.2. Chapter Heading in CTH 73

Chapter Heading	Description of goods
7301	SHEET PILING OF IRON OR STEEL, WHETHER OR NOT DRILLED, PUNCHED OR MADE FROM ASSEMBLED ELEMENTS; WELDED ANGLES, SHAPES AND SECTIONS, OF IRON OR STEEL
7302	RAILWAY OR TRAMWAY TRACK CONSTRUCTION MATERIAL OF IRON OR STEEL, THE FOLLOWING: RAILS, CHECK-RAILS AND RACK RAILS, SWITCH BLADES, CROSSING FROGS, POINT RODS AND OTHER CROSSING PIECES, SLEEPERS (CROSS-TIES), FISH-PLATES, CHAIRS, CHAIR WEDGES, SOLE PLATES (BASE PLATES), RAIL CLIPS, BEDPLATES, TIES AND OTHER MATERIAL SPECIALIZED FOR JOINTING OR FIXING RAILS.
7303	TUBES, PIPES AND HOLLOW PROFILES, OF CAST IRON
7309	RESERVOIRS, TANKS, VATS AND SIMILAR CONTAINERS FOR ANY MATERIAL (OTHER THAN COMPRESSED OR LIQUIFIED GAS), OF IRON OR STEEL, OF A CAPACITY EXCEEDING 300L, WHETHER OR NOT LINED OR HEAT-INSULATED, BUT NOT FITTED WITH MECHANICAL OR THERMAL EQUIPMENT.
7316	ANCHORS, GRAPNELS AND PARTS THEREOF, OR IRON OR STEEL
7319	SEWING NEEDLES, KNITTING NEEDLES, BODKINS, CROCHET HOOKS, EMBROIDERY STILETTOS AND SIMILAR ARTICLES, FOR USE IN THE HAND, OF IRON OR STEEL; SAFETY PINS AND OTHER PINS OF IRON OR STEELS, NOT

ELSEWHERE SPECIFIED OR INCLUDED

7323 TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF, OF IRON OR STEEL; IRON OR STEEL WOOLL; POT SCOURERS ABD SCOURING OR POLISHING PADS, GLOVES AND THE LIKE, OF IRON OR STEEL.

7326 OTHER ARTICLES OF IRON OR STEEL

As can be seen from above table the goods included in Chapter 73 are sheet pilings, tubes, pipes, anchors, sewing needle, kitchen articles of iron or steel etc. All these products have their direct end uses and can be used independently without being further worked upon. For example, the article mentioned at CTH 7301 – SHEET PILING OF IRON OR STEEL, though being simple metal sheets have their use as finished product/Article for construction and other activities.

3.2. An article under Chapter 73 has to be a finished product which either can be used independently or to be joined or fixed together to make structures etc.

3.3. In case of ‘Aluminium Cladded Circles’, it does not have any function or use which is intrinsic to it. It is a flat-rolled product, which is further worked upon to get a desired article. The ‘Aluminium Cladded Circles’ cannot be termed as an ‘Article’ because it cannot be used directly and has to be substantially processed further to get the desired article. To arrive at right CTI for the ‘Aluminium Cladded Circles’, its nature, form and composition is discussed in detail in the following paras:-

3.4. Further, the Aluminium Cladded Circles is a composite product of two base metal viz. Stainless Steel and Aluminium, yet it should be classified as product of Stainless Steel (Not aluminium) as Stainless Steel predominates weight of Aluminium. As per Note 7 to Chapter XV of the Customs Tariff Act, 1975, “*Classification of composite articles; except where the heading otherwise require, articles of base metal (including articles of mixed materials treated as articles of base metals under the Interpretative Rules)*” containing two or more base metals are to be treated as articles of base metal predominating by weight over each of the other metals. For this purpose: (a) iron and steel, or different kinds of iron or steel, are regarded as one of the same metal”. Based on above note, the ‘Aluminium Cladded Circles’ merits classification as a product of Stainless Steel under Chapter 72.

3.5. In Chapter 72 of the Customs Tariff Act, 1975, the different CTHs have been put into 4 sub-chapters as follows:

- i) PRIMARY MATERIALS PRODUCTS IN GRANULAR OR POWDER FORM (CTH 7201 TO 7205)
- ii) IRON AND NON-ALLOY STEEL (7206 TO CTH 7217)
- iii) **STAINLESS STEEL (CTH 7218 TO CTH 7227)**

IV) OTHER ALLOY STEEL; HOLLOWDRILL BARS AND RODS OF ALLOYS OR NON-ALLOY STEEL (CTH 7228 TO 7229)

3.5.1. The Aluminium Cladded Circles is a product of Stainless Steel and therefore shall fall in the sub chapter III- Stainless Steel (CTH 7218 to CTH 7227) of Chapter 72. The only relevant CTH for this kind of product is either:

7219 (Flat Rolled Products of Stainless Steel, of a width of 600 mm or more) **OR**

7220 (Flat-Rolled Products of Stainless Steel, of a width of less than 600mm)

3.5.2. To further clarify the issue, the relevant part of Note 1 to the Chapter 72 of the Customs Tariff Act, 1975 is reproduced as below:

1 (j) Semi-finished products:

Continuous cast products of solid section, whether or not subjected to primary hot-rolling; and

Other products of solid section, which have not been further worked than subjected to primary hot-rolling or roughly shaped by forging, including blanks for angles, shapes or sections.

These products are not presented in coils.

1 (k) Flat-rolled products:

Rolled products of solid rectangular (other than square) cross-section, which do not confirm to the definition at (ij) above in the form of:

- *Coils of successively superimposed layers, or*
- *Straight lengths, which if of a thickness less than 4.75 mm are of a width measuring at least ten times the thickness or if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness.*

Flat-rolled products include those with patterns in relief derived directly from rolling (for example, grooves, ribs, chequers, tears, buttons and lozenges) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings.

Flat-rolled products of a shape other than rectangular or square, of any size, are to be classified as products of a width of 600 mm or more, provided that they do not assume the character of articles or products of other heading.

3.5.3. Considering the shape of the SS Triply Circles/Aluminium Cladded Triply Circles as round/ circular it fits into the definition of Flat-rolled product of a width of 600 mm or more as per Note 1(k) of Chapter 72 of the Customs Tariff Act, 1975. Thus, Aluminium Cladded Circles merits classifiable under CTH 7219.

Chapter heading 7219 reads as – *Flat-rolled products of Stainless Steel of a width of 600mm or more*. As the import product is a cladded product, not specially mentioned in any of the CTI under CTH 7219, it would merit classification under the category – ‘OTHERS’ under CTI 72199090.

3.6. On account of classification of the import product Aluminium Cladded Circles under CTH 7219, the CVD Notification No.01/2017-Cus dated 07.09.2017 appear to be applicable:

Sr. No.	Heading	Description of goods	Country of origin	Country of export	Producer	Exporter	Duty amount as % of landed value
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	7219 or 7220	Flat-rolled products of stainless steel-(Note below)	China PR	China PR	Any	Any	18.95%
2	-do-	-do-	China PR	Any Country	Any	Any	18.95%
3	-do-	-do-	Any Country	China PR	Any	Any	18.95%

Note: (1) Flat Rolled Products of Stainless Steel for the purpose of the present notification implies: “Flat rolled products of stainless steel, whether hot rolled or cold rolled of all grades/series; whether or not in plates sheets, or in coil form or in any shape, of any width, of thickness 1.2 mm to 10 mm in case of hot rolled coils; 3 mm to 105 mm in case of hot rolled plates & sheets; and up to 6.75 mm case of cold rolled flat products Product scope specifically excludes razor blade grade steel”

4. In view of above facts, it appears that mis-classification of Aluminium Cladded Circles under Customs Tariff heading 73269070 by the importer has led to non-payment of CVD @18.95% of landed value which otherwise would have been applicable, had the import product been rightly classified under CTH 7219.

5. Accordingly, a Consultative Letter CL No.17/2022-23 (C2) vide F.No. S/2-Audit-Gen-476/2021-22/JNCH (C-2) dated 07.04.2022 was issued to the importer advising for payment of differential duty along with applicable interest and penalty. However, importer has neither made any payment nor has given any documentary evidence or reply to the CL till date.

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 more specifically the RMS facilitated Bill of Entry in this instant case, 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. Relevant Legal Provisions: 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 IGST amount has not been paid correctly.

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, partly 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.

7.8. SECTION 114AA. Penalty for use of false and incorrect material. -

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]

7.9. SECTION 117. Penalties for contravention, etc., not expressly mentioned.

- Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it

was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one lakh rupees.

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 Non-levy / Short levy of Customs Duty and/or IGST due to mis-classification. 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, as mentioned in Annexure-A, 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 Customs Duty 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 Section 114A and/or Section 117 of the Customs Act, 1962.

8.3. As the importer deliberately and knowingly mis-declared and mis-classified the impugned goods to evade the Customs Duty leviable under Notification 01/2017-cus (CVD) dated 07.09.2017. Accordingly the importer also appeared liable to penal action under section 114AA of the Customs Act 1962.

9. From the foregoing, it appears that the Importer has willfully mis-classified the goods; that the Importer has 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 mentioned in Annexure-A.

10. The differential duty along with Re-determined duty for the goods covered under bills of entry are as below.

S No.	Bill of Entry No. and Date	Duty Payable for Impugned Goods (including BCD, SWS, IGST, CVD)(In Rs.)	Duty Declared/Paid for impugned Goods(including BCD, SWS, IGST, CVD) (In Rs.)	Differential Duty(In Rs.)
1	4726907 dated 19.07.2021	2895143.965	1732397.777	1162746.188
2	2314102 dated 11.01.2021	2343329.99	1402203.039	941126.951
3	6859937 dated 28.12.2021	6719660.555	4020914.036	2698746.519
4	2898729 dated 24.02.2021	2697354.904	1614044.654	1083310.25
5	2102441 dated 24.12.2020	4757478.144	2846782.288	1910695.856
6	7157747 dated 20.01.2022	6601361.776	3950126.351	2651235.425
7	2981487 dated 02.03.2021	2730648.491	1633966.888	1096681.603
8	2586714 dated 01.02.2021	5042741.279	3017478.194	2025263.085
9	6988747 dated 07.01.2022	3080378.781	1843238.684	1237140.097
Total		36868097.88	22061151.91	14806945.97

11. Therefore, in terms of Section 124 read with Section 28(4) of the Customs Act, 1962, M/s. Cooks Arena (IEC:3416903765) situated at A-1 169, GIDC Ankleshwar, Bharuch, Gujrat, 393002, is hereby called upon to Show Cause to the Commissioner of Customs, Group IV/IVA, NS-III, Jawaharlal Nehru Custom House, Nhava Sheva, Tal-Uran, Dist.- Raigad, Maharashtra-400707 within 30 days of the receipt of this notice as to why:

- i. The classification of imported goods declared under CTH 73269070 should not be rejected and re-determined under CTH 72199090.
- ii. Differential duty amounting Rs.1,48,06,946/- (Rupees one crore forty-eight lakhs six thousand nine hundred forty-six only)for Bills of Entry as mentioned in Annexure-A should not be recovered from the importer

under Section 28(4) of Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

- iii. The subject goods having total assessable value Rs. 7,12,10,949/- (Rupees seven crores twelve lakhs ten thousand nine hundred forty-nine only) should not be confiscated under section 111(m) of the Customs Act, 1962.
- iv. Penalty should not be imposed on them under Section 112(a) and/or 114A and Section 117 of the Customs Act, 1962.
- v. Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962.

12. The written explanation/reply should be filed by the importer to the Commissioner of Customs, Gr. 4/4A, NS-III JNCH, Nhava Sheva, within 30 days from the date of this notice. The importer is further required to intimate in their written reply whether they wish to be heard in person before the case is adjudicated.

13. If no reply is received within 30 days of receipt of this notice, or importer fails to appear before the Assistant Commissioner as and when the case is posted for hearing, the case will be decided ex-parte on the basis of evidences available on record without further reference to the importer.

14. The importer may like to avail of the benefits extended under Section 28(5) of the Customs Act, 1962 by paying the Customs duty and interest as demanded above along with penalty @15% of the duty demanded above within 30 days from the date of receipt of this notice and seek conclusion of proceedings under this notice under Section 28(6) of the Customs Act, 1962.

15. This Notice is issued without prejudice to any other action that may be taken against the importer and or any other person under the provisions of the Customs Act 1962 or any other law for the time being in force in the Union of India. The department reserves its right to add, alter or supplement this notice at any time before any order is prepared in this matter.

Digitally signed by
Vijay Risi
Date: 10-12-2025
14:16:30

VIJAY RISI

Commissioner of Customs,
NS-III, Nhava Sheva, JNCH

Encl: Annexure-A

To,

M/s. Cooks Arena
A-1 169, Gidc Ankleshwar, Ankleshwar,
Bharuch, Gujrat, 393002. EM712699782IN

CB: Three Rose Service
300, Room No. 201, 2nd Floor,
M. K. Bhuvan, Shahid Bhagat Singh Road,
Fort-400001 EM712699907IN

Copy to:

1. The Deputy Commissioner of Customs, Audit Circle C2/D3, JNCH
2. The Deputy Commissioner of Customs, Central Adjudication Cell, JNCH
3. Notice Board
4. Office Copy.