



OFFICE OF COMMISSIONER OF CUSTOMS (NS-III)
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F.No.-CUS/APR/SCN/304/2023-Group4

Date: 23-12-2025

SCN No. – 1719/25-26/AC/GR.IV/NS-III/CAC/JNCH

S/10-1522/25-26/ADJ/AC/GR.IV/NS-III/CAC/JNCH

DIN – 20251278NV0000666A71

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

Whereas, M/s. GLOBAL ACCESS HOSPITALITY (IEC 309019877) situated at TRAMBAKESHWAR CHS LTS. PLOT NO 188- D6 RAC NO. 50 GORAI II BORIVALI WEST MUMBAI 400091 (hereinafter referred to as "the importer") had imported as Annexure attached (Ceramic Tableware and Kitchenware), (hereinafter referred to as 'subject goods'), classified under CTH 69119090, vide Bills of Entry as per Annexure through Customs Broker M/s. SELF. The subject goods imported from China are liable for Anti-Dumping Duty as per Sr. 1 to 3 of Notification No.27/2017-Customs (ADD) dated 12.06.2017 alongwith Notification No.04/2018-Customs (ADD) dated 21.02.2018. The details of the same is as per Annexure attached.

2. During the course of Post Clearance Audit, it was observed that the importer, M/s. GLOBAL ACCESS HOSPITALITY (IEC 309019877) has cleared the subject goods, classified under Customs Tariff Heading (CTH) 69119090, mentioned in the Annexure attached without payment of Anti-Dumping duty (ADD). Anti-Dumping Duty was imposed on the import of Ceramic Tableware and Kitchenware' vide Notification No.27/2017-Customs (ADD) dated 12.06.2017 along-with Notification No.04/2018-Customs (ADD) dated 21.02.2018, when originated from in or exported from China PR, with effect from the date of publication of this Notification i.e. on 12.06.2017 for the period of 5 years. As per the said Notification, ADD is leviable at the rate equal to the amount as indicated in the corresponding column (9) and as per unit of measurement as specified in the corresponding entry in column (10) of the said Table. The relevant Notification is reproduced below in Table-A with relevant parts of applicable ADD:-

S. N.	Heading	Description of goods*	Specification	Country of origin	Country of export	Producer	Exporter	Amount (USD)	Unit
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(8)	(9)
1.	6911, 6912	Ceramic Tablewares and Kitchenware, excluding knives and toilet items	Any	China PR	China PR	Any	Any	1.04	KG
2.	6911, 6912	Ceramic Tablewares and Kitchenware, excluding knives and toilet items	Any	China PR	Any	Any	Any	1.04	KG
		Ceramic Tablewares and							

3.	6911, 6912	Kitchenware, excluding knives and toilet items	Any	Any	China PR	Any	Any	1.04	KG
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**Description of the product under consideration is "Ceramic tablewares and kitchenwares"-ware all constitute ceramic products.*

3. It is informed that ADD is levied under sub-sections (1) and (5) of Section 9A of Customs Tariff Act (CTA), 1975, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995.

4. Thus, in view of above, it appears that in terms of Ceramic Tableware Kitchenware, excluding knives and toiled items, the items classified under CTH 69119090 attracts ADD as per their description. Since the importer had not paid the ADD on the subject a goods, the differential duty was calculated tentatively which work out to Rs. 37,576/- as shown in the Annexure attached.

5. After introduction of self-assessment vide Finance Act, 2011, it is the onus on the importer to make true and correct declaration in all aspects like classification, valuation, including calculation of duty & claim of benefit, but in the instant case the duty has not been paid correctly due to non-payment of ADD.

6. As the Importer has cleared the subject goods, mentioned in the enclosed Annexure, without the payment of ADD the same appears to be recoverable from the Importer under section 28 (4) of the Customs Act 1962 along with applicable interest and penalty under section 28AA and penalty under Section 114A of the Customs Act, 1962 read with the Section 28 of the Customs Act, 1962.

7. Accordingly, a Consultative Letter/letters was/were issued to the Importer on 07-02-2022 advising them to pay the said tentatively calculated differential duty along with applicable interest. No reply received till date from the importer.

8. 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 Centre, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it appears that the onus is on the importer 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, to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

9. Thus, the act of the Importer appears to be misleading to clear the subject goods without paying Anti-Dumping as per Notification No.27/2017-Customs (ADD) dated 12.06.2017 alongwith Notification No.04/2018-Customs (ADD) dated 21.02.2018. This has resulted in short payment amounting to Rs. 37576/-which is recoverable from the Importer under Section 28(4) of the Customs Act, 1962 read with Section 12 of Customs Act, 1962 along with interest under the provisions of Section 28AA of the Customs Act, 1962 and penalty under Section 112/114A of the Customs Act, 1962 read with the Section 28 of the Customs Act, 1962.

10. Relevant Legal Provisions: Relevant legal provisions are reproduced below for ease of reference:

(i) Section 11. Power to prohibit importation or exportation of goods.

(1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

(2) The purposes referred to in sub-section (1) are the following:-

(k) the protection of human, animal or plant life or health;

(ii) SECTION 17-Assessment of Duty:

(1) 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.

(iii) SECTION 28-Recovery of duties not levied or short-levied or erroneously refunded.-

(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.

(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 wilful 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 him, and the interest payable thereon under section 28AA and the penalty equal to fifteen percent 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.

Explanation- For the purposes of this section, "relevant date" means,

- a. in a case where duty is not levied or not paid or short-levied or short-paid or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;
- b. in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;
- c. in a case where duty or interest has been erroneously refunded, the date of refund;
- d. in any other case, the date of payment of duty or interest."

(iv) 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.

(v) SECTION 46. Entry of goods on importation, sub-section 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.

(vi) SECTION 111. Confiscation of improperly imported goods, etc.-

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 or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

(vii) SECTION 112. Penalty for improper importation of goods, etc.-

Any person,

(a) who, in relation to any goods, does or omits to do any act or omission would render such goods liable to confiscation under section 111 or abets

the doing or omission of such an act, or

or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling 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, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater,

(iii) in the case of goods in respect of which the value stated in the entry

made under this Act or in the case of baggage, in the declaration made - under-section-77-in either case hereafter in this section-referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.

(viii) 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 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.

(x) 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.]

(x) 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.

(xi) Customs Brokers Licensing Regulations, 2013 :-

Regulation 11. Obligations of Customs Broker. -

A Customs Broker shall -

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(g) promptly pay over to the Government, when due, sums received for payment of any duty, tax or other debt or obligations owing to the Government and promptly account to his client for funds received for him from the Government or received from him in excess of Governmental or other charges payable in respect of the clearance of cargo or baggage on behalf of the client;

11. Acts of Omission and Commission by the importer: -

After introduction of self-assessment vide Finance 2011 the onus lies on the importer for making true and correct declaration in all aspects in the Bills of Entry and to pay the correct amount of duty. In the instant case, the subject goods are covered as per Notification No. 27/2017-Customs (ADD) dated 12.06.2017 alongwith Notification No.04/2018-Customs(ADD) dated 21.02.2018 should have been paid ADD, but the importer did not do so and hence has caused loss to the public exchequer and accrued monetary benefit. Therefore, it appears that the importer is engaged in suppressing the facts and willful mis-declaration with an intent to evade the custom duty. Hence, the importer is liable for the action under the provisions of Section 28 (4) and 28AA read with section 114A of the Customs Act, 1962.

12. As per Notification No.27/2017-Customs (ADD) dated 12.06.2017 along-with Notification No.04/2018-Customs (ADD) dated 21.02.2018 which indicates that the goods are liable to pay ADD by this Notification. Therefore, the subject goods i.e. Cup Ceramic are liable for payment of ADD. However, in the present case, the importer, for the purpose of ADD assessment, has suppressed/mis-stated the fact, and, that the subject goods were cleared without payment of ADD. It appears that the importer has engaged in suppression of facts to evade the customs duty. Therefore, the provision of Section 28(4) of the, Customs Act, 1962, where any duty has not been levied or not paid or has been short paid or erroneously refunded, or interest by reason or collusion, willful mis-statement and suppression of facts, is squarely applicable in this case. Hence, the differential amount is recoverable from the importer under the provisions of the Section 28(4) of the Act, along with applicable interest and penalty under relevant Sections.

13. The Importer has given a declaration under section 46(4) of the said Act, for the truthfulness of the content submitted at the time of filing Bill of Entry. However, the subject goods were ill-treated, suppressed the facts and mis-stated, mis-declared, to clear the said goods without the payment of ADD by the Importer. The Importer has submitted a false declaration, by suppressing the facts as stated in above para, under Section 46(4) of the Act as much as the subject goods were cleared without payment of ADD. By the act of presenting goods in contravention to the provisions of section 111(m), the importer has rendered the subject goods liable for confiscation under section 111(m) of the said Act. For the above act of deliberate omission and commission that rendered the goods liable to confiscation, the Importer, M/s. GLOBAL ACCESS HOSPITALITY (IEC 309019877) is also liable to penal action u/s 112(a) and 114A of the Customs Act, 1962 read with the section 28 of the Customs Act, 1962.

14. From the foregoing, it appears that the Importer has wilfully mis-stated and suppressed the facts that the goods were cleared without the payment of Anti-Dumping Duty as per Notification No.27/2017-Customs (ADD) dated 12.06.2017 alongwith Notification No.04/2018-Customs (ADD) dated 21.02.2018; 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 amount of Rs. 37576/-.

15. Therefore, in terms of Section 124 read with Section 28(4) of the Act, M/s. GLOBAL ACCESS HOSPITALITY (IEC 309019877) situated at TRAMBAKESHWAR CHS LTS. PLOT NO 188- D6 RAC NO. 50 GORAI II BORIVALI WEST MUMBAI 400091 (IEC-309019877) is called upon to Show Cause to the Assistant Commissioner of Customs, Group IV, JNCH, Nhava Sheva, Taluka Uran, within 30 days of the receipt of the notice as to why:

(i) The goods valued at Rs. 1,66,056/-, covered by the Bills of Entry, mentioned in the Annexure should not be confiscated under Section 111(m) of the Customs Act, 1962;

(ii) Differential duty amounting to Rs. 37,576/- should not be demanded for the Bill of Entry, as mentioned in Annexure-A attached under Section 28(4) of the Customs Act, 1962;

(iii) The applicable Interest on the Differential Duty amount specified above should not be recovered from them in terms of section 28AA of the Customs Act, 1962;

(iv) Penalty should not be imposed on them under section 112 and/or 114A of the Customs Act, 1962.

16. The Noticee should file their written explanation/reply to the competent authority, within 30 days of receipt of the Show Cause Notice and they should also indicate if they wish to be heard in person. If the noticee fails to submit their written submission or if they fail to attend the personal hearing on the fixed date the case will be decided ex-parte on the basis of the evidence on record, without any further reference to the noticees.

17. 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 evidence available on record without further reference to the importer.

18. 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,

19. 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.

(Kishor S Pandit)
Assistant Commissioner of Customs
Gr.IV, NS-III, JNCH, Nhava Sheva.

2. CB: Skystar Clearing & Forwarding Pvt. Ltd.

- i. The Asstt./ Dy. Commissioner of Customs, CAC, JNCH
- ii. The Assistant Commissioner of Customs, Audit Circle B 1, JNCH, Nhava Sheva
- iii. Notice Board (CHS Section for display).
- iv. Office Copy.

CT H	Description of goods	Total A V	Total Duty Asses sed	IGST A mount Asses sed	Quantity As sessed as p er EDW Dat a	Cou ntry Na me	Exch ange Rate	U nit	Decla red weig ht	Quan tity U pdate d	ADD Pay able (Wt *1.04US D)	Diff IG ST, if a pplicab le	Total Diff. Duty
691019	Porcelain Kitchen ware Articles-Other	29,335.15	0	4294.7	71.2 KGS	China	74.45	USD	71.2 KGS	71.2 KGS	5512.87	661.54	6174.41
691019	Porcelain Kitchen ware Articles-Other	25,819.58	0	3780	56 KGS	China	74.45	USD	56 KGS	56 KGS	4335.97	520.32	4856.29
691019	Porcelain Kitchen ware Articles-Other	56,119.58	0	8466	112 KGS	China	74.45	USD	112 KGS	112 KGS	11021.94	1102.32	11021.94

[illegible]