

 सत्यमेव जयते	OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I), सीमाशुल्क आयुक्त का कार्यालय (एनएस -I) NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE, न्हावा-शेवा, जवाहरलाल नेहरू कस्टम हाउस, TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA - 400 707. ताल-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707	 Date: 13.01.2026
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File No. CUS/APR/SCN/1918/2025-Gr (1And1A)

Date: 13.01.2026

SCN No. 1819/2025-26/JC GR. I & IA/NS-I/CAE JNCH

DIN: 20260178NW000000BB1A

s/10-Adj.-1634/2025-26/JC GR. I & IA/NS-I/CAE JNCH

Subject: Show Cause Notice under Section 28(4) of the Customs Act, 1962, in respect of goods imported by M/s Hemnav Techniques Private Limited (IEC 0214000648)-reg;

M/s Hemnav Techniques Private Limited having address at 3rd floor, Room no. 304, Mahavir building, 44-46, Poptawadi, Mumbai 400002 (hereinafter referred to as 'the Importer' for sake of brevity) had imported goods declared as "**Cristobalite**" under **CTH 25051011**.

2. During scrutiny of bills of entry by DG Audit, Mumbai (Central), it was observed that **M/s Hemnav Techniques Private Limited (IEC 0214000648)** has imported 08 consignments of "Cristobalite" from June 2022 to December 2023 through JNCH (NS-I) Commissionerate. The imported goods were classified under **CTH 25051011** [Natural sands of all kinds, whether or not coloured, other than metal-bearing sands of Chapter 26: Silica sands: Processed (white)] and **BCD @ 5%** was paid. **IGST @ 5%** was paid as per **Notification No. 01/2017-Integrated Tax (Rate)** dated **28 June 2017, S. No. I/113**.

3. On examination of the product description, chemical composition and specifications available on record, it is observed that the imported goods "**Cristobalite**" are chemically **Silicon Dioxide (SiO₂)**.

4. Cristobalite is a crystalline polymorph of silicon dioxide and is not merely a processed natural sand. The essential character of the product is derived from its **specific chemical composition** rather than its trade or commercial nomenclature.

5. As per Customs Tariff Act, 1975, "**Silicon dioxide**" is specifically covered under **CTH 28112200** and attracts **BCD @ 7.5%** and **IGST 18%** under **Notification No. 01/2017-Integrated Tax (Rate)** dated 28.06.2017, **Schedule III, S. No. 39**, along with applicable cess.

6. HSN Explanatory Notes to Chapter 2505 & 2811 are reproduced below for reference:

2505 NATURAL SANDS OF ALL KINDS, WHETHER OR NOT COLOURED, OTHER THAN METAL-BEARING SANDS OF CHAPTER 26

2505 10 - Silica sands and quartz sands:

--- **Silica sands:**

2505 10 11 --- Processed (white)

2811.22 • • Silicon dioxide

(M) **SILICON COMPOUNDS Silicon dioxide** (pure silica, silicic anhydride, etc.) (SiO₂). Obtained by treating silicate solutions with acids, or by decomposing silicon halides by the action of water and heat. It can be either in amorphous form (as a white powder "silica white", "flowers of silica", "calcined silica"; as vitreous granules - "vitreous silica"; in gelatinous condition - "silica frost", "hydrated silica"), or in crystals (tridymite and cristobalite forms). Silica resists the action of acids; fused silica is therefore used to

make laboratory apparatus and industrial equipment which can be suddenly heated or cooled without breaking (see General Explanatory Note to Chapter 70). Finely powdered silica is used as an extender in the manufacture of paints and as a filler for lakes. Activated silica gel is employed to dry gases. The heading excludes: (a) Natural silica (Chapter 25, except varieties constituting precious or semi-precious stones • see the Explanatory Notes to headings 71.03 and 71.05). (b) Colloidal suspensions of silica are generally classified in heading 38.24 unless specially prepared for specific purposes (e.g., as textile dressings of heading 38.09). (c) Silica gel with added cobalt salts (used as a humidity indicator) (heading 38.24).

7. In view of above composition, the imported goods are classifiable under CTH **28112200** covering chemically modified vegetable oils, and not under CTH **25051011** as declared by the importer. Goods classifiable under **CTH 28112200** attracts BCD @ 7.5% and IGST 18% under Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017, Schedule III, S. No. 39, along with applicable cess., if any.

Sr. No.	Chapter or Heading or Sub-Heading or Tariff Item	Description of Goods	Standard Rate	Integrated Goods & Services Tax	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
39.	2811 22 00	Silicon dioxide	7.5%	18%	

8. By wrongly classifying the goods under CTH **25051011**, the importer has short-paid Customs Duty amounting to ₹ **16,11,015/-** (Rupees Sixteen Lakh Eleven Thousand and Fifteen Only) as detailed in the Annexure A to this Notice.

9. Accordingly, a Consultative Letter dated 16.06.2025 was issued to the importer vide F. No. S/26-Misc-455/2025-26/Gr. I&IA (RUD-1), advising the importer to pay the differential duty of ₹ **16,11,015/- (Rupees Sixteen Lakh Eleven Thousand and Fifteen Only)** under Section 28 of the Customs Act, 1962 along with applicable interest and penalty thereon under Section 28AA of the Customs Act, 1962. However, no reply has been received from the importer yet.

10. From above discussions and facts, it appears that the importer has deliberately and wilfully mis-classified the subject goods with an intention to wrongfully avail benefit of lower rate of duty under CTH **25051011**. Thus, the importer has evaded payment of duty which has resulted in a loss to the government exchequer. By resorting to the aforesaid mis-classification of the subject goods, the importer has short paid duty amounting to Rs. ₹ **16,11,015/- (Rupees Sixteen Lakh Eleven Thousand and Fifteen Only)** as detailed in **Annexure-A**.

11. It also appears that consequently, the duty short paid is recoverable from the importer under section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962 and for the same reason penalty is also required to be imposed on the importer under Section 112 (a) & (b) and/or Section 114A of the Customs Act, 1962. Further, as the importer has mis-declared the classification of the imported goods and has availed undue benefit of concessional duty, it also appears that the subject goods are liable for confiscation under Section 111 (m) of the Customs Act, 1962 and the importer is liable for penalty under Section 112 (a) & (b) and/or 114A ibid. Further, the importer has rendered themselves for Penal action under Section 114AA of the Customs Act, 1962.

12. 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 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. 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 classification, description, value, notification benefit, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In other words, the onus on the importer in order to prove that they have classified the goods correctly by giving the complete description of the goods.

13. As discussed above, it is the responsibility of the importer to classify the goods under import properly. In the instant case, the importer has wrongly assessed the above said impugned goods and paid at lower rate of IGST. It appears that the importer has done the self-assessment wrongly with an intention to get financial benefit by paying lesser duty. The wrong assessment of goods is nothing but suppression of facts with an intention to get financial benefit. Hence, it appears that the importer has suppressed the facts, by wrong assessment of the impugned goods leading to short payment of duty. As there is suppression of facts, extended period of five years can be invoked for demand of duty under Section 28(4) of the Customs Act, 1962.

14. Legal provisions applicable in the case:

a. 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 misclassified 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.'

a. 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 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.

b. 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.'

c. 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 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;

d. 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.'

e. 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.'

f. 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.'

15. In view of the above facts, it appears that the importer **M/s Hemnav Techniques Private Limited (IEC 0214000648)** has deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby evaded duty amounting to **₹ 16,11,015/- (Rupees Sixteen Lakh Eleven Thousand and Fifteen Only)** as detailed in Annexure-A. Therefore, for their acts of omissions/commissions, 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 under section 28AA of the Customs Act, 1962.

16. It also appears that as the importer has wilfully mis-declared the classification of the imported goods and has availed undue benefit of concessional duty, the subject goods are liable for confiscation under Section 111(m) of the Customs Act, 1962 and the importer is liable for penalty under Section 112(a)/114A ibid and 114AA of the Customs Act, 1962.

17. Now, therefore, **M/s Hemnav Techniques Private Limited** having address at 3rd floor, Room no. 304, Mahavir building, 44-46, Poptawadi, Mumbai 400002 is hereby called upon to show cause to The Joint Commissioner/ Commissioner of Customs, Group-I/IA, Jawaharlal-Nehru Custom House, Nhava Sheva -I, Taluk - Uran, District Raigad, Maharashtra - 400 707, as to why: -

- i. The classification of the goods declared under CTH 25051011 in Bills of Entry as mentioned in Annexure-A to this Notice, should not be rejected and the said goods should not be classified under CTH 28112200;

- ii. Differential Duty amounting to ₹ 16,11,015/- (**Rupees Sixteen Lakh Eleven Thousand and Fifteen Only**) with respect to the items covered under Bills of entry as mentioned in Annexure-A 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.
- iii. The subject goods as detailed in Annexure-A having a total assessable value of **Rs. 94,98,911/-** should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- iv. Penalty should not be imposed on the importer under Section 112(a)/114A of the Customs Act, 1962 and Section 114AA of the Customs Act, 1962.

18. M/s Hemnav Techniques Private Limited (IEC 0214000648) is required to state in their replies specifically whether they wish to be heard in person by the Adjudicating Authority, namely, The Joint Commissioner/ Additional Commissioner of Customs, Jawaharlal Nehru Custom House, Nhava Sheva -I, Taluk - Uran, District Raigad, Maharashtra - 400 707, before the case is adjudicated. If no specific mention is made about the same in their written submission, it shall be presumed that they do not wish to be heard in person and the case would be adjudicated on the basis of evidences on record. They should produce at the time of showing cause all the evidences upon which they intend to rely in support of their defense.

19. M/s Hemnav Techniques Private Limited (IEC 0214000648) is further required to note that their reply should reach within 30 (thirty) days from the date of receipt of this notice. If no cause is shown against the action proposed above within 30 days from the receipt of this notice or if they do not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided *ex-parte* on the basis of facts and evidences available on record.

20. This Show Cause Notice is issued without prejudice to any other action that may be taken against the notice(s), under this Act or any other law for the time being in force in India, or against any other company, person(s), goods and conveyances whether named in this notice or not. The Department reserves its right to amend, modify or supplement this notice at any time on the basis of available/further evidences prior to the adjudication of the case.

Digitally signed by
Jay Girijappa Waghmare
Date: 13-01-2026
18:42:16

(**Jay G. Waghmare**)
Joint Commissioner of Customs
Gr-1, NS-I, JNCH

Encl: Annexure-A & RUD-1

To,

M/s Hemnav Techniques Private Limited (IEC 0214000648)

3rd floor, Room no. 304, Mahavir building, 44-46, Poptawadi, Mumbai 400002

Copy to:

1. The Assistant Audit Officer, Director General of Audit (Central), Mumbai, C-25, Audit Bhavan, Bandra Kurla Complex, Bandra(E)- 400 051. Email ID: pdacentralmumbai@cag.gov.in
2. The Dy. Commr. Of Customs, CAC, JNCH (for Adjudication).
3. CHS Section, JNCH (For display on Notice Board.)
4. EDI Section, JNCH (For publish on JNCH Website)
5. Office copy.

Para No. 52**Reference Number: OBS-1191880****Subject: Short levy of Duty due to misclassification of Cristobalite**

Name of Importer	Hemnav Techniques Private Limited
Name of product	Cristobalite
Chapter	25
Appraising Group	1B
Tax Effect	₹ 16,11,015.00

As per Customs Tariff Act, 1975, "Silicon dioxide" is classified under CTH – 28112200 and attracts BCD @ 7.5% & IGST @ 18% as per the Notification no. 01/2017-Integrated Tax (Rate) dated 28 June 2017, S. No. III/39 along with other applicable cess.

It was seen during audit that M/s Hemnav Techniques Private Limited imported 08 consignment of "Cristobalite" from June 2022 to Dec 2023 through JNCH (NS 1) commissionerate. The imported goods were classified under CTH 25051011 [Natural sands of all kinds, whether or not coloured, other than metal-bearing sands of chapter 26: Silica sands: Processed (white)] and BCD @ 5% was paid. IGST @ 5% was paid as per the Notification no. 01/2017-Integrated Tax (Rate) dated 28 June 2017, S. No. I/113.

The imported goods 'Cristobalite' is Silicon Dioxide having chemical formula as SiO₂. Since there is specific CTH for Silicon Dioxide, it cannot be classified in any other CTH. The goods are to be classified as per their actual specifications mentioned in the Customs Tariff and should not be classified under any other CTH due to some other nomenclature used during the imports. Hence, the imported goods are classifiable under CTH 28112200 and attracts BCD @ 7.5% & IGST @ 18% alongwith other applicable cess.

Misclassification of the imported goods resulted in short levy of duty of ₹ 16,11,015.00 (Annexure)

Annexure-A

S. No.	BE NO	BE Date	Type	AG	Importer Name	Item Description	Inv No	Item No	CTH	Assess Value	Duty	BCD @7.5%	SWS @10%	IGST @18%	Total Duty	Difference of duty
1	8938206	02-06-2022	H	1B	HEMNAV TECHNIQUES	CRISTOBALITE (SILICA) - G325 -	1	1	25051011	1826069.24	196759	136955.193	13695.5193	355809.591	506460.304	309701.304
2	3065112	28-10-2022	H	1B	PRIVATE LIMITED	C1-200/88 MESH CRISTOBALITE (SILICA SAND)	1	1	25051011	1802730.86	194244.3	135204.815	13520.4815	351262.108	499987.404	305743.104
3	4396063	28-01-2023	H	1B		CRISTOBALITE (SILICA) G325	1	1	25051011	578061.22	62286.1	43354.5915	4335.45915	112635.229	160325.279	98039.1794
	4396063	28-01-2023	H	1B		CRISTOBALITE (SILICA) M400	1	2	25051011	207509.15	22359.1	15563.1863	1556.31863	40433.1579	57552.6628	35193.5628
4	5010233	11-03-2023	H	1B		CRISTOBALITE : C1-200/88 MESH - 80 LBS/BAGS (TOTAL - 54000 L - BS) (SILICA SAND)	1	1	25051011	1799843.43	193933.1	134988.257	13498.8257	350699.492	499186.575	305253.475
5	5928757	12-05-2023	H	1B		CRISTOBALITE : G325 (SILICA)	1	1	25051011	764875.34	82415.4	57365.6505	5736.56505	149035.96	212138.176	129722.776
6	7318962	11-08-2023	H	1B		CRISTOBALITE (SILICA) M400	1	2	25051011	438302.99	47227.1	32872.7243	3287.27243	85403.3376	121563.334	74336.2343
	7318962	11-08-2023	H	1B		CRISTOBALITE (SILICA) G325	1	1	25051011	408190.6	43982.6	30614.295	3061.4295	79535.9384	113211.663	69229.0629
7	8651571	06-11-2023	H	1B		CRISTOBALITE (SILICA) M400	1	2	25051011	441185.05	47537.7	33088.8788	3308.88788	85964.907	122362.674	74824.9736
	8651571	06-11-2023	H	1B		CRISTOBALITE (SILICA) G325	1	1	25051011	410874.65	44271.7	30815.5988	3081.55988	80058.9256	113956.084	69684.3842
8	9120349	07-12-2023	H	1B		CRISTOBALITE (SILICA) G325	1	1	25051011	821268.76	88491.6	61595.157	6159.5157	160024.218	227778.891	139287.291
															Total	1611015.35