

 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	 आज़ादी का अमृत महोत्सव
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File No. CUS/APR/SCN/86/2026-Gr (1And1A)

Date: 27.01.2026

SCN No. 1893/2025-26/JC GR. I & IA/CAC/JNCH

S/10-1708/2025-26/JC GR. I & IA/NS-I/CAC/JNCH

DIN: 20260178NW000000F36

Subject: Show Cause Notice under Section 28(4) of the Customs Act, 1962, in respect of goods imported by M/s Naresh Chand Vipul Kumar (ACVPC2032P) -reg;

During the course of Audit, it was observed that the Importer M/s Naresh Chand Vipul Kumar (ACVPC2032P) (hereinafter referred to as 'Importer') has claimed benefit of Notification No 46/2011 Sl No 172 (I) for imports of goods declared as 'Dehydrated Fruits Pineapple, Dehydrated Fruits Pineapple RING/SLICE/CORE, etc.' thereby paying 'NIL' BCD. The importer has classified the subject goods under CTH 2008 2000. The details of such imports in last 5 years are as under:

Table - I

Sl No	B.E. No	Date	Description	Assessable Value
1.	2558893	29/01/2021	DEHYDRATED FRUITS PINEAPPLE	406175
2	2558893	29/01/2021	DEHYDRATED FRUITS PNEAPPLE	81235
3	7726948	04/03/2022	DEHYDRATED FRUIT PINEAPPLE RING	589093.6
4	2063091	18/08/2022	DEHYDRATED FRUIT PINEAPPLE RING	1041328
5	3513427	29/11/2022	DEHYDRATED FRUIT PINEAPPLE RING	1157752
6	5726105	06/10/2021	DEHYDRATED FRUIT PINEAPPLE SLICE	142950.3
7	5726105	06/10/2021	DEHYDRATED FRUIT PINEAPPLE CORE	481516.8
8	5963243	15/05/2023	DEHYDRATED PINEAPPLE RING	1440762
9	7578081	29/08/2023	DEHYDRATED PINEAPPLE COIN	1608090
10	9904996	30/01/2024	DEHYDRATED PINEAPPLE COIN	1094142
11	2315460	26/02/2024	DEHYDRATED PINEAPPLE COIN	873233.6
12	2315460	26/02/2024	DEHYDRATED PINEAPPLE SLICE	940405.4

2. As per HSN Explanatory Notes to Chapter 8, Dried Pineapple is classifiable at CTH 0804 3000. HSN Explanatory Notes to Chapter 8 are appended below for reference.

Chapter 8

Edible fruit and nuts; peel of citrus fruit or melon

Notes.

1.-This Chapter does not cover inedible nuts or fruits.

2.-Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.

3.-Dried fruit or dried nuts of this Chapter may be partially rehydrated, or treated for the following purposes:

a. For additional preservation or stabilisation (for example, by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbate),

b. To improve or maintain their appearance (for example, by the addition of vegetable oil or small quantities of glucose syrup), provided that they retain the character of dried fruit or dried nuts.

4.-Pineapple – Canned pineapple slices dipped in sugar syrup is classifiable under Heading 0811 of the Customs Tariff Act, 1975.

Heading 08.11 Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter.

081190 - Other :

08119010 -- Containing added sugar

5.-Heading 08.12 applies to fruit and nuts which have been treated solely to ensure their provisional preservation during transport or storage prior to use (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), provided they remain unsuitable for immediate consumption in that state.

GENERAL

This Chapter covers fruit, nuts and peel of citrus fruit or melons (including watermelons), generally intended for human consumption (whether as presented or after processing). They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated, evaporated or freeze-dried); provided they are unsuitable for immediate consumption in that state, they may be provisionally preserved (e.g., by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions).

The term "chilled" means that the temperature of a product has been reduced, generally to around 0 °C, without the product being frozen. However, some products, such as melons and certain citrus fruit, may be considered to be chilled when their temperature has been reduced to and maintained at + 10 °C. The expression "frozen" means that the product has been cooled to below the product's freezing point until it is frozen throughout.

Fruit and nuts of this Chapter may be whole, sliced, chopped, shredded, stoned, pulped, grated, peeled or shelled.

It should be noted that homogenisation, by itself, does not qualify a product of this Chapter for classification as a preparation of Chapter 20.

The addition of small quantities of sugar does not affect the classification of fruit in this Chapter. The Chapter also includes dried fruit (e.g., dates and prunes), the exterior of which may be covered with a deposit of dried natural sugar thus giving the fruit an appearance somewhat similar to that of the crystallised fruit of heading 20.06.

However, this Chapter does not cover fruit preserved by osmotic dehydration. The expression "osmotic dehydration" refers to a process whereby pieces of fruit are subjected to prolonged soaking in a concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup. The fruit may subsequently be air-dried to further reduce the moisture content. Such fruit is classified in Chapter 20 (heading 20.08).

3. Further, as per HSN Explanatory Notes to Chapter 20, vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, 8 or 11; are not covered under chapter 20 and thus by virtue of the explanatory notes of Chapter 8 the above said goods i.e. 'Dried Pineapple' cannot be classified under Chapter 20. HSN Explanatory Notes to Chapter 20 are reproduced below for ready reference:

CHAPTER 20

Preparations of vegetables, fruit, nuts or other parts of plants Notes:

1. This Chapter does not cover:

(a) vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, 8 or 11;

*(b) vegetable fats and oils (Chapter 15);

*(c) food preparations containing more than 20% by weight of sausage, meat, meat offal, blood, insects, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (Chapter 16);

(d) bakers' wares and other products of heading 1905; or

(e) homogenised composite food preparations of heading 2104.

As per Customs Tariff Act, 1975, 'Dried Pineapple' are rightly classifiable under CTH 0804 3000 and not under CTH 2008, the relevant excerpts of the Custom Tariff Act, 1975 are reproduced below for ready reference:

For HS Code 0804				
HS Code	Description of goods	Unit	Rate of duty	
			Effective	Preferential
0804	Dates, figs, pineapples avocados, guavas, mangoes and mangosteens, fresh or dried			

08043000	Pineapples dried	Kg.	30%	20%
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For HS Code 2008				
H S Code	Description of goods	Unit	Rate of duty	
			Effective	Preferential
2008	Fruit, nuts and other edible parts of Plants, otherwise prepared or preserved, Whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included			
2008 20 00	Pineapples	Kg.	30%	

4. The first Note i.e. Note 1(a) to Chapter 20 states that "This Chapter does not cover Vegetables, fruits or nuts, prepared or preserved by the processes specified in Chapter 7, Chapter 8 or Chapter 11". It shall be noted that the processes of drying of Fruits/Vegetables have been described in Explanatory Notes of Chapter 8, and hence the dried fruits stand classifiable in Chapter 8.

From the above, it is clear that Dried Fruits, even if added with small quantity of sugar/glucose, sulphuring, sorbic acid, potassium sorbate, vegetable oil, remains classifiable under Chapter 08 only as per chapter Note 3 (b) and General Note Para mentioned above.

5. As the goods are classifiable under CTH 08043000 and not under CTH 20082000 and since CTH 08043000 is not covered by the Notfn. No. 46/2011 for any concessional rate of duty, these goods are to be classified under CTH 08043000 and assessed at merit rate of duty i.e. 30% BCD + 10% SWS + 12% IGST.

6. Accordingly, the differential amount to be paid has been worked out to Rs.36,43,030/- (Including IGST) as calculated in table below:

Table-II

Amt. (in Rs.)

Sr. No	B/E NO.	B/E Date	Assessable Value	IGST paid	30% BCD payable with 10% SWS	IGST 12%	BCD+SW S+IGST	Differential duty payable
1	2558893	29-01-2021	406175	48741	134038	64826	198863	150122
2	2558893	29-01-2021	81235	9748.2	26808	12965	39773	30024
3	7726948	04-03-2022	589093.6	70691.23	194401	94019	288420	217729
4	2063091	18-08-2022	1041328	124959.4	343638	166196	509834	384875
5	3513427	29-11-2022	1157752	138930.2	382058	184777	566835	427905
6	5726105	06-10-2021	142950.3	17154.04	47174	22815	69988	52834
7	5726105	06-10-2021	481516.8	57782.02	158901	76850	235751	177969
8	5963243	15-05-2023	1440762	172891.4	475451	229946	705397	532506
9	7578081	29-08-2023	1608090	192970.8	530670	256651	787321	594350

10	9904996	30-01-2024	109414 2	131297	361067	174625	535692	404395
11	2315460	26-02-2024	873233 .6	104788	288167	139368	427535	322747
12	2315460	26-02-2024	940405 .4	112848.6	310334	150089	460422	347574
								36,43,030/-

7. In view of above, a Consultative Letter bearing No. 467/24-25 dated 03.10.2024 CADT/CIR/ADT/ThBA/366/2024-TBA-CIR-A3 advising the importer to pay the differential amount of Rs.36,43,030/- (Rupees Thirty Six Lakhs Forty Three thousand and thirty only) along with applicable interest and penalty under Section 28(4) of the Customs Act, 1962.

8. Further, it is pertinent to mention here that during the same period, the importer had imported other dried fruits also vis-à-vis Dried Kiwi, Dried Cherry, Dried Strawberry, Dried Golden Berry, Dried Apple, Dried Mixed Fruit Dice, Dried Papaya Dice, Dried Plum, Dried Mango Normal Slice, Dried Raspberry, Dried Guava Slice, Pomelo Peel Slice, Dried Baby Orange etc. through various B/Es and cleared the same by wrongly classifying them under Chapter 20.

However, as discussed in above paras, these above-mentioned goods are rightly classifiable under Chapter 8 vis-à-vis Dried/dehydrated Mango slice are classifiable at CTH 0804 5030, Dried/dehydrated Orange are classifiable at CTH 0805 1000, Dried/dehydrated Guava at CTH 0804 5010, Dried/dehydrated Mixed Fruit at CTH 0813 5020, Dried/Dehydrated Papaya CTH 0813 4090 etc.

Accordingly, these subject Bills of Entry were scrutinized and it was observed that in respect of these above-mentioned goods, the importer has paid duty at **merit rate i.e. 30% BCD + 3% SWS (10% of BCD) + 12% IGST and as such there is no revenue implication in respect of these goods** and therefore these above said goods were excluded from the above mentioned Consultative Letter No. 447/2024-25 issued to the importer.

9. The importer vide its letter dated 24.10.2024 and (copy enclosed) has submitted its reply in respect of the above said Consultative Letter. The importer vide its letter has submitted that the classification subject goods under CTH 20082000 claimed by them is correct as the Dehydrated Fruits Pineapple, Dehydrated Fruits Pineapple ring/slice/core imported by them are dehydrated by the process of osmotic dehydration which has been certified by their manufacturer-supplier and thus the subject goods are squarely covered under CTH 20082000.

9.1 The certificate dated NIL (copy enclosed) produced by the foreign supplier M/s.TINSELS LIMITED and M/s CHIN HUAY Public Company Limited dtd. 17.10.2024 has been examined wherein the said foreign supplier has stated that the term OSMOTIC DEHYDRATEION refers to a process where pieces of fruits are subjected to prolonged soaking in a concentrated sugar syrup so that most of the water and natural sugar of the fruit is replaced by sugar from syrup. The fruit may be subsequently be air-dried to further reduce the moisture content. Such fruit is classified in Chapter 20

9.2 Further, the importer has submitted product specification sheet of M/s.TINSELS LIMITED dated 15.07.2024 (copy enclosed). The subject product specification sheets have been examined, wherein the Product name Osmotically Dehydrated pineapple core chunk 5 mm diameters 18-20 mm. The product is prepared from pineapple core produce by qualitative and sanitary process and the importer has submitted product Technical Sheet dated NIL (copy enclosed) Product name Osmotically dried Pineapple Ring #45-55, Colour1%.

9.3 Further, The product specification Dried Pineapple Slice dated 25.09.2024 (copy enclosed) of M/s CHIN HUAY Public Company Limited, mentioned that the product is prepared from fresh Pineapple, soaked in syrup (Osmotic Process) and dehydrated in hot air and product specification Dried Pineapple core coin of M/s CHIN HUAY Public Company Limited dated 10.11.2022 mentioned that the product is prepare from fresh Pineapple core, soaked in syrup (Osmotic Process) and dehydrated in hot air and also the

importer has submitted process flow chart of dehydrated pineapple slice, Dried pineapple slice and Dried Pineapple core coin and Dried Pineapple core coin.

9.4 Further, vide the above said letter, importer had requested for personal hearing and accordingly, the same was granted to the importer before Addl. Commissioner of Customs, Audit (NS-IV), JNCH, Mumbai. PH was attended by the Authorized Representative of the importer, Advocate Shamita J. Patel, on behalf of the importer on 11.12.2025. During the PH, the representative of the importer re- iterated the submission made in their reply letter dated 24.10.2024 and described the manufacturing process undergone by the imported goods and stated that the process i.e. "Osmotic Dehydration" was specifically excluded from the chapter 8 as per the HSN explanatory notes of Chapter 8 and included in chapter 20, as per the HSN explanatory notes of chapter 20.

9.5 Further, she has submitted the photocopies of foreign supplier letters dated NIL i.e. TINSELS LIMITED, product specification dated 15.07.2024, Product Technical sheet dated NIL and Product specification of M/s CHIN DUAY Public Company Limited dated 25.09.2024, 10.11.2022, process flow chart of Dehydrated Pineapple slice dated 03.10.2024, Dried Pineapple Slice, Core Coin dated 03.10.2024 (which were already submitted by the importer).

9.6 Further, she has submitted order dated 13.10.2025 passed by the Joint Commissioner of Customs, NS-I, JNCH in a similar matter.

However, as discussed in above paras, the declaration of "Osmatic Dehydration" has not been declared at the time of Import nor in any of the Bills of Entry. The related documents were not uploaded in E-sanchit which is mandatory at the time of import. Therefore, the submissions are based on the general exclusion, which department brought up to in Consultative Letter and thus, after thought by the importer and hence not applicable for the imports already done. The above-mentioned submission is not relevant in the instant case.

9.7 However, in respect of the above subject B/Es file by M/s Naresh Chand Vipul Kumar, the term 'osmotic dehydration' is nowhere mentioned in any of the documents viz. commercial invoices, packing list, Bills of lading etc. submitted by the importer in respect of said Bills Entry. If the said goods were "osmotically dehydrated" then the importer was obliged to declare the same while filing of the subject Bills of Entry.

9.8 In the instant case, firstly, the importer has nowhere mentioned that the subject goods are osmotically dehydrated and is now providing the supplier's certificate after issuance of the subject consultative letter, it appears to be an afterthought on behalf of the importer. Secondly, since the importer has themselves declared the subject "Dehydrated fruits Pineapple", such goods cannot be excluded from Chapter 08 simply as per the definition of osmotic dehydration. Since it is not specifically excluded in Chapter Notes, and thus such goods need to be classified under Chapter 08 only. Further, the said type of preparation i.e. Osmotic dehydration has not been declared at the time of imports and all certificates produced are not available at the time of import and uploaded in e-sanchit, also the certificates co-relation with the imported goods has not been established.

9.9 Further, Importer has given submission that goods are not classifiable under Chapter 08, since the import goods are preserved by "Osmatic Dehydration" and submitted photo copies of documents which are found to be after importation date i.e. 15.07.2024, 25.09.2024, 03.10.2024 (all the Bills of Entry mentioned in consultative Letter are before the subject date), some photo copy of suppliers letters are submitted which are undated. However, none of these documents are uploaded in E-Sanchit at the time of imports. Further the description of the goods never declared i.e. "Osmatic Dehydration" anywhere. Therefore, the submission is not applicable to present case.

9.10 Further, these goods are described in some Bills of Lading i.e. Pineapple, Pineapple Ring and also some of the Invoice and Packing List and copy of Label described Pineapple, Pineapple Core Coin, Pineapple Ring. Hence it appeared that it is clear case of Mis-Declaration. The said documents are also supported by the import documents viz Commercial Invoice, copy of Label and Packing List and in Certificate No. THTCCCO210003312, describes Pineapple=500 CARTONS, Pineapple=100 CARTONS. It is amply clear from the Bill of Lading of the subject goods. The Importer willfully mis-declared and misclassified the imported goods to pay the lower rate of duty.

9.11 As regards the Order dated 13.10.2025, it is to be noted that it pertains to "Dried Cranberries and Dried Blueberries". The current import items are Dried Cranberries and Dried Blueberries but these are Pineapple in the form of "Dehydrated fruits Pineapple,

Ring, Slice, Core, Coin". In para no. 21.11 Adjudicating Authority has partly agreed and ordered to pay short paid Customs Duty and the said ORDER dated 13.10.2025 has not been accepted, the Department reviewed the case in Appeal.

9.12 From above discussions and facts, it appears that the submissions made by the importer during the personal hearing and through its letter dated 24.10.2024 are not sustainable. In light of the discussions above, it appears that the importer has deliberately and willfully mis-classified the subject goods with an intention to wrongfully avail benefit of Notification No 46/2011 Sl. No 172 (I) for imports of goods and thus, the importer has evaded payment of duty which has resulted in a loss to the government exchequer.

9.13 Therefore, it appears that the importer was well aware that the subject goods i.e. Dried Pineapple were rightly classifiable under Chapter 08. However, the importer has deliberately and willfully mis-classified the subject goods with an intention to wrongfully avail benefit of concessional rate of duty under Notification No. 46/2011 dated 01.06.2011 (as amended) and thus, the importer has evaded payment of duty which has resulted in a loss to the government exchequer.

9.14 By resorting to the aforesaid mis-classification of the subject goods, the importer has short paid duty amounting to Rs. 36,43,030/- (Rupees Thirty Six Lakhs Forty Three thousand and thirty only) as detailed in Table above. 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 28 AA of the Customs Act, 1962 and for the same reason penalty is also required to be imposed on the importer under Section 114A of the Customs Act, 1962. Further, as the importer has mis-classified 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 114 A ibid.

10. 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.

11. 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.

12. Legal provisions applicable in the case:

12.1 After the introduction of self-assessment vide Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including 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.'

12.2 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, 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 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).'

12.3 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.'

12.4 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;

12.5 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.'

12.6 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.'

13. Therefore, in view of the above facts, it appears that the importer M/s Naresh Chand Vipul Kumar (ACVPC2032P) 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 Rs. 36,43,030/- (Rupees Thirty Six Lakhs Forty Three thousand and thirty only) as detailed in Table above. 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 28 AA of the Customs Act, 1962.

14. It also appears that as the importer has 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) & (b) and/or 114A *ibid*.

15. Now, therefore, M/s Naresh Chand Vipul Kumar (ACVPC2032P) is hereby called upon to show cause to the Joint 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 under CTI 20082000 by the importer should not be rejected and the goods be re-classified under CTI 08043000 and the benefit of the Notification No. 46/2011 dated 01.06.2011 should not be denied as the same is not available for the CTI 08043000.
- ii.** the subject goods as detailed in Table-II above having a total assessable value of Rs. 98,56,684/- (Rs. Ninety Eight Lakh Fifty Six Thousand Six Hundred and Eighty Four only) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- iii.** Differential Duty amounting to 36,43,030/- (Rupees Thirty Six Lakhs Forty Three thousand and thirty only) with respect to the items covered under Bills of entry as mentioned in Annexure 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.
- iv.** Penalty should not be imposed on the importer under Section 112 (a) & (b) and/or 114A of the Customs Act, 1962.

16. M/s Naresh Chand Vipul Kumar (ACVPC2032P) is required to state in their replies, specifically whether they wish to be heard in person by the Adjudicating Authority, namely, the Joint 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.

17. M/s Naresh Chand Vipul Kumar (ACVPC2032P) 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.

18. 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: 27-01-2026
14:15:23

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

To,
M/s Naresh Chand Vipul Kumar (ACVPC2032P),
DRY FRUITS KIRANA [MERCHANTS
602-603, KATRA ISHWAR BHAWAN KHARI BAOLI, DELHI 110006

Copy to:

1. The Assistant Commr./Audit, A-3 Circle, JNCH
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.