



**OFFICE OF COMMISSIONER OF CUSTOMS (NS-III)  
JAWAHARLAL NEHRU CUSTOM HOUSE, TAL - URAN,  
NHAVA SHEVA, DIST - RAIGAD, NAVI MUMBAI 400707  
Email: group4.jnch@gov.in**

**F. No. - CUS/APR/SCN/156/2026**

**Date:29-01-2026**

**SCN No. - 1910/25-26/COMMR./GR.IV/NS-III/CAC/JNCH**

S/10-1725/25-26/ADJ/COMMR./GR.IV/NS-III/CAC/JNCH

**DIN - 20260178NV000072297D**

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

M/s. PHOOLCHAND BHAGATSINGH (IEC-388064501), Premises No. 1, 2, 3, Ground Floor, Bldg No. 08, Shree Arihant Compound, Bhiwandi, Maharashtra-421305 (hereinafter referred to as "Importer" / "Noticee" for the sake of brevity) had filed 24 numbers of Bills of Entry (details mentioned in Table-A) through Custom Broker M/s Sainath Clearing Agency for clearance of imported goods declared as TIN INGOTS & ELECTROLYTIC MANGANESE METAL FLAKES (hereinafter referred to as "Imported goods") falling under Custom Tariff Item 80011090 & 81110010 respectively to the First Schedule of the Customs Tariff Act, 1975 and having Total assessable value of Rs. 82,75,16,825/-. The goods have been shipped from Singapore & China (Port code for shipment is SGSIN & CNXMN, **Copy of Bill of lading attached with this SCN as Relied Upon Documents (RUD) as given in Table-B**). The importer filed the Bill of Entry for clearance of the aforesaid goods by availing concessional rate of Customs duty benefit on the basis of Country-of-Origin certificate issued in INDONESIA, prescribed under Notification No. 46/2011-Cus, dated 01.06.2011, as amended. Based upon the self-assessed declarations, regarding country of origin, benefit made by the importer in the aforesaid bills of entry.

2. During the post-clearance audit conducted under Section 17(2) of the Customs Act, 1962, it was observed that M/s. PHOOLCHAND BHAGATSINGH (hereinafter referred to as "the importer") has availed undue benefits under the Free Trade Agreement (FTA) between ASEAN countries and India, as provided under Notification No. 46/2011-Customs dated 01.06.2011. This notification allows concessional rates of duty for goods imported from ASEAN member countries, provided that they satisfy the prescribed rules of origin and other conditions.

3. Violation of Notification No. 189/2009-Customs (N.T.):

As per Notification No. 189/2009-Customs (N.T.) dated 31.12.2009, valid Certificates of Origin (COO) are mandatory for availing FTA benefits. In this case, the audit reveals discrepancies in the COO submitted, leading to undue availment of the exemption under the FTA.

The relevant provisions of the said notification are reproduced in the following:

*8. Direct Consignment.-The following shall be considered as consigned directly from the exporting party to the importing party,*

*(c) if the products whose transport involves transit through one or more intermediate non-parties with or without transshipment or temporary storage in such non-parties provided that*

*(i) the transit entry is justified for geographical reason or by consideration related exclusively to transport requirements;*

*(ii) the products have not entered into trade or consumption there; and*

*(iii) the products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.*

4. The importer declared the goods to be of ASEAN origin (Indonesia) and claimed exemption under Notification No. 46/2011-Customs. However, the port of shipment is Singapore & China. The declared country of origin as Indonesia does not align with the actual shipment details. This mis-declaration raises concerns regarding the importer's adherence to FTA rules.

The importer has incorrectly claimed concessional duty benefits under Notification No. 46/2011-Customs dated 01.06.2011, in conjunction with Notification No. 189/2009-Customs (N.T.) dated 31.12.2009, even though the port of shipment was from the Singapore & China, which does not qualify for exemptions under the FTA-ASEAN provisions.

5. Based on the audit findings, it is evident that the importer has mis-declared the port of shipment and wrongly claimed exemption under Notification No. 46/2011-Customs. Additionally, the COO documentation

was deficient, violating Notification No. 189/2009-Customs (N.T.).

6. Relevant Legal Provisions:-

*(i) 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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54;*

*(ii) 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 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, harbouring, 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 1 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:*

*(iii) 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 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:

iv. 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.

v. Section 28. 1[Recovery of duties not levied or not paid or short-levied or short-paid) or erroneously refunded.

(4) Where any duty has not been 10 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 11/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.

vi. 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.*

*3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,*

*(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and*

*(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.*

7. In view of the facts discussed in the foregoing paras and material evidences available on record, it appeared that the importer has contravened the provisions of Section 46(4) of the Customs Act, 1962 in as much as they had intentionally taken a wrong Customs duty benefit based upon invalid document namely Country of Origin Certificate in terms of the Notification No. 46/2011 dated 01.06.2011, in conjunction with Notification No. 189/2009-Customs (N.T.) dated 31.12.2009 and thereby they have suppressed material facts from the department and produced invalid Country of Origin certificate as mentioned above for the imported goods, while filing the declaration, seeking clearance at the time of the importation of the impugned goods. Thus, the said importer also appeared liable for penal action under the provisions of Section 112(a) and / or Section 114 A of the Customs Act, 1962 for importing the impugned goods based upon invalid and improper document viz. Country of Origin certificate leading to unlawful, illegal and wrong availment of concessional Customs duty benefit under Notification No. 46/2011 dated 01.06.2011, in conjunction with Notification No. 189/2009-Customs (N.T.) dated 31.12.2009 by them. It also appear that importer is liable for penalty under section 114AA of the Customs Act, 1962 for knowingly and intentionally using the country of origin documents, which was incorrect in material particularly in as much as it falsely shows the country of origin as Indonesia however port of Shipment showing Singapore & China the country of origin produced is in violation of Notification No. 189/2009-





23	27.12.2022	Metal Flakes	81110010	1021(I)	97,90,389	17,62,270.02	489519.45	48,951.95	18,59,194.87	6,35,396
24	6090202 dated 01.11.2021	Tin Ingots	80011090	1002(I)	7,75,18,736	1,39,53,372.48	3875936.8	3,87,593.68	1,47,20,807.97	50,30,966
					<b>82,75,16,826</b>					<b>5,37,05,842</b>

Table-B

Sr No BE No.

BL No

1	8613893 dated 04.11.2023	ASLSIN102300016
2	5474122 dated 12.04.2023	BLPLSIN2300498
3	3984720 dated 31.12.2022	KMTCXMN0102803
4	4430556 dated 31.01.2023	COAU8028053740
5	8928950 dated 25.11.2023	VASSINNSA018234
6	9596407 dated 17.07.2022	MAX/SIN/0749/2223
7	3629670 dated 07.12.2022	A66CX00913
8	5881684 dated 10.05.2023	VCLSINNSA2542023
9	6719730 dated 05.07.2023	026D517617
10	8432515 dated 23.10.2023	VASSINNSA017954
11	4857102 dated 01.03.2023	XMNCB23000192
12	3580515 dated 03.12.2022	026C533494
13	5714993 dated 28.04.2023	A66DX01292
14	2579684 dated 31.01.2021	SINA11127300
15	5298730 dated 30.03.2023	XMNCB23000500
16	5346259 dated 07.09.2021	BLPLSIN2101491
17	5769781 dated 02.05.2023	026D510832
18	4859095 dated 01.03.2023	XMNCB23000190
19	5769129 dated 09.10.2021	EPIRSGSLL200385
20	8915622 dated 24.11.2023	VASSINNSA018227
21	8291961 dated 16.04.2022	CPWPL/INNSA/545844
22	9028592 dated 08.06.2022	XIA0994191
23	3928570 dated 27.12.2022	026C539300
24	6090202 dated 01.11.2021	ZBSGJNPT21/89

9. The Concessional rate of Customs duty based on Country of Origin for the imported goods is not available to them for the reasons as discussed in the foregoing paras. The importer has already paid an amount of Rs. 14,89,53,029/- for the clearance of the impugned imported goods by availing concessional rate of Customs duty based on Country of Origin benefit which they are not entitled to based upon the facts brought on record as discussed in the foregoing paras. Therefore, it appears that the amount of differential Customs duties amounting to Rs. 5,37,05,842/- (Rupees Five Crore Thirty Seven Lakh Five Thousand Eight Hundred and

Forty Two only) as detailed in Table-A appears demandable and recoverable in terms of section 28(4) of the Customs Act, 1962, along with applicable interest thereon under section 28AA of the Customs Act, 1962 from them by re-assessing the aforesaid Bills of Entry after amendment under Section 149 of the Customs Act, 1962 and by denying concessional rate of customs duty benefit based upon the country of origin of imported goods.

10. It is brought to your notice that after the introduction of Self-Assessment upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, the onus is on the importer to make true and correct declaration in all aspects including calculation of duty. However, in the instant case, importer wrongly availed the country-of-origin benefit by claiming undue exemption under FTA-ASEAN-provided under Notification No.46/2011 dated 01.06.2011 with an intention to evade Customs Duty, in order to get financial benefits and thus suppressed the facts with intention to evade duties of customs. Therefore, the matter falls under the purview of Section 28(4) of the Customs Act, 1962 and appears that the subject goods are liable for confiscation under Section 111 (m) of the Customs Act, 1962.

11. In view of the above, it appears that the importer has been engaged in wilful mis- statement and/or suppression of facts with the intention to evade the Customs Duty by availing the country-of-origin benefit by claiming undue exemption under FTA-ASEAN-provided under Notification No.46/2011 dated 01.06.2011. Therefore, the provision of Section 28(4) of the Customs Act, 1962, in the case where any duty has not been levied or not paid or has been short levied or short paid or erroneously refunded by the reason of wilful misstatement or suppression of facts, is squarely applicable in the case.

12. Therefore, in terms of provisions of Section 28 of the Customs Act, 1962, a Consultative Letter No. 361/2024-25 dated 30/09/2024 issued to the importer wherein the importer was advised to pay the differential duty amounting to Rs. 5,37,05,842/- (Rupees Five Crore Thirty-Seven Lakh Five Thousand Eight Hundred and Forty-Two only) as detailed in Table-A, along with applicable interest and penalty within 30 days. It was also informed that importer may avail the benefit of lower penalty @ 15% only, in terms of Section 28(5) of the Customs Act, 1962 by early payment of the differential duty along with the applicable interest and penalty, failing

which you may become liable for higher penalty. No response has been received from the importer and neither the importer has paid the differential duty in the said matter.

13. In view of the above, the importer "PHOOLCHAND BHAGATSINGH (IEC 388064501), is required to show cause to the Commissioner of Customs, NS-III, Jawaharlal Nehru Custom House, Nhava Sheva, Taluk: Uran, District: Raigad, Maharashtra, Pin: 400707 within 30 days of receipt of the this notice as to why: -

- A. The subject goods as per Table-A valued at Rs. 82,75,16,826/- (Rupees Eighty Two Crores Seventy Five Lakhs Sixteen Thousand Eight Hundred Twenty Six only) should not be confiscated under Section 111(m) of the Customs Act, 1962;
- B. Concessional Customs duty benefit i.e BCD @ 0% under Notification No. 46/2011 dated 01.06.2011 should not be denied and the same should not be assessed BCD @ 5%; the differential duty amounting to Rs. 5,37,05,842/- (Rupees Five Crore Thirty-Seven Lakh Five Thousand Eight Hundred and Forty-Two only) should not be demanded and recovered from the importer under section 28(4) of the Customs Act, 1962;
- C. The applicable interest on the amount specified above should not be recovered from them in terms of section 28AA of the Customs Act, 1962.
- D. Penalty should not be imposed under Section 112(a)/114A of the Customs Act, 1962.
- E. Penalty should not be imposed under section 114AA of Customs Act, 1962.

14. 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.

15. 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.

16. 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.

17. 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: 29-01-2026  
13:23:39**

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

To,

M/s. PHOOLCHAND BHAGATSINGH  
(IEC 388064501),  
Premises No. 1, 2, 3, Ground Floor,  
Bldg No. 08, Shree Arihant Compound,  
Bhiwandi, Maharashtra-421305.

EM778906834IN

Copy to:-

- i. The Asstt./ Dy. Commissioner of Customs, CAC, JNCH
- ii. The Assistant Commissioner of Customs, Audit Circle C 3, JNCH, Nhava Sheva
- iii. Notice Board (CHS Section for display).
- iv. Office Copy.

Relied Upon Documents:

RUD1 - Copies of Bills of Lading related to the Bills of Entry as per Table-B.