



आयुक्त, सीमा शुल्क (एनएस- V) कार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS- V),
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
तालुका- उरण, जिला- रायगढ़, महाराष्ट्र- ४००७०७,
TALUKA- URAN, DISTRICT- RAIGAD, MAHARASHTRA –
400 707.



F. No. S/26-Misc-1523/2023-24/Gr. VA JNCH

Date: 01/11/2025

Show Cause Notice No. 1298 /2025-26/JC/Gr. VA/CAC/JNCH

S/10- /2025-26/Adj/JC/Gr.VA/NS-V/CAC/JNCH

DIN No. 1093
20251178NX 000000131339

SHOW CAUSE NOTICE ISSUED UNDER SECTION 28(4) OF THE CUSTOMS ACT, 1962

On the basis of the data analysis, it was observed that M/s. **XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)** having address as BUILDING ORCHID, BLOCK E, EMBASSY TECH VILLAGE, MARATHALLI SARJAPUR, OUTERRING ROAD, DEVARABISANAHALLI, BENGALURU URBAN-KA-560103, had imported goods having description as “Power Bank” under the afore-stated CTH as detailed in Annexure- ‘A’.

2. The Bills of Entry (as per Annexure-A) wherein goods had been classified under CTH 8507 attract levy of IGST at 28% vide Serial No. 139 of Schedule-IV of IGST Notification No. 01/2017 dated 28.06.2017 IGST as per Table-A. However, it appears that, they had been cleared under lower rate of IGST. The relevant parts of said notification is reproduced below for ease of reference:

Table-A

Notification No.	Schedule / S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods	IGST Rate
01/2017-Integrated Tax (Rate) dated 28.06.2017 w.e.f. 01.07.2017	IV / 139	8507	Electric accumulators, including separators therefor, whether or not rectangular (including square) other than [Lithium-ion batteries] ¹ and [Lithium-ion accumulators (other than battery) including Lithium-ion power bank] ² . 1. Inserted by Ntn. 19/2018-IT (Rate) dated 26.07.2018 w.e.f. 27.07.2018. 2. Inserted by Ntn. 25/2018-IT (Rate) dated 31.12.2018 w.e.f. 01.01.2019.	28%
19/2018-IT (Rate) dt. 26.07.18 w.e.f. 27.07.18	III / 376AA	8507 60 00	Lithium-ion Batteries	18%
25/2018-IT (Rate) dt. 30.12.18 w.e.f. 01.01.19	III / 376AAA	8507	Lithium-ion accumulators (other than battery) including lithium-ion power bank	18%
01/2017-Integrated Tax (Rate) dated 28.06.2017 w.e.f. 01.07.2017	II / 203	85	Part for manufacture of telephones for cellular networks or for other wireless networks	12%

3. Consequent upon the above notifications, it appears that imported goods attract IGST @ 28% in terms of Sl. No. 139 of Schedule IV (IV-139) for the CTH 8507 i.e. Electric

accumulators, including separators therefor, whether or not rectangular (including square). Further, in terms of Sl. No. 203 of Schedule II (II-203 of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017) IGST rate is 12% for the CTH 85 i.e. Parts for manufacture of telephones for cellular networks or for other wireless networks, Sl. No. 376AA of Schedule III of IGST Notification No. 19/2018-Integrated Tax (Rate) dated 27.07.2018 IGST rate is 18% for the CTH 85076000 i.e. Lithium-ion Batteries & Sl. No. 376AAA of Schedule III of IGST Notification No. 19/2018-Integrated Tax (Rate) dated 27.07.2018 IGST rate is 18% for the CTH 8507 i.e. Lithium-ion accumulators (other than battery) including lithium-ion power bank and the same is not applicable to the imported goods. The importer has imported goods having description as Power Bank. After going through the description of the BE items under deliberation, it has been observed that the imported goods appears to attract IGST @28% against Sr. No. 139 of Schedule IV of notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017 and does not seem to justify clearance claiming a lower IGST rate @12% under sr. nos. 203 of Schedule II of IGST notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017 and/or @18% under sr. nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018- Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in other Schedule.

3.1. On scrutiny of the import data, it was observed that goods covered under CTH 8507 were cleared by declaring lower rate of IGST under @12% under sr. nos. 203 of Schedule II of IGST notification no. 01/2017- Integrated tax (Rate) dated 28.06.2017 and/or @18% under Sr. Nos. 376AA or 376AAA of Schedule III of IGST notification no. 19/2018- Integrated tax (Rate) dated 27.07.2018 or a lower IGST rate in other Schedule, however, the imported goods falling under CTH 8507 are to be correctly covered under Sl. No. 139 of Schedule IV of the IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and attract higher rate of IGST @28%.

3.2. The total assessable value of the BE items so imported is Rs. **1,51,19,963/-** and it appears that a short levy of IGST amounting to Rs. **17,61,475/-** (as detailed in Annexure-'A') is recoverable from the Importer along with applicable interest and penalty.

4. In view of the above, a Consultative letter dated 26.02.2024 was issued to importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty along-with applicable interest and penalty. However, as per available records, no reply or submission is given by importer in this regard.

5. Relevant legal provisions applicable in instant case are reproduced below for ease of reference:

5.1 Section 17 – Assessment of duty:

(i) '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.'

5.2 Section 28 - Recovery of duties not levied or not paid or short-levied or short-paid 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 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. '

5.3 Section 46 - Entry of goods on importation:

(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. '

5.4 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 77³ [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. '

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

5.5 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 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. '

5.6 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.

6. 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 is the Importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, it is the added and enhanced responsibility of the Importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods

7. Therefore, in view of the above facts, it appears that the importer has deliberately not paid the duty by willful 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 has attempted to take undue benefit amounting to Rs 17,61,475/- (as detailed in Annexure - 'A'). Therefore, 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 at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

8. As the importer has failed to comply with the provision of the Customs Act as mentioned above therefore, it appears that the impugned goods are liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962 and for the same reason importer rendered himself liable for penal action under Section 112(a) and/or 114A of the Customs Act. 1962.

9. Now, therefore, in exercise of powers conferred upon in Section 28(4) and Section 124 of the Customs Act, importer M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. - 0715001540) is hereby called to show cause to the Joint Commissioner of Customs, Gr. VA, JNCH, Nhava- Sheva, Distt. Raigad, Maharashtra- 400707 within 30 days of the receipt of this notice as to why:

- (i) Differential/short paid duty amounting to **Rs. 17,61,475/- (Rs. SEVENTEEN LAKHS SIXTY-ONE Thousand Four Hundred SEVENTY FIVE Only)** for the subject goods imported vide Bills of Entry as detailed in Annexure-A, should not be demanded and recovered under Section 28(4) of the Custom Act, 1962.
- (ii) Interest on delayed payment of Custom Duty as mentioned above should not be recovered from the importer under Section 28AA of the Customs Act. 1962.
- (iii) The said subject goods imported vide Bills of Entry as detailed in Annexure-A, having assessable value of **Rs. 1,51,19,963/- (Rs. One Crore Fifty-One Lakh Nineteen Thousand Nine Hundred Sixty Three Only)** should not be held liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962 for various contravention as mentioned above.
- (iv) Penalty should not be imposed on them under Section 112(a) of the Customs Ac, 1962 for short levy of duty.

- (v) Penalty should not be imposed under Section 114A of Customs Act, 1962 for short levy of duty.

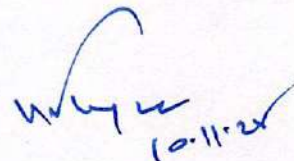
10. It is also advised that the importer may avail the benefit of reduced penalty @15% of duty and interest so specified in this notice in terms of Section 28(5) of the Customs Act, 1962 by payment of duty and interest within 30 days of receipt of this notice, failing which importer may be subject to higher penalty equal to the duty and interest so determined.

11. The written explanation/reply should be filed by the noticee to the **Joint Commissioner of Customs**, Gr. VA, JNCH, Nhava-Sheva, Tal.- Uran, Distt. Raigad, Maharashtra-400707 within 30 days from the date of this notice. They are further required to intimate in their written reply whether they wish to be heard in person before the case is adjudicated.

12. If no cause is shown against the action proposed to be taken or the importer and CHA does not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on merits.

13. The department reserves its right to amend, modify or supplement this notice at any point of time prior to the adjudication of the case.

14. This present show cause notice is issued without prejudice to any other action that may be taken against the notice or any other firm(s) or person(s) under the provisions of the Customs Act, 1962 or any other law for the time being in force in the Union of India.



(MAZID KHAN)

Joint Commissioner of Customs
GR.VA, NS-V, NHAVA SHEVA, JNCH

Copy to:

1. The Asst./Dy. Commissioner of Customs, CAC, JNCH (for Adjudication)
2. The Dy. Commissioner of Customs, Audit, JNCH
3. Notice Board (CHS Section for Display).
4. Office.

To,

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
BUILDING ORCHID, BLOCK E, EMBASSY TECH VILLAGE,
MARATHALLI SARJAPUR, OUTERRING ROAD,
DEVARABISANAHALLI, BENGALURU URBAN-KA-560103,

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
No.107, Periyapalyam high road, NH205, Bandikavnoor Taluk, Chennai, TAMIL NADU, 601103

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
C/o DHL Supply Chain India Pvt Ltd, Survey No 400/2C, 400/2A and 389 Kuthambakkam
Village Poonamalle Taluk, TAMIL NADU, 600124

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
Building No.3, BGR ware house complex, Near Shiv Sagar Hotel, Behind HD petrol pump,
Vahuli village, Mumbai nasik hegh, Thane, MAHARASHTRA, 421302

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
KHASRA NO 14/24/212,16/32/2,4/2,, 5/2/1,6/2 7MODHIWAREHUSE
DARBARIPUR , TEHSIL MANESAR HASSANPUR ROAD,HARYANA,122001

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
KHASRA NO 26 & 27 BEHIND FUN & FOOD, VILLAGE KAPASHERA EXTENSION ,
NEW DELHI,DELHI,110037

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
B200 VPO Luhari IndoSpace, Logistics Park Luhari MDR132 , Pataudi Kulana Road
Tehsil,HARYANA,124108

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
BUILDING NO.5, PHASE-1,, K SQUARE PREMISES THE INTEGRATED PRK , KURUND
VLG OPP OYE PUNJABI HTL BHIWANDI TALUKA,MAHARASHTRA,421302

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
XIAOMI TECHNOLOGY INDIA PRIVATE LIMITED,C/o DHL SUPPLY CHAIN INDIA
PVT LTD, Killa No. 6/2, 7, 5, 14, and 15/1, Village Berhampur, Sector 72 ,
Tehsil,HARYANA,122001

M/s. XIAOMI TECHNOLOGY INDIA PVT LTD (IEC No. – 0715001540)
No.10, Workafella business center, Uthamar gandhi salai, nungambakkam , Chennai,TAMIL
NADU,600034

Annexure

SI No	BE NO	BE Date	Type	AG	Importer Name	Country of Origin	Item Description	INV No	Item No	CTH	Quantity	UQC	Unit Price	Assess Value (Item)	Duty (Item) Paid	BCD Payable @15%	SWS Payable @1.5%	AV+BCD+SWS	IGST Payable @28%	Total duty payable	Short levy (Duty Payable - Duty Paid)
1	3743518	4/28/2021	H	5A	XIAOMI TECHNOLOGY INDIA PRIVATE LIMITED	CN	BHR4841JNNMI POWER BANK BOOST PRO 30000MAH (18W) MODEL: PB3018ZM (R-41146315)	1	1	85076000	12810	PCS	15.5	15119963.25	5665450.20	226794.5	226799.449	17614757.19	4932132	7426925.9	1761475.748

