



OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-V)
सीमाशुल्कआयुक्त (एनएस- V) काकार्यालय
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
TALUKA- URAN, DISTRICT- RAIGAD, MAHARASHTRA -400707
तालुका- उरण, जिला- रायगढ़ , महाराष्ट्र- 400707
Group email ID- CUS-GRP5BMUMBAI2@gov.in

F. No. S/26-Misc-97/2025-26/Gr. VB/JNCH

Date: 17.06.2025

SCN No. 313/2025-26/ADC/GR. VB/NS-V/CAC/JNCH

DIN: 20250678N X 0000555A F4

**SHOW CAUSE NOTICE ISSUED UNDER SECTION 124 READ WITH
SECTION 28 (4) OF CUSTOMS ACT, 1962**

M/s. INDUSTRIAL LAMINATES (INDIA) PVT. LTD. (IEC: 300039824) having address at Survey no 13 village Aghai, Shahapur, Thane, Maharashtra, 421301 (hereinafter referred to as 'the Importer') had imported items viz. parts of Railway or Tramway Locomotives, or Rolling stock etc. (hereinafter referred to as 'the subject goods') vide Bill of Entry as mentioned in Annexure -A, classifying the same under CTH 8607 and the same has been cleared through Customs.

2. During the course of Post Clearance Audit Bill of Entry, it is prima-facie noticed that the Importer has imported the goods as mentioned in Annexure-A and has been paid IGST @ 05% under serial number 241 of Schedule-I of Notification No.01/2017-integrated Tax (Rate) dated 28.06.2017. The details of description of goods, Bill of Entry, assessed IGST amount are as per Annexure -A.

3. After going through imported goods description, IGST Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017, it appears that imported goods will fall under Sl. No.205G of Schedule II wherein applicable IGST rate @ 12% instead of Sl. No. 241 of Schedule-I wherein applicable IGST rate @ 05%. However, importer paid IGST rate @ 05% as per Sl. No. 241 of Schedule-I of Notification No.01/2017 against the imported goods. For better appreciation, the relevant part of Notification 01/2017 is as in **Table-A** below:

Sr. No.	Time Period	IGST Rate	Sl. No. of Notification No.01/2017 I.T. (Rate)
1	01.07.2017 to 30.09.2019	5%	241 of Schedule I
2	01.10.2019 to 30.09.2021	12%	205G of Schedule II
3	01.10.2021 onwards	18%	398G of Schedule III

4. As mentioned above in Table A the subject goods were applicable for IGST @ 5% under Serial Number 241 of IGST Notification No. 01/2017 I.T. (Rate). The said

IGST rate was in force for the period 01.07.2019 to 30.09.2019, whereafter, notification number 14/2019 Integrated Tax was brought into force, wherein, the subject goods were listed at Sr. No. 205G in Schedule II @ 12%. Against the said entry, the description of the goods was same as Serial number 241 of Schedule I in the original notification. Serial number 205 G was later revoked by introducing Serial Number 398 G in Schedule III of the said Notification. During the intervening period between the second notification and the third (as mentioned in Table A), the importer filed the Bill of Entry 7916493 dated 16-06-2020 and tried paying the IGST under an entry that was no longer in force. Since, the applicability of IGST @ 12% as per Sr.No. 205G of Schedule II of IGST Notification No. 01/2017-Integrated Tax(Rate) dated 28.06.2017 on "parts of Railway or Tramway Locomotives, or Rolling stock etc" is very clear and specific, it appears that the Importer had wilfully made short payment of IGST by wrong availment of IGST Schedule against imported goods, thereby paying lower duty than applicable and thus the provisions of Section 28 (4) are invokable in this case.

5. Accordingly, a **Consultative Letter No. 32/2025 Dated 17.04.2025** vide F. No. S/2-Audit-Gen-283/2021-22/JNCH /D3 was issued to the Importer for the Bills of entry for the period from 01.01.2020 to 19.02.2022 as shown in the Annexure -A and it was advised to the Importer for payment of short levied duty along with applicable interest and penalty. Vide the aforementioned Consultative letter, the Importer was advised to pay the Differential IGST (details mentioned in below Annexure -A) along with interest and penalty in terms of Section 28(4) of the Customs Act 1962. The Importer was further advised to avail the benefit of lower penalty in terms of Section 28(5) of the Customs Act, 1962, by early payment of short paid IGST duty and interest along with penalty @15%. The Consultation letter was issued taking into account the Pre-Notice Consultation Regulations, 2018. However, the Importer has not responded till date.

Table-B

BE NO.	BE Date	ITEM NO.	Description	Assessed Value	IGST PAID 5%	IGST TO BE Paid 12%	DIFF IGST
7990133	24-06-2020	1	DISC BRAKE & PADS	210390	11677	28024	16347
7990133	24-06-2020	4	DISC BRAKE & PADS	749194	41580	99793	58212
7990133	24-06-2020	6	DISC BRAKE & PADS	749194	41580	99793	58212
7990133	24-06-2020	4	DISC BRAKE & PADS	1199737	66585	159805	93220
7990133	24-06-2020	2	DISC BRAKE & PADS	210390	11677	28024	16347
7990133	24-06-2020	1	DISC BRAKE & PADS	287362	15949	38277	22328
7990133	24-06-2020	2	DISC BRAKE & PADS	287362	15949	38277	22328
7990133	24-06-2020	2	DISC BRAKE & PADS	574723	31897	76553	44656
7990133	24-06-2020	3	DISC BRAKE & PADS	749194	41580	99793	58212
7990133	24-06-2020	3	DISC BRAKE & PADS	1199737	66585	159805	93220
7990133	24-06-2020	3	DISC BRAKE & PADS	602434	33435	80244	46809

7990133	24-06-2020	4	DISC BRAKE & PADS	602434	33435	80244	46809
7990133	24-06-2020	2	DISC BRAKE & PADS	443359	24606	59055	34449
7990133	24-06-2020	6	DISC BRAKE & PADS	402820	22357	53656	31299
7990133	24-06-2020	5	DISC BRAKE & PADS	749194	41580	99793	58212
7990133	24-06-2020	5	DISC BRAKE & PADS	402820	22357	53656	31299
7990133	24-06-2020	1	DISC BRAKE & PADS	443359	24606	59055	34449
7990133	24-06-2020	1	DISC BRAKE & PADS	574723	31897	76553	44656
				10438428	579333	1390399	811066

6. Relevant Legal Provisions: 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, payment of duty and calculation of duty, but in the instant case IGST amount on the subject goods has not been paid correctly.

7. Relevant legal provisions for recovery of duty that appears to be evaded are reproduced here for the sake of brevity which are applicable in this instant case:

7.1 Section 17(1) Assessment of duty, 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.

7.1 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

(i) 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).

7.2 Section 28AA- (Interest on delayed payment of duty).

7.3 Section 46- [Entry of goods on importation, subsection 46(4)].

7.4 Section 111- (Confiscation of improperly imported goods etc.)

7.5 Section 112- (Penalty for improper importation of goods etc.).

7.6 Section 114A- (Penalty for short-levy or non-levy of duty in certain cases)

7.7 Section 117- (Penalties for contravention, etc., not expressly mentioned).

8 Acts of omission and commission by the Importer:

8.1 As per section 17(1) of the Act, "An Importer entering any imported goods under section 46, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods." Thus, in this case the Importer had self-assessed the Bills of Entry and appears to have Short levy of IGST by way of wrong availment of IGST Schedule. As the Importer got monetary benefit due to said act, it is apparent that the Importer deliberately made short payment of IGST by wrong availment of IGST Schedule against said goods in the Bills of Entry during self-assessment. Therefore, differential duty is recoverable from the Importer under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the said Act.

8.2 It appears that the Importer has given a declaration under section 46(4) of the Act, for the truthfulness of the content submitted at the time of filing Bill of Entry. However, the applicable IGST rate on the subject goods was not paid by the Importer at the time of clearance of goods. It also appears that the Importer has submitted a false declaration under section 46(4) of the Act. By the act of presenting goods in contravention to the provisions of section 111(m), it appears that the

Importer has rendered the subject goods liable for confiscation under section 111(m) of the Act. For the above act of deliberate omission and commission that rendered the goods liable to confiscation. Accordingly, the Importer also appears liable to penal action under Section 112 (a) and /or 114 A of the Customs Act, 1962.

9 From the foregoing, it appears that the Importer has wilfully made short payment of IGST against the import goods; 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 differential duty.

10. Therefore, in terms of Section 124 read with Section 28(4) of the Customs Act, 1962; M/s. INDUSTRIAL LAMINATES (INDIA) PVT. LTD, is hereby called upon to show cause to the Additional Commissioner of Customs, Gr. VB, NS-V, JNCH, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra - 400707, within 30 days of the receipt of the notice, as to why:

- I. The IGST rate 05% claimed under Schedule I - Sr. No.241 of IGST levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 for the subject goods should not be rejected and IGST rate 12% under Schedule II - Sr. No.205G of said notification should not be levied.
- II. Differential IGST amount of **Rs. 8,11,066/- (Rupees Eight Lakh Eleven Thousand Sixty Six Only)** with respect to the items covered under Bill of entry as mentioned in Annexure- A to this notice 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 to this notice having a total assessable value of **Rs. 1,04,38,428/- (Rupees One Crore Four Lakh Thirty Eight Thousand Four Hundred Twenty Eight Only)** 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) and /or 114 A of the Customs Act, 1962.

11. The written explanation/reply should be filed by the noticee to the Additional Commissioner of Customs, Gr. VB, NS-V, 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 reply is received within 30 days of receipt of this notice, or Noticee fail to appear before the adjudicating authority as and when the case is posted for personal hearing, the case will be decided on the basis of the evidences available on record without further reference to the Noticee.

13. This Show Cause Notice is issued without prejudice to any other action that may be taken against the Noticee or any other firm(s) or person(s) concerned in respect of the aforesaid goods or any other goods 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 amend, modify or supplement this notice at any point of time prior to the adjudication of the case.


(DR. SATISH KUMAR)

Additional Commissioner of Customs
Group V-B, NS- V, JNCH.

To,

M/s. INDUSTRIAL LAMINATES (INDIA) PVT. LTD.
Survey no 13 village Aghai, Shahapur, Thane,
Maharashtra, 421301.

Copy to:

1. The Deputy/Assistant Commissioner of Customs, CAC, JNCH
2. The Deputy/Assistant Commissioner of Customs, Circle-D -3, Audit, JNCH
3. Notice Board (CHS Section for display).
4. Office Copy.