
 <p>BHARAT SARKAR</p>	<p>सीमा शुल्क आयुक्त का कार्यालय (एन एस-1) OFFICE OF COMMISSIONER OF CUSTOMS (NS-1) जवाहरलाल नेहरू कस्टम हाउस, न्हावा-शेवा JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA ताल -उरण, जिला- रायगढ़, महाराष्ट्र-400 707 TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707</p>	 <p>INDIAN CUSTOMS</p>
---	--	--

F. No: S/26-MISC/208/2024-25/Gr. 2G/JNCH
SCN No.315/2025-26/JC/Gr.IIG/NS-I/CAC/JNCH
DIN No.20250678NW000077Co8

Dated: 18.06.2025

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

M/s. VESTAS WIND TECHNOLOGY INDIA PRIVATE LIMITED (497002663) having address at 298, Old Mahabalipuram Road, Sholinganallur, Chennai Kanchipuram, Tamilnadu-600119 (hereinafter referred to as ‘the Importer’) had imported items viz. “TE WEB (RAW MATERIAL FOR MFG OF ROTOR BLADES)” etc.(hereinafter referred to as ‘the subject goods’) vide Bill of Entry as mentioned in Table - A, classifying the same under CTH 3926 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 Table-A and has been paid IGST @ 12% under serial number 81 of Schedule-II 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 Table-A.

3. After going through imported goods description, IGST Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended) & Notification 43/2017-IT rate dated 14.11.2017 (as amended), it appears that imported goods fall under Sl. No.111 of Schedule III wherein applicable IGST rate @ 18% instead of Sl. No. 81 of Schedule-II wherein applicable IGST rate @ 12%. However, importer paid IGST rate @ 12% as per Sl. No.81 of Notification No.01/2017 against the imported goods. For better appreciation, the relevant part of Notification 01/2017 is as below:

IGST Schedule	Schedule Sr. No.	IGST rate	Description of goods
II	81	12%	Feeding Bottles
II	82	12%	Plastic Beads
III	111	18%	(Other articles of plastics and articles of other materials of headings 3901 to 3914 (other than bangles of plastics, plastic beads and feeding bottles)

*Substituted by Ntnfn 43/2017-Integrated Tax (Rate) dt 14.11.2017

4. Since, the applicability of IGST @ 18% as per Sr.No.111 of Schedule-III of IGST Notification No. 01/2017-Integrated Tax(Rate) dated 28.06.2017 on “Other articles of plastics and articles of other materials of headings 3901 to 3914 (other than bangles of plastics, plastic beads and feeding bottles” 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 invocable in this case.

5. Accordingly, a Consultative Letter No. **3435/2021-22/C1 vide F. No. S/2-Audit-Gen-283/2021-22/JNCH /C1 dated 07.03.2022** was issued 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 TABLE-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 A

BE No.	BE Date	Item No.	Description	Assessable Value	IGST Amount 12% (Paid)	IGST Amount 18%	Diff. IGST. (Recoverable)
7997603	25.06.2020	1	TE WEB (RAW MATERIAL FOR MFG OF ROTOR BLADES)	3311352	462927	694390.5	231463.5
							231464

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.

7.2 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

(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).

7.3 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.

7.4 SECTION 46. Entry of goods on importation, subsection 46(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.

7.5 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.....;

7.6 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 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 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 percent of the duty sought to be evaded or five thousand rupees, whichever is higher.....”

7.7 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 willful 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:

Provided that where such duty or interest, as the case may be, as determined under sub-section (8) of section 28, and the interest payable thereon under section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may

be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA, and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

Explanation. - For the removal of doubts, it is hereby declared that -

(i) the provisions of this section shall also apply to cases in which the order determining the duty or interest under sub-section (8) of section 28 relates to notices issued prior to the date on which the Finance Act, 2000 receives the assent of the President;

(ii) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.

7.8 Section 117. Penalties for contravention, etc., not expressly mentioned. -

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one lakh rupees.

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. VESTAS WIND TECHNOLOGY INDIA PRIVATE LIMITED (497002663) is hereby called upon to show cause to the Joint Commissioner of Customs, Gr. 2G, 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 12% claimed under Schedule II – Sr. No.81 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 18% under Schedule III – Sr. No.111 of said notification should not be levied.
- II. Differential IGST amount of **Rs. 231464/- (Rs Two Lakh Thirty One Thousand Four Hundred Sixty Four)** with respect to the items covered under Bill of Entry as mentioned in Table-A to this notice should not be demanded under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28(AA) of the Customs Act, 1962.
- III. The subject goods as detailed in Table-A to this notice having a total assessable value of **Rs. 3311352/- (Rs. Thirty Three Lakh Eleven Thousand Three Hundred Fifty Two)** should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- IV. Penalty on the duty specified in the consultative letter should not be recovered under the provisions of section 28(5) of the Customs Act, 1962.
- V. Penalty should not be imposed on the Importer under Section 112 (a) and /or 114 A of the Customs Act, 1962.

11. The following documents are relied upon for this Audit Report:

S.No.	Description of the relied upon documents	Remarks
1	Bill of Entry as shown in TABLE A & Invoices of Goods as available on e-Sanchit	Copies available with the Importer and e-Sanchit
2	Consultative letter No 3435/2021-22/C1 dated 07.03.2022 issued by the Customs Commissionerate (Audit), Mumbai Customs Zone-II	Copy available with the Importer

12. 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 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.

13. This Show Cause Notice is issued without prejudice to any other action that may be taken in respect of the said goods/notices and / or against any other firm/person concerned covered or not covered under the provisions of the Customs Act, 1962 and/or any other law for the time being in force in the Union of India.

पारुल
18/6/25
(डॉ. पारुल सिंघल/Dr. Parul Singhal)
Joint Commissioner of Customs,
Gr. IIG, NS-I, JNCH,
Nhava Sheva

To,
M/s. VESTAS WIND TECHNOLOGY INDIA PRIVATE LIMITED
(497002663),
Email id - response@vestas.com, supal@vestas.com
Address - 298, Old Mahabalipuram Road, Sholinganallur,
Chennai Kanchipuram, Tamilnadu-600119

Copy to:-

1. The Dy./Asstt. Commissioner of Customs, Audit, JNCH.
2. The Dy./Asstt. Commissioner of Customs, Adjudication Cell, (I), JNCH.
3. M/s. SRISHAN AGENCIES PVT LTD (AATCS6448LCH003)
4. Office copy
5. Notice Board (for display)