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	<p>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</p>
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F. No. - CUS/APR/SCN/1683/2025-Group 4 Date: 12-11-2025

SCN No. - 1320/25-26/Ac/ur.IV/NS-III/CAE/JNCH

DIN - 20251178NV0000222D2B

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

During the course of Post Clearance Audit, it has been observed that M/s. Subham Engineering Works (IEC- 0311077234) has imported goods (as tabulated in Table-1) without payment of Anti-Dumping Duty (ADD) in terms of Notification No. 07/2017-Customs (ADD) dated 17.02.2017.

Table-1

S. N.	B.E. no	B.E date	Description	CTH	CO O	Assessable value	Diff duty value(AD D+IGST)
1	9703848	19/11/2020	SEAMLESS STEEL TUBE SAE 1020 (SIZE 24MM X 14.6MM)	73041990	CHINA	630363	129691
2	9703848	25/11/2020	SEAMLESS STEEL TUBE SAE 1020 (SIZE 40MM X 32MM)	73041990	CHINA	391254	102184
3	9806371	09/12/2020	SEAMLESS STEEL TUBE SAE 1020 (SIZE 40MM X 32MM)	73041990	CHINA	234070	59528
Total						12,55,686	2,91,402

2. Anti-Dumping Duty was imposed on the import of 'Seamless tubes, pipes & hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14" OD*'. The differential duty (ADD + applicable IGST) along with applicable interest and penalty is recoverable from the importer in terms of Notification No. 07/2017-Customs (ADD) dated 17.02.2017, originating in, or exported from, the Peoples' Republic of China (in short 'China PR'). The details of Bills of Entry is enclosed herewith as Annexure-A.

3. In view of the above, it appears that non-payment of Anti-Dumping Duty on goods imported vide Bills of Entry as mentioned in Annexure-A has resulted in non-payment/short levy of ADD + applicable IGST. Therefore, it was advised to importer to pay the differential duty of Rs. 2,91,402 /- (Rupees Two lakh ninety-one thousand four hundred two only) under Section 28 of the Customs Act, 1962, along with applicable interest thereon under Section 28AA of the said Act, vide the Consultative Letter (CL No.357/2023-24/B-1) dated 14.06.2023. However, no reply has been received.
4. It also appears that the duty short paid is recoverable from the importer under of the Customs Act, 1962 and for the same reason penalty is also required to be imposed on section 28 (4) of the Customs Act, 1962 along with applicable interest under Section 28AA the importer under Section 114 A of the Customs Act 1962. Further, as the importer has failed to declare applicable ADD Notification and has short paid IGST amount, 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.
5. 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 [CBIC's (erstwhile CBEC) 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 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 center, 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 must ensure that he declared the

correct classification, declaration, applicable rate of duty including IGST, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. 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 to prove that they have classified the goods correctly by giving the complete description of the goods

6. As discussed above, it is the responsibility of the importer to classify the goods under import properly. In the instant case, the importer has assessed the impugned goods as mentioned in the Table-1 which has resulted in non-payment of ADD and short payment 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 non-payment of ADD and short payment of IGST. 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.

7. Legal provisions applicable in the case:

a. After the introduction of self-assessment vides 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.

b. 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,

1) collusion; or

ii) any willful mis-statement; or

iii) 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 which has been so short-levied or short-paid or to whom the refund has erroneously so levied or not paid or 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 willful 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 th 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)."

c. 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.

d. 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

declaration made trans-shipment, with or in the case of baggage with the entry made under this Act or the declaration for transshipment referred to in the proviso to sub-section (1) of section 77 in respect thereof or in the case of goods under section 54:

e. Section 112 (Penalty for improper importation of goods etc.) reads as: Any person,

would render such goods liable to confiscation under section 111, or abets the doing or 1) who, in relation to any goods, does or omits to do any act which act or omission of such an act, or

ii) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other dealing with any goods which allows has reason to believe are liable to confiscation under section 111, shall be liable,

1. 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;

2. in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 1144, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher."

f. 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.

g. Section 124:- *Issue of show cause notice before confiscation of goods, etc.—No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person— (a) is given a notice in 1 [writing with the prior approval of the officer of Customs not below the rank of 2 [an Assistant Commissioner of Customs], informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty; (b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and (c) is given a reasonable opportunity of being heard in the matter: Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral. 3 [Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.]*

8. In view of the above facts, it appears that the importer M/s. Subham Engineering Works (IEC: 0311077234) has deliberately not paid the ADD and short paid the IGST by willful mis-statement as it was their duty to pay applicable rate of duty under Section 46 of the Customs Act, 1962, and the importer has thereby evaded duty amounting to Rs. 2,91,402/- (Rupees Two lakh ninety-one thousand four hundred two only).

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.

9. Therefore, in terms of Section 124 read with Sections 28(4) of the Customs Act, 1962 M/s. Subham Engineering Works (IEC: 0311077234), is called upon to show cause to the Assistant commissioner of Customs, Group- 4, JNCH, Nhava Sheva within 30 days of the receipt of the notice as to why:

- I. Differential/short paid Duty amounting to ₹ 2,91,402/- (Rupees- Two lakh ninety –one thousand four hundred two Only) for the subject goods imported vide Bills of Entry as detailed in Annexure-'A' should not be demanded under section 28(4) of the Custom Act, 1962.
- II. The imported goods having assessable value of Rs. 12,55,686/- (Rupees Twelve lakh fifty-five thousand six hundred eighty-six Only) under Bills of entry as detailed in Annexure- "A" should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- III. Applicable interest on Differential Duty for non-payment of Differential Duty should not be demanded under Section 28AA of the Customs Act, 1962.
- IV. Penalty should not be imposed on the importer under Section 112(a) and/ or 114A /114 AA of the Customs Act, 1962.

10. 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.

11. 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.

12. 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.

13. 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

Kishor Pandit

Date: 12-11-2025

13:37:48

(Kishor S Pandit)

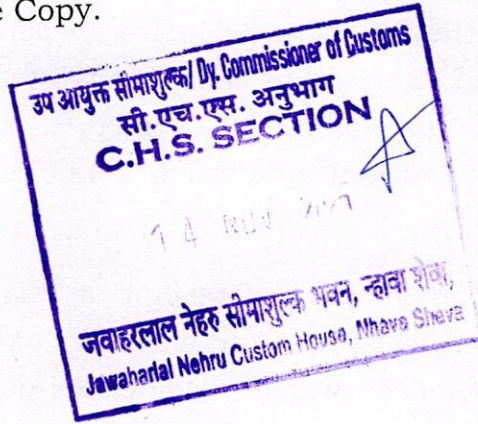
Assistant Commissioner of Customs
Gr.IV, NS-III, JNCH, Nhava Sheva.

To,

1. Auditee: M/s. Subham Engineering Works
Plot no. 45, Ambika Udyog Nagar, Old Satpati Road,
Shirgaon, Palghar, Thane, Maharashtra-401404
2. CHA: M/s. Yash-Raj Logistics.,
Room No.02/ 94/96, 2nd Floor Mumbai-400001

Copy to:

- i. The Asstt./ Dy. Commissioner of Customs, CAC, JNCH
- ii. The Assistant Commissioner of Customs, Audit Circle-B-1, JNCH, Nhava Sheva
- iii. Notice Board (CHS Section for display).
- iv. Office Copy.



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M/s. Subham Engineering Works-Annexure-A

IEC Name	IEC Code	BE Number	BE Date	Full Item Description	CTH Assessed	Country of Origin Name	QUANTI TY	UQC	Antidumping CTH Serial Number	ADD Rate/MT as Exchange Rate per NfIn (USD)	Assessable Value Amount	BCD Amount	Landed Value AV+BCD)	ADD Rate /MT AS PER LANDED VALUE (USD)	Difference between Notification Value AND landed value	Differential ADD	IGST @18%	Differential Duty (ADD + IGST on ADD amount)	
SUBHAM ENGINEERING WORKS	311077234	9703848	25-11-2020	SEAMLESS STEEL TUBE SAE 1020 (SIZE 24MM X 14.6MM) SEAMLESS STEEL TUBE SAE 1020	73041990	CHINA	10.24	MTS	3(A-1-5)	961.33	75.2	630363	0	630363	819	143	109908	19783	129691
SUBHAM ENGINEERING WORKS	311077234	9703848	25-11-2020	SEAMLESS STEEL TUBE SAE 1020 (SIZE 40MM X 32MM) SEAMLESS STEEL TUBE SAE 1020	73041990	CHINA	6.61	MTS	3(A-1-5)	961.33	75.2	391254	0	391254	787	174	86596	15587	102104
SUBHAM ENGINEERING WORKS	311077234	9806371	03-12-2020	SEAMLESS STEEL TUBE SAE 1020 (SIZE 40MM X 32MM) SEAMLESS STEEL TUBE SAE 1020	73041990	CHINA	3.962	MTS	3(A-1-5)	961.33	74.7	234070	0	234070	791	170	50447	9080	59528
												1255686							291402

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