



आयुक्त, सीमाशुल्क (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-419/2025-26/Gr. VA JNCH Date: 17/10/2025  
F. No. S/2-Audit-Gen-281/2018-19 JNCH/A-2(Pt-I)5339  
Show Cause Notice No 1344/2025-26/AC/Gr. VA/CAC/JNCH  
S/10- 1140/2025-26/Adj/AC/Gr.VA/NS-V/CAC/JNCH  
DIN No. 20251178 NX000000EECA

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

**M/s NITIN ENTERPRISES** having their registered address at R NO.2, NAVSAINATH SOC, LANE NO. 7, BHAGWAN NAGAR, BETURKA, KALYAN, THANE, MAHARASHTRA-421301 had imported **"Pocket Spray, Spray Pump for lotion, Soap and other toiletries dispensers" etc.** The import of goods viz. "Pocket Spray, Spray Pump for lotion, Soap and other toiletries dispensers" were mis-classified under CTH 3926 as article of Plastic with BCD @15%. However, the subject goods are rightly classifiable under CTH 9616 as "Scent spray and similar toilet spray and mounts and head therefor" with BCD @20%.

2. The relevant parts of CTH 9616 are tabulated below:

**TABLE-A**

Chapter or Heading or sub-heading or tariff	Description of goods	BCD rate
96161010	Scent sprays and similar toilet sprays	20%
96161020	Mounts and heads	20%
96162000	Powder-puffs and pads for the application of cosmetics or toilet	20%

3. The explanatory note to Tariff Head 9616 reads as follows:

**"Scent sprays and similar toilet sprays, and mounts and heads thereof, powder- puffs and pads for the application of cosmetics or toilet preparations."**

This heading covers:

(i) Scent, brilliantine and similar toilet sprays, whether of the table or pocket type, and whether for personal or professional use. They consist of a reservoir, generally in the form of a bottle (of glass, plastic, metal or other material), to which fixed the mount; this mount incorporates the dead (which its spray forming mechanism) and a pneumatic pressure bulb (sometimes enclosed in as textile net) or a piston device.



(ii) Mounts for toilet sprays.

(iii) Head-pieces for toilet sprays,

4. During the course of Post clearance Audit of Bills of Entry, it has been prima facie noticed that the importer has imported are "Micro Pumps for Lotion dispenser, Soap dispenser, Lotion pumps, Spray Pumps, Scent Sprays and Similar Toilet Sprays and Mounts and Heads there for etc." However, these items are correctly classifiable under CTH 9616. The details of description of goods, Bills of Entry, applicability of corrected BCD amount, are as per **annexure enclosed:**

5. Accordingly, consultative letter was issued to the importer for payment of short levied duty along with applicable interest and penalty, the Importer was advised to pay the Differential BCD amounting as per Annexure-A along with interest and penalty within 15 days of the receipt of the consultative letter 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 duty along with applicable interest and penalty. The Consultative Letter was issued in terms of the Pre-Notice Consultation Regulations, 2018. However, the importer has not responded till date.

6. This mis-classification has led to loss to the Government exchequer amounting to and accrued monetary benefits to the Importer. Therefore, it appears that importer has intentionally mis-classified the imported goods under CTH as declared in Annexure- A with sole purpose to evade legitimate Customs duty whereas it should have been rightly classifiable under Tariff Head 96161020 and thus the provisions of Section 28 (4) are invokable in this case.

7. Hence Importer is liable to pay applicable interest under section 28 AA of Customs Act, 1962 and penalty under 114A of Customs Act, 1962 as detailed in Annexure- "A" to this notice.

#### **9.1 Relevant Legal Provisions pertaining to import and importer:**

##### **(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 transshipment, with the declaration for transshipment 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) 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:

**(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 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:

**(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.)

**9.2. SECTION 28: Recovery of duties not levied or short-levied or erroneously refunded. -**

(4) Where any duty has not been levied or has been short-levied or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -

- (a) Collusion; or
- (b) Any willful 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 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.

**9.3. 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 there under, 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.

**10.** With the introduction of the Self-Assessment scheme, the onus is on the importer to comply with the various laws, determine his tax liability correctly and discharge the same. The importers are required to declare the correct description, value, classification, notification number, if any, on the imported goods. Self-assessment is supported by section 17, 18 and 46 of the Customs Act, 1962 and the bills of entry (Electronic Declaration) Regulation, 2011. The importer is squarely responsible for self-assessment of duty on imported goods and filing all declaration and related documents and confirming these are true, correct and complete. Self-Assessment can result in assured facilitation for compliant importers. However, delinquent importers would face penal action on account of wrong self-assessment made with intent to evade duty or avoid



compliance of conditions of notifications, Foreign Trade Policy or any other provisions under the Customs Act, 1962 or the Allied Acts.

**11.** It appears that the Importer has willfully mis- classification of the imported goods under CTH as declared in Annexure- A, to evade the payment of legitimate custom duty on the imported goods. Therefore, it appears that importer has intentionally mis-classified the imported goods under CTH as declared in Annexure- A instead of Correct CTH 96161020 with sole purpose to evade legitimate Customs duty is required to be demanded by invoking the extended period clause under section 28 (4) of the Customs Act, 1962 along with applicable interest under section 28AA of Custom Act, 1962 and penalty as applicable.

**12.** The Importer has cleared the said goods by mis-classifying the same under CTH as detailed in Annexure-A instead of classifying the goods under correct CTH 96161020 resulting in short levy of legitimate Customs duty amounting to **Rs 293/- (Two hundred ninety-three Only)** therefore, the said goods having the total assessable value of **Rs. 4,512/- (Four thousand five hundred twelve Only)** therefore, the said goods having the total as detailed in Annexure-A appear to be liable for confiscation under section 111(m) of the Customs Act 1962.

**13.** The acts of omission and commission mentioned above, which rendered the said goods liable for confiscation under Section 111(m) of the Customs Act, 1962, has rendered the importer liable for penal action under Section 112(a) & 114A of the Customs Act, 1962.

**14.** Therefore, in terms of Section 124 read with Sections 28(4) of the Customs Act, 1962 **M/s NITIN ENTERPRISES** is called upon to show cause to the **Assistant Commissioner of Customs**, Group- 5A, JNCH, Nhava Sheva within 30 days of the receipt of the notice as to why:

- (i) The classification of subject goods claimed under CTH as detailed in Annexure "A" of this notice should not be rejected and the same should not be re-assessed under CTH 96161020.
- (ii) The imported goods having assessable value of **Rs. 4,512/- (Four thousand five hundred twelve 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 for the Bills of entry as detailed in Annexure- "A" under Section 28AA of the Customs Act, 1962.
- (iv) Penalty should not be imposed under Section 112(a) and/ or 114A/114 AA of the Customs Act, 1962.

**15.** 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.

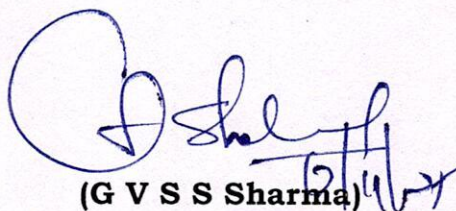
**16.** The written explanation/reply should be filed by the noticee to the **Assistant Commissioner of Customs**, Gr. VA, JNCH, Nhava-Sheva, Tal.-Uran, Distt. Raigad, Maharashtra-400707 within 30 days from the date of this notice. They are further required to intimate in their written reply whether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



17. 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.

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

19. 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.



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

**M/s NITIN ENTERPRISES**

R NO.2, NAVSAINATH SOC, LANE NO. 7, BHAGWAN NAGAR,  
BETURKA, KALYAN, THANE, MAHARASHTRA-421301

Copy to:

1. The Asst./Dy. Commissioner of Customs, CAC, JNCH (information)
2. The Dy. Commissioner of Customs, Circle- A2, Audit, JNCH
3. Notice Board (CHS Section).
4. Office.







## Annexure-A

Sr. No	BE Number	BE Date	IEC Code	IEC Name	CTH Assessed	Item Description 1	Total Assessable Value - Assessed	Total Duty - Assessed	Actual Duty Payable (In Rs.)	Duty Difference (In Rs.)
1	9690648	Nov 24, 2020	AWKPK/518D	NITIN ENTERPRISES	39269099	SOAP DISPENSER	4,512	1,690.7	1,693.48	292.78
									Total	292.78



