

	<b>OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-III)</b>
	सीमाशुल्कआयुक्तकाकार्यालय (एनएस-III)
	<b>JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,</b>
	जवाहरलालनेहरूकस्टमहाउस, न्हावाशेवा,
	<b>TALUKA- URAN, DISTRICT- RAIGAD, MAHARASHTRA - 400707</b>
	तालुका- उरण, जिला- रायगढ़ , महाराष्ट्र- 400707

F. No. - CUS/APR/SCN/248/2025-Group 4-O/o-Commissioner- 17-06-2025

SCN No. - 298/2025-25/AC/Gr. IV/NS-III/CAC/JNCH

DIN - 20250678NV000000FB03

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

M/s. Kelegent Metaplast India Private Ltd.. (IEC 3111023915) (hereinafter referred to as 'the importer/noticee') having their registered address at 'Industrial Shed no. 7, Survey No. 24/2, Behind Nanded City, Technical office , Pune- 411 041' filed Bill of Entry for clearance of goods declared as Aluminium Track (Glass Door Sliding Fitting) etc. as detailed in Table -A (Hereinafter referred to as "subject goods") and classified the same under CTH 7604 as declared in Table-A and paid BCD @ 7.5% through their Custom Broker M/s Sreyanjali International. (hereinafter referred to as "the Customs Broker").

**'Table-A'**

BE Number/ Date	Full Item Description	Total Assessable Value Amount	Total BCD Amount @ 7.5%	Total SWS @10%	Total IGST @18%	Total Duty	Total duty when BCD is payable @10%	Duty difference (In Rs.)
6378964/ 01.07.2020	Alumminium Extrusion	331113.1	24833.4825	2483.34825	64517.4	91834.22	102578.8	10744.62
6378964/ 01.07.2020	Alumminium Extrusion	4894.07	367.05525	36.705525	953.61	1357.37	1516.183	158.8126
Total		3,36,007.2/-						10,903.43/-

2. As per Customs Tariff Act, 1975, the goods which are classifiable under CTH "7604" are those which are formed by simple processes like rolling, extrusion or drawing and provided they do not assume the character of "articles". Whereas, the goods imported by the bills of entry as detailed in Table-A seem to have acquired the character of "articles" as evident from the description of the goods in B/Es. Hence, the imported goods are liable to fall



under CTH "7610" of the Customs Tariff Act, 1975 on which BCD is payable @ 10%. The subject goods appear to be classifiable under the CTH 76109030 and liable to be assessed at the rate of BCD @10% instead of BCD @ 7.5% which resulted in short payment of Customs duty.

3. Since, Importer had evaded the duty on the imported goods and mis-declared the tariff head of the imported goods, a consultative letter no. 280/2023-24/A-2 dated 04.05.2023 was issued to the importer to pay the short-paid duty along with applicable interest and penalty. Vide the aforementioned Consultative letter, the Importer was advised to pay the Differential duty 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 no reply of the above CL has been received even after the substantial time is passed.

4. This mis-classification has led to loss to the Government exchequer amounting to Rs. 10,903/- (Rupees Ten Thousand Nine Hundred and Three Only) as detailed in Table-A to this notice and accrued monetary benefits to the Importer. Therefore, it appears that importer has intentionally mis-classified the imported goods under CTH as declared in Table- A with sole purpose to evade legitimate Customs duty whereas it should have been rightly classifiable under Tariff Head 76109030 and thus the provisions of Section 28 (4) are invokable in this case.

5. Hence Importer is liable to pay differential duty of 10,903/- (Rupees Ten Thousand Nine Hundred and Three Only) along with applicable interest and penalty under Section 28(4) of Customs Act, 1962 as detailed in Table- "A" to this notice.

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 and calculation of duty, but in the instant case the subject goods have been mis-classified and duty amount 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*

*(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).*

### **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 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:*

*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 BCD due to wrong classification of the imported goods. As the importer got monetary benefit due to said act, it is apparent that the same was done deliberately by willful mis-classification of the 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 BCD 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 and of the Customs Act, 1962.

9. From the foregoing, it appears that the Importer have wilfully mis-classification the goods; that the Importer have 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. Kelegent Metaplast India Private Ltd.. (IEC 3111023915) is hereby called upon to Show Cause to the The Assistant Commissioner Gr. 4/4A, Gr.4,JNCH, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra -400707, within 30 days of the receipt of the notice, as to why:



(i) The classification of subject goods claimed under CTH 7604 of the bills of entry as detailed in Table "A" should not be rejected and the same should not be re-assessed under CTH 76109030.

(ii) The imported goods having assessable value of Rs. 3,36,007/- (Rupees Three Lakh Thirty Six Thousand and Seven only) covered under Bills of Entry as detailed in Table-"A" should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.

(iii) Differential Duty of Rs. 10,903/- (Rupees Ten Thousand Nine Hundred and Three Only) should not be demanded for the Bills of entry as detailed in Table-"A" under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

(iv) Penalty should not be imposed under Section 112(a) and/ or 114A of the Customs Act, 1962.

**11.** The written explanation/reply should be filed by the importer to the Adjudicating Authority Gr 4/4A, NS-III JNCH, Nhava Sheva, within 30 days from the date of this notice. The importer is 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 importer fails to appear before the adjudicating authority 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.

**13.** 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.

**14.** 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  
(Kishor S. Pandit)  
Date: 17-06-2025  
11:40:38  
Assistant Commissioner of Customs  
Group 4/4A, JNCH

To,



M/s. Kelegent Metaplast India Private Ltd.. (IEC 3111023915)

Industrial Shed no. 7, Survey No. 24/2,

Behind Nanded City,

Technical office ,

Pune- 411 041'

EM974608645IN

Copy to:

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



Annexure - A														
Sr.No.	Eight Digit HS Code	IEC Name	IEC Code	BE Number	BE Date	Item Description 1	Item Description 2	Item Description 3	Assessable Value Amount	BCD Amount	Duty @10%	Difference at Duty		
1	76041020	KELEGENT	3111023915	6378964	01/07/2020 00:00	ALUMINIUM EXTRUSION MS 290 30031 DOOR SASH 23MM 5.4 M(210 NO	S)	ALUMINIUM EXTRUSION MS 290 30031 DOOR SASH 23MM 5.4 M(210 NO	331113.1	24833.5	33111.31	8277.80		
2	76041020	KELEGENT	3111023915	6378964	01/07/2020 00:00	ALUMINIUM EXTRUSION MA044 13383 DOOR BL FOLD COVER JOINT 5.4	M(10 NOS)	ALUMINIUM EXTRUSION MA044 13383 DOOR BL FOLD COVER JOINT 5.4	4894.07	367.1	489.407	122.307		



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