



BHARAT
SARKAR

भारतसरकार/ Government of India
वित्तमंत्रालय / Ministry of Finance
कार्यालय/ Office of
आयुक्त सीमाशुल्क-(एनएस-1)
Commissioner of Customs-(NS-I)

Jawaharlal Nehru Custom House (JNCH)
NhavaSheva, Tal: Uran, Dist: Raigad, Maharashtra-400 707



INDIAN
CUSTOMS

F. No. CUS/AG/MISC/1440/2025-26/Gr. IIG/JNCH
S/10-165/2025-26/Adj./AC/Gr. IIG/NS-I/CAC/JNCH
SCN No.-783/2025-26/AC/Gr. IIG/NS-I/CAC/JNCH
DIN No.- 20250978NX000050225D

Dated: 04.09.2025

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

On the basis of the Analytics Report No. 46/2021-22 regarding **Mis-classification of “Balloons”** resulting in **Short Payment of BCD and IGST** dated 29.10.2021 under CTsH 9505/4016, data pertaining to imports made by various importers through JNCH (INNSA1) was analysed in detail.

2. While analysing the data, it is observed that **M/S PLEASURE EXPORTS (IEC:810017253)** (now hereinafter referred to as ‘the Importer’) having official address at B232 SAKAR 7 NEHRU BRIDGE CORNER , ASHRAM ROAD , AHMEDABAD , AHMEDABAD , GUJARAT, 380009, have imported goods having description such as balloons under CTsH 9505/4016 (as detailed mentioned in TABLE-A) and importer has paid BCD @20%.

3. During the course of audit, prima facia, it was noticed that the balloons made of latex and other material than latex are correctly classifiable under CTI 95030030 (made of latex) and 95030090 (made of other than latex). From the description of the goods in the subject bill of entry, it appears that these are balloons made of the material other than latex. Hence, it is correctly classifiable under CTH 95030090.

4. The duty structure for the Toy balloons is different for different period. For the sake of clarity, the duty structures for the goods falling under CTsH 9503/4016/9505 for different time are reproduced below:

4.1 For the period from 01.05.2018 to 01.02.2020:

HS code	Description of goods	BCD Applicable	IGST applicable
95030030/ 95030090	Toy balloons made of natural rubber latex, dolls or other toys made of wood or metal or textile material	20 %	5% (balloons made latex)
			12 % (other than latex balloons)
9505	Festive, carnival or other entertainment articles, including conjuring tricks and novelty jokes	20%	18 %
4016	Other articles of vulcanized rubber other than hard rubber	20%	5%

4.2 For the period from 01.02.2020 to 31.12.2022.

HS code	Description of goods	BCD Applicable	IGST applicable
95030030/ 95030090	Toy balloons made of natural rubber latex, dolls or other toys made of wood or metal or textile material	60 %	5% (balloons made latex)
			12 % (other than latex balloons)
9505	Festive, carnival or other entertainment articles, including conjuring tricks and novelty jokes	20%	18 %
4016	Other articles of vulcanized rubber other than hard rubber	20%	5%

5. In view of above, a Consultative Letter No. 14/2023-24/D3 vide F.No: S/2-Audit-Gen-743/2022-23/JNCH/C-2(D-3) dated 12.04.2023 was issued to the Importer for payment of short levied duty along with applicable interest and penalty. However, it is observed that there is an error in calculation of differential duty and the same has been re-determined to be Rs 92,978/- (refer below Table -A). Vide the aforementioned Consultative letter, the Importer was advised to pay the Differential duty along with interest and penalty in terms of Section 28 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%. **However, no reply or submission is given by the importer in this regard, till date.**

TABLE -A

BE / Date	Full Item Description	Item Number	CTH Declared	Assessable Value Amount	BCD @ 20%+SWS@2% Paid	BCD @ 60% + SWS @ 6% Payable	Total differential Duty
8800261/ 14.09.2020	DECORATIVE FOIL BALLOON (CARNIVAL ITEM) FC-20KC-3 FC-AS-1 (5800 PCS) (NT WT 250.1 KGS)DECORATIVE FOIL BALLOON (CARNIVAL ITEM) FC-20KC-3 FC-AS-1 (5	18	95059090	17,385	3,825	11,474	7,649
9297365/ 23.10.2020	FOIL BALLOON (DECORATIVE ITEMS) 56500 PCS FOIL BALLOON (DECORATIVE ITEMS) 56500 PCS	10	95059090	156,966	34,533	103,597	69,065
3753105/ 29.04.2021	ARTICLES FOR BITYDAY DECORATIVE ITEMS BALLOON PLASTIC 6000PCSARTICLES FOR BITYDAY DECORATIVE ITEMS	19	95051000	36,963	8,132	24,396	16,264
	Total			211,314	46,489	139,467	92,978

5.1 Further additional data has been retrieved, on similar lines (from the period which covered in the Consultative letter to 31.12.2024) and it is observed that, additional BE items of assessable value **Rs. 14,262/-** imported (as detailed in Table-B below).

Table-B

BE / Date	Full Item Description	Item Number	CTH Declared	Assessable Value Amount	BCD @ 20%+SWS@2% Paid	BCD @ 60% + SWS @ 6% Payable	Total differential Duty
2037397/ 07.02.2024	BALLOON ARCH STRIP FC1390-2 BALLOON ARCH STRIP FC1390-2	9	95059090	14,262	3,138	9,413	6,275
			Total	14,262	3,138	9,413	6,275

The total assessable value of the BE items so imported is ₹ 2,25,576/- (as detailed in Table A and B) and it appears that a short levy of BCD amounting to ₹ 99,253 /-(as detailed mentioned in TABLE ‘A’ and ‘B’) is recoverable from the Importer along with applicable interest and penalty.

6. 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:
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. 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.’

6.1 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-

m. collusion;or
n. any willfulmis-statement; or
o. suppressionoffacts,

...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 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 maybe 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.

6.2 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.'

6.3 Section 111 (Confiscation of improperly imported goods, etc.) reads as:

"The following goods brought from a place outside India shall be liable to confiscation:

(a) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer."

6.4 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, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

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."

6.3 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.'

7. 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 the 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 centre, 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 has to 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 in order to prove that they have classified the goods correctly by giving the complete description of the goods. In the instant case, the importer has wrongly assessed the impugned goods viz., Balloons under CTsH 9505/4016 and paid BCD @20% which resulted in short payment of duty, instead of assessing under CTH 9503 for which applicable BCD is 60% during that period. Wrong assessment is nothing but suppression of information with intent to get financial benefit to claim the benefit of the Notification. In view of the above, it appears that the onus on the importer to make correct classification of the goods being imported is on the importer only.

8. In view of above, it appears that the importer has assessed the impugned goods as mentioned in Table-A above under CTH 9505/4016 and paid the lower BCD @20%. Thus, the importer has short paid the duty amounting to ₹ 99,253/- and same is recoverable from the importer under Section 28 of the Customs Act, 1962 read with Section 5 of the IGST Act, 2017 along with interest at applicable rate under Section 28AA of the Customs Act, 1962 read with Section 50 of the Central Goods and Service Tax Act, 2017 and penalty is required to be imposed on them under Section 112(a) and/or 114A of the Customs Act, 1962.

9. As discussed above, it is the responsibility of the importer to give correct and complete description of the goods being imported in the Bills of Entry. In the instant case, the importer has wrongly assessed the impugned goods viz., Balloons and availed benefit of lower rate of BCD @ 20% which resulted in short payment of duty, instead of assessing under CTH 95030090 for which applicable BCD is 60% for that period. It appears that the importer has done the assessment wrongly with an intention to get financial benefit by paying lesser BCD. Thus, the wrong assessment of goods under CTH 9505/4016 has led to short payment of duty by the importer as detailed in the above. 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 short payment of Duty. As there is suppression of facts, extended period of five years can be invoked for demand of duty under Section 28 of the Customs Act, 1962.

10. Section 111(o) of Customs Act, 1962 provides for confiscation of the goods if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

11. It appears that the Importer has failed to comply with the conditions mentioned above; therefore, it also appears that the imported goods are liable for confiscation under Section 111(o) of the Customs Act, 1962.

12. It further appears that the Importer for the acts of omission and commissions mentioned above has rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act, 1962.

13. Now, therefore, in terms of Section 124 read with Section 28 of the Customs Act, 1962; M/S PLEASURE EXPORTS (IEC:810017253) is hereby called upon to show cause to the Assistant Commissioner of Customs, Group 2G, JNCH, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra – 400707, within 30 days of the receipt of the notice, as to why:

- i. The availed benefit of lower rate of BCD @ 20% classified under CTH 9505/4016 in respect of the goods as discussed above should not be denied for the reasons stated therein and the merit BCD rate @ 60% under 9503 should not be applied.
- ii. the subject goods imported vide Bills of Entry as detailed in Table-A above having assessable value of ₹ 2,25,576 /- (**Rupees Two Lakh Twenty Five Thousand Five Hundred And Seventy Six only**) should not be confiscated under Section 111(m) and 111(o) of the Customs Act, 1962;
- iii. The differential duty amounting to ₹ 99,253 /- (**Rupees Ninety-Nine Thousand Two Hundred And Fifty-Three only**) as detailed in the Table-A should not be demanded and recovered from them in terms of section 28 of the Customs Act, 1962.
- iv. The applicable interest on the amount specified above should not be recovered from them in terms of section 28AA of the Customs Act, 1962.
- v. Penalty should not be imposed on them under section 112(a) and/or 114A of the Customs

Act, 1962.

14. 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 14 dated 12.04.2023 issued by the Customs Commissionerate (Audit), Mumbai Customs Zone-II	Copy available with the Importer

15. The above noticee is further required to state specifically in their written reply as to whether they wish to be heard in person before the case is adjudicated. If no specific mention is made about this in their written submission, it shall be presumed that they do not wish to be heard in person. They should produce at the time of showing cause, all the evidences which they intend to rely upon in support of their defense.

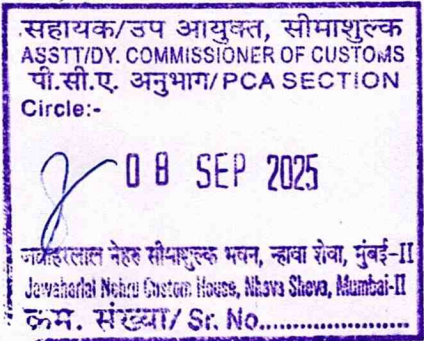
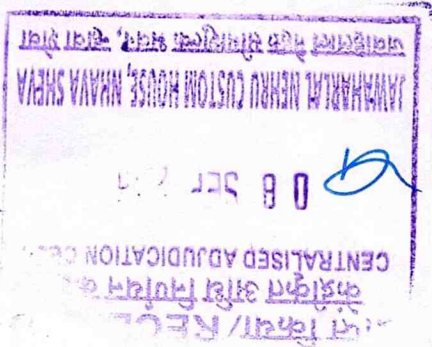
16. They are further required to note that their reply should reach within 30 (thirty) days or within such extended period as may be allowed by the Assistant Commissioner of Customs. If no cause is shown against the action proposed above within 30 days from the receipt of this Show Cause Notice or if they do not appear before the Asstt. Commissioner of Customs as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidences available on record.

17. This Show Cause Notice is limited to the Bills of Entry mentioned in the above said annexure to the Show Cause Notice only and 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.

Digitally signed by
(Raj Kumar Mishra)
Asst. Commissioner of Customs,
Gr. HC NS-56 JNCH,
Nhava Sheva

To:

M/s PLEASURE EXPORTS (IEC- 810017253), EM 986912236 IN, U. 05/9/2024
B232 SAKAR 7 NEHRU BRIDGE CORNER, ASHRAM ROAD,
AHMEDABAD, GUJARAT- 380009



Copy to:-

1. The Deputy/ Asstt. Commissioner of Customs, NS-Audit, Mumbai Customs Zone-II
2. The Deputy/Asst. Commissioner of Customs, CAC, JNCH.
3. The Deputy/Asst. Commissioner of Customs, IRMC, JNCH.
4. Office copy

5) Notice Board - CHS

