



सत्यमेव जयते

आयुक्त, सीमाशुल्क (एनएस- V (कार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS- V),
 जवाहरलालनेहरुसीमाशुल्कभवन, न्हावाशेवा,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
 तालुका- उरण, जिला- रायगड, महाराष्ट्र- ४००७०७.
TALUKA- URAN, DISTRICT- RAIGAD, MAHARASHTRA -
400 707.



Date:08-05-2026

Show Cause Notice No. 188/2026-27/AC/Gr. VA/CAC/JNCH

S/10- 196 /2026-27/Adj/AC/Gr.VA/NS-V/CAC/JNCH

DIN No. 20260578NX0000520669

SHOW CAUSE NOTICE ISSUED UNDER SECTION 124 READ WITH SECTION 28(4) OF THE CUSTOMS ACT, 1962

On the basis of the Analytics Report 18/2021-22 dated 01/06/2021 issued by the NCTC, Mumbai, on the issue of "wrong availment of concessional BCD rate and lower IGST rates on certain imported INVERTERS of sub-heading 8504 40" the data pertaining to imports made under CTH 8504 made by the importer M / s JOHNSON INDIA (ASVPA2906Q) was analysed in detail. It is observed that **M / s JOHNSON INDIA (ASVPA2906Q)** having address at FIRST FLOOR, 38/2061, NAIWALA, KAROL BAGH, NEW DELHI 110005 (hereinafter referred to as 'Importer') have imported goods having description as "CHARGER (E TRICYCLE SPARE PARTS)" and paid IGST @ 5% as per Serial No. I-234b of Schedule-I of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 (as amended by Notification No. 12/2019-Integrated Tax (Rate) dated 31.07.2019). The details are mentioned in the Table-A below.

Table-A

BoE	Date	Description	A.V. (Rs.)	Assessed IGST @ 5% (Rs.)	IGST @ 18% (Rs.)	Differential Duty (Rs.)
4028311	21-05-2021	CHARGER (E TRICYCLE SPARE PARTS)	5,77,980	35,256.8	1,26,924.4	91667.608

2. The Bill of Entry (as per Table-A) wherein goods have been classified under CTH 85044090 by paying IGST @5%. However, the said goods attract rate of IGST @ 18% from 01.08.2019 (as per notification no. 12/2019-Integrated Tax (Rate) dated 31.07.2019). Therefore, the said goods were liable to be assessed at the IGST @ 18% instead of IGST @ 5%, which resulted in short payment of Customs Duty.

2.1 The Entry 234B of Schedule-I (@5%) or I-234B (@5%) has been

introduced with effect from 01.08.2019 (Notification No. 12/2019-Integrated Tax (Rate) dated 31.07.2019. Accordingly, certain specified goods, namely, charger or charging station for electrically operated vehicles falling under 8504 attract a lower IGST @ 5%.

IGST entry I-234B @5%) is reproduced below:

234B	8504	Charger or Charging station for electrically operated vehicles
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2.2 Goods "other than charger or charging station for electrically operated vehicles," falling under heading 8504, attract a higher IGST rate @ 18% under Serial No. 375 of Schedule- III of Notification No. 01/2017-Integrated Tax (Rate) dt. 28.06.2017, as amended by notfn. No. 12/2019-Integrated Tax (Rate) dated 31.07.2019.

The description of this entry is given below:

375	8504	Electrical Transformer, Static Converters (for example, rectifiers) and inductors other than charger or charging station for electrically operated vehicles	18%
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3. The total assessable value of the items so imported is Rs. 5,77,980/- and it appears that a short levy of duty amounting to Rs. 91,668/- (as detailed in Table-A) is recovered from the importer along with applicable interest and penalty.

4. Hence, it appears that the importer had willfully mis-declared the subject goods by way of wrong IGST Schedule for the purpose of importing the same, declaring IGST @5% as per Sr. No. 234b of Schedule-I instead of 18% as per Serial No. 375 of Schedule- III, 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. 3056/2021-22/JNCH(A2) dated 10.02.2022 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 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 Consultative letter was issued considering the Pre-Notice Consultation Regulations, 2018. However, the importer has failed to pay the dues even after the issuance of CL and he did not submit any reply of the same as well.

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

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.

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 due to wrong selection of IGST Schedule. 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 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 114A and of the Customs Act, 1962.

9. From the foregoing, it appears that the Importer has willfully 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 JOHNSON INDIA (ASVPA2906Q)** having address at FIRST FLOOR, 38/2061, NAIWALA, KAROL BAGH, NEW DELHI 110005 is hereby called upon to show cause to the Assistant Commissioner of Customs, **Gr.5A**, JNCH, Nhava-Sheva, Distt. Raigad, Maharashtra-400707 within 30 days of the receipt of this notice as to why:

- i. The IGST rate claimed under Schedule- I, Sr. No. 234b of IGST levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 for the subject goods should not be rejected.
- ii. The IGST rate @18% as per Serial No. 375 of Schedule- III of Notification No. 01/2017- Integrated Tax (Rate) dt. 28.06.2017 should not be levied.
- ii. Differential Duty amount of **Rs. 91,668/- (Rupees Ninety One Thousand Six Hundred and Sixty Eight)** with respect to the item 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 28AA of the Customs Act, 1962.
- iii. The subject goods as detailed in Table-A having a total assessable value of **Rs. 5,77,980/- (Rupees Five Lakh Seventy Seven Thousand Nine Hundred Eighty Only)** should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.

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

11. 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.

12. 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.

13. 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.

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

15. 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.

Digitally signed by
G V S S Sharma
Date: 08-05-2026
16:21:00

(GVSS Sharma)

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

To,

M/s JOHNSON INDIA (ASVPA2906Q)
FIRST FLOOR, 38/2061, NAIWALA, KAROL BAGH,
NEW DELHI 110005

Copy to:

1. The Asst./Dy. Commissioner of Customs, CAC, JNCH (for information)
2. The Dy. Commissioner of Customs, Circle-D/D3, Audit, JNCH
3. Notice Board (CHS Section).
4. Office Copy.

