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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- रायगढ़, महाराष्ट्र- ४००७०७.
TALUKA- URAN, DISTRICT- RAIGAD, MAHARASHTRA -
400 707.



F. No. S/26-Misc-63/2023-24/Gr. VA JNCH

Date: 04/02/2026

Show Cause Notice No. 1968/2025-26/ADC/Gr. VA/CAC/JNCH

S/10-1785/2025-26/Adj/ADC/Gr. VA/NS-V/CAC/JNCH

DIN No. 20260278NX0000888B99

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

M/s. Swingtel Communications Private Limited (IEC- 311003338) (herein after referred as 'importer') having address as 15-16, Mistry Building, 635/637, J. S. S. Road, Mumbai, Maharashtra – 400002 had imported goods having description as "Liquid Crystal Display Module (as detailed in Annexure)" under Customs Tariff Heading (CTH) 8524 11 00 of Chapter 85 of the First Schedule to the Customs Tariff Act, 1975.

2. During the scrutiny of the Bills of Entry as detailed in Annexure-A, it was observed that, the importer classified the subject goods under CTH 8524 11 00 and claimed Basic Customs Duty (BCD) exemption under Serial No. 29 of Notification No. 24/2005–Customs dated 01.03.2005, as amended vide Notification No. 57/2021-Cus dated 29.12.2021. As per Sr. No. 29 of Notification No. 24/2005–Customs, exemption from Basic Customs Duty is allowed only to *Liquid Crystal Devices (LCDs)* and related components used for manufacturing of goods listed under Sr. No. 1 to 38A of the same notification, provided the items correspond to ITA-bound goods.

3. As per the Explanatory Notes vide D.O.F. No. 334/1/2005-TRU dated 28.02.2005, Customs duty has been exempted on specified items covered under the Information Technology Agreement (ITA). With this, all 217 ITA bound items are now fully exempt from customs duty. All goods imported for the manufacture of ITA bound items have also been exempted from customs duty subject to end-use condition.

4. However, in absence of the end use of the subject goods it appears that the same do not fall under any of the ITA product categories mentioned at Sr. Nos. 1 to 38A of the said Notification. The importer availed exemption under Sr. No. 29 of Notification No. 24/2005–Customs, citing eligibility as per ITA items. It appears that the imported goods being parts of television panels, which are not ITA-bound and hence not eligible for the claimed exemption. Thus, the importer appears to have incorrectly availed Basic Customs Duty exemption, resulting in short payment of customs duty.

5. The total assessable value of the BE items so imported is **Rs. 20,97,152/-** and it appears that a short levy of duty amounting to Rs. **4,08,315/-** (as detailed in Annexure-'A') is recoverable from the Importer along with applicable interest and penalty.

6. In view of the above, a Consultative letter dated 19.04.2023 was issued to importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty along-with applicable interest and penalty. However, as per available records, no reply or submission is given by importer in this regard.

7. Relevant legal provisions applicable in instant case are reproduced below for ease of reference:

7.1 Section 17 – Assessment of duty:

(i) '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:

(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. '

7.3 Section 46 - Entry of goods on importation:

(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. '

7.4 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 77³ [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;

(o) 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

7.5 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) 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. '

7.6 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.

8. Section 17 of the Customs Act, effective from 08.04.2011 [CBEC's (now CBIC) 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 declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, it is the added and enhanced responsibility of the Importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods

9. Therefore, in view of the above facts, it appears that the importer has deliberately not paid the duty by willful mis-declaration as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to Rs. 4,08,315/- (as detailed in Annexure - 'A'). Therefore, 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 at the applicable rate under section 28AA of the Customs Act, 1962.

10. As the importer has failed to comply with the provision of the Customs Act as mentioned above therefore, it appears that the impugned goods are liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962 and for the same reason importer rendered himself liable for penal action under Section 112(a) and/or 114A of the Customs Act, 1962.

11. Now, therefore, in exercise of powers conferred upon in Section 28(4) and Section 124 of the Customs Act, importer M/s. Swingtel Communications Private Limited (IEC- 311003338) is hereby called to show cause to the **Addl. Commissioner of Customs, Gr. VA, NS-V, JNCH, Nhava- Sheva, Distt. Raigad, Maharashtra- 400707** within 30 days of the receipt of this notice as to why:

- (i) Differential/short paid duty amounting to **Rs. 4,08,315/- (Rs. Four Lakh Eight Thousand Three Hundred Fifteen Only)** for the subject goods imported vide Bills of Entry as detailed in Annexure-A, should not be demanded and recovered under Section 28(4) of the Custom Act, 1962.
- (ii) Interest on delayed payment of Custom Duty as mentioned above should not be recovered from the importer under Section 28AA of the Customs Act, 1962.
- (iii) The said subject goods imported vide Bills of Entry as detailed in Annexure-A, having assessable value of **Rs. 20,97,152/- (Rs. Twenty Lakh Ninety Seven Thousand One Hundred Fifty Two Only)** should not be held liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962 for various contravention as mentioned above.
- (iv) Penalty should not be imposed on them under Section 112(a) of the Customs Act, 1962 for short levy of duty.
- (v) Penalty should not be imposed under Section 114A of Customs Act, 1962 for short levy of duty.

12. 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.

13. The written explanation/reply should be filed by the noticee to the **Addl. Commissioner of Customs, Gr. VA, NS-V, 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.

14. 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.

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

16. 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.

Mazid Khan
04.02.26

(Mazid Khan)

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

To,

M/s. Swingtel Communications Private Limited (IEC- 311003338),
15-16, Mistry Building, 635/637, J. S. S. Road,
Mumbai, Maharashtra - 400002

→ speed post

Gm-785827743 JAL

M/s. Swingtel Communications Private Limited (IEC- 311003338),
29TH FLOOR, A-WING, 2910/2911/2912, MARATHON FUTUREX,
N M JOSHI MARG, LOWER PAREL WEST, MUMBAI, MH-400013

speed post

Gm-785827257 JAL

M/s. Swingtel Communications Private Limited (IEC- 311003338),
GALA NO 1-3, GRD FLR, BLDG ND K-7,
SHREE ARIHANT COMPOUND,
KOPAR VILLAGE BHIWANDI-MH-421302

→ speed post

Gm-785827862 JAL

M/s. Swingtel Communications Private Limited (IEC- 311003338),
GODOWN NO.21 TO 23, GROUND FLOOR,
BHUMI WORLD INDUSTRIAL PARK, BLDG NO-E/9, MUMBAI NASHIK HIGHWAY (NH-3)
VILLAGE PIMPLAS, BHIWANDI-MH -421302

— speed post

Gm-785827859 JAL

M/s. Swingtel Communications Private Limited (IEC- 311003338),
LODHA INDUSTRIAL AND LOGISTIC PARK II,
PLOT NO. B4, NARHEN, TALOJA BYPASS ROAD,
THANE, MAHARASHTRA, 421204

speed post

Gm-785827845 JAL

Copy to:

1. The Asst./Dy. Commissioner of Customs, CAC, JNCH (for Adjudication)
2. The Dy. Commissioner of Customs, Audit, JNCH
3. Notice Board (CHS Section for Display).
4. Office.

Annexure																	
Sr. No	BE No	BE Date	Typ	IEC	Importer	CTH	Item No.	Item Desc	Qty	Unit	Assess Value	Duty Levied	BCD Notn	IGST Amt	Duty Leviable @37.47%	Short Levy of duty	
1	7891418	3/16/2022	H	311003338	SWINGTEL COMMUNICATIONS PRIVATE LIMITED	85241100	1	TTA1A0719 (P/N-SW0002038)- LIQUID CRYSTAL DISPLAY MODULE	5000	PCS	598273.08	107689.20	024/2005-29	107689.2	224172.9	116483.72	
2	8797026	5/23/2022	H	311003338	SWINGTEL COMMUNICATIONS PRIVATE LIMITED	85241100	1	CMA3P7017-E(P/N-SW0001260)- LIQUID CRYSTAL MOUDULE	2208	PCS	1498879.21	269798.30	024/2005-29	269798.3	561630	291831.74	
Total											2097152.29	377487.50					408315.46

