



प्रधानआयुक्तकाकार्यालय, सीमाशुल्क , अहमदाबाद

सीमाशुल्कभवन, आलइंडीयारेडीऑकेबाजुमे,नवरंगपुरा,अहमदाबाद 380 009

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SHOW CAUSE NOTICE

M/s Kosol Energie Private Limited (IEC: 2406003311), having registered office at 193, Kalthia House, Satyagrah Chhavni, Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat -380015 and Corporate office at Kalthia Corporate House, PRL Colony, Near Oxygen Park, Sindhubhavan Road, Ahmedabad, Gujarat 380059 (hereinafter referred to as 'the Importer' for the sake of brevity), are engaged in manufacture of Solar Photovoltaic Module, Solar Rooftop, Solar Light etc. for which they have imported "Aluminium Frame Alloy - Silver Anodized"/ "Aluminium Frames" (hereinafter referred to as the "imported goods").

2. The officers of the Directorate of Revenue Intelligence, Jaipur Regional Unit (hereinafter referred to as 'the DRI, Jaipur') developed an intelligence which indicated that the Importer has imported "Aluminium Frame Alloy - Silver Anodized"/ "Aluminium Frames" for manufacture of Solar Panels and Solar Modules, by resorting to misclassification of these imported goods under Customs Tariff Item 76101000, thereby they have evaded Anti-Dumping duty imposed vide Notification No.16/2024- Customs (ADD) dated 27.09.2024. The Government of India vide Notification No.16/2024-Customs (ADD) dated 27.09.2024 (**RUD-1**) imposed anti-dumping duty on the "Anodized Aluminium Frames for Solar Panels/Modules" falling under tariff item 7610 9010, 7610 9030 or 7616 9990 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in, or exported from China PR.

3. The Notification No.16/2024- Customs (ADD) dated 27.09.2024 is appended as under:

Notification No. 16/2024-Customs (ADD)

New Delhi, the 27th September, 2024

G.S.R. --- (E).- Whereas in the matter of "Anodized Aluminium Frames for Solar Panels/Modules" (hereinafter referred to as the subject goods) falling under tariff items 7610 9010, 7610 9030 or 7616 9990 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from China PR (hereinafter referred to as the subject country), and imported into India, the

designated authority in its final findings, vide notification No. 6/7/2023-DGTR, dated the 29th June, 2024, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 29th June, 2024, has come to the conclusion that—

- i. the subject goods have been exported to India from the subject country at dumped prices;
- ii. the dumping of subject goods from subject country has materially retarded the establishment of domestic industry;
- iii. material retardation to the establishment of the domestic industry has been caused by the dumped imports of subject goods from the subject country,

and has recommended imposition of anti-dumping duty on the imports of subject goods, originating in, or exported from the subject country and imported into India, in order to remove the injury to the domestic industry.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff items of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8), of the said Table, namely:-

TABLE

S. No.	Tariff Item	Description of goods	Country of origin	Country of Export	Producer/Exporter	Amount	Unit of measurement	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	76109010, 76109030, 76169990	Anodized Aluminium Frames for Solar Panels/ Modules	China PR	Any Country including China PR	Jiangyin Tinze New Energy Technology Co., Ltd	433	MT	USD
2.	-do-	-do-	China PR	Any Country including China	Jiangyin Yuanshuo Metal	505	MT	USD

				<i>PR</i>	<i>Technology Co., Ltd</i>			
3.	<i>-do-</i>	<i>-do-</i>	<i>China PR</i>	<i>Any Country includin g China PR</i>	<i>Jiangsu Yuejia Metallic Technology Co., Ltd</i>	403	<i>MT</i>	<i>USD</i>
4.	<i>-do-</i>	<i>-do-</i>	<i>China PR</i>	<i>Any Country includin g China PR</i>	<i>Jiangyin Haihong New Energy Technology Co., Ltd</i>	418	<i>MT</i>	<i>USD</i>
					<i>Jiangyin Haihong Solid-FSW Co., Ltd.</i>			
5.	<i>-do-</i>	<i>-do-</i>	<i>China PR</i>	<i>Any Country includin g China PR</i>	<i>Zhejiang Jiaxing Taihe New Energy Technology Co., Ltd.</i>	511	<i>MT</i>	<i>USD</i>
					<i>Jiaxing Youjia Metal products Co,</i>			
					<i>Ltd</i>			
6.	<i>-do-</i>	<i>-do-</i>	<i>China PR</i>	<i>Any Country includin g China PR</i>	<i>Any other than S. No. 1-5 above</i>	577	<i>MT</i>	<i>USD</i>
7.	<i>-do-</i>	<i>-do-</i>	<i>Any Count ry other than China PR</i>	<i>China PR</i>	<i>Any other than S. No. 1-5 above</i>	577	<i>MT</i>	<i>USD</i>

Note: - The Customs classification is only indicative and not binding on the scope of the product under consideration.

2. *The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette, and shall be payable in Indian currency.*

Explanation. - For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Act.

4. In view of the above, it appears that w.e.f. 27.09.2024, Anti dumping duty (ADD) was payable on the “Anodized Aluminium Frames for Solar Panels/Modules” (HSN/CTH 7610 9010, 7610 9030 or 7616 9990 or any other CTH of the subject imported goods as it has been mentioned in the notification that “*the Customs classification is only indicative and not binding on the scope of the product under consideration*”) imported from China. Therefore, summons bearing DIN No. 202410DDZ4000000CD37 dated 16.10.2024 (**RUD-02**) to appear on 23.10.2024 was issued to the Importer to tender statement and to submit documents related to import of Aluminium Frames.

5. In response to above mentioned summons dated 16.10.2024, Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of the Importer appeared on 23.10.2024 for tendering statement. His statement was recorded under Section 108 of the Customs Act, 1962 on 23.10.2024 (**RUD-03**) wherein, he inter alia, stated that: –

- M/s Kosol Energie Private Limited, Ahmedabad is an engineering company engaged in manufacturing of Photovoltaic / Solar Module, Solar Panel etc.; that it is engaged in obtaining Government contract for establishing Solar Plants and their maintenance for the tendered period and it also supplies Solar Modules and Solar Panel in the domestic market.
- He is responsible for handling import sourcing, customs clearance and logistics. He along with his team also take care of import clearances, filing Bills of Entry and other customs activities and he also takes care of all customs circulars/ notifications and classification of commodities in Customs/Bills of Entry.
- They import Solar Cell ARC Tempered Glass, Anodized Aluminium Frames, PV Ribbon from China and EVA Backsheet from Korea for manufacture of Solar Modules and Solar Panel.
- The Aluminium frames imported by them are coated with silver to prevent these from corrosion and to make them last long.
- The Aluminium Frame Alloy- Anodized/Aluminium Frames imported by M/s Kosol Energie Private Limited were used exclusively in manufacturing of Solar Panels and Solar Modules by them.
- They had imported Aluminium Frame Alloy- Anodized/Aluminium Frames only from China.
- After going through the Final Finding ADD (OI)-07/2023 dated 29.06.2024 issued

by Ministry of Commerce & Industry, Directorate General of Trade Remedies, New Delhi from F. No. 6/07/2023-DGTR, he stated that vide these findings, it was proposed to impose anti-dumping duty on “Anodized Aluminium Frames for Solar Panels/Modules” originating in or exported from China PR.

- That, after 27.09.2024, they had imported total 5 (Five) consignments of “Anodized Aluminium Frames” at ICD Khodiyar (Ahmedabad) declaring the same as Aluminium Frame Alloy- Anodized and CTH as 76101000 and 01 (one) consignment of “Anodized Aluminium Frames” at Nhava Sheva Port declaring the same as Aluminium Frame and CTH as 76101000.
- After going through relevant page of Customs Tariff covering CTH 7610/CTH 76101000, he stated that CTH 76101000 is for Aluminium doors, windows and their frames and thresholds for doors and as the “Anodized Aluminium Frames” imported by them were for manufacture of Solar Panel and Solar Modules, these are not classifiable under CTH 76101000.
- After going through relevant page of Customs Tariff covering CTH 7616, he stated that the CTH 7616 relates to other articles of Aluminium and the “Anodized Aluminium Frames” imported by M/s Kosol Energie Private Limited, Ahmedabad is correctly classifiable under CTH 76169990-Other, as there is no specific entry for the subject goods in the Customs Tariff.
- That they were declaring the CTH of “Aluminium Frames” imported by them as 76101000 since long even before imposition of anti dumping duty vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 on the subject goods, therefore, even after subject notification, they continued the same CTH i.e. 76101000 and had not paid anti dumping duty.
- He agreed that “Anodized Aluminium Frames” imported by M/s Kosol Energie Private Limited, Ahmedabad vide Bills of Entry as mentioned in his statement is correctly classifiable under CTH 76169990 and accordingly anti dumping duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 is payable on it by them.
- That the supplier of Anodized Aluminium Frames imported by them was M/s Suzhou Sentong Photovoltaic Co. Ltd., therefore as per Sl. No. 6 of Notification No.16/2024Customs (ADD) dated 27.09.2024 anti dumping duty @ 577 USD per MT was payable by them.
- They had not made payment of anti-dumping duty at the applicable rate at the time of home clearance of “Anodized Aluminium Frames” imported vide 6 Bills of Entry because all these six Bills of Entry were ex-bond Bills of Entry and the corresponding warehouse Bills of Entry for these six Bills of Entry were filed before 27.09.2024, therefore, they have decided that no anti-dumping duty was payable. However, after understanding the subject notification and other relevant provisions of Customs Act, 1962, he agreed that anti-dumping duty @577 USD/MT was payable by them.

6. Summons were issued to the Customs Broker i.e. M/s Parikh Clearing Agency Private Limited, Ahmedabad who handled the clearance of subject imported goods at ICD-Khodiyar (INSBI6) and M/s Total Sea-land Logistics Private Limited, Mumbai who handled the clearance of subject imported goods at JNCH- Nhava Sheva (INNSA1) and their statements were recorded under Section 108 of the Customs Act, 1962.

6.1 In response to summons DIN No. 202410DDZ4000000F996 dated 16.10.2024 **(RUD04)**, Shri Rupin Kishor Parikh, Managing Director of M/s Parikh Clearing Agency Private Limited, Ahmedabad appeared on 23.10.2024 to tender statement. His statement was recorded under Section 108 of the Customs Act, 1962 on 23.10.2024 **(RUD-05)** wherein, he interalia, stated that:

- M/s Parikh Clearing Agency Private Limited, Ahmedabad is a Customs Broker company having licence no. CHA/ABD/R/2/93 issued by Deputy Commissioner (Technical), Customs, Ahmedabad, which is engaged in customs clearance of import and export cargo at the ports/ICDs situated in Ahmedabad.
- He is responsible for all the activities carried out by his company like customs clearances, maintaining relations with the clients, finance of the company etc.
- They have cleared various import consignments of Aluminium Frame Alloy-Anodized, PV Junction Box, Solar PV Ribbon, Solar Cell Mono etc. imported by M/s Kosol Energie Private Limited at ICD, Khodiyar.
- The importer viz. M/s Kosol Energie Private Limited provides them the import documents viz. Bill of Lading, Invoice, Packing List, analysis document if applicable along with details of CTH and they prepare checklist as per the details provided by the importer and share the same with M/s Kosol Energie Private Limited for confirmation to file Bill of Entry; After confirmation from the importer they file Bill of Entry; after assessment they send a copy of Bill of Entry to the importer for payment of duty and after payment of duty, they get the OOC and on receipt of OOC they inform the importer; that all the above said document sharing is carried out through email. For day-to-day clearances of goods, they remain in contact with Jitendra Narendra Modi, Assistant Manager (EXIM) of M/s Kosol Energie Private Limited.
- They had filed total 5 (Five) Bills of Entry for home clearance of “Anodized Aluminium Frames” after 27.09.2024 at ICD Khodiyar (Ahmedabad) declaring the same as Aluminium Frame Alloy- Anodized and CTH as 76101000.
- After going through relevant page of Customs Tariff covering CTH 7610/CTH 76101000, he stated that the CTH 76101000 is for Aluminium doors, windows and their frames and thresholds for doors and as the Aluminium Frames imported by M/s Kosol Energie Private Limited, Ahmedabad are for manufacture of Solar Modules, these are not classifiable under CTH 76101000.
- After going through relevant page of Customs Tariff covering CTH 7616 he stated that the CTH 7616 relates to other articles of Aluminium and the imported goods i.e “Aluminium Frame Alloy - Silver Anodized” is correctly classifiable under CTH 76169990-Other, as there is no specific entry for the subject goods in the Customs Tariff.
- They had declared CTH 76101000 on the basis of Invoices, Certificate of Origin etc. provided to them by the importer and as CTH 76169990 was not mentioned in these documents, they have not declared the same in the Bills of Entry filed by them.
- After going through the Notification No. 16/2024-Customs (ADD) dated 27.09.2024 he stated that Anodized Aluminium Frames imported vide Bills of Entry mentioned in his statement were imported from China hence covered under this notification and antidumping duty at the rate @577 USD per MT was payable by the importer as per sr. no. 6 of the subject notification.
- They have declared CTH of the subject imported goods as 76101000 on the basis of documents provided by the importer and at the time of filing of Bills of Entry, the

EDI system didn't reflect the subject notification, therefore, they have not mentioned Notification No.16/2024Customs (ADD) dated 27.09.2024 in the Bills of Entry filed by them. He further stated that they have shared the checklist with the importer and after the same was duly approved by the importer without Anti-Dumping Duty, they have filed Bills of Entry.

- On being asked about the Responsibility of the customs broker as per the Customs Brokers Licensing Rules, 2018, he stated that the responsibility of the Customs Broker is to take utmost care while submitting the documents to the customs at the time of filing the Bills of Entry i.e. all the details as received from the importer and thereafter submitted by the customs broker should be correct.
- On being asked, whether it is not the responsibility of the customs broker to correctly mention the notification no. under which duty is leviable on the imported goods, he stated that it is the responsibility of the customs broker as well as of the importer to correctly mention the applicable notification no. and pay duties on the imported goods.
- On being asked, haven't they failed in fulfilling their obligations as customs broker by not mentioning the notification no. vide which ADD was levied, in the Bills of Entry filed by them, he stated that they had mentioned the CTH of the imported goods as 76101000 on the basis of documents provided to them by the importer and the EDI system didn't reflect the subject notification as the same was imposed on the other CTH i.e. 76109010, 76109030 and 7616990 and therefore as per his opinion they have not failed in their obligations.

6.2 In response to summons bearing DIN No. 202410DDZ40000653298 dated 29.10.2024 (**RUD-06**) and further summons bearing DIN No. 202411DDZ40000823359 dated 07.11.2024 (**RUD-07**), Shri Ramesh Shamarao Lohar, Senior Executive of M/s Total Sea-land Logistics Private Limited, Mumbai appeared on 12.11.2024 to tender statement. His statement was recorded under Section 108 of the Customs Act, 1962 on 12.11.2024 (**RUD-08**) wherein, he interalia, stated that:

- M/s Total Sea-land Logistics Private Limited, Mumbai is a customs broker company having licence no. 11/2396 issued by Commissioner of Customs, Mumbai and is engaged in customs clearance of import and export cargo at the ports/ICDs situated in Mumbai, Kolkata, Mundra, Nagpur etc.
- Being Senior Executive, he is responsible for all the activities carried out by his company like preparation of documents for customs clearances, coordination with various importers and exporters, maintaining relations with the clients etc.
- They have cleared only 01 import consignment of Aluminium Frame imported by M/s Kosol Energie Private Limited at JNCH, Nhava Sheva, Mumbai.
- The importer viz. M/s Kosol Energie Private Limited provides them import documents viz. Bill of Lading, Invoice, Packing List along with details of CTH and they prepare checklist as per the details provided by the importer and share the same with M/s Kosol Energie Private Limited for confirmation to file Bill of Entry; After confirmation from the importer they file Bill of Entry; after assessment they send a copy of Bill of Entry to the importer for payment of duty and after payment of duty, they get the OOC and on receipt of OOC they inform the importer; that all the above said document sharing is carried out through email. For day-to-day clearances of goods, they remain in contact with Jitendra Narendra Modi, Assistant Manager

(EXIM) of M/s Kosol Energie Private Limited.

- After 27.09.2024, they have filed 01 Bill of Entry for clearance of “Aluminium Frames” at JNCH, Nhava Sheva (INNSA1) on behalf of M/s Kosol Energie Private Limited, Ahmedabad, wherein they have declared description of the imported goods as Aluminium Frame and CTH as “76101000”.
- After going through relevant page of Customs Tariff covering CTH 7610 and CTH 76101000 he stated that the CTH 76101000 is for Aluminium doors, windows and their frames and thresholds for doors and as the Aluminium Frames imported by M/s Kosol Energie Private Limited, Ahmedabad are for manufacture of Solar Modules, these are not classifiable under CTH 76101000.
- After going through relevant page of Customs Tariff covering CTH 7616 he stated that the CTH 7616 relates to other articles of Aluminium and the imported goods i.e “Aluminium Frame” is correctly classifiable under CTH 76169990-Other, as there is no specific entry for the subject goods in the Customs Tariff.
- They had worked on behalf of M/s Kosol Energie Private Limited for the first time and the above stated Bill of Entry was the first work handled by them for subject importer. He further stated that they have declared CTH 76101000 of the “Aluminium Frame” imported by M/s Kosol Energie Private Limited, Ahmedabad in the Bill of Entry filed by them on the basis of Invoices, Certificate of Origin, along with one sample Bill of Entry provided to them by the importer and as CTH 76169990 was not mentioned in above stated documents, they have not declared the same in the Bill of Entry filed by them.
- After going through the Notification No. 16/2024-Customs (ADD) dated 27.09.2024 he stated that Aluminium Frames imported vide Bill of Entry mentioned in his statement was imported from China hence are covered under this notification and anti-dumping duty at rate @577 USD per MT was payable by the importer as per sr. no. 6 of the subject notification.
- They have declared CTH of the subject imported goods as 76101000 on the basis of documents provided by the importer and at the time of filing of Bill of Entry, the EDI system didn't reflect the subject notification, therefore, they have not mentioned notification No.16/2024Customs (ADD) dated 27.09.2024 in the Bill of Entry filed by them. He further stated that they have shared the checklist with the importer and after the same was duly approved by the importer without Anti-Dumping Duty, they have filed Bill of Entry.
- On being asked about the Responsibility of the customs broker as per the Customs Brokers Licensing Rules, 2018, he stated that the responsibility of the Customs Broker is to take utmost care while submitting the documents to the customs at the time of filing the Bill of Entry i.e. all the details as received from the importer and thereby submitted by the customs broker should be correct.
- On being asked, whether it is not the responsibility of the customs broker to correctly mention the notification no. under which duty is leviable on the imported goods, he stated that it is the responsibility of the customs broker as well as of the importer to correctly mention the notification no. and pay duties on the imported goods.
- On being asked, haven't they failed in fulfilling their obligations as customs broker by not mentioning the applicable notification no. vide which ADD was levied in the Bill of Entry filed by them, he stated that they had mentioned the CTH of the imported goods as 76101000 on the basis of documents provided to them by the importer and the EDI system didn't reflected the subject notification as the same was

imposed on the other CTH i.e. 76109010, 76109030 and 7616990 and therefore as per his opinion they have not failed in their obligations.

7. From the above discussed statement of Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of the Importer, it emerged that the Aluminium Frame Alloy-Anodized/Aluminium Frames imported by the Importer were used exclusively in manufacturing of Solar Panels and Solar Modules by them. Further, Shri Jitendra Narendra Modi agreed in his statement that “Anodized Aluminium Frames” imported by them is correctly classifiable under CTI 76169990 and anti dumping duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 is payable by them. Further, the customs brokers who had handled clearance of these imported goods had also admitted in their respective statements that the Aluminium Frames imported by the subject importer were correctly classifiable under CTI 76169990 and anti-dumping duty at rate @577 USD per MT was payable by the importer as per sr. no. 6 of the Notification No. 16/2024-Customs (ADD) dated 27.09.2024.

Classification of the imported Anodized Aluminium Frame/Aluminium Frame:-

8. The Importer had declared description of the subject imported goods as “Aluminium Frame Alloy - Silver Anodized”/ “Aluminium Frames” and CTI as 76101000 in the Bills of Entry filed by them as mentioned in Annexure-A to this notice, whereas it appears that the subject imported goods are rightly classifiable under CTI 76169990.

8.1 The CTI 76101000 is for Aluminium doors, windows and their frames and thresholds for doors. The relevant extract of CTH 7610 `is appended as under:-

7610 *Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures.*

7610 10 00 Doors, windows and their frames and thresholds for doors

8.2 From the above, it appears that Aluminium doors, windows and their frames and thresholds for doors are classifiable under CTI 76101000, whereas, in the instant matter, the importer had imported the Aluminium Frames for manufacture of Solar Panels and Solar Modules i.e. for the purpose other than those mentioned in CTI 76101000, which shows that the imported goods are not classifiable under CTI 76101000. The subject imported goods merits classifications under CTH 7616 which covers “Other articles of Aluminium”. The CTH 7616 relates to other articles of Aluminium and the imported goods i.e Aluminium Frame Alloy - Silver Anodized” and “Aluminium Frames” is correctly classifiable under CTI 76169990, as there is no specific entry for the subject goods in the Customs Tariff. The relevant extract of CTH 7616 is appended as under: -

7616	<i>Other articles of Aluminium</i>
7616 99 10	--- <i>Expanded metal of aluminium and aluminium alloys</i>
7616 99 20	--- <i>Chains</i>

7616 99 30 --- *Bobbins*
 7616 99 90 --- *Other*

8.3 In view of the above, it appears that the Aluminium Frame Alloy - Silver Anodized” and “Aluminium Frames” imported by the Importer merits classification under CTI 76169990.

Non-payment of Anti-Dumping Duty (ADD) imposed vide Notification No. 16/2024 Customs (ADD) dated 27.09.2024

9. Anti dumping duty (ADD) was imposed on the “Anodized Aluminium Frames for Solar Panels/Modules” imported from China, under Section 9A of the Customs Tariff Act, 1975 read with Rules 18 & 20 of the Customs Tariff (Identification, Assessment and collection of Anty Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995. In pursuant of Section 9A (8) of the Customs Tariff Act, 1975, the provisions of the Customs Act, 1962 relating to the date of determination of rate of duty will apply to duty chargeable under Section 9A(8) of the Customs Tariff Act as they apply in relation to the duties leviable under the Customs Act, 1962. Further, in terms of Section 15 (1)(a) of the Customs Act, 1962 the date of presentation of Bill of Entry is the relevant date for determining the rate of duty and Section 15(1)(a) of the Customs Act, 1962 will be applicable with respect to imposition of Anti dumping duty in terms of Section 9A(8) of the Customs Tariff Act, 1975. Relevant portion of the statute is reproduced herein under:-

Customs Tariff Act, 1975, as amended: -

Section 9A: Anti-dumping duty on dumped articles.

1. *Where any article is exported by an exporter or producer from any country or territory (hereinafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti-dumping duty not exceeding the margin of dumping in relation to such article.*
2. *to (7)*
- (8) *The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.*

Customs Act, 1962, as amended

Section 15. Date for determination of rate of duty and tariff valuation of imported goods. –

- (1) *The rate of duty and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force, -*
- a. *in the case of goods entered for home consumption under section 46, on the date on*

- which a bill of entry in respect of such goods is presented under that section;*
- b. *in the case of goods cleared from a warehouse under section 68, on the date on which a bill of entry for home consumption in respect of such goods is presented under that section;*
 - c. *in the case of any other goods, on the date of payment of duty:*

Provided that if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft or the vehicle by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be.

9.1 On congruent reading of Section 9A of the Customs Tariff Act, 1975 as amended and Section 15 of the Customs Act, 1962, as amended, it appears that the relevant date for determination of payment of Anti dumping duty will be the date of presentation of the Bill of Entry for home consumption. Therefore, in the instant matter, since the Anti dumping duty was already imposed vide Notification dated 27.09.2024 i.e prior to the date of filing of Bills of Entry for home consumption, the Anti dumping duty is leviable/payable in case of the Bills of Entry mentioned in attached Annexure-A.

10. Whereas, it is clear that the Importer had imported Aluminium Frame Alloy-Anodized/Aluminium Frames for manufacture of Solar Panels and Solar Modules and the imported goods are correctly classifiable under CTI 76169990. Further, it appears that Notification No.16/2024-Customs (ADD) dated 27.09.2024 imposing Anti dumping duty on the Anodized Aluminium Frames for Solar Panels/Modules imported from China was in the public domain and hence the Importer was fully aware about the said notification, however, despite being fully aware of the notification and imposition of anti-dumping duty on the Anodized Aluminium Frames for Solar Panels/Modules, the importer had wilfully misclassified the subject imported goods under CTI 76101000 and had not paid the Anti-dumping Duty on the subject imported goods. Thus, it is evident that the importer had wilfully evaded the applicable Anti-Dumping Duty (ADD) on the imported goods imported vide Bills of Entry as detailed in attached Annexure-A.

10.1 The Importer had imported Anodized Aluminium Frame/Aluminium Frame from China based supplier M/s Suzhou Sentong Photovoltaic Co. Ltd. and had not paid applicable anti-dumping duty levied vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024. They had imported the subject goods by filing 5 Bills of Entry at ICD-Khodiyar (INSBI6) falling under the jurisdiction of Ahmedabad Customs Commissionerate and 1 Bill of Entry at JNCH, Nhava Sheva (INNSA1) during the period from 30.09.2024 to 09.10.2024. During this period, the importer had filed total 6 Bills of Entry as detailed in Annexure-A attached with this notice at the above stated Customs locations for import of 1,46,569 Kgs of Aluminium Frames having total assessable value of Rs. 4,54,06,495/- by intentionally misclassifying the same and by not paying applicable anti-dumping duty levied vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024. By virtue of misclassification and non-payment of applicable customs duty (anti-dumping duty and differential IGST), the importer had evaded customs duty aggregating to Rs.84,33,084/- (Rupees Eighty Four Lakh, Thirty Three Thousand and Eighty-Four only) as detailed in attached Annexure-A. The summary of the differential customs duty (anti-dumping duty + IGST) payable by the importer is as under: -

Sr. No.	Custom House Code	Bill of Entry No. and Date	Name of Supplier	Quantity of goods (Kgs)	Assessable Value (Rs.)	Differential Duty Payable (Rs.)
1.	ICD-Khodiyar (INSBI6)	5876137 dated 30.09.2024	Suzhou Sentong Photovoltaic Co., Ltd.	35700	11771840	2055132
2.	ICD-Khodiyar (INSBI6)	5886960 dated 30.09.2024	Suzhou Sentong Photovoltaic Co., Ltd.	14721	4856065	847440
3.	ICD-Khodiyar (INSBI6)	5890759 dated 01.10.2024	Suzhou Sentong Photovoltaic Co., Ltd.	35288	10845983	2031414
4.	ICD-Khodiyar (INSBI6)	6016336 dated 08.10.2024	Suzhou Sentong Photovoltaic Co., Ltd.	13090	3851289	747755
5.	ICD-Khodiyar (INSBI6)	6016337 dated 08.10.2024	Suzhou Sentong Photovoltaic Co., Ltd.	7140	2354368	411026
6.	JNCHNhava Sheva (INNSA1)	6039388 dated 09.10.2024	Suzhou Sentong Photovoltaic Co., Ltd.	40630	11726950	2340318
			Total	1,46,569	4,54,06,495	84,33,084

11. The importer had subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Customs Act, 1962 in all their import consignments. Further, consequent upon the amendment to Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, 1962 effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer 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 an 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 Integrated Declaration and Paperless Processing) Regulation, 2018 (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 center, a Bill

of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Under the scheme of self-assessment, it is the importer who had to doubly ensure that he declares the correct description of the imported goods, their correct classification, the applicable rate of duty, value, and benefit of exemption notification claimed, if any. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April 2011, it is the added and enhanced responsibility of the importer to declare the correct description, CTH, value, notification, etc. and to correctly determine and pay the duty applies in respect of the imported goods while presenting the Bill of Entry. Further, the meaning and definition of assessment has been substituted by Finance Act, 2018 dated 29.03.2018, which states that “assessment” means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable with reference to the tariff classification of the imported goods, value of imported goods, exemption or concession of duty, tax, cess or any other sum consequent upon any notification issued in respect of imported goods, quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of imported goods, origin of imported goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods and any other specific factor which affects the duty, tax, cess or any other sum payable on imported goods and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil, as determined in accordance with the provisions of the Customs Tariff Act, 1975. Thus, in the self-assessment regime, the onus is on the importer to correctly mention the applicable notifications and pay applicable duties, however, in the instant case, the importer had failed in fulfilling his responsibility by misclassifying the subject imported goods, by not mentioning the subject notification in the Bills of Entry and by not paying applicable Anti-dumping Duty (ADD) and thereby evading payment of Anti-dumping Duty.

12. The facts and pieces of evidence discussed in paras supra revealed that the importer had imported Aluminium Frame for manufacture of Solar Panels and Solar Modules and the importer had willingly and knowingly misclassified the subject imported goods under CTI 7601000 to evade the Anti-Dumping Duty levied vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024. The fact regarding applicability of anti-dumping duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 on the subject imported goods had also been accepted by Shri Jitendra Modi, Assistant Manager (EXIM) of M/s Kosol Energie Private Limited in his statement dated 23.10.2024 and respective customs brokers in their respective statements as discussed in para 6.1 and 6.2 supra. The Notification No. 16/2024-Customs (ADD) dated 27.09.2024 was in the public domain and therefore it is evident that the importer was fully aware of the said notification, however, despite being fully aware of the subject notification and imposition of Anti-Dumping Duty (ADD) on the Aluminium Frames, the importer had misclassified the subject imported goods and had not paid Anti-Dumping Duty (ADD) on the imported goods. Thus, it is evident that the importer had wilfully evaded the applicable Anti-Dumping Duty (ADD) on the Aluminium Frames imported vide Bills of Entry as detailed in attached Annexure-A.

13. The Importer was well aware of the applicability of Notification No. 16/2024-Customs (ADD) dated 27.09.2024 on the Aluminium Frames imported by them, however had willingly evaded applicable customs duty (anti-dumping duty) by misclassifying the

imported goods and by not mentioning the subject notification in the Bills of Entry. Thus, by the above acts and commission, the importer had contravened the provisions of Section 17 and Section 46 of the Customs Act, 1962 read with Section 9A of the Customs Tariff Act, 1975 in as much as the importer had failed to assess and determine the levy of Anti dumping duty imposed vide Notification No.16/2024-Customs (ADD) dated 27.09.2024 on the imported goods and had misclassified the subject imported goods under CTI 76101000, though the same were correctly classifiable under CTI 76169990, while filing Bills of Entry at the time of the importation of the subject imported goods. The same was done to evade the payment of applicable Anti-Dumping Duty (ADD) and had resulted in short-payment of other customs levies viz. IGST as Anti-Dumping Duty (ADD) forms part of the value for the computation of IGST. This wilful misclassification of the imported goods and non-payment of Anti-Dumping Duty (ADD) by the Importer had rendered 1,46,569 Kgs of the subject imported goods valued at Rs.4,54,06,495/- liable to confiscation under Section 111(m) of the Customs Act, 1962.

14. The Importer was engaged in manufacture of the Solar Panels and Solar Modules, for which they import various goods viz. Solar Cell ARC Tempered Glass, Anodized Aluminium Frames, PV Ribbon from China and EVA Backsheet from Korea. The importer was aware of the correct end use of the Aluminium Frames imported by them, however, despite being fully aware of the correct end use of the imported goods, the importer had not declared the same before the Customs authority and had not only misclassified but had also not paid applicable Anti-Dumping Duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024. The importer had deliberately not stated the end use of the imported goods and had wrongly classified the subject goods under CTI 76101000 so as to escape from detection by the customs authorities. Thus, the facts and evidences discussed above clearly show that the importer resorted to wilful misclassification of the subject imported goods and suppression of facts that the subject goods were imported for use in manufacture of Solar Panels and Solar Modules and had not mentioned Notification No. 16/2024-Customs (ADD) dated 27.09.2024 in the Bills of Entry with an ulterior motive of evading payment of the applicable anti dumping duty on the imported goods. Hence, Section 28(4) of the Customs Act, 1962 for demand of duty is applicable in the instant case. Annexure-A containing details of the goods imported by the Importer by non-payment of applicable anti-dumping duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 is attached with this notice and in column no. 22 of the Annexure-A, the differential duty evaded by them is calculated. The differential customs duty (anti dumping duty + diff. IGST) aggregating to Rs.84,33,084/- (Rupees Eighty Four Lakhs, Thirty Three Thousand and Eighty-Four only) leviable on the imported goods and cleared under Bills of Entry mentioned in column no. 03 of Annexure -A and not paid by the Importer is, therefore, liable to be demanded and recovered from them as per provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962. Further, by wilful misclassification of the subject imported goods and non-payment of customs duty (anti-dumping duty), the Importer had also rendered 1,46,569 Kgs of Aluminium Frames totally valued at Rs. 4,54,06,495/- liable to confiscation as per the provisions of Section 111(m) of the Customs Act, 1962. The Importer is, therefore, liable to penalty under Section 112(a) and 112(b) of the Customs Act, 1962.

15. The Notification No. 16/2024-Customs (ADD) dated 27.09.2024 was in public domain. Hence, it is clearly evident that importer had knowingly involved himself in the

non-payment of anti-dumping duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024. For these acts and commissions, M/s Kosol Energy Private Limited had rendered themselves liable to penalty under Section 114A of the Customs Act, 1962. Further, the importer had knowingly and intentionally made the declarations which were false and incorrect and had wilfully misclassified the subject imported goods under CTI 76101000 instead of its correct CTI 76169990 and had wilfully not mentioned the subject notification in the Bills of Entry and therefore, the importer has rendered themselves liable to penalty under Section 114AA of the Customs Act, 1962.

16. Shri Jitendra Narendra Modi, Assistant Manager (EXIM) of the Importer, was responsible person for taking care of import clearances, filing of Bills of Entry and other Custom activities and also all customs circulars/ notifications and classification of commodities in the Bills of Entry filed by subject Importer. In his statement dated 23.10.2024 recorded under Section 108 of the Customs Act, 1962, after going through relevant page of Customs Tariff covering CTH 7616, he stated that the CTH 7616 relates to other articles of Aluminium and the “Anodized Aluminium Frames” imported by M/s Kosol Energie Private Limited, Ahmedabad is correctly classifiable under CTI 76169990-Other. Further, he agreed that “Anodized Aluminium Frames” imported by the Importer were used exclusively by them in the manufacturing of Solar Panels and Solar Modules and is correctly classifiable under CTI 76169990 and accordingly Anti dumping duty imposed vide Notification No. 16/2024-Customs (ADD) dated 27.09.2024 is payable on it by them. Thus, it appears that he was aware of the subject Notification 16/2024-Customs (ADD) dated 27.09.2024 imposing Anti dumping duty on the imported Aluminium Frames, however he did not bother to pay the Anti dumping duty in respect of five Bills of Entry filed at ICD Khodiyar and one Bill of Entry filed at JNCH Nhava Sheva after issuance of the said notification. This shows wilful non-payment of Anti dumping duty (ADD) by the Importer. This acts on the part of Shri Jitendra Narendra Modi have rendered the subject imported goods liable to confiscation under Section 111(m) of the Customs Act, 1962 and Shri Jitendra Narendra Modi liable to penalty under Section 112(a)(ii) of the Customs Act, 1962.

17. Whereas, the Importer has voluntarily paid an amount of Rs.84,33,084/- towards their duty liability, Rs.3,05,539/- towards interest liability and Rs.12,64,963/- towards penalty, under Challan No. 984 & 985 both dated 26.12.2025, 302/2246 dated 30.12.2024 and 3651526191 dated 16.10.2024.

18. Now, therefore , M/s Kosol Energie Private Limited (IEC: 2406003311), 193, Kalthia House, Satyagrah Chhavni, Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat -380015, is hereby called upon to show cause to the Principal Commissioner of Customs, Ahmedabad having his Office at 1st floor, Customs House, Ashram Road, Near Akashwani Bhavan, Navrangpura, Ahmedabad, as to why:

- i. The classification of the impugned goods “Aluminium Frame Alloy - Silver Anodized/ Aluminium Frames” imported vide Bills of Entry, mentioned in Annexure A to this show cause notice, as declared by them under Customs Tariff Item 76101000 should not be rejected and the said goods should not be reclassified under Customs Tariff Item 76169990 of the Customs Tariff Act, 1975, with applicable rate of duty i.e. BCD @10%, SWS @10% of BCD, Anti-Dumping Duty @577 USD/MT and IGST @18%;

- ii. The differential Customs Duty amounting to Rs.84,33,084/- (Rupees Eighty Four Lakhs, Thirty Three Thousand and Eighty-Four only), short paid on the impugned goods imported vide the Bills of Entry, as mentioned in **Annexures - A** to this show cause notice, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962 along with the applicable interest thereon under Section 28AA of the Customs Act, 1962 and as to why the duty amount of Rs.84,33,084/- (Rupees Eighty Four Lakhs, Thirty Three Thousand and Eighty-Four only) and interest amount of Rs.3,05,539/- (Rupees Three Lakh, Five Thousand, Five Hundred and Thirty Nine only) paid by them voluntarily should not be appropriated and adjusted towards their above duty and interest liability;
- iii. The impugned goods viz. 1,46,569 Kgs of “Aluminium Frame Alloy - Silver Anodized/ Aluminium Frames” imported vide Bills of Entry, as mentioned in Annexure A to this show cause notice, valued at Rs. 4,54,06,495/- (Rupees Four Crore, Fifty Four Lakh, Six Thousand, Four Hundred and Ninety Five only), should not be held liable to confiscation under Section 111 (m) of the Customs Act, 1962. Since the same are not physically available for confiscation why fine in lieu of confiscation should not be imposed upon them under Section 125 of the Customs Act, 1962;
- iv. Penalty should not be imposed upon them under Section 112 (a) and 112(b) of the Customs Act, 1962 for the reasons discussed in paras supra;
- v. Penalty should not be imposed on them under Section 114A of the Customs Act, 1962 for the reasons discussed in paras supra and as to why the amount of Rs.12,64,963/- (Rupees Twelve Lakh, Sixty Four Thousand, Nine Hundred and Sixty Three only) paid by them voluntarily should not be appropriated and adjusted towards their above penalty liability and
- vi. Penalty should not be imposed upon them under Section 114AA of the Customs Act, 1962 for the reasons discussed in paras supra.

19. Now, therefore, Shri Jitendra Narendra Modi, Assistant Manager (EXIM), M/s Kosol Energie Private Limited (IEC: 2406003311), 193, Kalthia House, Satyagrah Chhavni, Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat -380015, is hereby called upon to show cause to the Principal Commissioner of Customs, Ahmedabad having his Office at 1st floor, Customs House, Ashram Road, Near Akashwani Bhavan, Navrangpura, Ahmedabad, as to why penalty should not be imposed on them under Section 112 (a)(ii) of the Customs Act, 1962 for the reasons discussed in paras supra.

20. M/s Kosol Energie Private Limited (IEC: 2406003311), having registered office at 193, Kalthia House, Satyagrah Chhavni, Opp. ISCON Mega Mall, S.G. Highway, Ahmedabad, Gujarat -380015, is required to file their reply within thirty days from the receipt of this Notice. They are also directed to produce at the time of showing cause, all the evidences upon which they intend to rely in support of their defence. They are further required to indicate in their written reply as to whether they desire to be heard in person before the case is adjudicated.

21. If no reply is received from them within 30 (Thirty) days of the receipt of this Notice or if they do not appear before the Adjudicating Authority when the case is posted for hearing, the case will be decided ex-parte, on the basis of available records without any further reference to them.

22. This Show Cause Notice is issued without prejudice to any other action that may be taken against them under the Customs Act, 1962 and the Rules framed there under or under any other law for the time being in force.

23. The documents relied upon in the present Show Cause Notice are as listed at Annexure- B attached to this Notice and are available with them, hence the same are not supplied.

24. The Department reserves its right to amend, modify or supplement this Notice at any time on the basis of evidences available/evidences gathered later on, prior to the adjudication of the case.

(Shiv Kumar Sharma)
Principal Commissioner

Encl:- Annexure-A & B

BY REGISTERED A.D./SPEED POST/HAND DELIVERY

F.No. VIII/10-07/Pr.Commr/O&A/2025-26

Dated: 01-01-2026

DIN: 20260171MN000005180A

To,

(1) M/s Kosol Energie Private Limited (IEC: 2406003311),
193, Kalthia House, Satyagrah Chhavni,
Opp. ISCON Mega Mall, S.G. Highway,
Ahmedabad, Gujarat -380015.

(2) Shri Jitendra Narendra Modi, Assistant Manager (EXIM),
M/s Kosol Energie Private Limited (IEC: 2406003311),
193, Kalthia House, Satyagrah Chhavni,
Opp. ISCON Mega Mall, S.G. Highway,
Ahmedabad, Gujarat -380015.

Copy to:-

1. The Additional Director, DRI, Regional Unit, Jaipur.
2. The Asstt. Commissioner of Customs, ICD-Khodiyar, Ahmedabad.
3. The Asstt./Dy. Commissioner of Customs, Import Group-4, JNCH, Nhava Sheva-III.
4. Guard file