



F. No. GEN/ADJ/COMM/710/2025-Adjn-O/o Commr-Cus-Kandla Date: 07.01.2026

DIN: 20260171ML00007277C6

Show Cause Notice
(Issued under section 28(4) of Customs Act, 1962)

M/s Payal Polyplast Private Limited, Plot No. D-II/CH/2, GIDC, Industrial Estate, Dahej, Vaghra, Bharuch-392130 having IEC No.0511004346 (**here in after referred to as “the Importer” or “the auditee” for the sake of brevity**) are engaged in manufacturing of Dioctyl Teraphthalate (DOTP). The importer was issued various Advance Authorisation Licences in view of Notification Number 21/2015 dated 01.04.2015 for import of raw material i.e. “2-Ethyl Hexanol” for manufacturing of Dioctyl Terephthalate for export.

2. Whereas, an analysis was done by NCTC, Mumbai for wrong availment of IGST Duty for goods imported claiming benefit of Notification No. 021/2015-Customs dated 01.04.2015 (Advance Authorization Scheme for Deemed Exports). The said analysis report was communicated to this office vide Analytical Report 04/2022-23 dated 10.05.2022. On the basis of said report, such Bills of Entry pertaining to Kandla Port were traced out wherein it was noticed that the said importer has filed following Bills of Entry (**RUD-01**) for clearance of the said imported goods. The details of which are given as under;

TABLE-I

Sr. No.	Bill of Entry No. & Date	CTH	DESCRIPTION	QTY (MTS)
1.	2311939 dated 11.01.2021	29051620	2 Ethyl Hexanol	793.419
2.	2673228 dated 08.02.2021	29051620	2 Ethyl Hexanol	41.84
3.	2673412 dated 08.02.2021	29051620	2 Ethyl Hexanol	149.967
4.	2740019 dated 12.02.2021	29051620	2 Ethyl Hexanol	24.856
5.	2744016 dated 12.02.2021	29051620	2 Ethyl Hexanol	16.727
6.	2745149 dated 12.02.2021	29051620	2 Ethyl Hexanol	20.246
7.	3064686 dated 08.03.2021	29051620	2 Ethyl Hexanol	75.00
8.	3065503 dated 08.03.2021	29051620	2 Ethyl Hexanol	75.00
9.	3157042 dated 15.03.2021	29051620	2 Ethyl Hexanol	83.078
10.	3173595 dated 17.03.2021	29051620	2 Ethyl Hexanol	142.821
11.	3175866 dated 17.03.2021	29051620	2 Ethyl Hexanol	6.461

12.	3518605 dated 10.04.2021	29051620	2 Ethyl Hexanol	34.013
13.	3518887 dated 10.04.2021	29051620	2 Ethyl Hexanol	17.115
14.	4196490 dated 04.06.2021	29051620	2 Ethyl Hexanol	105.567
15.	4212664 dated 05.06.2021	29051620	2 Ethyl Hexanol	100.00
16.	4212677 dated 05.06.2021	29051620	2 Ethyl Hexanol	200.00
17.	4233716 dated 08.06.2021	29051620	2 Ethyl Hexanol	42.08
18.	2673412 dated 08.02.2021	29051620	2 Ethyl Hexanol	149.967
19.	2744016 dated 12.02.2021	29051620	2 Ethyl Hexanol	16.727
20.	3173595 dated 17.03.2021	29051620	2 Ethyl Hexanol	142.821

3. In view of the above, an analysis was done for wrong availment of IGST for goods imported claiming benefit of Notification No. 021/2015-Cus dtd.01.04.2015 (**Advance Authorisation Scheme for Deemed Exports**). As per the said Notification No. 021/2015-Cus dtd.01.04.2015, exemption is granted to the material required for the manufacture of the final goods when imported into India, from whole of the duty of Customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, safeguard duty leviable thereon under Section 8B, countervailing duty leviable thereon under Section 9 and anti-dumping duty leviable thereon under Section 9A of the Customs Tariff Act subject to the conditions laid down under the said notification.

4.1 Further, one of the conditions of the subject notification is that the importer has been granted Advance Authorisation for deemed export by the Regional Authority in terms of Paragraph 4.05(c)(iii) of the Foreign Trade Policy (FTP) permitting import of the said materials.

4.2 Paragraph 4.05(c)(iii) of the Foreign Trade Policy states as under:

“(c) Advance Authorisation shall be issued for:

(iii) Supply of goods to the categories mentioned in paragraph 7.02 (b), (c), (e), (f), (g) and (h) of this FTP.”

4.3 Paragraphs 7.02 (b), (c), (e), (f), (g) and (h) of the Foreign Trade Policy read as under:

“Categories of Supply.”

Supply of goods under following categories (a) to (d) by a manufacturer and under categories (e) to (h) by main/sub-contractors shall be regarded as “Deemed Exports”:

A. Supply by manufacturer.

(b) Supply of goods to EOU/STP/EHTP/BTP,

(c) Supply of capita/ goods against EPCG Authorisation,

B. Supply by main/sub-contractor(s):

(e) (i) Supply of goods to projects financed by multilateral or bilateral Agencies/Funds as notified by Department of Economic Affairs {DEA}, MoF, where legal agreements provide for tender evaluation without including customs duty.

(ii) Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral Agencies/Funds as notified by Department of Economic Affairs (DBA), MoF, for which bids have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad.

(iii) Supplies covered in this paragraph shall be under International Competitive Bidding (ICB) in accordance with procedures of those Agencies /Funds. (iv) A list of agencies, covered under this paragraph, for deemed export benefits, is given in Appendix 7A.

(f) (i) Supply of goods to any project or for any purpose in respect of which the Ministry of Finance, by erstwhile Notification No. 12/2012 -Customs dated 17.3.2012, as amended from time to time, had permitted import of such goods at zero customs duty {with exemption of both BCD and CVD} subject to conditions specified therein and which are continued under the Customs Notification No. 50/2017-CuStoms dated 30.6.2017 with exemption of zero basic customs duty and subject to conditions mentioned in the said new notification. Benefits of deemed exports shall be available only If the supply is made under procedure of ICB.

(ii) Supply of goods required for setting up of any mega power project, as specified in the list 31 at Sl. No. 598 of Department of Revenue Notification No. 50/2017- Customs dated 30.6.2017, as amended from time to time and subject to conditions mentioned therein, shall be eligible for deemed export benefits provided such mega power project conforms to the threshold generation capacity specified in the above said Notification.

(iii) For mega power projects, ICB condition would not be

mandatory if the requisite quantum of power has been tied up through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding.

(g) Supply of goods to United Nations or International organization for their official use or supplied to the projects financed by the said United Nations or an International organization approved by Government of India in pursuance of section 3 of United Nations (Privileges and Immunities Act), 1947. List of such organization and conditions applicable to such supplies is given in the Customs notification no. 84/97-Customs dated 11.11.1997, as amended from time to time. A list of Agencies, covered under this paragraph, is given in Appendix-7B.

(h) Supply of goods to nuclear power projects provided.

(i) Such goods are required for setting up of any Nuclear Power Project as specified in the list 32 at SI No. 602, Customs Notification no. 50/2017-Customs dated 30.6.2017, as amended from time to time and subject to conditions mentioned therein.

(ii) The project should have a capacity of 440 MW or more.

(iii) A certificate to the effect is required to be issued by an officer not below the rank of joint Secretary to Government of India, in Department of Atomic Energy.

(iv) Tender is invited through National competitive bidding (NCB) or through ICB."

4.4 From the aforesaid provisions of the Notification No. 021/2015-Cus dated 01.04.2015 and the Foreign Trade Policy, it is evident that, for the goods imported claiming benefit of Notification No. 021/2015-Cus dated 01.04.2015, when the goods imported are meant for Deemed Exports, IGST is not exempted.

5. As per Notification No. 018/2015-Cus dated 01.04.2015, exemption is granted to the materials imported into India against a valid Advance Authorisation issued by the Regional Authority in terms of para 4.03 of the Foreign Trade Policy (Not para 4.05 (c) (iii)) from the whole of the duty of Customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, integrated tax leviable thereon under sub-section (7) of Section 3, goods and service tax

compensation cess leviable thereon under sub-section (9) of Section 3, safeguard duty leviable thereon under Section 8B, countervailing duty leviable thereon under Section 9 and anti-dumping duty leviable thereon under Section 9A of the Customs Tariff Act subject to the conditions laid down under the said notification.

5.1 Paragraph 4.03 of the Foreign Trade Policy states as under:

"Advance Authorisation:

(a) Advance Authorisation is issued to allow duty free import of input, which is physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, catalyst which is consumed/utilized in the process of production of export product, may also be allowed.

(b) Advance Authorisation is issued for inputs in relation to resultant product, on the following basis:

(i) As per Standard Input Output Norms (SION) notified (available in Hand Book of Procedures); OR

(ii) On the basis of self-declaration as per paragraph 4.07 of Handbook of Procedures. OR

(iii) Applicant specific prior fixation of norm by the Norms Committee OR

(iv) On the basis of Self Ratification Scheme in terms of Para 4.07A of Foreign Trade Policy."

6. Further, Notification No. 018/2015-Cus dated 01.04.2015 is applicable for advance licenses for physical exports, whereas Notification No.021/2015-Cus dated 01.04.2015 is applicable for advance licenses for deemed exports.

7. From the provisions of Notification No. 021/2015-Cus dated 01.04.2015 and Notification No. 018/2015-Cus dated 01.04.2015 and the provisions of Foreign Trade Policy as mentioned above and as per the conditions laid down in both the aforesaid Notifications, it is amply clear that an importer, who has been granted Advance Authorisation in the respective Notification, can avail the benefit of the said Notification only.

8. M/s Payal Polyplast Private Limited, Plot No. D-II/CH/2, GIDC, Industrial Estate, Dahej, Vaghra, Bharuch having IEC No.0511004346 (IEC-0392049856) (in short "the importer" or "the auditee") has cleared the imported goods by simultaneously availing Notification No. 21/2015-Cus dated 01.04.2015 for exemption from payment of whole of Customs duty and

Notification No. 18/2015-Cus. dated 01.04.2015 for exemption from payment of IGST in 20 Bills of Entry. Inexplicably, two separate notifications have been simultaneously claimed for exemption from BCD and IGST. The details of such Bills of Entry, wherein they have simultaneously claimed Notification No. 21/2015-Cus dated 01.04.2015 for exemption from payment of whole of Customs duty and Notification No. 18/2015-Cus dated 01.04.2015 for exemption from payment of IGST, are as mentioned as in Para 2 of Table-I.

9. In above mentioned Bills of Entry, it is noticed that the Importer has used/debited Advance Authorisation(s) granted to them under Notification No. 021/2015 Cus dtd. 01.04.2015 (Advance Authorisation for deemed exports). As discussed herein above, import claiming benefit of Notification No. 021/2015-Cus dtd. 01.04.2015 for the goods imported are meant for Deemed Exports, IGST is not exempted.

10. In the instant case, it is further noticed that the importer has simultaneously claimed the benefits of Notification No. 021/2015-Cus dtd. 01.04.2015 for goods imported, and Notification No. 018/2015-Cus dtd. 01.04.2015 for exemption of IGST, which is not permitted, as the Advance Authorisation(s) used/debited in the said 20 Bills of Entry, was/were granted to them under Notification No. 021/2015-Cus dtd. 01.04.2015 (Advance Authorisation for deemed exports) and exemption Notification No. 021/2015-Cus dtd. 01.04.2015 does not give exemption for payment of IGST as discussed hereinabove.

11. As the goods were imported claiming benefit of Notification No. 021/2015-Cus dtd. 01.04.2015, which is applicable for advance licenses for deemed exports, therefore, the exemption of IGST under Notification No. 018/2015-Cus dtd. 01.04.2015, which is applicable for advance licenses for physical exports, can not be permitted and thus, it appears that IGST was wrongly exempted and was not paid in respect of the above-mentioned twenty (20) Bills of Entry.

12. Accordingly, pre-notice consultative letter in the form of Demand Cum Less Charge Notice dated 23.01.2024 for Rs.3,03,32,356.5/- was issued to the importer apprising them to pay the differential Customs duty with applicable interest and penalty to which the Importer vide letter dated 02.04.2024 replied that they did not agree with the same. Further, the said Demand Cum Less Charge Notice dated 23.01.2024, does not cover 03 Bills of Entry (BE Nos. 2673412 dated 08.02.2021, 2744016 dated 12.02.2021 & 3173595 dated 17.03.2021) which has duly been covered in this SCN.

13. The above reply received from the importer is examined with the relevant provisions of law as mentioned below:-

(i) The import is governed by the Customs Act, 1962 and other allied Acts. Section 111 of the Customs Act, 1962 provides provisions regarding confiscation of the goods improperly imported from the place outside India. Section 111(m) deals with confiscation of goods which do not correspond in respect of value or in any other particular with the entry made under this Act.

(ii) As discussed hereinabove from Para 1 to Para 7, from the provisions of Notification No. 021/2015- Cus dtd. 01.04.2015 (Advance Authorisation for deemed exports) and Notification No. 018/2015-Cus dtd. 01.04.2015 (Advance Authorisation for physical exports) and the provisions of Foreign Trade Policy as mentioned above and as per the conditions laid down in both the aforesaid Notifications, it is amply clear that an importer, who has been granted Advance Authorisation in the respective Notification, can avail the benefit of the said Notification only and that for the goods imported claiming benefit of Notification No. 021/2015-Cus dtd. 01.04.2015, when the goods imported are meant for Deemed Exports, IGST is not exempted.

(iii) Notification No. 18 dated 01.04.2015 is applicable for advance licenses for physical exports and not for deemed exports, whereas Advance Authorisation(s) used/debited in the said 20 Bills of Entry, was/were granted to them under Notification No. 021/2015-Cus dtd. 01.04.2015 (Advance Authorisation for deemed exports).

(iv) The Importer has submitted that Notification No. 21 of 2015 provides the rulings related to exemption of Integrated Central Tax in relation to the subject matter, which is reproduced below:

"2. The exemption from safeguard duty, transitional/ product specific safeguard duty and anti- dumping duty shall not be available in respect of material required for final goods which are covered under sub-clauses (a), (c), (d) and (i) of clause (III) of the Explanation to this notification.

Explanation (Applicable)

(a) Supply of goods against Advance Authorisation or Advance Authorisation for annual requirement or Duty Free Import Authorisation Scheme;

The integrated tax is not the subject matter of the said notification as evident from the aforesaid provision. Safeguard duty, transitional product specific safeguard duty and antidumping duty are not available for exemption if the supply of goods is against Advance Authorisation.

Perusing the above submission, it is observed that the said submission of the Importer is regarding non-exemption from safeguard duty, transitional product specific safeguard duty and anti-dumping duty in respect of material

required for final goods which shall be supplied against Advance Authorisation or Advance Authorisation for annual requirement or Duty Free Import Authorisation Scheme. It is nowhere mentioned in the Importer's above submission that IGST is exempted against imports made under Notification No. 21 dated 01.04.2015.

Further, Notification No. 21 dated 01.04.2015 (Advance Authorisation for deemed exports), as amended, does not provide exemption from IGST as there is no explicit mention of exemption of IGST in Notification No. 21 dated 01.04.2015. However, Notification No. 18 dated 01.04.2015 (Advance Authorisation for physical exports), as amended, provides exemption from IGST as there is explicit mention of exemption of IGST in Notification No. 18 dated 01.04.2015.

(v) Vide Notification No. 53 of 15-01-19, the regional authority (DGFT) extended the said exemption for deemed export covered under the supply to DTA against Advance Authorisation and hence they are entitled for the exemption, over and above the customs duty. So far as the integrated tax is concerned, the same has already been exempted in para 4.14 of Foreign Trade Policy and therefore it is amply clear that they have not violated any of the provisions made in Notification No. 21 of 2015.

Vide Notification No. 33/2015-20 dated 13.10.2017 issued by DGFT, Para 4.14 of Foreign Trade Policy 2015-20 has been amended to read as under:

"4.14: Details of Duties exempted

Imports under Advance Authorisation are exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-dumping Duty, Countervailing Duty, Safeguard Duty, Transition Product Specific Safeguard Duty, wherever applicable. Import against supplies covered under paragraph 7.02 (c), (d) and (g) of FTP will not be exempted from payment of applicable Anti-dumping Duty, Countervailing Duty, Safeguard Duty and Transition Product Specific Safeguard Duty, if any. However, imports under Advance Authorisation for physical exports are also exempt from whole of the integrated tax and Compensation Cess leviable under sub-section (7) and sub-section (9) respectively, of section 3 of the Customs Tariff Act, 1975 (51 of 1975), as may be provided in the notification issued by Department of Revenue, and such imports shall be subject to pre-import condition."

As per Para 4.14 amended vide Notification No. 33/2015-20 dated 13.10.2017 issued by DGFT, integrated tax is exempt for imports under Advance Authorisation for physical exports only i.e. under Notification No. 18/2015-Cus dtd. 01.04.2015 (Advance Authorisation for physical exports) only, whereas Advance Authorisation(s) used/debited in the said 20 Bills of Entry, was/were granted to them under Notification No. 021/2015-Cus dtd. 01.04.2015 (Advance Authorisation for deemed

exports).

vi) Vide Notification No.79/2017-Cus dated 13.10.2017, following amendments have been made in various Customs exemption notifications to exempt Integrated Tax/Cess on import of goods under AA/EPCG. Amendment made in Notification Nos. 018/2015-Cus dtd. 01.04.2015 & 021/2015-Cus dtd.01.04.2015 are as under:

Sl. No.	Notification number and date	Amendments
(1)	(2)	(3)
2	18/2015-Customs, dated 1 st April, 2015 [vide number G.S.R. 254 (E), dated 1 st April, 2015]	In the said notification, in the opening paragraph,-(a) for the words, brackets, figures and letters "from the whole of the additional duty leviable thereon under sub- sections (1), (3) and (5) of section 3, safeguard duty leviable thereon under section 8B and anti-dumping duty leviable thereon under section 9A",the words, brackets, figures and letters "from the whole of the additional duty
		leviable thereon under sub-sections (1), (3) and (5) of Section 3, integrated tax leviable thereon under sub-section (7) of section 3, goods and services tax compensation cess leviable thereon under sub-section (9) of section 3, safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A"shall be substituted;(b) in condition (viii), after the proviso, the following proviso shall be inserted, namely:-"Provided further that notwithstanding anything contained hereinabove for the said authorisations where the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section

		(7)and sub section (9) of section 3of the said Customs Tariff Act, has been availed, the export obligation shall be fulfilled by physical exports only;";(c) after condition (xi), the following conditions shall be inserted, namely :-(xii) that the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7)and sub-section (9) of section 3of the said Customs Tariff Act shall be subject to pre-import condition; (xiii) that the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7)and sub-section (9) of section 3of the said Customs Tariff Act shall be available up to the 31stMarch, 2018."
4.	21/2015- Customs, dated 1 st April 2015 [vide number G.S.R. 257(E), dated 1 st April, 2015]	In the said notification, (a) in the opening paragraph, for the words, figures, and letters "safeguard duty leviable thereon under section 8B and anti-dumping duty leviable thereon under section 9A" the words, figures and letters "safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A"shall be substituted.(b) in paragraph 2, for the words "safeguard duty, transitional product specific safeguard duty and antidumping duty", the words "safeguard duty, transitional product specific safeguard duty, countervailing duty and antidumping duty" shall be substituted.

vii) Subsequently, CBIC have made following amendments vide Notification No. 01/2019-Cus dated 10.01.2019, in various Customs exemption notifications to exempt Integrated Tax/Cess for materials imported against Advance Authorizations and Advance Authorizations for Annual Requirement.

S. No.	Notification No. Date	Amendments
		In the said notification,-

1)	<p>18/2015-Customs, dated 1st April, 2015 regarding implementation of Advance Authorisation Scheme under FTP 2015-20</p>	<p>(a) after condition (vi), the following conditions shall be inserted, namely:-</p> <p>“Vi)(a) that in respect of imports made after the discharge of export Obligation in full, if facility of input tax credit under relevant Goods and Services Tax law on inputs used for manufacture and supply of goods exported has been availed, then the importer shall, at the time of clearance Of the imported materials, furnish a bond to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself, to use the imported materials in his factory or in the factory of his supporting manufacturer for the manufacture and supply of taxable goods (other than nil rated or fully exempt supplies) and to submit a certificate from a chartered accountant within six months from the date clearance of the said materials, that the imported materials have been used;</p> <p>Provided that if the importer pays integrated tax and the goods and services tax compensation cess leviable on the imported materials under sub-section (7) and sub-section (9) respectively of section 3 of the said Customs Tariff Act on the imported materials but for the exemption contained herein, then such imported materials may be cleared without furnishing a bond specified in this condition;</p> <p>(vi)(b) that in respect of imports made after the discharge of export obligation in full, and if facility of input tax credit under relevant Goods and Services Tax law has not been availed on inputs used in the manufacture and supply of goods exported and the importer furnishes proof to this effect to the satisfaction of the Deputy Commissioner of Customs, or the Assistant Commissioner of Customs, as the case may be, then the imported materials may be cleared without furnishing a bond specified in condition (vi)(a);”;</p> <p>(b) in condition (viii), for the second proviso, the following proviso shall be substituted, namely:-</p> <p>“Provided further that notwithstanding anything contained hereinabove for the said authorisations where the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub- section (7) and sub-section (9) respectively of section 3 of the said Customs Tariff Act, has been availed, the export obligation shall be fulfilled by physical exports or by making domestic supplies mentioned at serial numbers 1, 2 and 3 of the Table contained in notification No.48/2017- Central Tax, dated the 18th October, 2017 (published vide number G.S.R. 1305(E), dated the 18th October, 2017);”;</p>
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		(c) condition (xii) shall be omitted.
2)	20/2015- Customs dated 1 st April 2015 regarding implementation of Advance authorization Scheme for annual requirement under FTP 2015-20	<p>In the said notification,-</p> <p>(a) after condition (v), the following conditions shall be inserted, namely:-</p> <p>"(v)(a) that in respect of imports made after the discharge of export obligation in full, if facility of input tax credit under relevant Goods and Services Tax law on inputs used for manufacture and supply of goods exported has been availed, then the importer shall, at the time of clearance Of the imported materials, furnish a bond to the Deputy Commissioner of CUSTOMS OR Assistant Commissioner of Customs, as the case may be, binding himself, to use the imported materials in his factory or in the factory of his supporting manufacturer for the manufacture and supply of taxable goods (other than nil rated or fully exempt supplies) and to submit a certificate from a chartered accountant within six months from the date Of clearance of the said materials, that the imported materials have been So used;</p> <p>Provided that if the importer pays integrated tax and the goods and services tax compensation cess leviable on the imported materials under sub-section (7) and sub-section (9) respectively of section 3 of the said Customs Tariff Act on the imported materials but for the exemption contained herein, then such imported materials may be cleared without furnishing a bond specified in this condition;</p> <p>(v)(b) that in respect of imports made after the discharge of export obligation in full, and if facility of input tax credit under relevant Goods and Services Tax law has not been availed on inputs used in the manufacture and supply of goods exported and the importer furnishes proof to this effect to the satisfaction of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, then the imported materials may be cleared without furnishing a bond specified in condition{(v)(a)};"</p> <p>(b) in condition (viii), for the second proviso, the following proviso shall be substituted, namely:-</p> <p>"Provided further that notwithstanding anything contained hereinabove for the said authorisations where the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub- section (7) and sub-section (9) respectively of section 3 of the said Customs Tariff Act, has been availed, the export obligation shall be fulfilled by physical exports or by making domestic supplies mentioned at serial numbers 1, 2 and 3 of the Table contained in notification No.48/2017- Central Tax, dated the 18th October, 2017 [published vide number 1305(E), dated the</p>

	<p>18th October, 2017];“;</p> <p>(c) condition (xiii) shall be omitted.</p>
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viii) Further, the CBIC vide **Notification No. 19/2022-Customs dated March 31, 2022 has issued amendments in Notification No. 16/2015-Customs, dated April 1, 2015, Notification No. 18/2015- Customs, dated April 1, 2015, Notification No. 20/2015-Customs, dated April 1 2015, Notification No. 22/2015-Customs, dated April 1, 2015 and Notification No. 45/2016-Customs, dated August 13, 2016** in order to extended the date of exemption of Integrated Goods and Services Tax (“IGST”) and the Goods and Services Tax Compensation Cess on certain goods under Foreign Trade Policy 2015-2020 (“FTP”) imported in India under the Export Promotion Capital Goods Scheme (“EPCG Scheme”), Advance Authorisation Scheme, materials imported into India under Advance Authorisation for annual requirement, materials imported into India under Advance Authorisation for export of a prohibited goods, and fabrics imported into India under Special Advance Authorisation respectively, from March 31, 2022 to June 30 2022.

ix) Thus, in view of above, it is very much clear that exemption of duty is governed by the tariff notification issued under sub-section (1) of section 25 of the Customs Act, 1962. Importer/Auditee has availed benefit of two notifications simultaneously, i.e. Notification No 21/2015 and Notification No. 18/2015. As the Authorization was issued under Notification 21/2015, the benefit of Notification No. 18/2015 is not permissible. Further, it is very much clear from above discussion that Notification 21/2015 does not provide the provision for exemption from IGST. Therefore, contentions of Importer/Auditee in reply are not sustainable.

14. Relevant Legal provisions:-

A. *The import of goods has been defined in the IGST Act, 2017 as bringing goods in India from a place outside India. All import shall be deemed as inter-state supplies and accordingly integrated tax shall be levied in addition to the applicable Custom duties. The IGST Act, 2017 provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provision of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when the duties of Customs are levied on the said goods under the Customs Act, 1962. Section 5 of the integrated Goods and Service Tax Act, 2017 stipulated that “provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provision of Section 3 of the Custom Tariff Act, 1975 (51 of 1975) on the value as determined under the said Act at the point when the duties of Customs are levied on the said goods under*

Section 12 of the Customs Act, 1962.

B. As per Sub Section 7 of section 3 of Customs Tariff Act, 197s any article which has been imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty percent, as is leviable under Section 5 of the integrated Goods and Service tax, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section 8 or sub-section 8A as the case may be.

C. In terms of Section 46(4) of Customs Act, 1962, the importer is required to make a declaration as regards the truth of the contents of the Bill of entry submitted for assessment of Customs duty, details of which is reproduced below for reference:-

"Section 46(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."

D. Section 28(4) of the Customs Act, 1962 provides that

"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".

E. Section 28(AA) of Customs Act, 1962 provides for provisions of interest on delayed payment of duty-

"(1) Where any duty has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub- Section (2), or has paid the duty under sub-Section (2B), of Section 28, shall, in addition to the duty, be liable to pay interest at such rate not below ten per cent. and not exceeding thirty-six per cent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the

first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-Section (2), or sub-Section (2B), of Section 28, till the date of payment of such duty."

F. Section 111 of the Customs Act, 1962 deals with the Confiscation of improperly imported goods, etc.

The relevant provisions are reproduced below:-

"Section 111(m) - any goods which do not correspond in respect of value or in any other particular with the entry mode 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 transshipment, with the declaration for transshipment referred to in the proviso to sub- Section (1) of Section 54.

Section 111(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."

G. Section 112 of the Customs Act, 1963 deal with 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] [Substituted by Act 14 of 2001, Section 107, for certain words (w.e.f. 11.5.2001).], whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty [not exceeding the duty sought to be evaded on such goods or five thousand rupees,] [Substituted by Act 14 of 2001, Section 107, for certain words (w.e.f. 11.5.2001).] whichever is the greater;

(iii) [in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereinafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees] [Inserted by Act 36 of 1973, Section 3 (w.e.f. 1.9.1973).],[whichever is the greater; [Inserted by Act 36 of 1973, Section 3 (w.e.f. 1.9.1973).]

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty [not exceeding the difference between the declared value and the value thereof or five thousand rupees],[whichever is the highest; [Inserted by Act 36 of 1973, Section 3 (w.e.f. 1.9.1973).]

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty [not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], [whichever is the highest.] [Inserted by Act 36 of 1973, Section 3 (w.e.f. 1.9.1973).]

H. Section 114A of the Customs Act, 1962 deals with the penalty by reason of collusion or any wilful mis- statement or suppression of facts. The relevant provision is reproduced below:-

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 willful 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:

- i. Section 114AA of the Customs Act, 1962 deals with penalty for use of false and incorrect material. The relevant provision is reproduced below:

"Section 114AA - Penalty for use of false and incorrect material - If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business /or the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods."

15. In view of the above-mentioned facts, it appears that IGST amounting to Rs.3,38,99,681/- (Rupees Three Crore Thirty-Eight Lakhs Ninety-Nine Thousand Six Hundred Eighty-One) (as detailed in Annexure-A) has not been paid by the importer in respect of the above-mentioned twenty (20) Bills of Entry, which is liable to be recovered under Section 28(4) of Customs Act, 1962 read with Section 3(7) of the Customs Tariff Act, 1975 read with Section 5 of the Integrated Goods and Services Tax Act, 2017 along with interest as applicable under Section 28AA of the Customs Act, 1962.

16. It appears that the Noticee has contravened the provisions of sub section (4) of Section 46 of the Customs Act, 1962, in as much as, they had intentionally mis-declared/willful mis-statement to declare Notification as 018/2015-Cus dtd.01.04.2015 for IGST exemption benefit instead of Notification No. 021/2015- Cus dtd.01.04.2015 at the time of filling of Bills of Entries filed under the provisions of Section 46(4) of the Customs Act, 1962.

17. Further, under the provision of Section 17(1) of the Customs Act, 1962 an importer entering any imported goods shall self-assess the duty leviable on such goods. However, in the instant case the Noticee has self-assessed the subject Bills of Entries and has wrongly claiming the benefit of IGST exemption as per Notification No.018/2015-Cus dtd.01.04.2015 in respect of goods imported for deemed export under advance licenses issued under Notification No.021/2015-Cus dtd. 01.04.2015 in above said twenty (20) Bills of Entry as discussed above. Thus, it appears that they have contravened the provision of Section 17(1) ibid.

18. In view of the facts discussed in the foregoing paras and material evidence available on record, it appears that the importer has contravened the provisions of Section

46(4) read with Section 17(1) of the Custom Act, 1962 in as much as they had not paid IGST which was not exempted under Notification No.021/2015-Cus dtd. 01.04.2015 in respect of the above-mentioned imported items in above said twenty (20) Bills of Entry and thereby they have mis-declared/ willful mis-statement to declare the correct Notification, while filing the declaration, seeking clearance at the time importation of the impugned goods. For the said act, the said importer also appears liable for penal action under the provision of Section 114A and 114AA of the Customs Act, 1962 and/ or 112 (a) of the Customs Act, 1962.

19. In order to sensitize the People of Trade (read Importer/Exporter) about its benefit and consequences of mis-use; Government of India has also issued 'Customs Manual on Self-Assessment 2011'. The publication of the 'Customs Manual on Self-Assessment 2011' was required as because prior to enactment of the provision of 'Self-Assessment', mis-classification or wrong-availment of duty exemption etc., in normal course of import, was not considered as mis-declaration or mis-statement. Under para-1.3 of Chapter-1 of the above manual, Importers/Exporters who are unable to do the Self-Assessment because of any complexity, lack of clarity, lack of information etc. may exercise the following options: (a) Seek assistance from Help Desk located in each Custom Houses, or (b) Refer to information on CBEC/ICEGATE web portal (www.cbic.gov.in), or (c) Apply in writing to the Deputy/Assistant Commissioner in charge of Appraising Group to allow provisional assessment, or (d) An importer may seek Advance Ruling from the Authority on Advance Ruling, New Delhi if qualifying conditions are satisfied. Para 3 (a) of Chapter 1 of the above Manual further stipulates that the Importer/Exporter is responsible for Self-Assessment of duty on imported/exported goods and for filing all declarations and related documents and confirming these are true, correct and complete. Under para-2.1 of Chapter-1 of the above manual, Self-Assessment can result in assured facilitation for compliant importers. However, delinquent and habitually non-compliant **importers/ exporters** could face penal action on account of wrong Self-Assessment made with intent to evade duty or avoid compliance of conditions of notifications, Foreign Trade Policy or any other provision under the Customs Act, 1962 or the Allied Acts.

20. In the instant case, the importer/auditee had willfully mis-stated the facts & wrongly availed IGST duty exemption benefit by inserting Notification no. 18/2015-Cus dated- 01.04.2015, whereas advance license was issued under Notification no. 21/2015-Cus dated- 01.04.2015 and thus in guise of this, they had not paid IGST duty on aforesaid 20 Bills of entry.

21. In the light of the documentary evidences, as brought out above and the legal position, it appears that a well thought out conspiracy was hatched by the importer/ auditee to defraud the exchequer by adopting the modus operandi of mis-declaring the Notification no. 18/2015-Cus dated-01.04.2015 instead of Notification no, 21/2015-Cus dated- 01.04.2015.

22. Whereas, it is apparent that the importer/auditee was in complete knowledge of the correct notification nevertheless, the importer/auditee claimed undue notification benefit for the said goods in order to clear the goods by wrongly availed IGST duty exemption

benefit by inserting Notification no. 18/2015-Cus dated- 01.04.2015 instead of correct Notification no. 21/2015-Cus dated- 01.04.2015. With the introduction of self-assessment under Section 17, more faith is bestowed on the importers, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As a part of self-assessment by the importer/auditee, has been entrusted with the responsibility to correctly self-assess the duty. However, in the instance case, the importer/auditee intentionally abused this faith placed upon it by the law of the land. Therefore, it appears that the importer/auditee has willfully violated the provisions of Section 17(1) of the Act in as much as importer/auditee has failed to correctly self-assessed the impugned goods and has also wilfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act.

23. Therefore, it appears that the importer/auditee wilfully claimed undue notifications benefit for the goods imported resulting into non-payment of IGST duty and by doing so have rendered the goods mentioned in (Table-I above) liable to confiscation under Section 111(m) & (o) of the Customs Act, 1962. For such act/omissions, the importer also appears to have rendered themselves liable to penalty under Section 112(a) ibid. Further, it appears that in respect of the Bills of Entry mentioned in the Table-I above, such wrong claim of notifications benefit on the part of the importer/auditee has resulted into non-payment of IGST duty total amounting to Rs.3,38,99,681/- (Rupees Three Crore Thirty-Eight Lakhs Ninety-Nine Thousand Six Hundred Eighty-One) for 20 bills of Entries filed by them, which is recoverable from the importer/auditee under the provisions of Section 28(4) of the Customs Act, 1962 (hereinafter referred to as 'the Act') along with interest as applicable under Section 28AA of the Act. By the said deliberate wrong claim of notification benefit, the importer/ noticees also appear to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.

24. From the foregoing discussions it appears that,

- a. The importer/auditee has willfully mis-stated the facts & wrongly availed IGST duty exemption benefit by inserting Notification no. 18/2015-Cus dated- 01.04.2015 whereas the importer was issued Advance Authorisation License under Notification no. 21/2015-Cus dated- 01.04.2015.
- b. Thus, the non-payment of IGST duty total amounting to Rs.3,38,99,681/- (Rupees Three Crore Thirty-Eight Lakhs Ninety-Nine Thousand Six Hundred Eighty-One) for 20 bills of Entries **(as per Annexure-A)** filed by them at Kandla Port, Gujarat is required to be recovered from the importer/ auditee in terms of Section 28(4) of the Customs Act, 1962 read with Section 3(7) of the Customs Tariff Act, 1975 read with Section 5 of the Integrated Goods and Services Tax Act, 2017.
- c. Interest (rate as applicable) on non-payment of IGST duty total amounting to Rs.3,38,99,681/- (Rupees Three Crore Thirty-Eight Lakhs Ninety-Nine Thousand Six Hundred Eighty-One) worked out as short levy of customs duties for in the case of 20 bills of Entries filed by them at Kandla Port,

Gujarat is required to be recovered from the importer/ auditee in terms of Section 28AA of the Customs Act, 1962.

d. For willful mis-statement and suppression of facts by the Importer/auditee with an intent to evade IGST duty amounting to Rs.3,38,99,681/- (Rupees Three Crore Thirty-Eight Lakhs Ninety-Nine Thousand Six Hundred Eighty-One) extended period upto 5 years is applicable.

e. The goods imported which were self-assessed and cleared with declared assessable value of Rs.15,65,15,345/- (Rupees Fifteen Crores Sixty Five Lakhs Fifteen Thousand Three Hundred Forty Five only) appears liable for confiscation under the provisions of Section 111(m) and 111(o) of the Customs Act,1962; However, the said goods are already cleared and are not available for confiscation.

f. Importer/ auditee is also liable for penalty under Section 112(a) and/or 114A and 114AA of the Customs Act, 1962 for collusion and willful mis-statement and suppression of facts by him and active involvement in wrongful availment of Notification, for which they are not entitled which rendered the goods liable to confiscation under Section 111(m) and 111(o) of the Customs Act, 1962.

25. Now, therefore, in exercise of powers conferred upon in Section 28 and Section 124 of the Customs Act. 1962 M/s Payal Polyplast Private Limited, Plot No. D-II/CH/2, GIDC, Industrial Estate, Dahej, Vaghra, Bharuch (IEC No.0511004346) are called upon to show cause to the Commissioner of Customs, Kandla, as to why:

- (a) The IGST total amounting to Rs.3,38,99,681/- (Rupees Three Crore Thirty-Eight Lakhs Ninety-Nine Thousand Six Hundred Eighty-One) **(as detailed in Annexure-A)** leviable on the impugned goods and not paid by them should not be demanded and recovered from them in terms of Section 28(4) of the Customs Act, 1962 read with Section 3(7) of the Customs Tariff Act, 1975 read with Section 5 of the Integrated Goods and Services Tax Act, 2017 along with applicable interest under Section 28AA of the Customs Act, 1962.
- (b) All the goods imported vide 20 Bills of Entry **(as detailed in Table-I)**, which were self- assessed and have already been cleared, having assessable value of Rs.15,65,15,345/- (Rupees Fifteen Crores Sixty Five Lakhs Fifteen Thousand Three Hundred Forty Five only) should not be held liable to confiscation under Section 111 (m) and 111(o) of the Customs Act, 1962. However, the said goods are already cleared and are not available for confiscation.
- (c) Penalty should not be imposed under Section 112(a) and/or 114A and 114AA of the Customs Act, 1962 of Customs Act, 1962 in respect of each of Bill of Entry.

26. The importer/auditee is also required at the time of showing cause, to produce all the evidences upon which he intend to rely in support of his defense. He should also indicate whether he wishes to be heard in person before the case is adjudicated.

27. If no cause is shown against the action proposed to be taken or he does not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on merits.

28. The present Show Cause Notice is issued without prejudice to any other action that may be taken under any other provision of the Customs Act, 1962 and/or rules made there under and/or under the provisions of any other law for the time being in force in India. The department is also free to issue addendum to this Show Cause Notice if any further fact/ documents come to notice.

29. This Show Cause Notice is being issued as per the scrutiny of records conducted so far. Hence, the department reserves its rights under the provisions of Customs Act, 1962 to conduct further Audit / Scrutiny of the records and issue subsequent or separate show cause notice(s), if any.

30. The importer/auditee is further informed that they have the right to opt for closure of these proceedings under Section 28(6) of Customs Act, 1962. If they so decide, then in terms of Section 28(S) of the Customs Act, 1962, they may pay the duty demanded in this Show Cause Notice in full or in part, as may be accepted by them, and the interest payable thereon under Section 28AA and penalty equal to fifteen percent of the duty specified in this notice or the duty so accepted by them, within 30 days of the receipt of the notice and inform the concerned Adjudicating and/or of such payment in writing.

31. The documents relied upon to this Show Cause notice are as listed at Annexure - 'R' are attached with this Show Cause Notice.

(Nitin Saini)
Commissioner of Customs,
Custom House, Kandla.

F. No.: GEN/ADJ/COMM/710/2025-Adjn-O/o Commr-Cus-Kandla
DIN: 20260171ML00007277C6

To,
M/s Payal Polyplast Private Limited IEC No.0511004346,
Plot No. D-II/CH/2, GIDC, Industrial Estate,
Dahej, Vaghra, Bharuch-392130.

Copy to:

1. Assistant Commissioner of Customs, Group-II, Custom House, Kandla for information.
2. The Additional Commissioner (DGARM), NCTC, Mumbai, 13, SIRVITTALDAS THACKERSEY MARG, OPP. PATKAR HALL, NEW MARINE LINES, MUMBAI-400020 I.R.O. Analytics Report/04/2022-23 dated 10.05.2022 vide F. No. NCTC/MISC/18/2022-DD/AD-V-O/o Pr ADG-DGARM-NCTC-MUMBAI for information please.
3. Superintendent, EDI, Custom House, Kandla for uploading the same on official website.
4. Guard File.

Annexure-R

List of Relied Upon Documents to the SCN dated 07.01.2026 issued from F. No. GEN/ADJ/COMM/710/2025-Adjn-O/o Commr-Cus-Kandla in respect of M/s Payal Polyplast Private Limited, Plot No. D-II/CH/2, GIDC, Industrial Estate, Dahej, Vaghra, Bharuch-392130 (IEC No.0511004346)

S. No.	Name of the Document	Relied Upon Document Number
1.	20 Bills of Entry as per Table-I to the SCN (already available with the Noticee)	RUD-1
2.	Duty Calculation Sheet	Annexure-A