

	<p style="text-align: center;">कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421 PHONE:02838-271426/271423 FAX:02838-271425 Email:adj-mundra@gov.in, commr-cusmundra@nic.in</p>	
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DIN-20241271MO000000B362

Date: 11.12.2024

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SHOW CAUSE NOTICE

[Issued under Section 124 read with Section 28 of the Customs Act, 1962]

Whereas, specific intelligence developed denoted that M/s. Jaiman Metalloys LLP (hereinafter also referred to as 'the said Importer') having its registered address as 1116, 11th Floor, CS1487, Prasad Chambers, Tata Road, No. 2 Roxy Cinema, Mumbai 400004 has evaded the payment of Anti-Dumping duty applicable on imports of Stainless Steel Pipes & Tubes after the issuance of Notification no. 31/2022-Customs (ADD) dated 20-12-2022. The import has been made under Bill of Entry No. 3817867 dated 20-12-2022.

2. The applicability of the Anti-Dumping Duty is on Stainless Steel Pipes & Tubes having its origin from China or exported from China and having dimensions with diameter up to and including 6 NPS, or comparable thereof in other unit of measurement, whether manufactured using hot extrusion process or hot piercing process and whether sold as hot finished or cold finished pipes and tubes, including subject goods imported in the form of defectives, non-prime or secondary grades. It may be noteworthy to highlight that 6 NPS is equal to 168.3 mm.

3. Whereas, the said consignment of Bill of Entry No. 3817867 dated 20-12-2022 was cleared for home consumption through Out of Charge dated 21-12-2022 and without payment of Anti-Dumping Duty imposed. Further details in respect of the import is as under:

Name of Importer	:	M/s. Jaiman Metalloys LLP
Address of Importer	:	1116, 11 th Floor, CS1487, Prasad Chambers, Tata Road, No. 2 Roxy Cinema, Mumbai 400004
IEC No.	:	0315019034
Bill of Entry No.	:	3817867 dated 20-12-2022
Description of Goods (as declared)	:	Stainless-Steel Seamless Pipes (Grade S32750)
Quantity	:	28258 Kgs.
Container No.	:	FSCU8167267

Supplier	: M/s. Zhejiang Xintondga Special Steel Mfg. Co. Ltd., No. 209, Ruiyang Road, Xiping Street, Songyang County, Lishui City, Zhejiang Province, China.
Country of origin	: China PR
Commercial Invoice No.	: HBO10578-1 dtd. 20-12-2022
Bill of Lading No.	: GOSUWZU997245 dtd. 23-11-2022
Rate of exchange	: ₹ 83.55 (vide Notification No. 109/2022 - Customs (N.T.) New Delhi, dated 15-12-2022 bearing F.No. 468/01/2022-Cus.V) effective from 16-12-2022 (applicable rate of exchange)
Rate of exchange	: ₹ 83.70 (vide Notification No. 02/2023 - Customs (N.T.) New Delhi, dated 05-01-2023 bearing F.No. 468/01/2023-Cus.V) effective from 06-01-2023

3.1. Whereas, the processing of the consignment under Bill of Entry No. 3817867 dated 20-12-2022 was initiated and completed on the following dates:

Vessel Inward Date	:	18-12-2022
Appraising date	:	20-12-2022
Audit date	:	20-12-2022
Assessment date	:	20-12-2022
Duty payment date	:	21-12-2022
Out of charge date	:	21-12-2022

3.2. Whereas, the details especially the dimensions of the goods viz. Stainless Steel Seamless Pipe as mentioned in the packing list attached with the Commercial Invoice No. HBO10578-1 dated 20-12-2022 is as under:

S. No.	Outer Diameter of the Stainless Steel Seamless Pipes	Quantity (kgs.)
1.	33.4 x 2.77	1906
2.	33.4 x 3.38	2497
3.	42.2 x 2.77	3308
4.	42.2 x 3.56	5453
5.	60.3 x 5.54	4101
6.	88.9 x 4	959
7.	88.9 x 5.49	3404
8.	88.9 x 8.56	3487
9.	114.3 x 8.56	3143
TOTAL		28258

4. Whereas, Section 15 of the Customs Act, 1962 stipulates the date for determination of rate of duty and tariff valuation of imported goods. For sake of convenience, Section 15 is reproduced hereunder:

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)

(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.]

(2) *The provisions of this section shall not apply to baggage and goods imported by post.*

5. Whereas, the date for determination of rate of duty and tariff valuation of imported goods shall be the rate and valuation in force, in the case of goods entered for home consumption under Section 46 of the Customs Act, 1962 i.e. on the date of which a Bill of Entry in respect of the imported goods has been presented. In the instant case, the date of presentation is recognised as 20-12-2022.

6. Whereas, Anti-Dumping Duty was made effective under Notification No. 31/2022-Customs (ADD) dated 20-12-2022 vide G.S.R. No. 890(E) on 20-12-2022. It is provided that Anti-Dumping Duty is hereby imposed on Stainless-Steel Seamless Tubes and Pipes when the subject goods are originating in the countries as specified in the corresponding entries in column (4), exported from the countries as specified in the corresponding entries in column (5), produced by the producers as specified in the corresponding entries in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entries in column (7), in the currency as specified in the corresponding entries in column (9) and as per unit of measurement as specified in the corresponding entries in column (8), of the Table incorporated therein. For sake of ready reference, the relevant columns of the Table incorporated in Notification No. 31/2022-Customs (ADD) dated 20-12-2022 in respect of the goods with the country of Origin of goods as "China PR" denoted hereafter:

S. No.	Country of export (5)	Producer (6)	Amount of ADD (7)	Unit (8)	Currency (9)
1.	Any country including China PR	Zhejiang Bangnuo Steel Pipe Co., Ltd.	114	MT	USD

2.	Any country including China PR	Zhejiang HongQuan Stainless Steel Co., Ltd. and Zhejiang Yinlong Stainless Steel Co., Ltd. and Zhejiang Yinlai Steel Tube Co., Ltd.	886	MT	USD
3.	Any country including China PR	Wenzhou Sodo Stainless Steel Manufacturing Co., Ltd.	1,492	MT	USD
4.	Any country including China PR	Zhejiang Huatian Stainless Steel Manufacturing Co., Ltd.	1,005	MT	USD
5.	Any country including China PR	Zhejiang Yi Jia Wang Steel Tube Co., Ltd.	3,191	MT	USD
6.	Any country including China PR	Zhejiang Jiuli Hi-Tech Metals Co., Ltd.	Nil	MT	USD
7.	Any country	Huadi Steel Group Co., Ltd.	Nil	MT	USD
8.	Any country including China PR	Jiangsu Wujin Stainless Steel Pipe Group Co., Ltd.	Nil	MT	USD
9.	Any country including China PR	Zhejiang Tsingshan Steel Pipe Co., Ltd.	Nil	MT	USD
10.	Any	Any producer other than serial number 1 to 9	3,801	MT	USD
11.	China PR	Any	3,801	MT	USD

6.2. Further, para 2 of the Notification No. No. 31/2022-Customs (ADD) dated 20-12-2022 provides that –

“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.”

Additionally, it is also explained therein, that –

“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, 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.”

7.1 Anti-Dumping Duty

7.1.1 Whereas, as per the provisions of the Notification, Serial No. 11 provides that when the Country of Origin is China PR, the Country of Export is China PR and any producer of China has manufactured the goods, Anti-Dumping Duty @ 3801 USD per MT is leviable on all such goods. The same notification very specifically stipulates that the Anti-Dumping Duty shall be effective from the date of publication of the notification in the Official Gazette and the notification has been published vide G.S.R. No. 890(E) on 20-12-2022. As the date of presentation of the import under Bill of Entry No. 3817867 being

20-12-2022 and the vessel inward being 18-12-2022, the applicable date of rate of duty and tariff valuation of imported goods shall be the rate and valuation in force, in the case of goods entered for home consumption under Section 46 of the Customs Act, 1962 in terms of para 2 of Section 15 of the Customs Act, 1962. In the instant case being 20-12-2022, the date on which a Bill of Entry in respect of the imported goods has been presented. The Notification also provides an add-on to the description of goods viz. Stainless Steel Seamless Tubes and Pipes that "*Stainless-Steel Seamless Tubes and Pipes with diameter up to and including 6 NPS, or comparable thereof in other unit of measurement, whether manufactured using hot extrusion process or hot piercing process and whether sold as hot finished or cold finished pipes and tubes, including subject goods imported in the form of defectives, non-prime or secondary grades.*

7.1.2 Whereas, the goods contained in the instant Bill of Entry have an outer diameter less than 168.3 mm, thus, all the goods weighing 28258 kgs. attract the Anti-Dumping Duty as prescribed in Notification No, 31/2022-Customs (ADD) dated 20-12-2022.

7.1.3. Whereas, the 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, 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. Thus, the rate of exchange applicable on the instant import being ₹ 83.55 for each USD in view of the rate being notified vide Notification No. 109/2022 - Customs (N.T.) New Delhi, dated 15-12-2022 bearing F.No. 468/01/2022-Cus.V) effective from 16-12-2022. In view of the above narrations, the Anti-Dumping Duty in the import under Bill of Entry No. 3817867 dated 20-12-2022 works out to Rs. 89,74,022 as follows:-

Quantity (in Kgs.)	Assessable Value (CIF) (in Rs)	ADD applicable (in USD)	ADD payable	Conversion rate (USD=INR)	ADD payable (in ₹)
28,258	9585481/-	3801 (per MT)	1,07,409	1 = 83.55	89,74,022

7.2 Integrated Tax (IGST) [Section 3(7) of the Customs Tariff Act, 1975]

7.2.1. Whereas, it appears that non-payment of Anti-Dumping Duty, as discussed hereinabove, has also resulted in short-payment of Integrated Tax (IGST) on the total assessable value arrived at by adding Anti-Dumping Duty (ADD) in the landed value, for the purpose of calculation of IGST on imported goods and the differential amount of IGST comes to Rs.16,15,324/- (being 18% of Anti-Dumping Duty amounting to Rs.89,74,022).

7.3. Thus, total amount of Customs Duty due to be recovered from the said importer comes to Rs.1,05,89,346/- (ADD of Rs.89,74,022/- + Differential IGST of 16,15,324/-).

8. Whereas, the said Importer's Bill of Entry No. 3817867 was filed on 20-12-2022 i.e. the date of Notification No. 31-2022-Customs (ADD) dated 20-12-2022 coming into effect. The Vessel inward date being 18-12-2022, the date of filing the Bill of Entry becomes the appropriate date for determination of rate of duty and tariff valuation of imported goods in terms of Section 15(1)(a) of the Customs Act, 1962. Now having filed the Bill of Entry on 20-12-2022, the rate of duty applicable on the goods should have invariably included the Anti-Dumping Duty made effective in terms of Notification No. 31-2022-Customs (ADD) dated 20-12-2022 along with all other duties paid up by the said Importer. Moreover, the said Importer had made the payment of tax through challan on 21-12-2022, a day after the effectiveness of Notification, thus, it had become the primary responsibility of the said Importer to have properly self-assessed the duty in terms of Section 17 of the Customs Act, 1962 and made the payment of Anti-Dumping Duty and differential IGST accordingly.

9. LEGAL PROVISIONS APPLICABLE IN THE CASE:

Apart from the stipulations and provisions narrated above at para 3 and 6, the following provisions of law also appear to be relevant in the case of the import under Bill of Entry No. 3817967 dated 20-12-2022:

SECTION 15 of the Customs Act, 1962: 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 aircraft⁵ [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.

SECTION 17 of the Customs Act, 1962: Assessment of duty. -

(1) An importer entering any imported goods under Section 46 or an exporter entering any export goods under Section 50, shall, save as otherwise provided in Section 85, self-assess the duty, if any, leviable on such goods.

SECTION 28 of the Customs Act, 1962: Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. -

(1) Where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any willful mis-statement or suppression of facts,-

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been 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;

Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;

(b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of,-
 (i) his own ascertainment of such duty; or
 (ii) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:

Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under Section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.

(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (2).

.....

SECTION 28AA of the Customs Act, 1962: Interest on delayed payment of duty— (1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to paid interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

SECTION 46(4) of the Customs Act, 1962:

(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.

Section 111. Confiscation of improperly imported goods, etc. -

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

(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54];

Section 114A of the Customs Act, 1962: Penalty for short-levy or non-levy of duty in certain cases. -

“Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under Sub-section (8) of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined”

10. In response to Summons dated 13-04-2023, Shri Ashok Shah, Partner of M/s. Jaiman Metalloys LLP had appeared for giving his statement under Section 108 of the Customs Act, 1962 on 26-04-2023 (**RUD-01**). In his statement he had inter alia stated that –

- the Importer is engaged in trading business of Stainless Steel Sheet/ Coils and Seamless/Welded Pipes;
- he is aware that the statement has been recorded for import of Stainless Steel Seamless Pipes from China vide Bill of Entry No. 3817867 dated 20-12-2022;
- out of charge of the same was given on 20-12-2022;
- Govt. of India vide notification no. 31/2022-Customs (ADD) dated 20-12-2022 had imposed Anti-Dumping Duty on Stainless Steel Seamless Pipes from China PR;
- Bill of Entry No. 3817867 dated 20-12-2022 is only such type of matter;
- they were not aware about the imposition of Anti-Dumping Duty;
- the option of Anti-Dumping Duty was not available on ICE Gate at the relevant time as it was updated 4 to 5 days after the issuance of the notification no. 31/2022-Customs(ADD) dated 20-12-2022.
- the Importer vide its letter dated 28-04-2023 submitted a reference of judgement passed by the Hon'ble High Court of Gujarat in WP No. 11887 of 2019 involving M/s. Rasrasna Food Pvt. Ltd. The Importer has tried to contend that the Hon'ble Court had dismissed the appeal of the Union of India holding that it cannot levy enhanced Customs Duty from the Importers who had already presented the Bills of Entry for home consumption before the time the enhanced rate was notified in the e-Gazette.
- It also conveyed in their letter that if the department is not inclined to consider their request, a demand notice under Section 28 of the Act be issued so that they may seek legal remedies against such notice in terms of the law as settled by the Supreme Court.

11. Whereas, elaborating the judgement of the Hon'ble High Court of Punjab and Haryana, it may be highlighted that the judgement involves the issue related to demand of duty subsequent to imposition of 200% vide Notification No. 5/2019-Custom dated 16-02-2019. The judgement speaks –

- about the contention of the Petitioner that duty payment challan was generated prior to 8:45 PM on 16-02-2019;
- that the import orders were placed before the supplier prior to 16-02-2019; the goods were received in India on or before 16-02-2019. The impugned Notification was issued/uploaded at 8.45 PM on 16-02-2019 i.e. after the working hours.
- if the impugned notification is made applicable to them, it would amount to retrospective application which is not permissible in law.

Thus, it was held that the Petitioners would be liable to pay duty as was applicable at the time of filing of bill of entry coupled with the fact of the imported

goods having entered territory of India on 16-02-2019 prior to the issuance of the impugned notification.

12. Whereas, it is found during the course of investigation that despite –

- the publishing of Notification No. 31/2022-Customs (ADD) dated 20-12-2022 stipulating the applicability of Anti-Dumping Duty on imports of Stainless-Steel Seamless Tubes and Pipes with diameter up to and including 6 NPS, or comparable thereof, wherever the goods are originating in, or exported from China PR;
- Anti-Dumping Duty being made effective from the date of publication of the notification in the Official Gazette as the notification has been published vide G.S.R. No. 890(E) on 20-12-2022;
- the date for determination of rate of duty and tariff valuation of the imported goods under Bill of Entry No. 3817967 dated 20-12-2022 being entered for home consumption under Section 46, recognised as 20-12-2022 in terms of Section 15 of the Customs Act, 1962;

the said Importer who was under the obligation –

- i. in terms of Section 46 of the Customs Act, 1962, to present the Bill of Entry No. 3817967 dated 20-12-2022 by making and subscribing 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, failed to do so;
- ii. in terms of Section 17 of the Customs Act, 1962 for entering the imported goods under the provisions of Section 46 of the Customs Act, 1962 after self-assessing the duty, if any, leviable on such goods, has failed to do so and;

thereby, evaded the payment of Anti-Dumping Duty on the goods viz. Stainless-Steel Seamless Tubes and Pipes. Further, as per section 46(4), the importer who presents a bill of entry shall ensure the accuracy and completeness of the information given therein, the authenticity and validity of any documents supporting it and compliance with the restriction or prohibition, if any, relating to the goods under this act or under any other law for the time being in force. Section 17 (1) & Section 2 (2) of the Customs Act, 1962 read with CBIC Circular No. 17/2011- Customs dated 08.04.2011 cast a heightened responsibility and onus on the importer to **determine duty**, classification etc. by way of self-assessment. The importer, at the time of self- assessment, is required to ensure that they declared the correct classification, **applicable rate of duty**, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Hence, Importer has violated the provisions of section 46, 46 (4A) and section 17 of the Customs Act, 1962 and rendered the goods liable for confiscation under Section 111 (m) of the Customs Act, 1962. Due to this act of omission/commission, the goods have been rendered liable for confiscation, accordingly it also appears that the Importer is liable to be penalized under section 112(a) of the Customs Act, 1962.

13. Whereas, as the Bill of Entry was filed on 20-12-2022, the duty paid on 21-12-2022 and the crux lying in the date of determining the rate and tariff, which becomes 20-12-2022 with the date of payment of duty happening subsequent to the issuance of the notification, the judgement of the Hon'ble Punjab and Haryana Court cannot be made applicable to the instant case.

14. Whereas, the said Importer failed to exercise option under Sub-section (2) of Section 28 of the Customs Act, 1962 in as much as they did not voluntarily file any intimation or come forward before the Department to pay up the applicable Anti-Dumping Duty after being apprised about the levy of such Anti-Dumping Duty on Stainless Steel Seamless Pipes; this fact is evident, since, similar consignments belonging/imported by the said Importer were kept on hold for levying Anti-Dumping Duty and a statement was recorded under Section 108 of the Customs Act, 1962.

15. The importer vide letter dated 27.04.2023 had in the last para to that requested to issue demand notice, hence the pre-notice consultation was not initiated towards to the importer.

16. Whereas, the Anti-Dumping Duty amounting to ₹ 89,74,022 applicable in terms of Notification No. 31/2022-Customs (ADD) dated 20-12-2022 and differential IGST amounting to Rs.16,15,324/- on the goods imported under Bill of Entry No. 3817867 dated 20-12-2022 having not been paid/discharged by the said Importer requires to be recovered under Section 28(1) of the Customs Act, 1962 as the same Anti-Dumping Duty and differential IGST has not been paid/short-paid .

17. Whereas, the said Importer having contravened the provisions of Section 17 of the Customs Act, 1962 in as much as failing to properly self-assessing the duty involved in the import of the goods; contravened the provisions of Section 46 of Customs Act, 1962 in as much as have failed to make and subscribe to a declaration as to the truth of the contents of such bill of entry and failed to pay/discharge the Anti-Dumping Duty amounting to ₹ 89,74,022 applicable in terms of Notification No. 31/2022-Customs (ADD) dated 20-12-2022 and differential IGST amounting to Rs.16,15,324/- on the goods imported under Bill of Entry No. 3817867 dated 20-12-2022 through suppression of facts and have made themselves liable for penalty under the provisions of Section 114A of the Customs Act, 1962 and liable to pay interest under the provision of Section 28AA of the Customs Act, 1962.

18. Now, therefore, **M/s. Jaiman Metalloys LLP** having its office located at 1116, 11th Floor, CS1487, Prasad Chambers, Tata Road, No. 2 Roxy Cinema, Mumbai 400004 are hereby called upon to show cause within thirty days from the date of receipt of this notice to the Adjudicating Authority i.e. the Pr. Commissioner of Customs, Custom House Mundra having his office at 5B, Port User Building, Mundra Port, Mundra, Kutch, Gujarat-370421 as to why:-

- (i) The assessment in respect of Bill of Entry No. 3817867 dated 20-12-2022 should not be rejected;

- (ii) Anti-Dumping Duty at applicable rate under Notification No. 31/2022-Customs (ADD) dated 20-12-2022 should not be applied on the goods imported by the said importer namely Stainless Steel Pipes & Tubes;
- (iii) Assessable Value for the purpose of calculation of IGST should not be recalculated so as to add the amount of Anti-Dumping Duty as discussed hereinabove;
- (iv) Differential Customs duties totally amounting to **Rs.1,05,89,346/-** (*Rupees One Crore Five Lakh Eighty-Nine Thousand Three Hundred Forty Six only*) (ADD Rs.89,74,022 + IGST Rs.16,15,324/-), as discussed hereinabove, should not be demanded and recovered from them under Section 28(1) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA of the Customs Act, 1962;
- (v) The impugned goods of declared assessable value **Rs. 9585481/-** (*Rupees Ninety Five Lakh Eighty Five Thousand Four Hundred Eighty One Only*) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;
- (vi) Penalty should not be imposed upon them under the provisions of Section 112(a) of the Customs Act, 1962, for rendering imported goods liable for confiscation under Section 111(m) of the Customs Act, 1962;
- (vii) Penalty under Section 114A of the Customs Act, 1962 should not be imposed on them for having failed to pay/short paid the Anti-Dumping Duty applicable in terms of Notification No. 31/2022-Customs (ADD) dated 20-12-2022 and differential IGST;

19. Whereas the above Noticee is required to submit their reply in writing to the Adjudicating Authority, as above, within 30 days from the date of receipt of this notice. In their written reply, the Noticee may also state as to whether they would like to be heard in person. In case, no reply is received within the time limit stipulated above or any further time which may be granted to them by the Adjudicating Authority and/or if they fail to appear for personal hearing, when the case is posted for the same, the case will be decided ex-parte on the basis of evidence on record and without any further reference to the noticee.

20. This notice is issued without prejudice to any other action that may be taken in respect of the above goods and / or the persons / firms mentioned in the notice under the provisions of the Customs Act, 1962 and / or any other law for the time being in force, in the Republic of India.

21. The department reserves the right to add, amend, modify, delete any part or the portion of this notice through any such addendum, amendment,

modification, deletion and if made, shall be deemed to be part and parcel of this notice.

22. Documents relied upon are detailed in **Annexure -'R'** attached to this Show Cause Notice. Scanned copy of the Relied Upon documents stored in a CD is also attached with this Show Cause Notice.

23. The Noticee (s) have an option to make an application under Section 127B of the Customs Act, 1962 prior to adjudication of the case to the Hon'ble Settlement Commission to have the case settled in such form and in such manner specified in the rules.


(K. Engineer)
Pr. Commissioner of Customs
Custom House, Mundra

Enclosures: As above

By RPAD/Email/ By Hand Delivery

To,

**M/s. Jaiman Metalloys LLP,
1116, 11th Floor, CS1487,
Prasad Chambers, Tata Road, No. 2,
Roxy Cinema, Mumbai 400004**

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Copy to :-

1. The Deputy Commissioner (Import Gr. IV), Custom House, Mundra for information please.
2. The Deputy Commissioner of Customs (EDI), Custom House, Mundra for necessary action please.
3. The Assistant/Deputy Commissioner (SIIB), Custom House, Mundra for information please.
4. Guard file.