सीमा शुल्क आयुक्त का कार्यालय,
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नया सीमा शुल्क सदन, New Custom House,
Near Balaji Temple,
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SHOW CAUSE NOTICE

BRIEF FACTS OF THE CASE

Whereas, **M/s. Siemens Gamesa Renewable Power Pvt. Ltd** (**IEC code 0508033608**), having their registered address at Plot No. 03/A, Phase-III, Panchmahalas, Halol, Gujarat-389350 (hereinafter referred to as '*M/s. SGRP*' or '*the said importer*' *for the sake of brevity*) had imported the "Door Frame For Wind Turbine Tower part of Wind Operated Electricity Generator" (hereinafter referred to as 'the said goods') at Kandla Port and cleared the same through the Customs Broker, M/s. Shree Parvathy Shipping.

2. Whereas, the said importer had filed the following Bills of Entry i.r.o. import of said goods (**Table-A**) below:

Table-A

Sr. No.	**Bill of Entry No. & Date**	**Date**	**Supplier**	**CTH**	**Decription of goods**
1	5518648	20.09.2021	Nantong Yundom Precision Metal Works Co. Ltd, 203, Qingfeng Road, Sutong Sceince & Technology Industrial Park, Nantong, Jaingsu, P.R. China.	85030090	GP429802-Door Frame For Wind Turbine Tower Part of Wind Operated Electricity Generator
2	6193693	10.11.2021	Nantong Yundom Precision Metal Works Co. Ltd, 203, Qingfeng Road, Sutong Sceince & Technology Industrial Park,	85030090	GP429802-Door Frame For Wind Turbine Tower Part of Wind Operated Electricity Generator

			Nantong, Jaingsu, P.R. China.		

The above referred Bills of Entry dated 20.09.2021 and 10.11.2021 have been collectively referred and annexed as **RUD-01** (Relied Upon Document) to this Show Cause Notice.

POST CLEARANCE AUDIT

3.1 Subsequently, during the course of Post Clearance Audit, it was observed that the said importer had classified the imported goods viz. "**Door Frame For Wind Turbine Tower Part of Wind Operated Electricity Generator**" under **CTH:85030090** and had discharged **BCD @7.5%**, **SWS @10%** & **IGST @5%/12%**, the Anti-Dumping Duty payable on the said goods which were imported from China (Country of Origin) as per **Sr. No. 17 of Notification No. 42/2017- Customs (ADD) dated 30.08.2017** was not paid.

3.2 During the course of Post Audit Clearance, it was categorically observed that the said goods imported from China were liable for levy of Anti-Dumping Duty (ADD) @ **35.92%** of the landed value of the said goods in terms of Notification no. 42/2017-Customs (ADD) dated 30.08.2017. For the sake of ease of reference, the relevant text of the said Notification is reproduced *verbatim* as under:

> *" .... 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 definitive anti-dumping duty on the subject goods, the description of which is specified in column (3) of the Table below, falling under Chapter heading of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate of an amount equivalent to the difference between the quantum of anti-dumping duty calculated as per column (8) and the quantum of anti-subsidy/countervailing duty payable, if any, of the said Table, namely :*

Table

S. No.	*Subheading or tariff item*	*Description of goods*	*Country of origin*	*Country of export*	*Producer*	*Exporter*	*Duty amount as % of*

							landed value
(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*	*(7)*	*(8)*
....							
17.	*8483 40 00, 8503 00 10 or 8503 00 90*	*Castings for Wind Operated Electricity Generators*	*China PR*	*China PR*	*Any other combination than S.No. 1 to 16*		*35.92*

Note – (i) Castings for Wind Operated Electricity Generators for the purpose of the present notification implies "Castings for wind operated electricity generators also known as castings for windmill or wind turbine, whether or not machined, in raw, finished or sub assembled form, or as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators".

....

Explanation. – Landed value of imports for the purpose of this notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act."

3.3 Whereas, it was further observed that the said goods viz. "Door Frame For Wind Turbine Tower part of Wind Operated Electricity Generator", imported from China appeared to be included in the **implied meaning of Casting for Wind Operated Electricity Generators as provided under Note (i) of the Table under Notification 42/2017-Customs (ADD) dated 30.08.2017** reproduced above and as such the imported goods appeared to be leviable to Anti-Dumping Duty as applicable under Notification 42/2017-Cus(ADD) dated 30.08.2017. However, the said imported had not paid the applicable Anti-Dumping Duty on the said goods which had resulted in **short-payment/non-payment of ADD @35.92%** of the landed value of the said goods imported from China.

3.4 In continuation to the above, it was also observed that the importer cleared the subject goods without payment of the applicable anti-dumping duty and, accordingly, did not include the leviable ADD @ 35.92% in the assessable value for calculation of integrated tax. As a direct consequence thereof, integrated tax appeared to have been short-paid.

3.5 Thus, during the course of Post Audit Clearance of the above referred Bills of Entry (Table-A) above, it was observed that the said importer had resorted to non-payment/short-payment of **Rs.52,96,542/- (ADD: Rs.**

49,98,282/- + IGST: Rs.2,98,260/-) [Rupees Fifty Two Lakhs Ninety Six Thousand Five Hundred Forty Two Only] as shown in **Table-B** below:

Table-B

All values in INR

S.No	Description	BoE No.5518648 dated 20.09.2021	BoE No.6193693 dated 10.11.2021
1	Assessable Value declared	1,10,78,298/-	17,76,242/-
2	BCD @7.5% (already paid)	8,30,872/-	1,33,218/-
3	SWS@10% (already paid)	83,087/-	13,322/-
4	Landed Value	1,19,92,257/-	19,22,782/-
5	**ADD @35.92% (NOT PAID)**	**43,07,619/**	**6,90,663/**
6	Value for IGST	1,62,99,876/-	26,13,445/-
7	IGST @5%/12% payable	8,14,994/-	3,13,613/-
8	IGST already paid	5,99,613/-	2,30,734/-
9	**Differential IGST not paid**	**2,15,381/-**	**82,879/-**
10	ADD @35.92% (NOT PAID)	43,07,619/	6,90,663/-
11	Total duty not paid/short-paid	45,23,000/-	7,73,542/-
Grand Total			**52,96,542/-**

AUDIT CONSULTATIVE LETTERS/PRE SCN CONSULTATION

4. Whereas, subsequently the importer was accorded the opportunities for **Pre SCN Consultation vide letters dated 28.03.2023, 30.03.2023** and **20.04.2023** (collectively referred and annexed to this SCN as **RUD-2**) regarding the non-payment/short payment of ADD & Integrated Tax in respect of Bill of Entry No. 6193693 dated 10.11.2021 and Bill of Entry No. 5518648 dated 20.09.2021 respectively. Accordingly, the said importer was requested to pay the differential duty along with applicable interest within 15 days of receipt of the aforesaid letters.

REPLY SUBMITTED BY THE IMPORTER

5. In response, the said importer had submitted their reply vide letter dated 04.04.2023 (**RUD-3**) wherein they had submitted that they are manufacturer of the Wind Operated Electricity Generators (WOEG), and the Towers form a part of the WOEG and the door frame is a part of the tower section and is used for the entry of personnel into the turbines for the purpose of installation, repairs and maintenance. It has been further submitted by them that **the door frames are cut out of steel plates and are not castings** and the detailed process of manufacturing the door frames has been submitted as annexure (**RUD-4**).

OBSERVATIONS

6.1 Whereas, from a careful perusal of the letter dated 04.04.2023 and the Annexure submitted by the said importer in response to the above referred letters dated 28.03.2023 and 30.03.2023, it is forthcoming that the said importer has relied on the fact that the door frames imported by them for wind Turbine Tower are not castings rather they are cut out of steel plates and as such the ADD is not leviable on the goods and further that the differential integarted tax arising out of the non-inclusion of ADD is also not payable.

6.2 However, from careful examination of the Annexure submitted by the importer detailing the process of manufacturing, it appears that under **Para 5.1 of the said Annexure,** it has been mentioned that the door frames are made out of steel melting procedure of electric arc furnace or oxygen converter, ladle or furnace refined, fined grain practices (if apply) and deoxidized **Steel protected from re-oxidation during all casting or teeming operations**. It is also observed that it has been explicitly mentioned that Steel maker certificate must be attached in CAP (Component Approval Package) documentation as well as mass production documentation and it must include the name of steel maker, **casting route (ingot/cc)**, steel melting procedure, and all stated values of the required examinations. **Thus it appears that the door frames, which are admittedly parts of wind operated electricity generators, are made out of casting process and as such appear to be covered under the definition of Castings for Wind Operated Electricity Generators classified under Tariff Item 85030090**.

6.3 In continuation to the above, it is further observed that the above is also supported by the fact that under Notification No. 42/2017-Customs (ADD) dated 30.08.2017, it has been specifically mentioned at **Note (i) that Castings for Wind Operated Electricity Generators for the purpose of the said notification implies <u>part of an equipment/component meant for wind-operated electricity generators</u>**. In this context, it is equally important to emphasize that the said importer in their own submission dated 04.04.2023 have admitted that the **door frame is a part of the tower**

section and is used for the entry of the personal into the turbines for the purpose of installation, repairs and maintenance. Further, they have also stated that the towers form a part of WOEG (Wind Operated Electricity Generators) and that they are manufacturers of WOEG. Thus, in view of the facts stated by the said importer and the explanation provided at Note (i) of the Notification No. 42/2017-Customs (ADD) dated 30.08.2017 wherein it has been clarified that the castings for WOEG imply part of an equipment/component meant for WOEG, the reply submitted by the said importer that ADD is not leviable on the door frames imported by them under the above referred Bills of Entry does not appear to be tenable in the eyes of law. Thus, it appears that the said importer has resorted to non-payment of applicable ADD and also short-payment/non-payment of IGST on account of non-inclusion of ADD in the assessable value.

6.4 In context of the above, it is pertinent to mention that Anti-Dumping Duty (ADD) is levied on specific commodities and is source-specific. The notification of ADD provides conditions for levy of ADD which are mainly the country of origin/country of export, name of the manufacturer, classification of imported commodity, and nature of the imported goods. Imports that meet the conditions, as laid down in these notifications, are leviable to ADD. It extends to imports from those countries in respect of which duty has been notified by the Customs on recommendation by the designated authority (Directorate General of Tax Remedies)

6.5 Whereas from the Bills of Entry filed by the importer at the time of import of said goods i.e. Door Frame For Wind Turbine Tower Part of Wind Operated Electricity Generator, it is observed that they have not filed the Bills of Entry with Anti Dumping Duty leviable/applicable in terms of Notification No. 42/2017-Customs (ADD) dated 30.08.2017 and the same has been shown as "**Nil**" on the said imported goods with an intent to evade payment of the said Anti-Dumping Duty.

6.6 The importer of goods has been defined in the IGST Act, 2017 as bringing goods into India from a place outside India. All imports shall be deemed as interstate supplies and accordingly, integrated tax shall be levied in addition to the applicable Customs duties. The IGST Act, 2017 provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when 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 stipulates that "Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 (51 of 1975) on the value as determined under the said Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962. As per Sub Section 7 of Section 3 of Customs Tariff Act, 1975 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. As the importer has failed to pay the applicable ADD on the said goods, the ADD so payable has not been included in the assessable value for payment of Integrated Tax and therefore the same has resulted into short-payment/non-payment of Integrated Tax amounting to **Rs.2,98,260/-** and the same is required to be recovered from them along with interest.

<u>SUPPRESSION AND MIS-STATEMENT</u>

7.1 Whereas, after introduction of self-assessment through amendment in Section 17 of the Customs Act, 1962 vide Finance Act, 2011, it is the **responsibility of the importer to correctly declare the description, classification, applicable exemption notification, applicable duties, rate of duty and relevant notification etc**. **in respect of said imported goods and pay the appropriate duty accordingly**. Section 17 of the Customs Act, 1962 provides that an importer entering any imported goods under section 46 or an exporter entering any export goods under section 50 shall self-assess the duty. Thus, under self-assessment, it is the importer or exporter who will ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, etc. in respect of the imported / export goods while presenting Bill of Entry or Shipping Bill.

7.2 Whereas, in the instant case the importer has **failed to declare the applicability of anti-dumping duty, the relevant ADD notification number and its serial number (ADD Notification No. 42/2017-Customs (ADD) dated 30.08.2017 in the above referred Bills of Entry** i.r.o. the said imported goods and accordingly they appear to have suppressed the said material fact with an intent to evade payment of duty and thereby they have not paid the appropriate anti dumping duty on said imported goods.

7.3 Now, with the introduction of self-assessment under the Customs Act,1962 greater faith is bestowed on the importer, as the practice of routine assessment, concurrent audit and examination has been dispensed with and the importers have been assigned with the responsibility of assessing their own goods under Section 17 of the Customs Act, 1962. As a part of self-assessment by the importer, it was the duty of the importer to present correct facts in the Bills of Entry. From the above, it can be seen that the importer appears to have intentionally not declared the applicability of anti dumping duty, the relevant ADD notification number in the Bills of Entry filed for clearance/Home consumption of said imported goods and accordingly appears to have suppressed the said material fact with an intent to evade payment of appropriate Anti-dumping duty and cleared the said imported goods without paying appropriate anti-dumping duty. **Therefore, extended period is invokable under the provisions of Section 28(4) of the Customs Act, 1962 for the demand of appropriate anti-dumping duty not paid and the consequent differential duty of IGST as shown in Table-B above in the instant case.**

7.4 Whereas, the aforesaid facts show that the importer had resorted to willful non-declaration of the applicability of anti-dumping duty, the relevant ADD notification number and its serial number in the Bills of Entry of the said imported goods by suppressing the said material facts, which apparently is indicative of wilful intent on part of the importer to evade payment of applicable antidumping duty in respect of said imported goods cleared for home consumption vide Bills of entry mentioned in the **Table -A** above. The details of the anti-dumping duty and the consequent differential duty of IGST required to be paid in respect of said imported goods has been detailed in **Table-B** above. Thus, Anti-dumping Duty and the applicable differential IGST amounting to **Rs.52,96,542/-** (**Rupees Fifty-Two Lakhs Ninety Six Thousand Five Hundred Forty-Two only**) is liable to be demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest i.r.o. the Bills of Entry as shown in **Table-A** above.

7.5 Whereas, as discussed *supra,* in the instant case the importer appears to have resorted to willful non-declaration of the applicability of anti-dumping duty, the relevant ADD notification number and its serial number in the Bills of Entry (**Table-A**) of the said imported goods by suppressing the said material facts, and therefore, it appears that goods are liable for confiscation as per Section 111(m) of the Customs Act, 1962. Further, since the goods mentioned in **Table-A** above, are liable for confiscation as per **Section 111(m) of the Customs Act, 1962**, therefore, the importer also appears to be liable for penalty as stipulated under **Section 112(a) of the Customs Act, 1962.**

7.6 Further, the aforesaid acts of omission and commission also appears to have resulted into non-payment/short-payment of Anti-dumping Duty and the applicable differential IGST amounting to Rs.52,96,542/- (Rupees Fifty-Two Lakhs Ninety Six Thousand Five Hundred Forty-Two only). Therefore, they are liable for applicable penalty under **Section 114A of the Customs Act, 1962**.

CONTRAVENTION OF STATUTORY PROVISIONS:-

8.1 Whereas, it appears that the importer has failed to pay anti-dumping duty as levible under sub-section (1) and (5) of Section 9A of the Customs Tariff Act, 1975, 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 and Notification no. 42/2017- Customs (ADD) dated 30.08.2017, by way of wrongly self-assessing the Bills of entries filed under Section 46 of the Customs Act, 1962.

8.2 The imported goods, namely, "Door Frame For Wind Turbine Tower part of Wind Operated Electricity Generator", imported from China is included in the implied meaning of Casting for Wind Operated Electricity Generators as per the Note (i) of the Table under Notification 42/2017-CUS (ADD) dated 30.08.2017. As per Section 12 of the Customs Act, 1962 read with Section 9A of the Customs Tariff Act, 1975 and 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, read with entry at sr. no. 17 of the TABLE under notification no. 42/2017-CUS(ADD) dated 30.08.2017, the said tariff item, as classified by the importer under Customs Tariff item 85030090, when included in the implied meaning of Casting for Wind Operated Electricity Generators, attracts Anti-Dumping Duty @ 35.92% of the landed value of the said goods imported from China. However, the importer failed to properly self assess and pay the said Anti-Dumping Duty, as discussed hereinabove.

8.3 As per Section 12 of the Customs Act, 1962 read with sub-section (7) of Section 3 of the Customs Tariff Act, 1975 and read with entry at sr. no. 234 of the SCHEDULE I under notification no. 1/2017-Integrated Tax (Rate) dated 28.06.2017 (as effective upto 29.09.2021), the said tariff item, as classified by the importer under Customs Tariff item 85030090, attracts Integrated GST @ 5% ad valorem, during the period upto 29.09.2021. Further during the relevant period on and after 30.09.2021, the said tariff item, as classified by the importer under Customs Tariff item 85030090, attracts Integrated GST @ 12% ad valorem, as per Section 12 of the Customs Act, 1962 read with sub-section (7) of Section 3 of the Customs Tariff Act, 1975 and read with entry at sr. no. 201A of the SCHEDULE II under notification no. 1/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended). The integrated GST is levible on the value of the imported article as determined under sub-section (8) or sub-section (8A) of Section 3 of the Customs Tariff Act, 1975. Accordingly, all customs duties (including ADD), except IGST and GST Cess, are required to be added in the transaction value to arrive at the assessable value for calculation of the integrated tax. However, the importer failed to properly self assess and short-paid IGST pro-rata, as discussed hereinabove.

8.4 As per sub-section (4) and (4A) of Section 46 of the Customs Act, 1962, 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 ensure the the accuracy and completeness of the information given therein. However, by way of improper self assessment in the Bills of entries filed under Section 46 of the Customs Act, 1962, the importer has indulged in evasion of duties of customs, amounting to Rs. 52,96,542/-, as discussed above.

8.5 It is observed that the importer has failed to discharge the statutory obligation cast upon them under Section 17 read with Section 46 of the Customs Act, 1962 read with Section 9A of the Customs Tariff Act, 1975 and the relevant Anti-Dumping Duty Notification No. 42/2017-Customs (ADD) dated 30.08.2017. Under Section 17(1) of the Customs Act, 1962, the importer availing the facility of self-assessment is legally bound to self-assess the duty leviable on the imported goods correctly, including all duties of customs leviable under any law for the time being in force, which includes Anti-Dumping Duty levied under Section 9A of the Customs Tariff Act, 1975. Further under Section 46, the importer is duty-bound to make a true and correct declaration regarding description, origin, value, classification and eligibility of the goods vis-a-vis any exemption or ADD notification.

8.6 The importer, being in possession of all import documents viz. Invoice, Packing List, Bill of Lading, Country of Origin Certificate, was fully aware that the goods were covered under the ADD notification, but chose to suppress this material fact and made a wilful mis-statement in the Bill of Entry filed under Section 46 of the Customs Act, 1962 to evade Anti-Dumping Duty. This deliberate omission in self-assessment is a clear violation of Section 17 of the Act *ibid* which makes self-assessment binding on the importer.The importer has thus, by way of wilful mis-statement and suppression of facts appears to have not paid the Anti-Dumping Duty leviable under Section 9A of Customs Tariff Act, 1975 read with Section 12 of Customs Act, 1962.

8.7 Thus, the importer has contravend the provisions of Section 12 of the Customs Act, 1962 read with Section 3(7) and Section 9A of the Customs Tariff Act, 1975 and rules 18 and 20 of the Customs Tariff (IACADDDADI) Rules, 1995, read with Notification No. 42/2017-Customs (ADD) dated 30.08.2017. The importer has also contravend the provisions of Section 46 of the Customs Act, 1962 and evaded payment of of duties of customs amounting to Rs. 52,96,542/-, as discussed above and rendered themselves liable for action as envisaged under section 28(4) of the Customs Act, 1962 for recovery of duties short-paid as discussed above along with interest and the importer appears to have rendered themselves liable for penalty under Section 114A of the Customs Act, 1962. Further, the aforesaid acts of omission and commission on part of the importer appears to have rendered the goods liable for confiscation under Section 111(m) of the Act *ibid* and accordingly they appear to have also made themselves liable to penalty as stipulated under Section 112(a) of the Customs Act, 1962.

LEGAL PROVISIONS

9.1 Section 17 of the Customs Act, 1962

With the introduction of self-assessment and consequent upon amendments to Section 17, it is the responsibility of the importer to declare the correct description, value, weight, country of origin, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

9.2 Section 28(4) of the Customs Act, 1962 inter alia states: -

Recovery of duties not levied or not paid or short-levied or short- paid or erroneously refunded

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper of icer 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.*

9.3 Section 28AA of the Customs Act, 1962 inter alia states:

'Interest on delayed payment of duty—

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

(2) Interest at such rate not below ten percent. and not exceeding thirty-six percent. per annum, as the Central Government may, by notification in the Of icial 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.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where, —
(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and
(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

9.4 Section 46 of the Customs Act, 1962 inter alia states:

'Entry of goods on importation. –
(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper of icer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed: Provided ………
(2) …………
(3) …………

(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 of icer the invoice, if any, and such other documents relating to the imported goods as may be prescribed.*

(4A) The importer who presents a bill of entry shall ensure the following, namely: (a) the ***accuracy and completeness of the information given*** *therein;*
(b) the ***authenticity and validity of any document supporting*** *it; and*
(c) 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'.

9.5. Section 111 of the Customs Act, 1962: Confiscation of improperly imported goods inter-alia provides that the following goods brought from a place outside India shall be liable to confiscation:

"Section 111(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 transshipment, with the declaration for transshipment referred to in the proviso to subsection (1) of section 54];"

9.6. Section 112 of the Customs Act, 1962: Penalty for improper importation of goods

"Any person, —
a. who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or
b. who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable, -
i. in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;
ii. in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten percent of the duty sought to be evaded or five thousand rupees, whichever is higher:"

9.7 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 view of the discussions made in the foregoing paragraphs, **M/s. Siemens Gamesa Renewable Power Pvt. Ltd** (**IEC code 0508033608**), having their registered address at Plot No. 03/A, Phase-III, Panchmahalas, Halol, Gujarat-389350 are hereby called upon to show cause in writing to the Commissioner of Customs, Custom House, Kandla Kutch,having his office at First Floor, New Custom House, Near Balaji Temple, New Kandla, within thirty days from the receipt of this notice, as to why:-

(i) The Anti-Dumping Duty of **Rs.49,98,282/-** and the differential IGST of **Rs. 2,98,260/-** totally amounting to **Rs.52,96,542/- (Rupees Fifty-Two Lakhs Ninety-Six Thousand Five Hundred Forty-Two only)** as detailed in **Table-B** above should not be demanded and recovered from them under the provisions of Section 28(4) of the Customs Act, 1962.

(ii) Interest as applicable should not be recovered from them on the duties as mentioned at **Para 10(i)** above under Section 28AA of the Customs Act, 1962;

(iii) The goods imported vide the Bills of Entry as shown in **Table-A** above having declared value of **Rs.1,28,54,540/-** should not be held liable for confiscation as per Section 111(m) of Customs Act, 1962.

(iv) Penalty should not be imposed upon them under Section 112(a) of Customs Act, 1962.

(v) Penalty should not be imposed upon them under the provisions of Section 114A of the Customs Act, 1962 for the act of omission and commission as discussed above.

11. M/s. Siemens Gamesa Renewable Power Pvt.Ltd should state in their written replies to this notice whether they desire to be heard in person. If no reply to this notice is received from them or any of them within 30 days from the date of receipt of this notice or if they fail to appear for the personal hearing on the date and time intimated to them, the case is liable to be decided on the basis of evidences available and merits, without any further reference to them.

12. Notwithstanding the above, the Department/Custom House Kandla reserves its right to amend, modify or supplement this notice. This notice has been issued under the provisions of the Customs Act, 1962 without prejudice to any other action if any that may be initiated against them under any statute for the time being in force.

13. The documents relied upon in this Show Cause Notice are listed in Annexure- R to this Notice.

Encl:- Annexure-R-RUDs

(Dinesh Singh)
Commissioner
Custom House, Kandla

F.No. GEN/ADJ/COMM/474/2023-Adjn Date:18.09.2026

By Speed Post/ email

To,
M/s. Siemens Gamesa Renewable Power Pvt.Ltd
Plot. No.03/A, Phase-III, Panch Mahalas, Halol,
Gujarat-389350

Copy to:-

1. The Additional Commissioner(Adjudication), Custom House Kandla, for information.
2. The Deputy/Assistant Commissioner, PCA, Custom House Kandla.
3. Guard File.

ANNEXURE – R

LIST OF RELIED UPON DOCUMENTS

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Sr. No:	Description of document	Remark
1	BoEs No. 5518648 dated 20.09.2021 and BoE No. 6193693 dated 10.11.2021	RUD-1
2	Audit Consulative letter dated 28.03.2023 and 30.03.2023	RUD-2
3	Importer reply letter dated 04.04.2023	RUD-3
4	Detailed process of manufacturing the door frames has been submitted by importer as annexure	RUD-4

Digitally signed by
Dinesh Singh
Date: 18-09-2026
22:13:43