SCN No.: 41/2026-27/COMM/N.S./Adjn/MCH

	कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- **370421** **OFFICE OF THE PRINCIPAL COMMISSIONER/COMMISSIONER OF CUSTOMS,** **CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421** **PHONE:02838-271426/271423 FAX:02838-271425** **Email: adj-mundra@gov.in**	

F.No. GEN/ADJ/COMM/498/2026-Adjn

SHOW CAUSE NOTICE

(Under Section 28(4) read with Section 124 of the Customs Act, 1962)

1. **M/s Kemco Corporation.** (IEC: 0301020221) having registered address at A1, Arpit Enclave GR FL, NR Greater, COOP Bank, Mahavir Nagar Kandvali Mumbai (hereinafter also referred to as '**Noticee No. 1')** had cleared goods "Titanium Dioxide Rutile" falling under CTH 3206 11, into domestic tariff area under DTA Sale Bill of Entries as per **ANNEXURE-A** from APSEZ Mundra warehousing unit **M/s. OWS Warehouse Services LLP** having registered at Survey No. 169, Village Dhrub, Adani Port & Special Economic Zone Mundra, Gujarat -370421 ('**Noticee No. 2'**) through self filing.

2. BACKGROUND OF THE ISSUE:

2.1 The Directorate General of Trade Remedies (DGTR), Department of Commerce, Government of India, conducted an anti-dumping investigation concerning imports of **"Natural Mica Based Pearl Industrial Pigments excluding cosmetic grade"** originating in or exported from China PR.

2.2 The Designated Authority, vide Final Findings File No. **6/8/2020-DGTR dated 08.06.2021**, concluded that the product under consideration was liable to anti-dumping measures. The product was described as chemically **titanium dioxide-coated mica-based pearlescent pigment**, commercially known as titanium dioxide or iron oxide coated mica pearl pigment/pearl lustre pigment/pearl pigment. The product was classified under Chapter 32, including sub-heading 3206 11.

2.3 Pursuant to the said findings, the Central Government issued **Notification No. 47/2021-Customs (ADD) dated 26.08.2021**, which was further amended vide Notification No. 13/2023- Custom (ADD) dated

22.11.2023, imposing definitive anti-dumping duty on imports of **"Natural Mica Based Pearl Industrial Pigments excluding cosmetic grade"** originating in or exported from China PR and imported into India.

3. During test check of the records of O/o the Specified Officer, APSEZ Mundra for the period April-2021 to March-2022, the Sr. Audit Officer (CRA) noticed that as per **Notification No. 47/2021-Customs (ADD) dated 26.08.2021** anti dumping duty is leviable on the goods mentioned in the ANNUXRE-A cleared through Mundra SEZ unit **M/s. OWS Warehouse Services LLP** imported from China, under CTH 3206 11 in DTA and paid duty @ 30.98% (BCD 10% + SWS 10%+ IGST 18%). The subject para was raised on the basis of observation that-

> *"Natural mica pearl pigment series are classic effect pigment, which consist of treated natural mica flakes coated with a thin layer of metal oxide, such as titanium oxide, iron oxide. Through a combination of transparency, refraction, multiple reflections, particle size and coating thickness, a wide variety of color effects are produced. Pearlescent pigment with titanium dioxide coating can get special color by light interference phenomenon. Further, as per DGTR F.No. 06/08/2020-DGTR, the present investigation is "Natural Mica Based Pearl industrial pigments excluding cosmetic grade". The PUC is chemically titanium dioxide coated micananeous and lustrous pearlescent and is commercially known in the marketplace as Titanium Dioxide or Iron Oxide coated Mica Pearl Pigment or Pearl Lustrous Pigments or Pearl Pigments."*

3.2 It is observed that the audit objection/para pertaining to the subject matter was raised in respect of the period 2021-22. However, since the issue involved in the said audit para is of a continuing nature and the same had persisted during the subsequent period, the records/documents pertaining to the period 2022-23, 2023-24, 2024-25 and up to May 2025 have also been examined for the purpose of determining the correct liability under the provisions of the Customs Act, 1962 and the applicable notifications/rules.

3.3 Accordingly, the present Show Cause Notice is being issued in respect of the aforesaid subsequent period as well, based on the facts and evidence available on record and the independent verification undertaken for the respective period.

3.4 As per the **Notification No. 47/2021-Customs (ADD) dated 26.08.2021** which was further amended vide Notification No. 13/2023- Custom (ADD) dated 22.11.2023 anti-dumping duty is applicable on imports of **"Natural Mica Based Pearl Industrial Pigments excluding cosmetic grade"**

originating in or exported from China PR and imported into India. CERA officials inferred the product imported as "**Natural Mica Based Pearl Industrial Pigments excluding cosmetic grade**" attracting Anti-dumping duty during April-21 to May-25 under 155 DTA Clearances. Audit checked all these DTA Clearances and found Non levy of Antidumping duty in all these clearances resulting in short-levy of **Rs. 2,88,13,58,021/-** (ADD amount + applicable IGST @18%) which is recoverable along with applicable interest under Section 28 of the Customs Act, 1962.

3.5 Notification No. 47/2021-Customs (ADD) dated 26.08.2021 is reproduced below for ready reference:

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 47/2021 -Customs (ADD)

New Delhi, the 26th August, 2021

G.S.R.---(E).- – Whereas, in the matter of "Natural Mica based Pearl Industrial Pigments excluding cosmetic grade" (hereinafter referred to as the subject goods), falling under tariff sub-heading 3206 11 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from the China PR (hereinafter referred to as the subject country) and imported into India, the designated authority in its final findings *vide* notification File No. 6/8/2020-DGTR, dated the 8th June, 2021, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 8th June, 2021, has come to the conclusion that-

(i) the product under consideration has been exported at a price below normal value, thus resulting in dumping;
(ii) the domestic industry has suffered material injury;
(iii) there is causal link between dumping of product under consideration and injury to the domestic industry, and has recommended imposition of anti-dumping duty on imports of the subject goods, originating in, or exported from the subject countries and imported into India, in order to remove injury to the domestic industry.

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

TABLE

S.No.	Sub-heading	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	320611	Natural Mica based Pearl Industrial Pigments excluding cosmetic grade	China PR	Any country including China PR	Nanyang Lingbao Pearl Pigment Company Limited Materials	2493	MT	USD
2.	-do-	-do-	China PR	Any country including China PR	Rika Technology Company Limited	2023	MT	USD

3.	-do-	-do-	China PR	Any country including China PR	Guangxi Chesir Pearl Material Company Limited	2813	MT	USD
4.	-do-	-do-	China PR	Any country including China PR	Zhejiang Ruicheng New Material Company Limited	2674	MT	USD
5.	-do-	-do-	China PR	Any country including China PR	Fujian Kuncai Material Technology Company Limited	214	MT	USD
6.	-do-	-do-	China PR	Any country including China PR	Hebei Oxen New Materials Co., Ltd.	2406	MT	USD
7.	-do-	-do-	China PR	Any country including China PR	Any producer other than serial no 1 to 6	5529	MT	USD
8.	-do-	-do-	Any country other than China PR	China PR	Any producer	5529	MT	USD

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

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

[F. No. CBIC-190354/148/2021-TRU Section-CBEC]

(Rajeev Ranjan)
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 13/2023 -Customs (ADD)

New Delhi, the 22nd November, 2023

G.S.R.---(E).-Whereas, the designated authority *vide* initiation notification number 7/17/2022-DGTR, dated the 30th September, 2022, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 30th September, 2022, had initiated review under sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) read with rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), regarding the need for redetermination of duty in the matter of anti-dumping duty imposed on imports of 'Natural mica-based pearl industrial pigments excluding cosmetic grade' (hereinafter referred to as the subject goods) originating in or exported from China PR (hereinafter referred to as the subject country) *vide* notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 47/2021 – Customs (ADD), dated the 26th August, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 590(E), dated the 26th August, 2021;

And whereas, the designated authority in its final findings in the mid-term review *vide* notification No. 7/17/2022-DGTR, dated the 27th September, 2023, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 27th September, 2023, has recommended modification of existing duty table in notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 47/2021 – Customs (ADD), dated the 26th August, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 590(E), dated the 26th August, 2021;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 23 of the said rules, the Central Government hereby makes the following further amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 47/2021 – Customs (ADD), dated the 26th August, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 590(E), dated the 26th August, 2021, namely:-

In the said notification, for the Table, the following shall be substituted, namely: -

"Table

SN	Tariff Item	Description	Country of Origin	Country of Export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	32064990, 32061900, 32041759, 32041739, 32041720, 32041790, 32071040,	Natural Mica based Pearl Industrial Pigments excluding cosmetic grade	China PR	Any country including China PR	Fujian Kuncai Material Technology Company Limited	299	Per MT	US$

	32061110, 32061190							
2	-do-	-do-	China PR	Any country including China PR	Zhejiang Coloray Technology Development Co., Ltd.	2913	Per MT	US$
3	-do-	-do-	China PR	Any country including China PR	Henan Lingbao New Materials Technology Co., Ltd	2353	Per MT	US$
4	-do-	-do-	China PR	Any country including China PR	Any producer other than serial no 1 to 3	3144	Per MT	US$
5	-do-	-do-	Any country other than China PR	China PR	Any Producer	3144	Per MT	US$".

[F. No. CBIC-190354/148/2021-TRU]

(Nitish Karnatak)
Under Secretary to the Government of India.

Note:- The principal notification No. 47/2021-Customs (ADD), dated the 26th August, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 590(E), dated the 26th August, 2021 and last amended *vide* notification No. 70/2021-Customs (ADD), dated the 17th December, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 863(E), dated the 17th December, 2021.

It is submitted that the goods declared as "Titanium Dioxide Rutile" by the Noticee, being in fact Natural Mica based Pearl Industrial Pigments (excluding cosmetic grade) falling under CTH 3206 11, originating in and/or exported from China PR, are squarely covered under Sl. No. 07 of **Notification No. 47/2021-Customs (ADD) dated 26.08.2021**, attracting Anti-Dumping Duty @ US$ 5529 per MT and under Sl. No. 04 of Notification No. 13/2023- Custom (ADD) dated 22.11.2023, attracting Anti-Dumping Duty @ US$ 3144 per MT .

4. Whereas, on the basis of audit observation which then converted into para 01 of LAR-19/2022-23 **(RUD-1),** letters F.No. APSEZ/77/CERA Audit-SO Office/2022-23 dated 03.04.2023 **(RUD-2)** were issued to the warehousing unit.

4.1 In reference to letter F.No. APSEZ/77/CERA Audit-SO Office/2022-23 dated 03.04.2023 the importer i.e. M/s. KEMCO CORPORATION (Noticee No. 1) made written submission stating that "As per Notification No. 47/2021-Customs (ADD) dated 26.08.2021, Anti Dumping Duty is applicable on Natural Mica based Pearl Industrial Pigments (excluding Cosmetic grade). Natural Mica Based Pearl industrial pigments and Titanium Dioxide (TiO2) are two different types of pigments and they have different properties and characteristics."

4.2 Moreover, the importer submitted the lab test report for the test conducted by custom authorities at Kolkata Port and Nava Sheva port wherein the imported goods were opined to be "Titanium Dioxide Rutile" with no mica content. Hence, they refuted the claim of addition of Anti Dumping duty on Titanium Oxide imported by them. The reply submitted by the importer was forwarded to CERA Audit Ahmedabad, but the same was not considered by the CERA officials. The reply submitted by the importer has been annexed herewith as **RUD-3.**

5. Whereas, as per Serial Number 07 of Notification No. 47/2021-Customs (ADD) dated 26.08.2021, antidumping duty is leviable **@US$ 5529 per MTS and** as per Serial No. 4 of Notification No. 13/2023- Custom (ADD) dated 22.11.2023 **@ US$ 3144 per MTS (22.11.2023 onwards)** on Natural Mica based Pearl Industrial Pigments (excluding Cosmetic grade)* falling under CTH 3206 11 which is 'originating in' and 'exported from' China and imported into India.

5.1 The DTA client i.e. M/s. Kemco Corporation who cleared the goods "Titanium Dioxide Rutile" falling under CTH 3206 11 which are ultimately Natural Mica based Pearl Industrial Pigments (excluding Cosmetic grade) and falling in the purview of anti-dumping duty, has short-paid anti-dumping duty along with applicable IGST of **Rs. 2,88,13,58,021/-** as calculated and attached with this notice as **ANNEXURE-A (RUD-4)**

6.1 Whereas, the relevant provisions to clear the goods into DTA from SEZ unit are Section 30 of the SEZ Act, 2005, Rule 47 and 48 of the SEZ Rules, 2006.

30. Subject to the conditions specified in the rules made by the Central Government in this behalf:-

(a) any goods removed from a Special Economic Zone to the Domestic Tariff Area shall be chargeable to duties of customs including antidumping, countervailing and safeguard duties under the Customs Tariff Act, 1975, where applicable, as leviable on such goods when imported; and

(b) the rate of duty and tariff valuation, if any, applicable to goods removed from a Special Economic Zone shall be at the rate and tariff valuation in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of duty.

47. Sales in Domestic Tariff Area.-
(1).............
....

(4)Valuation and assessment of the goods cleared into Domestic Tariff Area shall be made in accordance with Customs Act and rules made there under.

48. Procedure for Sale in Domestic Tariff Area.-

(1) Domestic Tariff Area buyer shall file Bill of Entry for home consumption giving therein complete description of the goods and/or services namely, make and model number and serial number and specification along with invoice and packing list with the Authorised Officers:

Provided that the Bill of Entry for home consumption may also be filed by a Unit on the basis of authorization from a Domestic Tariff Area buyer.

6.2 Relevant Legal Provisions of the Customs Act, 1962:-

Section 17. Assessment of duty.—

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

(2) The proper officer may verify the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.
[Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.]

(3) For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 28: Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded—

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of— (a) collusion; or (b) any wilful mis-statement; or (c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest ... requiring him to show cause why he should not pay the amount specified in the notice.

Section 28AA. Interest on delayed payment of duty.—

(1) 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) ...

Section 46. Entry of goods on importation.—

…………

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice 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.

Section 111. Confiscation of improperly imported goods, etc.

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

(a)………….

(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 transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54]

114A. Penalty for short-levy or non-levy of duty in certain cases.

- Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or

suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (2) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined

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 for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]

Section 117. Penalties for contravention, etc., not expressly mentioned. -

Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [1] [four lakh rupees].

7. Further, section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods by the importer and exporter himself by filing a bill of entry or shipping bill, as the case may be. Under self-assessment, the importer or exporter has to ensure correct classification, applicable rate of duty, value and exemption notifications, if any, in respect of imported /export goods while presenting bill of entry or shipping bill. Moreover, Rule 75 of the SEZ Rules, 2006 also provides that unless and otherwise specified in these rules, all inward or outward movements of the goods into or from SEZ by the Unit/Developer shall be based on self-declaration made by the Unit/Developer. While clearing subject goods, DTA clients and warehousing units were bound to true and correct declaration and assessment. From the above, it is evident that Noticee No. 1 and Noticee No. 2 suppressed the true facts and cleared goods without paying anti-dumping duty with a motive to evade Customs duty alongwith the applicable IGST to the tune of **Rs. 2,88,13,58,021/-**

8. Whereas, Section 46(4A) of the Customs Act, 1962, the importer, who is presenting the bill of entry should ensure the accuracy and completeness of the information given therein, the authenticity and validity of any document supporting it; and compliance with the restriction or prohibition, if any, relating to the goods under the Customs Act, 1962 or under any other law for the time being in force. Apparently, it appears that the Noticee No. 1 and Noticee No. 2 filed Bill of entries with incorrect / false particulars, and have violated the provisions of section 46(4A) by way of not declaring and not paying applicable anti-dumping duty and thereby not self-assessed the Bill of Entries correctly.

Such indulgence and endeavour on their part are in violation of the provisions of Section 46 of the Customs Act, 1962, which makes the impugned goods, having assessable value of **Rs. 1,24,74,26,227/-** (Rupees One Hundred and Twenty Four Crore Seventy Four Lakh Twenty Six Thousand Two Hundred and Twenty Seven Only) liable for confiscation in terms of Section 111(m) of the Customs Act, 1962 as the goods which were cleared into DTA do not correspond to applicable anti-dumping duty and thereby appears to be treated as improperly imported goods. Therefore, **Rs. 2,88,13,58,021/-** the amount of short-levied duty appears recoverable under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962 from Notice No. 1. Hence, it appears that Noticee No. 1 is liable for penalty under section 114A of the Customs Act, 1962 and Noticee No. 2 is liable for penalty under section 117 of the Customs Act, 1962

9.1 Whereas, Section 28(4) of the Customs Act, 1962 permits recovery of duty short-levied within an extended period of five years from the relevant date, where such short-levy has occurred by reason of collusion, wilful mis-statement, or suppression of facts by the importer with an intent to evade payment of duty. In the present case, it appears that Noticee No. 1 at the time of presenting the Bills of Entry in question, self-assessed and declared the goods as "Titanium Dioxide Rutile" under CTH 3206 11, and paid duty only @ 30.98% (BCD + SWS + IGST), without disclosing or discharging the Anti-Dumping Duty leviable under Notification No. 47/2021-Customs (ADD) dated 26.08.2021 and Notification No. 13/2023- Custom (ADD) dated 22.11.2023, notwithstanding that the said Notification, based on DGTR Final Findings dated 08.06.2021, had already come into force with effect from 26.08.2021 and was squarely applicable to the goods so imported/cleared.

9.2 That the said non-declaration amounts to wilful mis-statement/suppression of facts, and not mere inadvertence, is evidenced by the following facts, each of which independently points to the same conclusion:

(i) The subject goods, being chemically Titanium Dioxide coated micaceous and lustrous pearlescent pigment, are commercially known in the marketplace, and to persons dealing in such goods, as "Titanium Dioxide" or "Iron Oxide coated Mica Pearl Pigment" — the very identity that the DGTR investigation and the impugned Notification address; the Noticee, being regular importers/dealers of the said commodity, cannot be heard to say that they were unaware of the applicability of the anti-dumping levy to goods answering this description.

(ii) The Notification No. 47/2021-Customs (ADD) dated 26.08.2021 and Notification No. 13/2023- Custom (ADD) dated 22.11.2023 is a public document, published in the Gazette of India, and is deemed to be within the knowledge of all persons dealing in the subject goods; despite this, the Noticee continued to clear successive consignments over a long period (September 2021 to May 2025) declaring the goods as plain "Titanium Dioxide", without at any point declaring or seeking a ruling on the applicability of the ADD Notification.

(iii) On the discrepancy being pointed out, Noticee No. 1 (**Kemco Corporation**) submitted their reply along with supporting documents and same were forwarded to CERA Audit Ahmedabad, but the same was not considered by the CERA officials.

9.3 The above facts, taken cumulatively, rule out inadvertence, clerical error, or bona fide interpretational difficulty as an explanation, and indicate a deliberate and consistent pattern of non-declaration of Anti-Dumping Duty liability with the intent to evade payment of duty lawfully due to the exchequer.

9.4 Accordingly, the extended period of five years under Section 28(4) of the Customs Act, 1962 is rightly invocable in the present case, and the Anti-Dumping Duty alongwith applicable IGST short-levied/not levied, amounting to **Rs. 2,88,13,58,021/-** (Rupees Two Hundred and Eighty Eight Crore Thirteen Lakh Fifty Eight Thousand Twenty One only) is recoverable from M/s. **Kemco Corporation** under Section 28(4) along with applicable interest under Section 28AA of the Customs Act, 1962.

10. Whereas, it appears that by declaring false information and wilful mis-statement while filing bill of entry and thereby evading customs duty, the Noticee No. 1 i.e M/s. **Kemco Corporation** being liable to pay duty as discussed at Para 9.1 to 9.4 above, is also liable to be penalized under Section 112 and/or 114A of the Customs Act, 1962.

11. Whereas, Section 114AA of the Customs Act, 1962 provides that if any 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 for the purposes of this Act, such person shall be liable to a penalty not exceeding five times the value of the goods. In the present case, DTA client (and warehousing unit) filed Bills of Entry declaring the goods as "Titanium Dioxide Rutile" under CTH 3206 11, whereas the goods, being Natural Mica based Pearl Industrial Pigment (excluding cosmetic grade), were liable to Anti-Dumping Duty under Notification No. 47/2021-Customs (ADD) dated 26.08.2021 and Notification No. 13/2023- Custom (ADD) dated 22.11.2023; the declaration made in the Bills of Entry as to the description/classification of the goods, and the consequent omission to declare ADD liability, is thus false and incorrect in a material particular within the meaning of Section 114AA. That the said false declaration was made knowingly and intentionally, and not on account of any bona fide error, stands established from the facts already discussed in para 9.2, above — namely, (i) the commercial identity of the goods as Titanium Dioxide/Mica Pearl Pigment being within the knowledge of persons regularly dealing in the trade; (ii) the ADD Notification being a public document in force since 26.08.2021, applicable throughout the period of clearances (September 2021 to May 2025); and (iii) The false declaration was made repeatedly made across 155 Bills of Entry from September 2021 to May 2025, resulting in evasion of Anti-Dumping Duty along with applicable IGST @ 18% amounting to **Rs. 2,88,13,58,021/-** (Rupees Two Hundred and Eighty Eight Crore Thirteen Lakh Fifty Eight Thousand Twenty One only). Given the sustained and repetitive nature of the false declarations, and the quantum of duty evasion involved, the conduct of the Noticee warrants imposition of penalty under Section 114AA of the Customs Act, 1962, commensurate with the gravity of the offence. Accordingly, Noticee No. 1 i.e M/s. Kemco Corporation appear liable to penalty under Section 114AA of the Customs Act, 1962.

11.1 Further, Section 17 of the Customs Act, 1962 provides for self-assessment of duty on imported and export goods by the importer and exporter himself by filing a bill of entry or shipping bill, as the case may be. Under self-assessment, the importer or exporter has to ensure correct classification, applicable rate of duty, value and exemption notifications, if any, in respect of imported /export goods while presenting bill of entry or shipping bill. Further, Rule 75 of the SEZ Rules, 2006 also provides that unless and otherwise specified in these rules, all inward or outward movements of the goods into or from SEZ by the Unit/Developer shall be based on self-declaration made by the Unit/Developer. While clearing subject goods, DTA clients and warehousing units were bound to true and correct declaration and assessment. However, DTA client and warehousing unit made incorrect self assessment, resulting in evasion of Anti-Dumping Duty along with applicable IGST @ 18% amounting to **Rs. 2,88,13,58,021/-** (Rupees Two Hundred and Eighty Eight Crore Thirteen Lakh Fifty Eight Thousand Twenty One only). Therefore, it is evident that Noticee No. 2 appears liable to penalty under Section 117 of the Customs Act, 1962

12. Whereas, SEZ units were authorized to hold the goods on behalf of DTA clients and as provided in terms of Rule 47(5) of the SEZ Rules, 2006 that Adjudication with regard to matters relating to authorised operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise or GST Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, the Central Excise Act, 1944, and the Finance Act, 1994 and the rules made there under or the notifications issued there under.

Rule 47: Sales in Domestic Tariff Area.-

(5) Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorised operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, the Central Excise Act, 1944, and the Finance Act, 1994 and the rules made there under or the notifications issued there under.

13. Now, therefore, DTA client **M/s. Kemco Corporation** is hereby called upon to Show Cause to the Commissioner of Customs, Custom House Mundra, having his office situated at 1st Floor, Customs House, Mundra, Port User Building, Mundra, Kutch within 30 days from the receipt this notice as to why:-

(i) Goods declared as “Titanium Dioxide Rutile” falling under CTH 3206 11cleared from SEZ Unit to Domestic Tariff Area as detailed in ANNEXURE-A attached having total assessable value of **Rs. 1,24,74,26,227/-** (Rupees One Hundred and Twenty Four Crore Seventy Four Lakh Twenty Six Thousand Two Hundred and Twenty Seven Only) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.

(ii) Customs Duty in form of Anti-Dumping Duty alongwith with applicable IGST @ 18% amounting to **Rs. 2,88,13,58,021/-** (Rupees Two Hundred and Eighty Eight Crore Thirteen Lakh Fifty Eight Thousand Twenty One only), should not be demanded and recovered from M/s. Kemco Corporation under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Custom Act, 1962 ibid.

(iii) Penalty under Section 112 and/or 114A of the Customs Act, 1962 should not be imposed upon M/s. Kemco Corporation for short-payment of Customs Duty.

(iv) Penalty under Section 114AA of the Customs Act, 1962 should not be imposed on M/s. Kemco Corporation for producing false particulars in Bill of Entries.

13.1 Now, therefore, SEZ warehousing unit **M/s. OWS Warehousing Services LLP** is hereby called upon to Show Cause to the Commissioner of Customs, Custom House Mundra, having his office situated at 1st Floor, Customs House, Mundra, Port User Building, Mundra, Kutch within 30 days from the receipt this notice as to why the penalty under Section 117 of the Customs Act, 1962 should not be imposed on them for their improper importation of goods having total assessable value of **Rs. 1,24,74,26,227/-** (Rupees One Hundred and Twenty

Four Crore Seventy Four Lakh Twenty Six Thousand Two Hundred and Twenty Seven Only).

14. Each of the above Noticees are 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 Noticees 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(s). Further, the Noticees are advised to mention their email address in writing for virtual hearing as per CBIC's Instruction dated 21.08.2020 issued vide F.No. 390/Misc/3/2019-JC.

15. 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.

16. The department reserves the right to add, amend, modify, delete any part or the portion of this notice any such addendum, amendment, modification, deletion, if made, shall be deemed to be part and parcel of this notice.

17. The list of relied upon documents (RUDs) in this case is as per Annexure-B.

Digitally signed by
Nitin Saini
Date: 02-09-2026
15:41:59

(**Nitin Saini**)
Commissioner of Customs,
Custom House, Mundra

F.No. GEN/ADJ/COMM/498/2026-Adjn
By Speed Post/Courier
To, Noticee

1. **M/s Kemco Corporation.** (IEC: 0301020221) having registered address at A1, Arpit Enclave GR FL, NR Greater, COOP Bank, Mahavir Nagar Kandvali Mumbai
2. **M/s. OWS Warehouse Services LLP,** Survey No. 169, Village Dhrub, Adani Port & Special Economic Zone Mundra, Gujarat -370421

Copy to:

1. The Specified officer, APSEZ Mundra
2. Deputy Commissioner/Assistant Commissioner (EDI), Customs House, Mundra with request to upload the Notice in Official Website.
3. Guard File
4. Notice Board

ANNEXURE-B

(List of Relied Upon Documents)

RUD-1: Copy of LAR dated 28.04.2023.
RUD-2: Letter issued to the Warehousing Unit
RUD-3: Reply submitted by the Importers.
RUD-4: Calculation Sheet in form of **ANNEXURE-A**