

	<p>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</p>	
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File No.: GEN/ADJ/COMM/646/2025

Date: 31-10-2025

SCN No. 24/2025-26/COMM/N.S./ADJN/MCH

Date: 31-10-2025

Show Cause Notice

M/s. Novanext Energies Pvt. Ltd. (IEC: AAHCN9295Q), hereinafter referred to as “*the importer*,” “*Novanext*,” or “*the noticee*” for brevity, having its registered office at Shed No. C-2/334, GIDC Shanker Tekri Udyognagar, Jamnagar – 361004, had imported certain goods under various Bills of Entry. In the said import transactions, the importer had availed the benefit of exemption under Serial No. 237 of Notification No. 50/2017-Customs, dated 30.06.2017.

The complete particulars of the relevant Bills of Entry are annexed hereto and form Annexure-A to this Notice.

2 . On the basis of specific intelligence received, it appeared that the importer had availed the exemption benefit under Sr. No. 237 of Notification No. 50/2017-Customs, dated 30.06.2017, without fulfilling the mandatory Condition No. 22 prescribed under the said notification. As per the provisions of the notification, an importer seeking to claim the benefit of exemption under the said serial number is required to comply with both Condition No. 9 and Condition No. 22 thereof. It appeared that the importer, in the present case, had failed to satisfy these conditions. Accordingly, a formal inquiry was initiated against the noticee to verify and ascertain the actual compliance position in respect of the conditions stipulated under the above-mentioned notification.

3 . Serial No. 237 of Notification No. 50/2017-Customs, dated 30.06.2017, grants exemption from the payment of Basic Customs Duty (BCD) on certain specified goods, subject to fulfillment of Condition No. 9 and Condition No. 22 of the notification. As per Condition No. 22(a) of the said notification, it is mandatory, in all cases, that the importer furnishes a recommendation certificate issued by an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Electronics and Information Technology (MeitY), recommending the grant of such exemption. However, during scrutiny of the import documents, it was revealed that the importer had failed to produce the mandatory recommendation certificate from MeitY at the time of importation. In the absence of such a certificate, the importer did not satisfy the essential condition prescribed under the notification. Therefore, it *prima facie* appears that the benefit of exemption claimed under Sr. No. 237 of Notification No. 50/2017-Customs, dated 30.06.2017, was not legally admissible to the importer.

4 . During the course of investigation, the statement of Shri Shabbir Makati, S/o Shri Saifuddin Makati, Managing Director of M/s. Novanext Energies Pvt. Ltd., was recorded under Section 108 of the Customs Act, 1962, on 12.02.2025, wherein he inter-alia stated that:-

- Novanext is engaged in manufacture of Backsheet used in manufacture of Solar Photovoltaic Modules;
- They had taken the benefit of entry no. 237 of the Notification No. 50/2017-Customs dated 30.06.2017. As per the said notification, exemption is available from payment of prescribed goods used in the manufacture of EVA (Ethylene Vinyl Acetate) sheets or backsheet, which are used in the manufacture of solar photovoltaic cells or modules. They are engaged in manufacture of PET based backsheet and supply the same to solar module manufacturers. Accordingly, they have taken benefit of entry no. 237 of the Notification No. 50/2017-Customs dated 30.06.2017;
- It was unintentionally wrongly believed that condition no. 22 was not applicable to them. Hence, Novanext had not furnished certificate as stipulated in condition no. 22 of Notification No. 50/2017-Customs dated 30.06.2017, at the time of import, in respect of goods imported vide bills of entry no. 8085213 and 8092710 dated 30.01.2025 and BE no. 8112725 dated 31.01.2025. However, they have applied to MeitY for the certificate as required under condition no. 22 Notification No. 50/2017-Customs dated 30.06.2017;
- They had always followed all the other requirements for availing benefit of entry no. 237 of the Notification No. 50/2017-Customs dated 30.06.2017 reaffirming their intent to adhere to all the regulatory requirement;
- Novanext had availed benefit of entry no. 237 of the Notification No. 50/2017-Customs dated 30.06.2017, prior to filing of Bills of Entry nos. 8085213, 8092710 and 8112725. He would provide the same;
- Novanext did not furnish certificate as stipulated in condition no. 22 of Notification No. 50/2017-Customs dated 30.06.2017, at the time of import, in respect of earlier bills of entry.

5. It is pertinent to examine Sr. No. 237 of Notification No. 50/2017-Customs, dated 30.06.2017, along with Condition No. 9 and Condition No. 22 prescribed therein. For ease of reference, the relevant conditions are reproduced below:-

Entry No. 237 of Notification No. 50/2017-Customs, dated the 30th June, 2017, reads as follows:-

<i>Sr. No.</i>	<i>Chapter or Heading or sub-heading or tariff item</i>	<i>Description of goods</i>	<i>Standard rate</i>	<i>IGST</i>	<i>Condition No</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>
237	3208, 3815, 3901, or 3920	<i>The following goods for use in the manufacture of EVA (Ethylene Vinyl Acetate) sheets or backsheet, which are used in the manufacture of solar photovoltaic cells or modules, namely: - (i) EVA resin; (ii) EVA masterbatch; (iii) Poly ethylene terephthalate (PET) film; (iv) Poly vinyl fluoride (PVF); (v) Poly vinyl di-fluoride (PVDF); (vi) Adhesive resin; and (vii) Adhesive hardner</i>	Nil	-	9 and 22

9. If the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.

22. If, the importer at the time of import,-

(a) furnishes in all cases a certificate to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, from an officer not below the rank of a Deputy Secretary to the Government of India in the Ministry of Electronics and Information Technology (MeitY) recommending the grant of the exemption and the said officer certifies that the goods are required for the specified purpose.

6. Condition No. 22 of Notification No. 50/2017-Customs, dated 30.06.2017, unequivocally stipulates that, in all cases, a certificate issued by an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Electronics and Information Technology (MeitY) recommending the grant of exemption is mandatory. This certificate must specifically confirm that the imported goods are intended for the specified purpose, and the same is required to be submitted to the Deputy Commissioner of Customs or Assistant Commissioner of Customs concerned. Compliance with this condition is a mandatory prerequisite for availing the benefit of exemption under Serial No. 237 of the said notification. During the course of investigation, the Director of the importer firm, Shri Shabbir Makati, in his voluntary statement dated 12.02.2025, categorically admitted that the requisite certificate from MeitY had not been furnished to the Customs authorities. In view of this admission, it is evident that the importer failed to fulfill the mandatory condition prescribed under Condition No. 22 of Notification No. 50/2017-Customs. Consequently, the importer is not eligible to avail the benefit of exemption claimed under Serial No. 237 of the said notification.

7. In light of the foregoing facts, it therefore appears that the importer has wrongly availed the benefit of exemption under Serial No. 237 of Notification No. 50/2017-Customs, dated 30.06.2017, and thereby evaded payment of the applicable Basic Customs Duty (BCD) on the goods imported. Accordingly, the importer appears liable to pay Customs Duty amounting to Rs. 3,78,36,362/- (BCD of Rs. 2,91,49,740/- + SWS of Rs. 29,14,974/- + IGST of Rs. 57,71,648/-) as detailed in Annexure-B to this notice. Summary of the same is given in Table-A below:-

Table-A

Assessable Value	BCD Rate %	BCD Rs.	SWS Rs.	IGST	Total Duty
26,33,72,903	10/15	2,91,49,740	29,14,974	57,71,648	3,78,36,362

8. LEGAL PROVISIONS

Legal provisions applicable in this case under the Customs Act 1962 are as follows:

8.1. *Entry No. 237 of Notification No. 50/2017-Customs, dated the 30th June, 2017, reads as follows:-*

Sr. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	IGST	Condition No
(1)	(2)	(3)	(4)	(5)	(6)
237	3208, 3815, 3901, or 3920	<i>The following goods for use in the manufacture of EVA (Ethylene Vinyl Acetate) sheets or backsheet, which are used in the manufacture of solar photovoltaic cells or modules, namely: - (i) EVA resin; (ii) EVA masterbatch; (iii) Poly ethylene terephthalate (PET) film; (iv) Poly vinyl fluoride (PVF); (v) Poly vinyl di-fluoride (PVDF); (vi) Adhesive resin; and (vii) Adhesive hardner</i>	Nil	-	9 and 22

8.2. Condition no. 9 and 22 of Notification No. 50/2017-Customs, dated the 30th June, 2017 read as follows:-

9. If the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022.

22. If, the importer at the time of import,-

(a) furnishes in all cases a certificate to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, from an officer not below the rank of a Deputy Secretary to the Government of India in the Ministry of Electronics and Information Technology (MeitY) recommending the grant of the exemption and the said officer certifies that the goods are required for the specified purpose.

8.3. 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, if any, and such other documents relating to the imported goods as may be prescribed.

(4A) The importer who presents a BE shall ensure the following :

- accuracy and completeness of the information given therein;
- the authenticity and validity of any document supporting it; and
- compliance with restriction or prohibition, if any, relating to the goods under this act or under any other law for the time being in force.

8.4. Section 111: Confiscation of improperly imported goods, etc. –

The following goods brought from a place outside India shall be liable for 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 transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;

(o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

8.5. Section 112: Penalty for improper importation of goods, etc.

Any person,—

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable,—

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not

exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.

8.6. SECTION 114AA:- Penalty for use of false and incorrect material. –

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

8.7. SECTION 125: Option to pay fine in lieu of confiscation.

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, 3 [no such fine shall be imposed]:

Provided further that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

9. Contraventions of the provisions of the law.

From the discussion in para supra, it appears that the importer has contravened following provisions of the Customs Act, 1962 and Rules made thereunder:

- i. Section 25 of the Customs Act, 1962, read with Sr. No. 237 of the Notification No. 50 /2017 dated 30.06.2017 inasmuch as the importer has failed to comply with the condition no. 22 stipulated in the notification for availing exemption benefits.
- ii. Section 17 and Section 46 of the Customs Act, 1962 in as much as they failed to assess their duty liability and accordingly failed to file Bill of Entry for imported consignment correctly.

10. Outcome of The Investigation:

10.1. The entry at Serial No. 237 of Notification No. 50/2017-Customs, dated 30.06.2017, grants exemption from payment of Basic Customs Duty (BCD) on goods specified therein, which are intended to be used in the manufacture of solar photovoltaic cells or modules. The said exemption is subject to fulfillment of Condition No. 9 and Condition No. 22 prescribed under the notification. As per Condition No. 22, in all such cases, a certificate from an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Electronics and Information Technology (MeitY), recommending the grant of the exemption, is required. The certificate must confirm that the imported goods are intended for the specified purpose, and it is to be submitted to the jurisdictional Deputy Commissioner of Customs or Assistant Commissioner of Customs. In the present case, it has been ascertained that the importer failed to furnish the requisite certificate from MeitY at the time of importation. Accordingly, it appears that the importer did not comply with one of the essential preconditions for availing the exemption under the said entry.

10.2. It is a well-established legal position that when an exemption notification prescribes certain specific conditions for availing a benefit, strict compliance with those conditions is mandatory. The exemption can be lawfully claimed only upon fulfillment of all such stipulated requirements. In the instant case, the importer has failed to satisfy Condition No. 22 of Notification No. 50/2017-Customs, dated 30.06.2017, which is an essential requirement for availing exemption under Serial No. 237. Consequently, it appears that the importer has wrongly availed the benefit of exemption from payment of Basic Customs Duty (BCD) under the said notification without fulfilling the mandatory condition, and is therefore not entitled to the said exemption.

10.3. With the introduction of the system of self-assessment under the Finance Act, 2011, the responsibility squarely lies on the importer to make a true, complete, and correct declaration in the Bill of Entry and to ensure payment of the correct amount of Customs duty as per law. In light of the findings discussed in the preceding paragraphs, it is evident that the importer has wrongly availed exemption under Serial No. 237 of Notification No. 50/2017-Customs, dated 30.06.2017, without compliance with the prescribed conditions. Consequently, the importer appears to have evaded Customs Duty amounting to Rs. 3,78,36,362/-, comprising BCD of Rs. 2,91,49,740/-, SWS of Rs. 29,14,974/-, and IGST of Rs. 57,71,648/-, as detailed in Table-A annexed to this notice.

10.4. Further, it appears that the importer has claimed inadmissible exemption benefits and thereby contravened the provisions of Sections 17 and 46 of the Customs Act, 1962, relating to self-assessment and filing of correct declarations at the time of import. These acts of omission and commission render the goods, valued at Rs. 26,33,72,903/-, liable to

confiscation under the provisions of Sections 111(m) and 111(o) of the Customs Act, 1962. Accordingly, the importer also appears to be liable for penal action under the provisions of Section 112(a)(ii) of the Customs Act, 1962, for their role in the said contravention.

10.5. Additionally, since the importer has availed inadmissible exemption benefits and, by way of willful misstatement, suppression of facts, or collusion, has attempted to short-pay Customs duty, they also appear to be liable for penalty under the provisions of Section 114AA of the Customs Act, 1962

11. Now, therefore, in view of the foregoing discussions and findings, **M/s. Novanext Energies Pvt. Ltd. (IEC: AAHCN9295Q)**, having its registered office at Shed No. C-2/334, GIDC Shanker Tekri Udyognagar, Jamnagar – 361004, is hereby called upon to show cause, within thirty (30) days from the date of receipt of this notice, to the Commissioner of Customs, Customs House, Mundra, First Floor, Port User Building, Mundra, Kutch, Gujarat – 370421, as to why:-

(i) The exemption claimed by them under Sr. No. 237 of the Notification No. 50/2017-Customs dated 30.06.2017 should not be denied and rejected in respect of Bills of Entry as detailed in Annexure-A to this Show Cause Notice owing to failure to comply with the condition no. 22 stipulated in the said notification;

(ii) Differential duty of **Rs. 3,78,36,362/-** (BCD Rs. 2,91,49,740/- + SWS Rs. 29,14,974/-+IGST Rs. 57,71,648/-), as calculated in Annexure-B to this notice, should not be demanded and recovered from them under section 28(1) of the Customs Act, 1962.

(iii) The imported goods having declared value as **Rs. 26,33,72,903/-** of the consignments covered under Bills of Entry as detailed in Annexure-A to this notice, though not available physically, should not be held liable for confiscation under Section 111(m) and Section 111(o) of Customs Act, 1962;

(iv) Interest at appropriate rates should not be levied and recovered from them under Section 28AA of the Customs Act, 1962;

(v) Penalty should not be imposed upon them under the provisions of Section 112(a) and/or 114A of the Customs Act, 1962 for the reasons discussed in para supra.

12. 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.

13. 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.

14. 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.

15. The list of documents relied upon for the issuance of this notice are attached as **ANNEXURE-I** to this notice. Copies of the same are being supplied, wherever not already available with the Noticee.

Digitally signed by
Nitin Saini
Date: 31-10-2025
(Nitin Saini)
13:20:35
Commissioner of Customs
Custom House, Mundra.

File No.:GEN/ADJ/COMM/646/2025

Date:31-10-2025

SCN NO. 24/2025-26/COMM/N.S./ADJN/MCH

Date:31-10-2025

To,
M/s Novanext Energies Private Limited
Shed No. C-2/334 GIDC, Shanker Tekri,
Udhyognagar Jamnagar - 361004

Copy to:-

- i. The Additional Commissioner (SIIB), C.H., Mundra.
- ii. Guard File