

	<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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DIN:- 20260171MO000000D8BA

Show Cause Notice No.: 47/2025-26/COMM/N.S./Adjn/MCH

SHOW CAUSE NOTICE

[Issued under Section 28(4) read with 124 of the Customs Act, 1962]

An intelligence was received that some importers of screws are importing screws at very low price, lower than the price of raw material. To ascertain the manufacturing cost of drywall screws & self-drilling screws data from the local market was analyzed and it was gathered that the manufacturing cost of drywall screws varies from Rs. 110 per Kg to Rs. 114 per kg whereas the manufacturing cost of self-drilling screw varies from Rs. 120 per kg to Rs. 130 per kg. It was further gathered that at contemporary steel wire price (which is a basic raw material for manufacturing screws) of Rs. 72/kg, it is not possible to manufacture drywall screws below Rs. 100 per kg and self-drilling screw below Rs. 110 per kg. Further, in the year 2022-2023, the steel wire prices have not fluctuated much, being in the range of Rs. 70/kg to Rs. 75/kg.

2. From the import data analysis, it appeared that M/s Affinity Planners Pvt. Ltd. (IEC AAJCA2672C) CB- 329, First Floor, Ring Road, Naraina, Delhi- 110028 (hereinafter referred to as "M/s APPL" in short) is a trading firm engaged in the import of 'screws' under CTH 7318 of Customs Tariff Act, 1975 by way of undervaluation and thereby indulging in evasion of customs duty. The investigation was initiated against the importer and summons dated 07.02.2024 was issued to the Director of the firm, Sh. Bhrigu Talwar to furnish the documents and to tender his statement.

3. In response to the summons, Shri Bhrigu Talwar S/o Shri Satpal Talwar, Director in M/s Affinity Planners Pvt Ltd appeared before SIO, DRI, Ludhiana and his statement was recorded on 18.02.2024 (**RUD-1**) under the provisions of Section 108 of the Customs Act, 1962 wherein he *inter alia* stated that: -

- (i) M/s Affinity Planners Pvt Ltd is engaged in trading of the imported goods mainly false ceiling items and screws; mostly the imported goods after Customs clearance are sent directly to the buyers as per their pre-orders; he looks after all day-to-day business activity of said firm including policy decisions;
- (ii) The major suppliers of their firm are Ningbo Weifeng Fastener Co Ltd and Tangshan Shimai Import and Export Trading Co Ltd based in China; previous year, they have imported one screw consignment from Tianjin Giant Star Hardware Products Co Ltd, China;

(iii) He submitted the copies of 16 Bills of Entry along with commercial invoices, packing lists and bank SWIFT copies; brief details of Bills of Entry filed by them from 2022 onwards are as under:

Table 1- B/Es details as provided by M/s APPL

Sl. No.	Custom House Code	B/E Number	B/E Date	Supplier Documents Details
1	INMUN1	2429328	14.09.2022	Proforma invoice no. GS-220726 of Tianjin Giant Star hardware products Co Ltd, China
2	INMUN1	2869448	14.10.2022	Tangshan Shimai Import and Export Trading Co Ltd
3	INMUN1	3630558	07.12.2022	Ningbo Weifeng Fastener Co Ltd
4	INMUN1	3878263	23.12.2022	Ningbo Weifeng Fastener Co Ltd
5	INMUN1	3875634	23.12.2022	Contract no. TAR202209-AFF02 dated 07.11.2022 made with Tangshan Shimai Import and Export Trading Co Ltd
6	INMUN1	4470101	03.02.2023	Proforma invoice no. WYF22005 dated 11.12.2022 of Ningbo Weifeng Fastener Co Ltd
7	INMUN1	4678896	17.02.2023	Tangshan Shimai Import and Export Trading Co Ltd
8	INMUN1	5873430	09.05.2023	Ningbo Weifeng Fastener Co Ltd
9	INMUN1	6477824	19.06.2023	Proforma invoice no. WYF/22006/7-2 dated 18.04.2023 of Tianjin Giant Star hardware products Co Ltd, China
10	INMUN1	6841738	13.07.2023	Contract no. TAR202303-THE01 dated 31.03.2023 made with Tangshan Shimai Import and Export Trading Co Ltd
11	INMUN1	6981645	21.07.2023	Open contract no. WYF23001 dated 21.05.2023 made with Ningbo Weifeng Fastener Co Ltd through which 6 consignments were imported in my firm
12	INMUN1	7262830	09.08.2023	
13	INMUN1	7691209	05.09.2023	
14	INMUN1	8164302	06.10.2023	
15	INMUN1	9082014	05.12.2023	
16	INMUN1	9371191	23.12.2023	

(iv) They have contracts/ proforma invoices in regard to 11 import consignments which he has submitted in brief of answer to the previous question; he did not have agreement/purchase orders in regard to his 5 import consignments because most of his consignments are stereotypic and of routine trade purpose,

so the prices were negotiated verbally and the prices more or less remains the same.

- (v) The prices are negotiable with the overseas supplier and majorly depends upon the quality of the imported goods; he had made the open contract with Ningbo Weifeng Fastener Co Ltd. in the month of May, 2023 for import of bulk screw consignment which were imported vide 6 Bills of Entry and before that also he had imported from Ningbo Weifeng Fastener Co Ltd on 4 occasions.
- (vi) Due to regular and bulk quantity contract, he got the goods at the competitive price; moreover, the imported goods were always examined and assessed at the port of import i.e. Mundra port.
- (vii) He has imported the goods as per the contract made with his foreign suppliers and he has nothing to comment on it.

4. MS (mild steel) wire being the prime raw material for manufacturing of any kind of screw, the import data of MS wire during 2022 and 2023 is analyzed. From the analysis of the MS wire import data, it comes to notice that the MS steel wire has been imported into India from China at the average price of USD 0.96/kg in 2022.

Sr. No.	B/E No.	Date	Quantity (in Kg)	Assessable value (in Rs.)	Unit Price/kg (in Rs.)	Conversion Rate	Unit Price/Kg (in USD)
1	3107067	31-10-2022	33186	2185679.74	65.86	83.36	0.79
2	3944698	28-12-2022	21044	2179420.42	103.56	87.76	1.18
Total			54230	4365100.16	80.49	83.36	0.96

Table 2: Import of MS wire during 2022

Manufacturing cost of screws from raw materials includes the cost of raw materials (MS wire), manufacturing processes, labor and machinery cost etc. A typical screw manufacturing process includes cutting, heading, threading, and finishing. Considering the material and process costs and profit margin, a least 20% value addition to the value of raw material (0.96 USD/kg) is considered to arrive at a reasonable and conservative base price for analyzing the contemporary import prices of the screws. The base price thus turns out to be 1.15 USD/kg. This base unit price of 1.15 USD/kg is used as lower cut off for analyzing the contemporary import

5. Further summonses were issued to M/s Affinity Planners Pvt. Ltd. for appearances on 21.04.2025, 28.04.2025, and 08.05.2025 (**RUD 2, 3, and 4**), but they failed to respond. Due to the importer's non-appearance, the investigation is being proceeded ahead based on available documents and information on record. Examination of import records reveals that the importer has imported drywall screws, chipboard screws, and self-drilling screws during 2022 and 2023 as under:

Table 3: Screw import by M/s APPL during 2022, 2023

Sr. No.	Description of item	Quantity (Kg)	Declared Value (USD)	Unit Price (USD/Kg)
1	drywall screw	540700	340897.27	0.63
2	chipboard screw	22300	14090.52	0.63
3	self-drilling screw	37725	23649.25	0.63
	total	600725	378637.04	

Manufacturing techniques for drywall and chipboard screws reveal that both products are manufactured through similar methods, including wire drawing, thread rolling, heat treatment, and surface coating. Nevertheless, they possess unique design characteristics and serve different purposes. Drywall screws are specifically engineered for drywall applications and feature a bugle head, while chipboard screws are crafted for chipboard and typically have a countersunk head. Based on similarity in manufacturing processes, drywall and chipboard screws can be considered to fall within the same price range. Whereas, self-drilling screws have a pointed tip that allows them to cut through material, while drywall/chipboard screws have blunt tips and deeper threads for securing into specific materials; self-drilling screws are designed for cutting and fastening, while drywall/chipboard screws are designed for securing into pre-drilled or softened materials. Accordingly for ascertaining contemporary import prices, import data is grouped into drywall/chipboard screws and self-drilling screws.

6. Analysis of Import Data of Drywall Screw & Self-drilling Screw

6.1 As discussed at para 4 above, considering 1.15 USD/kg to be the least feasible unit price for import of any kind of screws, the average declared price w.r.t. import of drywall screws for contemporary imports during 2022-23 from China turns out to be USD 1.40/kg as summarized in table below.

Table 4: Contemporary import of drywall screw (B/E details enclosed as RUD – 5 & 6)

Year	Screw Type	Quantity (In Kg)	Assessable Value (In Rs.)	Unit Price Rs/kg	Unit Price USD/kg
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202 2	Drywall	17,36,324	20,47,68,199	117.93	1.41
202 3	Drywall	5,14,763	5,88,42,315	114.31	1.37
	Total	22,51,087	26,36,10,514	117.10	1.40

However, during the import period 2022 and 2023 the importer has imported 563000 kgs of drywall and chipboard screw with average import price of USD 0.63/kg. B/E wise import details of drywall /chipboard screws are tabulated as under: -

Table 5: Bill of Entry wise import of Drywall & Chipboard Screws by M/s APPL

S. N.	B/E No.	Date	Supplier name	Description of item	Quantity (Kg)	Declared Value (USD)	Unit Price USD/kg
1	3630558	07-12-2022	Ningbo Fastner Co. Ltd	Drywall Screw	27500	16915	0.62
2	3878263	23-12-2022	Ningbo Fastner Co. Ltd	Drywall Screw	7450	4476.25	0.60
3	3878263	23-12-2022	Ningbo Fastner Co. Ltd	Chipboard Screw	9575	6186.89	0.63
4	5873430	09-05-2023	Ningbo Fastner Co. Ltd	Drywall Screw	27500	16477	0.6
5	6477824	19-06-2023	Ningbo Fastner Co. Ltd.	Chipboard Screw	12725	7903.63	0.62
6	6477824	19-06-2023	Ningbo Fastner Co. Ltd.	Drywall Screw	13400	8375.02	0.63
7	6981645	21-07-2023	Ningbo Fastner Co. Ltd	Drywall Screw	27500	17187	0.62
8	7262830	09-08-2023	Ningbo Fastner Co. Ltd	Drywall Screw	55000	34375	0.63
9	7691209	05-09-2023	Ningbo Fastner Co. Ltd	Drywall Screw	52650	32906	0.62
10	8164302	06-10-2023	Ningbo Fastner Co. Ltd	Drywall Screw	82500	51563	0.63
11	9082014	05-12-2023	Ningbo Fastner Co. Ltd	Drywall Screw	55000	34375	0.63
12	9371191	23-12-2023	Ningbo Fastner Co. Ltd	Drywall Screw	54700	34187	0.62
13	2869448	14-10-2022	Tangshan Shimai Import & Export Trading Co. Ltd.	Drywall Screw	27500	19250	0.7
14	3875634	23-12-2022	Tangshan Shimai Import & Export Trading Co. Ltd.	Drywall Screw	27500	17187	0.62
15	4678896	17-02-2023	Tangshan Shimai Import & Export Trading Co. Ltd.	Drywall Screw	27500	17187	0.62
16	6841738	13-07-2023	Tangshan Shimai Import & Export Trading Co. Ltd.	Drywall Screw	27500	17187	0.62
17	2429328	14-09-2022	Tianjin Giant Star Hardware	Drywall Screw	27500	19250	0.7

			Products Co. Ltd.				
					563000	354987. 79	0.63

6.2 Similarly, the average import price of self-drilling screw declared by various contemporary importers importing the screws from China turns out to be 1.47 USD/kg as summarized in the table below. To arrive at the average import price of self-drilling screws, the contemporary imports with unit price above 1.15 USD/kg only are considered.

Table 6: Contemporary import of self-drilling screw (B/E details enclosed as RUD 7 & 8)

Sr. No.	Year	Screw Type	Quantity (in Kg)	Assessable Value (Rs.)	Unit Price (in Rs.)	Unit Price (in USD/KG)
1	2022	Self-drilling	27,04,093	33,64,40,210	124.42	1.49
2	2023	Self-drilling	24,79,153	29,92,51,537	120.71	1.45
		Total	51,83,246	63,56,91,747	122.64	1.47

The importer during the year 2022 and 2023 has imported 37725 kg of Self drilling screw @ average price of USD 0.63/kg. BEs wise import details of self-drilling screws are tabulated as under: -

Table 7: Bill of Entry wise Import of Self-Drillings Screw by M/s APPL in 2022 and 2023

S. N.	B/E No.	Date	Supplier name	Description of item	Quantity (kg)	Declared Value (USD)	Unit Price (USD/kg)
1	38782623	3-12-2022	Ningbo Fastner Co. Ltd	Self-Drilling Screw	10475	6599.25	0.63
2	4470101	03-02-2023	Ningbo Fastner Co. Ltd	Self-Drilling Screw	27250	17050	0.63
					37725	23649. 3	0.63

6.3 From above, it is noticed that the unit price of 0.63 USD declared by the noticee is only 45% of contemporary import price of drywall/chipboard screw (1.40 USD/kg) and 43% self-drilling screw (1.47 USD/kg). The Government of India has revised the import policy for screws under ITC (HS) codes 73181110, 73181190, 73181200, 73181300, 73181400, 73181500 and 73181900 through DGFT

notification no. 55/2023 dated January 3, 2024 (**RUD 9**). This amendment changes the status of these goods from "Free" to "Prohibited." However, importation will remain unrestricted if the CIF value equals or exceeds Rs. 129 per kg. The said notification also emphasizes that the price declared by the importer is quite low and the importer has deliberately mis-declared the value of imported goods to evade the customs duty. Considering exchange rate of Rs 85/USD, minimum import price prescribed vide above notification turns out to be 1.52 USD/kg. Thus, it appears that base prices of 1.15 USD/kg and contemporary average unit prices of 1.40 USD/kg for drywall & chipboard screws and 1.47 USD/kg for self-drilling screw during 2022 and 2023 appears to be logical and reasonable.

7. Summary of the investigation

7.1 Investigation as briefed above has revealed that M/s APPL have imported screws during 2022 and 2023 vide 16 Bills of Entries from Chinese suppliers namely Ningbo Weifeng Fastener Co Ltd, Tangshan Shimai Import and Export Trading Co Ltd and Tianjin Giant Star Hardware Products Co Ltd at substantially undervalued unit prices even lower than the value of the MS wire which is used as raw material in the manufacturing of the screws.

7.2 Average unit price declared by the noticee for various types of screws is 0.63 USD/kg which is much lower than the base price of 1.15 USD/kg arrived from the raw material price or average contemporary import price for drywall/chipboard screws which turns out to be 1.40 USD/kg whereas it works out 1.47 USD/kg for the self-drilling screws. Thus, unit price declared by the noticee is only 43-45% of the contemporary average import prices of the screws. Average contemporary import prices of 1.40 USD/kg and 1.47 USD/kg appear to be logical and justified when compared to the minimum import price of 129 Rs/kg (1.52 USD/kg) prescribed vide DGFT notification no. 55/2023 dated January 3, 2024 for import of screws.

7.3 In his statement dated 18.02.2024, Sh. Bhrigu Talwar, Director of M/s APPL admitted that his firm is engaged in trading of false ceiling items and screws, and that most of the imported goods were sent directly to buyers after customs clearance, as per their pre-orders. In the said statement, Sh. Bhrigu Talwar also admitted that they imported goods only from China, and have contracts/proforma invoices for 11 of their import consignments, but do not have any written agreements or purchase orders for 5 other import consignments, nor any written agreements with their Chinese suppliers.

7.4 Screws imported by M/s APPL at unit price of 0.63 USD/kg appear to be substantially undervalued as compared to the base price of 1.15 USD/kg, contemporary average import prices of 1.40USD/kg for drywall/chipboard screws & 1.47 USD/kg for self-drilling screws and also the minimum import price of 129 Rs/kg (1.52 USD/kg). It therefore, appears that the importer has willfully mis-declared the value of the imported goods and suppressed true unit price of the screws before the Customs Authority, with intention to evade Customs duty and

has rendered the screws imported vide 16 Bills of Entries liable for confiscation, differential duty liable to recovered and consequently has rendered himself liable for penalty under the provisions of the Customs Act, 1962 read with the allied Act and Rules as discussed in the subsequent paras.

8. Relevant Legal provisions

The relevant provisions of law relating to the import of goods in general, the Policy and Rules relating to the import of Screw, the liability of the goods to confiscation and the liability of the persons concerned to penalty for attempting and effecting improper/illegal imports under the provisions of Customs Act, 1962 read with other allied laws for the time being in force are summarized as under:

8.1 The Customs Act, 1962

- (i) Section 2(33) of the Customs Act, 1962 defines "prohibited goods"** as any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;
- (ii) Section 2(39) of the Customs Act, 1962 defines "smuggling"**, in relation to any goods, as any act or omission which will render such goods liable to confiscation under section 111 or section 113;
- (iii) Section 11. Power to prohibit importation or exportation of goods.- (1)** If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description;
- (iv) Section 11A(a) of the Customs Act, 1962 defines "illegal import"** as the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;
- (v) Section 14 for valuation of the goods**
(1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf;

Provided further that the rules made in this behalf may provide for, -
 (iii) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section.

(vi) Section 17. Assessment of duty

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

(vii) 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 willful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(viii) Section 28AA of the Customs Act, 1962 provides that 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.

(ix) Section 46(4). The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, [and such other documents relating to the imported goods as may be prescribed]

(x) Section 46(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 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.]

(xi) Section 110 of the Customs Act, 1962: -Seizure of Goods, documents & things

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.

(xii) Section 111 of the Customs Act, 1962: -Confiscation of improperly imported goods, etc.

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

.....

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

.....

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

(xii) Section 112 of the Customs Act, 1962: -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, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher: Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

(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.

(xiii) Section 114A: Penalty for short-levy or non-levy of duty in certain cases.

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

Provided that where such duty or interest, as the case may be, as determined under sub-section Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

(xiv) 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.

8.2 The Customs Valuation (Determination of Value of Import Goods) Rules, 2007

(i) Rule 2. Definitions –

(f) "similar goods" means imported goods –

(i) which although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark;

(ii) produced in the country in which the goods being valued were produced; and

(iii) produced by the same person who produced the goods being valued, or where no such goods are available, goods produced by a different person,

but shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods;

(ii) Rule 3. Determination of the method of valuation.

- (1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;
- (4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.
- (iii) Rule 4. Transaction value of identical goods.** - (1) (a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;
- (iv) Rule 5. Transaction value of similar goods.** — (1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:
- (v) Rule 6. Determination of value where value cannot be determined under rules 3, 4 and 5.** - If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8. Provided that at the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 8 shall be reversed.
- (vi) Rule 7. Deductive value.** — (1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : — (i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind; (ii) the usual costs of transport and insurance and associated costs incurred within India; (iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.
- (vii) Rule 8. Computed value.** — Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of: (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods; (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India; (c) the cost or value of all other expenses under sub-rule (2) of rule 10.
- (viii) Rule 9. Residual method.** — (1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;
- (ix) Rule 12. Rejection of declared value.** - (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any

imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

8.3 The Foreign Trade (Development and Regulation) Act, 1992

(i) Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992 states that no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force;

8.4 Foreign Trade (Regulation) Rules, 1993

(i) Rule 11 of the Foreign Trade (Regulation) Rules, 1993 stipulates, inter alia, that on the importation into any custom port of any goods, whether liable to duty or not, the owner of such goods shall in the bill of entry or any other documents prescribed under the Customs Act, 1962 state the value, quality and description of such goods to the best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot of such bill of entry or any other document;

(ii) Rule 14 (2) of the Foreign Trade (Regulation) Rules, 1993 stipulates, inter alia, that no person shall employ any corrupt or fraudulent practice for the purposes of importing or exporting any goods

9. Rejection of declared value and Re-determination of value and duty

9.1 Rejection of declared value & re-determination of value

9.1.1 Average unit price declared by the noticee for various types of screws is 0.63 USD/kg which is much lower than the base price of 1.15 USD/kg arrived from the raw material price or average contemporary import price for drywall/chipboard screws which turns out to be 1.40 USD/kg whereas it works out 1.47 USD/kg for the self-drilling screws. Thus, unit price declared by the noticee is only 43-45% of the contemporary average import prices of the screws. Average contemporary import prices of 1.40 USD/kg and 1.47 USD/kg appear to be logical and justified when compared to the minimum import price of 129 Rs/kg (1.52 USD/kg) prescribed vide DGFT notification no. 55/2023 dated January 3, 2024 for import of screw. There is thus reason to doubt the truth and accuracy of the values declared under Rule 12 of the Customs Valuation (Determination of value of imported goods) Rules, 2007 (hereinafter referred to as 'CVR 2007' in short). The value as declared by the importer at the time of filing the Bills of entry cannot be accepted and hence the transaction value cannot be determined under the provisions of sub-Rule (1) of the Rule 3 of CVR 2007. Value of the goods therefore, needs to be re-determined proceeding sequentially through Rules 4 to 9 of CVR 2007.

9.1.2 Rule 4 provides that the value of imported goods shall be transaction value of 'identical goods' sold for export to India and imported contemporaneously. In the instant case, the goods differ in weight, size & shape. Thus, Rule 4 of CVR, 2007 does not appear to be applicable in the instant case for the valuation of impugned goods.

9.1.3 The next Rule which is to be considered for re-determination of value is Rule 5. It takes into account the value of similar goods imported contemporaneously. Here the goods imported by the importer appears to be "similar goods" as defined under Rule 2(f) of CVRs 2007 as compared to the 'drywall screws' and 'Self-drilling screw' imported by contemporary importers during the contemporary times from the same country as detailed in RUDs 5 to 8 and summarized under table-4 and 6 above. Screws imported by others during the contemporary times have like characteristics and like component materials which enable them to perform the same functions. Further, they (screws) have been imported from same country i.e. China.

9.1.4 Contemporary screws import data suggests that similar goods of China origin have been imported through various ports. Considering the minimum feasible average import price of screws @ \$1.15/kg (the lowest economically viable pricing for importing any type of screw), any declared value below this threshold does not appear to be acceptable. Using this as a benchmark for fair pricing of the screws, import data shows that goods similar to goods imported by M/s APPL, drywall/chipboard screws imported from the same country i.e. China was imported at an average price of \$1.40/kg during 2022 and 2023 while import of self-drilling screws from China averaged at \$1.47/kg whereas unit price declared by M/s APPL is 0.63 USD/Kg from the same country i.e. China for import of self-drilling screws and drywall screws, which is lower than the MS wire import price of 0.96 USD/kg.

9.1.5 Thus, it becomes apparent that declared average unit price of 0.63 USD/Kg for the import of "drywall/chipboard screws" and "self-drilling screw" by M/s APPL imported vide 16 B/Es and the total declared values of Rs. 2,99,19,311.17/- and Rs. 19,84,331.86/- respectively appears liable to be rejected and liable to be re-determined at unit price of 1.40 USD/kg, total value at Rs 6,64,46,725.62/- for the import of drywall/chipboard screw and at unit price of 1.47 USD/kg, total value at Rs. 46,53,046.33/- for the import of self-drilling screws as detailed in **Annexure-A and B** in terms of section 14 of the Customs Act, 1962 read with Rules 2(f), 3, 5, and 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

9.2 Invocation of extended period in terms of section 28(4) of the Customs Act, 1962

M/s APPL appears to have contravened the provisions of Section 14 of the Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, Section 17, Section 46(4) and 46(4A) of the Customs Act, 1962 in as much as they made a wrong declaration about the value of the goods in the Bills of Entry filed for the importation of the goods with an intention to evade the Customs duty. M/s APPL appears to have misdeclared the value of drywall/chipboard screws and self-drilling screws as Rs. 2,99,19,311.17/- and Rs. 19,84,331.86/- respectively which appears liable to be re-determined at Rs 6,64,46,725.62/- for drywall/chipboard screws and Rs. 46,53,046.33/- for self-drilling screws. Thus, it appears that they willfully mis-stated the facts and suppressed the true value of the goods with intent to evade payment of appropriate customs duties and therefore, the differential customs duty is liable to be recovered by invoking the extended period of limitation under Section 28(4) of the Customs Act, 1962.

9.3. Redetermination of duty and demand for differential duty with applicable interest

M/s APPL appears to have misdeclared the value of drywall/chipboard screws and self-drilling screws as Rs. 2,99,19,311.17/- and Rs. 19,84,331.86/- respectively which appears liable to be re-determined at Rs 6,64,46,725.62/- for drywall/chipboard screws and Rs. 46,53,046.33/- for self-drilling screws. Consequent to re-determination of the value, as detailed in **Annexure A & B**, differential duty of Rs 1,36,86,822.16/- on drywall/chipboard screws and differential duty of Rs 9,99,967.30/- on self-drilling screws, total differential duty of Rs. 1,46,86,789.46/- appears liable to be demanded from M/s APPL under Section 28(4) of the Act by invoking the extended period of limitation along with interest as applicable under Section 28AA of the Act. Re-determined values and differential duties liable to be demanded from the noticee are summarized in the table below.

Table 8: Redetermination of value u/r 5 of CVR 2007 & differential duty demand

Sr No.	Item Description	Quantity (Kg)	Declared Ass. Value (Rs)	Duty Paid (Rs)	Unit Price (USD/kg)	Redetermined Ass. Value (Rs)	Duty Payable (Rs)	Differential Duty (Rs)
1	Drywall/Chipboard	563000	29919311.17	11210765.87	1.40	66446725.62	24897588.10	13686822.16
2	Self-Drilling Screw	37725	1984331.86	743529.14	1.47	4653046.33	1743496.45	999967.30
			31903643.03	11954295		71099771.95	26641084.5	14686789.46

10. Violations of the legal provisions

- (i) The contemporary import of 'drywall/chipboard screw' and self-drilling screw from China has been average unit price of 1.40 USD/kg and 1.47 USD/kg during 2022 and 2023. However, the average unit price of USD 0.63 USD/kg declared before

the customs authority by M/s APPL is only 43-45% of average unit price of what other importers have declared for the similar goods. Importer has thus not declared the correct transaction values of the goods as required under section 14 of the Customs Act, 1962.

- (ii) In terms of section 46(4), of the Customs Act, 1962 importer should subscribe to a declaration as to the truth of the contents of the bill of entry and in terms of 46(4A) of the Customs Act, 1962, importer while presenting bill of entry should ensure the accuracy and completeness of the information. However, the importer has failed to do so by resorting to undervaluation and has violated provisions of section 46(4) and 46(4A) of the Customs Act, 1962.
- (iii) In terms of the Rule 11 of Foreign Trade (Regulation) Rules, 1993 importer of the goods should state the value, quality and description of such goods to the best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot in the bill of entry. In terms of the Rule 14(2), importer shouldn't employ any corrupt or fraudulent practice for importing of the goods. By resorting to the undervaluation of the goods, importer has not complied with Rule 11 and 14(2) of the Foreign Trade Rules, 1993 thereby has also violated section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992.
- (iv) By resorting to the undervaluation of the goods, importer has failed to meet the faith and responsibility posed on him under section 17 of the Customs Act, 1962 which allows for the self-assessment of the bill of entry. Under self-assessment, it is the added and enhanced responsibility of the importer to declare the correct description, classification and value and pay the applicable duty on the imported goods. The investigation has revealed that M/s APPL had incorrectly self-assessed the duty and violated the provisions of Section 17 of the Customs Act, 1962 with intent to evade the customs duty short levied.

11. Liability of goods for confiscation

11.1 Under Section 111(d) of the Customs Act, 1962

M/s APPL appears to have mis-declared the values of screws only at 43-45% of the average unit price of the contemporary imports thereby appears to have evaded customs duty payment to the tune of Rs 1,46,86,789.46/-. Thus, violations of provisions of Customs Act 1962 and the allied Acts, Rules and Orders as discussed in para 10 above by way of mis-declaration and undervaluation, makes the import of the screws by M/s APPL vide 16 Bills of Entries an 'illegal import' under section 11A(a) of the Customs Act, 1962 and non-compliance of the provisions of the rules and regulations under Customs and allied acts makes the imported goods prohibited goods under section 2(33) of the Customs Act, 1962. The importer has thus indulged in the smuggling of the goods in terms of the section 2(39) of the goods and has rendered the prohibited goods liable for confiscation under section 111(d) of the Customs Act, 1962.

11.2 Under Section 111(m) of the Customs Act, 1962

M/s APPL has undervalued the screws imported vide 16 Bills of Entries and self-assessed at value of Rs 3,19,03,643.03/- whereas based on the contemporary import prices value appears to be Rs 7,10,99,771.95/- as summarized in the table 8 above. Thus, for the reason of undervaluation, goods (screws) imported by the noticee covered under 16 B/Es appears to be liable for confiscation under section 111(m) of the Customs Act, 1962.

12. Liability for penalty of M/s APP and its' Director

12.1 Liability for Penalty of M/s APP under Section 112 (a) of the Customs Act, 1962

As discussed at Para 9 and 10 above M/s APPL have wilfully mis-stated the facts in Bills of Entry with an intent to undervalue the imported goods (screws) to evade Customs Duty. By their acts of omission and commission M/s APPL have violated the provisions u/s 11, 14, 17, 46(4), 46(4A) of the Customs Act, 1962 and section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 11 and Rule 14(2) of the Foreign Trade (Regulation) Rules, 1993 resulting in imported goods liable for confiscation under sections 111(d) and 111(m) of the Customs Act, 1962 and have thus rendered themselves liable for penalty under section 112(a) of the Customs Act, 1962.

12.2 Liability for Penalty under Section 114A of the Customs Act, 1962

As discussed in para 9.2 above, M/S APPL have resorted to wilful mis-statement and suppression of true value of the imported goods resulting in the short levy of the duty to the tune of Rs 1,46,86,789.46/- and have thus rendered themselves liable for penalty under section 114 (A) of the Customs Act, 1962.

12.3 Penalty under Section 114AA of the Customs Act, 1962

Under section 46(4) and 46(4A) and under Section 17 M/s APPL was required to file truthful declaration before the customs authority, however they have failed to comply with the same as they mis-declared the value at only 43-45% of the value arrived at for the contemporary imports of the similar goods thereby evaded payment of customs duty to the tune of Rs 1,46,86,789.46/-. The importer deliberately filed false declaration before the customs authority to evade the customs duty and have violated the provision of the Customs Act, 1962 and have thus rendered themselves liable for penal action under Section 114AA of the Customs Act, 1962.

12.4 Director's role and liability for personal penalty

While the documentation and record has been in the name of M/s APPL, the actual omissions and commissions rendering the goods liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962 as discussed in para 11

above has been executed by its' director Sh. Bhirgu Talwar and he has thus rendered himself liable for penalties under section 112(a) and 114AA of the Customs Act, 1962.

13. Now, therefore, it appears that M/s Affinity Planners Pvt Ltd, (IEC AAJCA2672C) CB- 329, First floor, Ring Road, Naraina, Delhi- 110028 is hereby liable to be called upon to Show Cause in writing, to the Adjudicating Authority, the Commissioner of Customs, Custom House Mundra Port, Gujrat within 30 days of receipt of this notice, as to why:

- (i) The declared value of Rs 2,99,19,311.17/- for drywall/chipboard screws and Rs 19,84,311.86/- for self-drilling screws imported vide 16 B/Es, should not be rejected under the provisions of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962 as discussed in para 9.1 above.
- (ii) The value with respect to these 16 Bills of Entry should not be re-determined as Rs 6,64,46,725.55/- for drywall/chipboard screws and Rs 46,53,046.33/- for self-drilling screws by invoking the provisions of Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 as discussed in para 9.1 above.
- (iii) The differential Customs Duty of Rs. 1,46,86,789.46/- should not be demanded and recovered from them under the provisions of Section 28 (4) of the Customs Act, 1962 along with interest applicable under section 28AA of the Customs Act, 1962 as discussed in para 9.3 above.
- (iv) Screws imported vide 16 B/Es (Annexure-A) should not be held liable for confiscation under section 111(d) and 111(m) of the Customs Act, 1962 as discussed at para 11 above.
- (v) Penalty should not be imposed under Section 112(a), 114A and 114AA of the Customs Act, 1962 as discussed in para 12.1, 12.2 and 12.3 above.

14. Now therefore, Sh. Bhirgu Talwar, Director of M/s APP New Delhi is hereby liable to be called upon to Show Cause in writing to the Adjudicating Authority i.e. Commissioner of Customs, Custom House Mundra Port, Gujrat within 30 days of receipt of the notice, as to why penalty should not be imposed on him under the Provisions of Section 112(a) and 114AA of the Customs Act, 1962 as discussed in Para 13.4 above.

15. The list of the documents which has been relied upon in issuing of this investigation report & copies of the said relied upon documents as per the details given above (**RUD-1 to RUD-9**) are appended with this Show Cause Notice.

Enclosures: Annexure A & Annexure B
RUDs (RUD-1 to RUD-9)

(Nitin Saini)
Commissioner of Customs
Customs House, Mundra

F.No. GEN/ADJ/COMM/28/2026-Adjn-O/o Pr Commr-Cus-Mundra

Show Cause Notice No.: 47/2025-26/COMM/N.S./Adjn/MCH

To (Noticees)

- 1.** M/s Affinity Planners Pvt. Ltd, (IEC AAJCA2672C) CB- 329, First Floor, ring road, Naraina, Delhi- 110028.
- 2.** Sh. Bhirgu Talwar, Director, M/s Affinity Planners Pvt. Ltd, (IEC AAJCA2672C) CB- 329, First Floor, ring road, Naraina, Delhi- 110028 (Email Id – bhrigu@affinityplanners.com)

Copy to:

1. The Additional Director, Directorate of Revenue Intelligence, Ludhiana Zonal Unit, 213, Rani Jhansi Road, Civil Lines, Ludhiana (dri-ldh-pb@nic.in).
2. Deputy Commissioner (EDI), Customs House, Mundra with request to upload the same to official website.
3. Notice Board.
4. Guard File.