प्रधान आयुक्त का कार्यालय,सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT

EMAIL: group1-mundra@gov.in

SCN No.: **121/2026-27/ADC/ZDC/MCH** DATE: **As-signed**

Show Cause Notice

(Issued under section 28(4) of Customs Act, 1962)

M/s. Arham Petrochem Pvt Ltd, 1163/A, Village Moti Bhoyan, Taluka Kalol, Dist Gandhinagar – Gujarat-382721, having IEC No. 0899007317 (hereinafter also referred to as "the importer" for the sake of brevity") filed a Bill of Entry no. 5124800 dated 20.08.2021 through their Customs Broker M/s. Samundra Marine Services Pvt Ltd for re-import of "HEAVY AROMATICS" under CTH 27079900 which was exported vide Shipping Bill as mentioned in Table-A below:

Table-A

Sr. No.	Bill of Entry No. and Date	Shipping Bill No. and Date
1	5124800 dated 20.08.2021	2806549 dated 23.05.2020

2. During the course of data analysis, re-import Notification No. 045/2017-Cus dated 30.06.2017, Sr No.1D was taken up for a detailed scrutiny. The re-import Notification No. 045/2017-Cus dated 30.06.2017 reads as below:

"In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods falling within any Chapter of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and specified in column (2) of the Table below when re- imported into India, from so much of the duty of customs leviable thereon which is specified in the said First Schedule, and the whole of the, integrated tax , compensation cess leviable thereon respectively under sub-section (7) and (9) of section 3 of the said Customs Tariff Act, as is in excess of the amount indicated in the corresponding entry in column (3) of the said Table.

Sr. No.	Description of goods	Conditions
(1)	(2)	(3)
1	Goods exported - (a) under claim for drawback of any customs or excise duties levied by the Union (b) under claim for drawback of any excise duty levied by a State (c) under claim for refund of integrated tax paid on export goods **(d) under bond without payment of integrated tax**	amount of drawback of customs or excise duties allowed at the time of export; amount of excise duty leviable by State at the time and place of importation of the goods. allowed at the time of export; amount of refund of integrated tax, availed at the time of export; **amount of integrated tax not paid;**

3. Thus, it is clear that for goods exported under bond/LUT without payment of IGST on re-import, the amount of integrated tax foregone at the time of export is required to be paid. This is a conditional Notification and to avail the benefit one has to comply with the condition given thereon.

4. As per law laid down by Hon'ble Supreme Court in a catena of decisions, in the taxing statute, it is the plain language of the provision that has to be preferred, where language is plain and is capable of determining defined meaning. Strict interpretation to the provision is to be accorded to each case on hand. It is settled law that the notification has to be read as a whole. If any of the conditions laid down in the notification is not fulfilled, the party is not entitled to the benefit of that notification. An exception and/or an exempting provision in a taxing statute should be construed strictly, and it is not open to the court to ignore the conditions prescribed in the relevant policy and the exemption notifications issued in that regard. The exemption notification should be strictly construed and given a meaning according to legislative intendment.

5. Some of the well pronounced judgements on the issue are outlined below:

i. Krishi Upaj Mandi Samiti, New Mandi Yard, Alwar Vs. CCE & ST, Alwar 2022 Live Law SC (203)

ii. CC (Import), Mumbai Vs. Dilip Kumar & Co. [2018(361) E.L.T. 577 S.C.)]
iii. CCE, Hyderabad Vs. Sunder Steels Ltd. [2005 (181) E.L.T. 154(SC)]
iv. Hotel Leela Venture Ltd. Vs.CC (Gen.), Mumbai [2009(234) E.L.T.389 S.C.)]

6. It is also a settled issue that goods imported under any exemption notification and subject to certain conditions laid down in such notification, obligates the importer to fulfil these conditions. The following case laws refer:

- CC (Import) Vs. Jagdish, Cancer & Research Centre - [2001 (132) E.L.T. 257 (S.C.)]
- Mediwell Hospital and Health Care Pvt.Ltd. Vs. UOI [1997 (89)E.L.T. 425 (S.C.)]
- M/s. Bombay Hospital Trust Vs.CC, ACC [2006 (201) E.L.T. 555 (Bom.)].

7. In the context of the above background and the legal provisions, a sample import data of re-import against Sr No 1D of Notification No. 045/2017-Cus dated 30.06.2017 for the period from 01.07.2017 to 31.03.2022 was analysed in detail. This analysis indicated that many importers had re-imported various goods by availing the benefit of Sr. No.1D of Notification No. 045/2017-Cus dated 30.06.2017 and had paid applicable IGST, as per condition of the notification. However, the importer had availed the benefit of Sr No 1D of the Notification No. 045/2017-Cus dated 30.06.2017 and cleared the re-imported goods without payment of IGST in violation of the notification conditions.

8. In the instant case, the importer has imported the goods “HEAVY AROMATICS” under CTH 27079900 and availed the benefit of Sr. No. 1D of the Notification No. 045/2017-Cus dated 30.06.2017 and cleared the re-imported goods without payment of IGST in violation of the conditions laid in the said notification, Thus, the same resulted in short levy of duty amounting to Rs. 13,33,634/- (Detailed in Annexure-A).

9. It appears that the importer/noticee has not paid the IGST @ 18% after availing the benefit of Sr. No. 1D of the Notification No. 045/2017-Cus dated 30.06.2017 and cleared the re-imported goods “HEAVY AROMATICS” under CTH 27079900 declared which is the violation of the conditions laid in the said notification.

10. With the introduction of self-assessment under Section 17, more faith is bestowed on the importers, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As part of self-assessment, the importer has been entrusted with the responsibility to correctly self-assess the duty. However, in the instance case, the importer intentionally abused this faith placed upon it by the law of the land. Therefore, it appears that the importer has wilfully violated the provisions of Section 17(1) of the Act in as much as the importer has failed to correctly self-assess the duty on impugned goods and has also wilfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act. Therefore, the above said goods having assessable value of **₹74,09,079/-** imported vide Bill of Entry detailed in the above Table-A appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962.

11. It appears that the importer wilfully claimed undue benefit for the impugned goods resulting into short levy of duty. Further, it appears that in respect of the Bill of Entry detailed in the above Table-A non-payment of IGST on the part of the importer has resulted into short levy of duty of **₹13,33,634/- (Rupees Thirteen Lakh Thirty-Three Thousand and Six Hundred Thirty-Four Only)** which is recoverable from the importer under the provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Act. For such act of omission and commission, the Importer has rendered themselves liable to penalty under Section 112(a)(ii)/114A of the Customs Act, 1962.

12. Now, therefore, M/s. Arham Petrochem Pvt Ltd, 1163/A, Village Moti Bhoyan, Taluka Kalol, Dist Gandhinagar – Gujarat-382721, are hereby called upon to show cause to the **Additional Commissioner of Customs, Import Assessment (Group-1)**, Custom House, Mundra, having office at First Floor, Room No. 3, PUB Building, 5B, Mundra (Kutch) Gujarat 370 421, as to why:

(i) The goods “HEAVY AROMATICS under CTH 27079900” having assessable value of ₹74,09,079/- imported vide Bill of Entry No. 5124800 dated 20.08.2021 should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

(ii) Un-paid IGST @ 18% after availing the benefit of Sr. No. 1D of the Notification No. 045/2017-Cus dated 30.06.2017 for the re-imported goods “HEAVY AROMATICS” under CTH 27079900 should not be demanded.

(iii) The differential Customs duty worked out as **₹ 13,33,634/- (Rupees Thirteen Lakh Thirty-Three Thousand and Six Hundred Thirty-Four Only)** for the impugned Bill of Entry, as detailed in Annexure-A to this notice, should not be recovered under Section 28(4) of the Customs Act, 1962 along with applicable interest thereon under Section 28AA of the Customs Act, 1962;

(iv) Penalty should not be imposed upon them under Section 112(a)(ii)/114A of the Customs Act, 1962.

13. The importer/noticee is further required to produce at the time of showing cause, all the evidences upon which they intend to rely in support of their defense. They are further called upon to inform in writing to the Deputy Commissioner of Customs, Custom House, Mundra as to whether they desire to be heard in person before the case is adjudicated. If no cause is shown within 30 days from the date of receipt of this notice or if they fail to appear for personal hearing when the case is posted for hearing the case will be decided ex-parte on the basis of evidences available on record.

14. This Show Cause Notice is being issued as per the scrutiny of records conducted so far. Hence, the department reserves its rights under the provisions of Customs Act, 1962 to conduct further Audit / Scrutiny of the records and issue subsequent or separate show cause notice(s), if any.

15. The present Show Cause Notice is issued without prejudice to any other action that may be taken under any other provision of the Customs Act, 1962 and/or rules made there under and/or under the provisions of any other law for the time being in force in India. The department is also free to issue addendum to this Show Cause Notice, if any, further fact/ documents come to notice.

16. The importer/noticee is further informed that they have the right to opt for closure of these proceedings under Section 28(6) of Customs Act, 1962. If they so decide, then in terms of Section 28(5) of the Customs Act, 1962, they may pay the duty demanded in this Show Cause Notice in full or in part, as may be accepted by them, and the interest payable thereon under Section 28AA and penalty equal to fifteen percent of the duty specified in this notice or the duty so accepted by them, within 30 days of the receipt of the notice and inform the concerned Adjudicating and/or of such payment in writing.

Digitally signed by
Dipakbhai Zala
Date: 15-08-2026
09:44:08

Additional Commissioner
Import Assessment Gr. I
Custom House, Mundra

To,

M/s. Arham Petrochem Pvt Ltd,
1163/A, Village Moti Bhoyan, Taluka Kalol,
Dist Gandhinagar – Gujarat-382721

Copy to:

1. The Deputy/Assistant Commissioner of Customs (RRA/TRC/EDI), Custom House, Mundra.

Annexure-A

(Amount in Rs.)

BE No. Date Item Sr. No.	Importer Name (M/s.)	Item Description	Assessed CTH	Assessed Value	IGST Paid	IGST Payable @ 18%
5124800 20.08.2021 Item Sr. No. 1	ARHAM PETROCHEM PVT LTD	HEAVY AROMATICS	27079900	74,09,079	0	13,33,634.22