

	<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>	 <p>आज़ादी का अमृत महोत्सव</p>
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DIN:- DIN-20260171MO0000000F52

Show Cause Notice No.: 45/2025-26/COMM/N.S./Adjn/MCH

SHOW CAUSE NOTICE

[Issued under Section 28(1) read with 124 of the Customs Act, 1962]

M/s Arvind Advanced Material Limited (IEC No. 0816904243) having address as Dharti Apollo Industrial Park Plot A17, A18, Block No 1059, Survey No. 3, Gandhinagar-382729 (Hereinafter referred to as "importer" for the sake of brevity) was importing woven fabrics of polyester filaments having various width and length under CTH 54076900 through their Custom Broker M/s Transmarine Corporation. The details of B/E are attached to this notice as Annexure-A.

2. On scrutiny of EDI data, it was noticed that during assessment of item classifiable under CTI 54076900, EDI system was calculating BCD @ Rs. 36/Kg whereas Customs Tariff Act, 1975 published by various authors/publishers like BDP, Arun Goel, R.K Jain, etc. mentioned rate of BCD as Rs. 36/SQM in respect of said CTH. Further, CTH 5407 reads as under:-

5407 Woven Fabrics of synthetic filament yarn, including woven fabrics obtained from material of heading 54.07

54076900 – Others

3. In this regard, kind attention is invited to following references:-

3.1 Attention is drawn to Para 97(b) of Finance Bill, 2022 which amended the First Schedule of Customs Tariff Act, 1975 with effect from the 1st May, 2022. Para (xli) is reproduced as below :-

“(xli) for the entry in column (4) occurring against tariff item 5407 69 00, the entry “20% or Rs. 36 per sq. metre, whichever is higher” shall be substituted”;

3.2 Attention is also invited to Notification No. 07/2022-Customs dated 01.02.2022 by which the following entry was inserted :-

(xviii) After S. No. 33 and the entries relating thereto, the following S. No. and entries shall be inserted, namely :-

(1)	(2)	(3)	(4)
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“33A. 54076900 All goods 20% or Rs. 36/sqm whichever is higher”
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4. However, on perusal of Tariffs uploaded at official website of CBIC, it was noticed that all the Tariffs (i.e. Tariff as on 01.02.2022, Tariff as on 01.05.2022, Tariff as on 01.02.2023 and onwards) mention the rate of BCD for the said CTH as 20% or Rs. 36/kg. whichever is higher, which is different from the rate of BCD prescribed under Finance Bill, 2022, as the same has been prescribed as 20% or Rs. 36/ SQM whichever is higher.

5. From the above, prima facie, it appears that there is a mismatch of duty structure against Tariff Entry 54076900 as fed in EDI system vis-à-vis Para 97(b)(xli) of Finance Bill, 2022 read with Budget Notification No. 07/2022-Cus dated 01.02.2022 that caused huge bearing on revenue implication.

6. Accordingly, past import data for the CTH 54076900 has been checked for Mundra Port and it was noticed that M/s Arvind Advance Materials Limited imported goods under HSN code 54076900 and BCD was levied @ Rs. 36/Kgs instead of Rs. 36/SQM in system which resulted in short levy of Customs Duties.

7. Prima facie, it appears that due to system issue, importer M/s Arvind Advance Materials Limited short paid duty amount of Rs. 1,84,44,751/- (Rs. One Crore Eighty-Four Lacs Forty-Four Thousand Seven Hundred Fifty- One). The detailed Calculation sheet along with list of Bills of Entry has been attached herewith as Annexure-B.

8. Accordingly, Summons dated 26.09.2024(RUD-1) was issued to importer to appear on 14.10.2024 for tendering their statement. However, importer vide letter dated 07.10.2024 (RUD-2) requested to reschedule the date of summons after one month.

9. Further, importer vide letter dated importer submitted his representation dated 21.10.2024 (RUD-3) to Chief Commissioner of Customs, Ahmedabad wherein he interalia submitted that “they are manufacturer and importer of Technical Textile products “Woven Fabrics of Polyester Filaments” falling under Customs tariff 54076900. In the Budget 2022, the applicable Customs rate was changed to Rs. 36 per Sq. Meter, however, this change is not noticed and given effect in customs portal and government tariff available online. Resultantly, the assessment was made at incorrect rate of duty i.e. 36 Per Kg and further requested to arrange corrections in customs portal and government tariff. They further prayed for issuance of a notification under Section 28A of the Customs Act for waiver of duty from finance act, 2022 to till date. They further requested to direct SIIB (Mundra) for not issuing summons, however, notice if any, may be issued.

10. Further, importer vide letter dated 26.05.2025 (RUD-4) has informed that they had made representation to the CBIC, Chief Commissioner, Joint Secretary, and the Textile Commissioner. Textile Commissioner had also made a representation to Ministry of Textiles in this matter for issuance of an exemption Notification under section 28A of the Customs Act. However, they had paid the differential duty amounting to Rs. 1,84,44,751/- (Rs. One Crore Eighty-Four Lacs Forty-Four Thousand Seven Hundred Fifty-One) under protest so that the burden

of interest does not pile up. They further requested that interest may be waived off in the typical circumstances of the case in as much as the short payment is not owing to the fault of the importer.

11. In view of above, prima facie, it appears that due to non updation of duty structure in ICES system, M/s Arvind Advance Materials Limited short paid differential duty amounting to Rs. 1,84,44,751/- (Rs. One Crore Eighty- Four Lacs Forty-Four Thousand Seven Hundred Fifty-One) along with applicable interest under section 28AA of the Customs Act, 1962. However, on being pointed out by department, the same was paid under protest by the importer vide Challan No. 1352050048 dated 19.05.2025.

12. Further, a pre-consultative letter dated 25.06.2025 (RUD-5) was issued to M/s Arvind Advance Materials Limited to consider the payment made by them "under protest" as payment towards this differential duty liability as detailed in foregoing paras without any protest and to further pay the interest applicable under 28AA of the Customs Act, 1962 within 30 days upon receipt of this letter so that matter can be concluded under section 28(2) of the Customs Act, 1962. However, no reply has been received till date.

13. LEGAL PROVISIONS:

13.1 Section 2(22): "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

13.2 Section 2(23): "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

13.3 Section 2(25): "imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

13.4 Section 2(26): "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;

13.5 Section 46. Entry of goods on importation:

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(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, relating to the imported goods.

(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.

13.6 Section 28. *[Recovery of [duties not levied or not paid or short levied or short paid] or erroneously refunded*

(1) When any duty has not been levied or has been short-levied or erroneously refunded, or when any interest payable has not been paid, part paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis statement or suppression of facts,-

- a. *the proper officer shall, within [two years] from the relevant dated, serve notice on the person chargeable with the duty or interest which has not been so levied [or paid] or which has been 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*

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[provided that before issuing notice, the proper officer shall pre notice consultation with the person chargeable with duty or interest in such manner as may be prescribed]

- b. *the person chargeable with the duty or interest, may pay, before service of notice under clause (a) on the basis of,-*
- i. *his own ascertainment of such duty; or*
- ii. *the duty ascertained by the proper officer,*

13.7 Section 28AA Interest on delayed payment of duty

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

14. Now, therefore, M/s Arvind Advanced Material Limited (IEC No. 0816904243) having address at Dharti Apollo Industrial Park Plot A17, A18, Block No 1059, Survey No. 3, Gandhinagar-382729 is hereby called upon to show cause within thirty days from the date of receipt of this notice to the Commissioner of Customs, Customs House, Mundra, First Floor, Port User Building, Custom House Mundra, Kutch, Gujarat-370421, as to why: -

- i. The differential duty payment amounting to Rs. 1,84,44,751/- (Rs. One Crore Eighty-Four Lacs Forty-Four Thousand Seven Hundred Fifty- One) should not be demanded under section 28(1) of the Customs Act, 1962 and payment of Rs. 1,84,44,751/- made vide Challan No. 1352050048 dated 19.05.2025 "under protest" should not be adjusted toward this differential duty liability.
- ii. Interest applicable on the above said differential duty should not be recovered under section 28AA of the Customs Act, 1962 from M/s Arvind Advanced Material Limited.

15. 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.

16. 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.

17. 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.

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

Encl.: 1. Annexure-A,B & R
2. All RUDs

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

File No.: GEN/ADJ/COMM/16/2026-Adjn
SCN No. 45/2025-26/COMM/N.S./Adjn/MCH

To (Noticee):

M/s Arvind Advanced Material Limited
(IEC No. 0816904243)
Dharti Apollo Industrial Park,
Plot A17, A18, Block No 1059, Survey No 3,
Gandhinagar-382729

Copy to:

- (i) The Deputy Commissioner (SIIB), Customs House, Mundra
- (ii) The Deputy Commissioner/Assistant Commissioner (TRC/EDI), Customs House, Mundra
- (iii) Guard File