सत्यमेव जयते	अपर आयुक्त का कार्यालय (सीमाशुल्क) **Office of the Additional Commissioner(Customs)** एयर कार्गो कॉम्प्लेक्स-अहमदाबाद Air Cargo Complex-Ahmedabad अहमदाबाद अंतर्राष्ट्रीय हवाई अड्डा, अहमदाबाद Ahmedabad International Airport, Ahmedabad	

Date: 29-05-2026

DIN-20260571MN000044804A

SHOW CAUSE NOTICE

M/s Vestas Wind Technology India Private Limited, having IEC no. 0497002663, situated at Plot No. 37 Gallops Industrial Park, NH-8A Ahmedabad Rajkot Highway, Rajoda, Bavla, Ahmedabad-382220 (hereinafter referred to as 'the importer') have imported "Used AMS 71 Scanner with Standard Accessories" vide Bill of Entry No. 4787444 dated 23.07.2021, classifying it under CTH 90318000, paying 7.5% BCD and 18% IGST (Sr. No. 421 of Schedule III of Notification 01/2017- IGST) from Ahmedabad Air Cargo Complex (INAMD4).

2. Whereas, Central Board of Indirect Taxes and Customs had issued guidelines on Valuation of Second-Hand Machinery Vide Circular No. 07/2020-Customs Dated 05/02/2020 as follows: -

"**(c)** In the event of the importer failing to procure an overseas report of inspection/appraisement of the goods, he may have the goods inspected by any one of the Chartered Engineers empanelled locally by the respective Custom Houses.

(d) In cases where the report is to be prepared by the Chartered Engineers empanelled by Custom Houses, the same shall be in the Form B annexed to this circular.

(e) The value declared by the importer shall be examined with respect to the report of the Chartered Engineer. Similarly, the declared value shall be examined with respect to the depreciated value of the goods determined in terms of the **circular No. 493/124/86-Cus VI dated 19/11/1987 and dated 4/1/1988**. If such comparison does not create any doubt regarding the declared value of the goods, the same may be appraised under rule 3 of the CVR, 2007. If there are significant differences arising from such comparison, Rule 12 of the CVR, 2007 requires that the proper officer shall seek an explanation from the importer justifying the declared value. The proper officer may then evaluate the evidence put forth by the importer and after giving due consideration to factors such as depreciation, refurbishment or reconditioning (if any), and condition of the goods, determine whether the declared transaction value conforms to Rule 3 of CVR, 2007. Otherwise, the proper officer may proceed to determine the value of the goods, sequentially, in terms of rule 4 to 9."

3. Whereas, it has been decided that depreciation may be allowed for arriving at the assessable value of second-hand machinery subject to an overall limit of **70%** vide Circular **F.NO.493/124/86-CUS, VI. Dated 19/11/1987.** Further, it has been decided that where the Chartered Engineer's certificate does not specifically mention the price of the new machinery as in its year of manufacture, the scale or depreciation should be calculated on the basis of the price of the new machinery as declared in the Chartered Engineer's certificate without going into the question as to whether this price pertains to the current c.i.f. price or the c.i.f. price in the year of its manufacture vide Circular F. No. 493/124/86-Cus. VI, Dated 4-1-1988.

4. Whereas, during the course of data analysis, relying on the FOB declared in its Chartered Engineer Certificate (CEC) of Bhasker G. Bhatt in Bill of Entry No. 4787444 dated 23.07.2021, it has been noticed that:-

a. . Inspection/appraisement report (Original CEC) estimated original valuation and depreciated value of AMS71 Scanner and Battery Charges (items at Sr. No. 1 and 3) as Rs. 8,04,18,211/-, Rs. 9,04,800 and Rs. 80,41,821/-, Rs. 90,480/- respectively. Further, Refurbishment charge of Rs. 1,35,00,000/- has been added in the value of AM71 Scanner with standard accessories machine;

b. . Total maximum depreciation of Rs. 5,6926108/- only (Rs.5,62,92,748/- and Rs. 6,33,360/-) was allowable at 70% of total valuation of Rs. 8,13,23,011/- of AMS71 Scanner and Battery Charges, as prescribed under No. Circular No. 493/124/86-Cus VI dated 19/11/1987 and dated 4/1/1988;

c. . The importer had taken value of AMS71 Scanner and Battery Charges including Refurbishment charge (items at Sr. No. 1 ,3 and 5) of Rs. 2,16,32,301/- (Rs. 80,41,821/- + Rs. 90,480/- + 1,35,00,000/-) under Bills of Entry filed in ACC, Ahmedabad instead of Rs. 3,78,96,903/- (8,13,23,011/- - 5,6926108/- + 1,35,00,000/-). Thus, Due to incorrect adaptation of depreciation is used in imported goods. The imported machinery was short valued by Rs. 1,62,64,602/- (3,78,96,903/- - 2,16,32,301/-)(as per table-A below):-

TABLE-A

1	Value of goods in INR	3,78,96,903/-
2	Duties of Customs to be levied at the rate of	27.735%
3	Duties of Customs to be levied	1,05,10,706/-
4	Duties of Customs levied on less valuation	63,64,456/-
5	Total Short Levy of Duty (3-4)	41,46,250/-

5. Whereas, letters bearing F.No. VIII/48-78/ACC/Audit/April 21-Sept 21/22-23 dated 12.04.2023 and 08.05.2023 were issued to the importer for payment of differential duty along with interest. Wherein, the importer vide their letter dated 26.06.2023 submitted that:-

<u>1. Background:</u>

Vestas Wind Technology India Private Limited., (& AEO T2) bearing Import Code (IEC) 0497002663 have our registered office at 298, Old Mahabalipuram Road, Sholinganallur, Chennai, Tamil Nadu 600119 and have our Factory Plot No. 37 Gallops Industrial Park, NH-48, Ahmedabad-Rajkot, Highway Road, Bavla Ahmedabad-382220, Gujarat, are one of leading manufacture of Wind Turbine Blades and a pioneer in wind energy technology.

<u>2. Submission:</u>

With reference to the above letter dated 8" May 2023, in the context of "the valuation secondhand goods done by the Charted Engineer [CE] "during importation, they would like to substantiate the estimated value for the old and used capital goods imported by the company under HS code 90 was relied upon the Customs circular 27/1998, further referred for the accelerated rate of depreciation @7% per quarter for first two years and maximum 90% depreciation.

They enclosed a copy of the Circular considered by the said Charted Engineer [CE], though it was issued for "Debonding of Capital Goods from the EOU/EPZ/EHTP/STP Units." The capital goods attract same rate of depreciation for its usage by the industry and the HS code 9031 800 classified in the BOE are true and correct, even the operational feature of the AMS 71 Scanner is based upon microprocessor-based applications. Hence, the CE have considered the accelerated rate of depreciation as mentioned in the Circular & File 314/19/94-FTT dated

21.04.1998 - enclosed a copy of Letter from M/S B.G. BHATT & Co- Charted Engineers.

3. Prayer

Based on the above facts, they are under bona-fide belief that above referred Valuation Secondhand goods done by the Charted Engineer [CE] are true & correct. So, the depreciation may be allowed as reported by the Charted Engineer. Hence, it may fall out of purview of the said demand notice.

In view of the above, it is humbly prayed that there is no merit in the demand made under the Customs letter and request your good office to drop and close the proceedings against this letter. Also, we request to provide an opportunity to explain in person if required.

5.1 Whereas, the importer vide their letter dated 09.08.2023 further reiterated the facts submitted in their letter dated 26.06.2023.

5.2 Whereas, in view of the submission made by the importer, it has been noticed that on-going through the Customs circular 27/1998 dated 21.04.1998, maximum 90% depreciation is available only for computer. Since the imported item (Used AMS 71 Scanner with Standard Accessories) does not appear to be a computer, hence, 90% depreciation cannot be availed in this case. Accordingly, the importer's explanation is not acceptable.

5.3 Whereas, further a letter dated 07.10.2023 was issued to the importer for payment of differential duty along with interest, wherein, the importer vide their letter dated 19.10.2023 submitted that: -

1. *Background:*

They are in receipt of the above referred Notice dated 7"h Oct 2023 from your good office by our Ahmedabad office. The letter has stated that the vide Customs Circular 27/1998 dated 21.04.1998, that maximum 90% depreciation is available only for Computers. Since the imported item (Used AMS 721 Scanner with Accessories) are not a computer and to pay the differential duty along with applicable interest towards the demand of short Levy of Duty against the import of Second-hand goods, vide Bills of Entry no. 4787444 dated 23.07.2021.

2. Submission:

They would like to submit that with regards to the rate of depreciation, *the HS code 90 is applicable highest rate of depreciation of 90% as per the circular 314/19/1994-FTT Dt: 21-Apr-1998. Which reads as under:*

Circular No. 27/98-Customs dated 21 /4/ 1998 F. No, 314/19/94-FTT
Government of India Ministry of Finance Department of Revenue (Central Board of Excise and Customs), New Delhi
Subject: Debonding of Capital Goods from the EOU/ EPZ/ EHTP/ STP Units.

I am directed to refer to Board's F.No.305/52/85-FTT dated the 15th April 1987 wherein the method for calculating the depreciation on 'Capital goods' permitted to be taken outside the units, was prescribed, and the overall limit of depreciation was fixed at 70%. Subsequently Board in their F.No. 314/19/94 FTT Part - VI, dated 11th April, 1997 had provided for accelerated rate of depreciation for the computers in view of their rapid obsolescence, keeping, the overall limit at 70%.

It had been suggested by the Ministry of Commerce and Dept. of Electronics that the existing scale prescribed for depreciation is not adequate and the overall limit be raised to 90%, The issue had been examined by the Board and it had been noted that it would be in the interest of export promotion to provide higher depreciation for the purpose of payment of duty on clearance both for imported and indigenous capital goods. It was also felt that separate formulation for the computers and other capital goods should be prescribed because of the rapid obsolescence of the computers as compared to other capital goods.

for capital goods other than computers, the following depreciation rate may be allowed: -

For every quarter in the 1st year -4%
For every quarter in the 2nd year - 3%
For every quarter in the 3rd year -3%
For every quarter in the 4th year -2.5%
For every quarter in the 5th year -2% and thereafter
Subject to a maximum of 75%

Therefore, the estimated depreciated value for the customs purpose is as per the circular no 27/1998 and in the prescribed format as annexed to the circular as per form B only. It is clearly mentioned on the first page that: CE certificate is as per the (Refer Para 6(d) of Circular No. 07/2020 dated 5th Feb 2020).

- Enclosed a copy of Letter from M/s. B.G. BHATT & Co - Charted Engineers.

3. Prayer

Based on the above facts, they under bona-fide belief believe that above referred Valuation Secondhand goods done by the Charted Engineer [CE] are true & correct. So, the depreciation may be allowed as reported by the Charted Engineer. Hence, it may fall out of purview of the said demand notice. In view of the above, it is humbly prayed that there is no merit in the demand made under the Customs letter and request your good office to drop and close the proceedings against this letter.

6. Whereas, the reply of importer is similar as mentioned in para-4 and hence not acceptable. Further, the importer once again submitted a letter of the chartered engineer M/s B.G. Bhatt & Co., who reiterated the facts produced in importer's letter dated 19.10.2023. However, both the importer and the chartered engineer are silent on the overall depreciation limit of 70% prescribed for calculating assessable value of second-hand goods vide Circular **F.NO.493/124/86-CUS, VI. Dated 19/11/1987** Also both the importer and the chartered engineer are silent on why the 90% depreciation was taken under the circular No 27/1998, **[i]** which is applicable for Debonding of Capital Goods from the EOU/ EPZ/ EHTP/ STP Units and **[ii]** *is* only available to computer. The imported item doesn't appear to be a computer nor it appears to be capital goods **from** debonded **EOU/ EPZ/ EHTP/ STP Unit**.

Further, para 6(e) of Circular No. 07/2020 dated 5th Feb 2020 clearly mentions that the value declared by the importer shall be examined with respect to the report of the Chartered Engineer. Similarly, the declared value shall be examined with respect to the depreciated value of the goods determined in terms of the circular No. 493/124/86-Cus VI dated 19/11/1987 and dated 4/1/1988, it has been decided that depreciation may be allowed for arriving at the assessable value of second-hand machinery on the following scale: -

(i) For every quarter during first year..... 4%	16
(ii) For every quarter during 2ndyear..... 3%	12
(iii) For every quarter during 3rdyear..... 2.50%	10
(iv) For every quarter during 4th year..... 2%	8

Subject to an overall limit of 70%	46

6.1 Whereas, with the introduction of self-assessment and consequent amendments to Section 17, since April-2011, it is the responsibility of the importer to correctly classify, determine and pay the duty applicable in respect of the imported goods.

7. Whereas, as per Section 17 of the Customs Act, 1962, an importer entering any imported goods under Section 46 of the Act shall self-assess the duty leviable on such goods. The government has placed huge reliance on the self –assessment made by the importer. It appeared that the said importer had failed to exercise their statutory obligation and incorrectly calculated the assessable value with an intent to evade duty, by depreciating the value of second-hand goods to 90%, wherein, the maximum depreciation prescribed vide circular F.NO.493/124/86-CUS, VI. Dated 19/11/1987 available to the importer is 70%. It further appears that all these material facts have been concealed from the Department deliberately, consciously and purposely with an intent to evade payment of applicable Customs duty. Therefore, in this case, all essential ingredients exist to invoke Section 28(4) of the Customs Act, 1962, to demand the applicable differential duty which is short paid by them.

8. Whereas, it appears that the importer has incorrectly calculated the assessable value by depreciating the value of second-hand goods to 90%, wherein, the maximum depreciation available to the importer is 70%, this has resulted in short levy of duty discharged on the goods in question. Consequently, the differential duty of Rs. **41,46,250**/- (Rs. Forty-One Lakh Forty-Six Thousand Two Hundred Fifty only) as detailed in TABLE-A shown para-4 above is liable to be recovered from the importer under Section 28(4) of the Customs Act, 1962 along-with interest in terms of Section 28AA of the Customs Act, 1962.

9. **Legal Provisions:**

The relevant provisions of law relating to the import of subject goods under the provisions of Customs Act, 1962, are as follows:

9.1 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.

(2) The proper officer may verify the entries made under section

46 or section 50 and the self-assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

Provided *that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.*

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

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

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re- assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

9.2 Relevant portions of **Section 46 of the Customs Act, 1962** are as under:

Section 46(4) of Customs Act 1962, stipulates that 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.

Section 46(4A) of Customs Act, 1962, stipulates that 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.

9.3 Section 111 of the Customs Act, 1962 *provides for confiscation of improperly imported goods –*

111. Confiscation of improperly imported goods, etc. - *The following goods brought from a place outside India shall be liable to 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;*

9.4 Section 112 of the Customs Act, 1962 *provides for levy of penalties for improper importation of the goods:*

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, harboring, 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) -----------*
>
> *(iv) -----------*

(v) -----------

9.5 *Section 114A of the Customs Act, 1962* *read as follows:*
Penalty for short-levy or non-levy of duty in certain cases.—Where the duty has not been been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under [sub-section (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 (8) of section 28], and the interest payable thereon under section [28AA], is paid within thirty days from the date of the 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 duty or interest, as the case may be, so determined:

9.6 *Section 117 of the Customs Act, 1962* *read as follows:*
Penalties for contravention, etc., not expressly mentioned.—Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [four lakh rupees]

9.7 Section 124 of the Customs Act, 1962 *read as follows:*
"Issue of show cause notice before confiscation of goods, etc.
- No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person-
(a) is given a notice in [writing with the prior approval of the officer of Customs not below the rank of a Deputy Commissioner of Customs, informing] [Substituted by Act 29 of 2006, Section 28, for " writing informing" (w.e.f. 13.7.2006).] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;
(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and
(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned, be oral.

[Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.]

9.8 Section 125. Option to pay the 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 any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods39[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, [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 subsection (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.

(3) Where any 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.

9.9 Section 28 of the Customs Act, 1962 stipulates as under;

Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded

4. *Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-*
    a. *collusion; or*
    b. *any wilful mis-statement; or*
    c. *suppression of facts,*

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest 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.

5. *Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-Section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under Section 28AA and the penalty equal to fifteen per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.*

Explanation- For the purposes of this Section, "relevant date" means-

a. *in a case where duty is not levied or not paid or short-levied or short-paid, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;*
b. *in a case where duty is provisionally assessed under Section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;*
c. *in a case where duty or interest has been erroneously refunded, the date of refund;*
d. *in any other case, the date of payment of duty or interest.*

9.10 SECTION 28AA of the Customs Act, 1962 stipulates as under:

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.*

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of Section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

10. Whereas, it appears that the importer has knowingly and intentionally with ulterior motive and by design, taken the benefit by incorrectly calculating the assessable value by depreciating the value of second-hand goods to 90% instead of 70% (maximum limit of depreciation in case of second-hand goods prescribed in circular F.NO.493/124/86-CUS, VI. Dated 19/11/1987). It appears to be a case of willful mis-declaration of assessable value based chartered engineer's certificate. This constitutes an offense of the nature covered in Section 111(m) of the said Act and the goods imported totally valued at Rs. 3,78,96,903/- by the chartered engineer imported under Bill of Entry No. 4787444 dated 23.07.2021 appears liable for confiscation under Section 111(m) of the Customs Act, 1962 and the importer is also appeared to be liable for penalty under section 112(a) (ii) of Customs Act, 1962.

11. Further, as per Section 111(m) of the Customs Act, 1962, any goods which do not correspond in respect of value or in any other particular with the entry made under the Customs Act, 1962 are liable for confiscation under the said Section.

12. Section 114A of the Customs Act, 1962 provides for imposition of penalty equivalent to the Customs Duty in cases where the duty has not been levied or has been short levied by reason of collusion or any willful mis-statement or suppression of facts. In this case, it appears that the importer has knowingly and intentionally with ulterior motive and by design, short paid the customs duties by incorrectly calculating the assessable value by depreciating the value of second-hand goods to 90% instead of 70% and therefore, the importer appears to be liable for penalty under Section 114A of the Customs Act,1962 as short payment of Duty was on account of willful mis-statement or suppression of facts as discussed in the foregoing paras.

13. Further, it appears that the chartered engineer Shri Bhasker G. Bhatt (M/s B.G. Bhatt & Co., Custom approved Chartered Engineer vide public Notice No. 10/2017), despite being aware of the depreciation limit of maximum 70%

prescribed in circular F.NO.493/124/86-CUS, VI. Dated 19/11/1987, intentionally reduced the assessable value of imported goods by incorrectly depreciating the value of second-hand goods to 90%. This act by the chartered engineer has rendered the imported goods liable for confiscation under Section 111. Hence, the chartered engineer M/s B.G. Bhatt & Co. appears to be liable for penalty under section 112(a)(ii) and section 117 of the Customs Act, 1962.

14. Now, therefore, M/s Vestas Wind Technology India private Limited, Plot No. 37 Gallops Industrial Park, NH-8A Ahmedabad Rajkot Highway, Rajoda, Bavla, Ahmedabad-382220, are hereby called upon to Show Cause to the Additional Commissioner of Customs, Custom House, Ahmedabad, as to why:

i. The declared value i.e. Rs. 2,16,32,301/- (Rupees Two Crore Sixteen Lakhs Thirty-Two Thousand Three Hundred One only) for the goods imported vide Bill of Entry No. 4787444 dated 23.07.2021, should not be rejected and the assessable value should not be determined as Rs. 3,78,96,903/- (Rupees Three Crore Seventy-Eight Lakh Ninety-Six Thousand Nine Hundred Three only);
ii. The imported goods having assessable value, as determined in Table-A above, of Rs. 3,78,96,903/- (Rupees Three Crore Seventy-Eight Lakh Ninety-Six Thousand Nine Hundred Three only) should not be held liable to confiscation under Section 111 (m) of the Customs Act, 1962 and since, the goods are not available for confiscation, the redemption fine under Section 125 of the Customs Act, 1962 should not be imposed on the goods proposed for confiscation;
iii. Total short paid/short-levied duty amounting to Rs. **41,46,250**/- (Rs. Forty One Lakh, Forty Six Thousand, Two Hundred and Fifty only), should not be demanded and recovered from the Importer on the said imported goods as per the provisions of Section 28 (4) of the Customs Act, 1962;
iv. Interest at an appropriate rate as applicable, on the short paid/short-levied duty should not be recovered from them under Section 28AA of the Customs Act, 1962;
v. Penalty should not be imposed upon them under Section 112(a) (ii) of the Customs Act, 1962;
vi. Penalty should not be imposed upon them under section 114A of the Customs Act, 1962.

15. Further, M/s B.G. Bhatt & Co., C-805, Sankalp Apartments, Opp. L.J. College, Vastrapur, Ahmedabad-380015, are hereby called upon to Show Cause to the Principal Commissioner of Customs, Custom House, Ahmedabad, as to why:

i. Penalty should not be imposed upon them under Section 112(a)(ii) and Section 117 of the Customs Act, 1962.

16. The above Noticee's are further required to state specifically in their written replies as to whether they wish to be heard in person before the case is adjudicated. If no specific mention is made about this in their written submissions, it shall be presumed that they do not wish to be heard in person. They should produce at the time of showing cause, all the evidences upon which they intend to rely in support of their defense.

17. They are further required to note that their reply should reach within 30 (thirty) days or within such extended period as may be allowed by the adjudicating authority. If no cause is shown against the action proposed above within 30 days from the receipt of this S.C.N. or if they do not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidences available on record.

18. This Show Cause Notice is issued without prejudice to any other action that may be taken against them, under this Act or any other law for the time being in force, or against any other company, person(s), goods and conveyances whether named in this Notice or not. The Department reserves its rights to add, alter, amend, modify or supplement this notice at any time on the basis of any evidence, material facts related to import of goods by the Noticee, which may come to the notice of the Department after issuance of this Notice and prior to the adjudication of the case.

19. **The Bill of entry No. 4787444 dated 23.07.2021,** letters bearing F.No. VIII/48-78/ACC/Audit/April 21-Sept 21/22-23 dated 12.04.2023 and 08.05.2023 **is relied upon in this case and the same is available with the importer.**

Digitally signed by Lokesh Damor
Date: 29-05-2026 16:57:15

Additional Commissioner,
Customs, HQ, Ahmedabad.

F.No: **Date: -29-05-2026**
DIN:-

By Speed Post/Hand deliver/ Email

प्रेषित/**To,**

1. M/s Vestas Wind Technology India private Limited,
Plot No. 37 Gallops Industrial Park,
NH-8A Ahmedabad Rajkot Highway,
Rajoda, Bavla, Ahmedabad-382220

2. M/s B.G. Bhatt & Co.,
C-805, Sankalp Appratments,
Opp. L.J. College, Vastrapur,
Ahmedabad-380015

Copy to:

1. The Pr. Commissioner, Customs, Ahmedabad
2. The Dy./Asstt. Commr., Customs, Air Cargo Complex, Ahmedabad
3. The Dy./Asstt. Commr., Customs, RRA Section, H.Q. Ahmedabad
4. The System In charge, Customs HQ, Ahmedabad for uploading on official web-site i.e. http://www.ahmedabadcustoms.gov.in
5. Guard File.