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|  | <p style="text-align: center;"><b>सीमा शुल्क के प्रधान आयुक्त का कार्यालय</b><br/> <b>सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात</b><br/> <b>OFFICE OF THE PRINCIPAL</b><br/> <b>COMMISSIONER OF CUSTOMS</b><br/> <b>CUSTOMS HOUSE, MUNDRA, KUTCH,</b><br/> <b>GUJARAT</b><br/> <b>Phone No.02838-271165/66/67/68</b><br/> <b>FAX.No.02838-271169/62,</b><br/> <b>Email-adj-mundra@gov.in</b></p> |            |
| <b>A.</b> फाइल संख्या/File No.  | :  | GEN/ADJ/ADC/1185/2024-Adjn-O/o Pr. Commr- Cus-Mundra  |
| <b>B.</b> जारीकर्ता /Passed by  | :  | Amit Kumar Mishra,<br>Additional Commissioner of Customs,<br>Customs House, AP & SEZ, Mundra. |
| <b>C.</b><br>Noticee(s)/Party/Importer<br>नोटिसकर्ता/पार्टी/आयातक                 | :  | <b>M/s. GE India Industrial Private Limited</b>   |
| <b>D.</b> DIN/ दस्तावेज़ पहचान संख्या   | :  | 20250171MO0000212762  |

**SHOW CUASE NOTICE**  
**UNDER SECTION 28(4) OF THE CUSTOMS ACT, 1962**

Whereas, M/s. GE India Industrial Private Limited, (IEC code 0393001962), having its address at Plot No. 1/B, Halol Industrial Area, Phase-II, Village Chandrapura, Taluka Halol, Gujarat-389350 (hereinafter referred to as 'the said importer') has imported the **"Casting for Wind Operated Electricity Genertors** falling under CTH No. 85030090," (hereinafter referred to as 'the said goods') at Mundra Port. The said importer is regularly importing the said goods from Mundra Port on payment of Customs duty.

**2.** During the course of Post Clearance Audit, it is noticed that M/s. GE India Industrial Private Limited, has filed the BoE (**RUD-1**) (as listed in the **Annexure A**, attached herewith), through the Customs brokers M/s. Agility Logistic Pvt.Ltd., for the import of **"Casting for Wind Operated Electricity Genertors"**, classifying the same under Customs Tariff item **85030090**, on payment of BCD @7.5%/6% (20% Sapta notif no. 50/2018-CUS), SWS @10% & IGST @5%, imported from China (Country of origin), Supplier Names are listed in the Annexure-A to this Show Cause Notice. However, **no Countervailing Duty and/or Anti-dumping duty is paid** in view of Notification No.01/2016(CVD) dated 19.01.2016 and Notification No. 42/2017-CUS(ADD) dated 30.08.2017.

### 3. Countervailing Duty (CVD)

**3.1** Whereas, it is observed that the above said imported goods viz. “Casting for Wind Operated Electricity Genertors”, falling the same under Customs Tariff item 85030090 do fall under the description of goods in Column 3 of the Table under Notification No.01/2016(CVD) dated 19.01.2016 and accordingly, the said goods imported from China are liable for Countervailing Duty @ 13.44% of the landed value of the said goods imported from China.

**3.2** In terms of Notification No.1/2016- Cus (CVD) dated 19.01.2016 countervailing duty is leviable on the import of Castings for Wind-operated Electricity Generators (WOEG), whether or not machined, in raw, finished or sub-assembled form, or as a part of sub-assembly, or a part of an equipment/component meant for WOEG falling under tariff item 85030090 of the Customs Tariff. The Countervailing duty is applicable on subject goods originating and exported from the People’s Republic of China and supplied by any producer or exporter @ 13.44% of the landed value as defined in the said CVD Notification.

**3.3** Relevant para of Notification No.01/2016(CVD) dated 19.01.2016 read is as under:-

*“..... in exercise of the powers conferred by sub-sections (1) and (6) of section 9 of the Customs Tariff Act, read with rules 20 and 22 of the Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff items of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the corresponding entry in column (7), and imported into India, **countervailing duty at the rate to be worked out as percentage of the landed value of imports of the subject goods as specified in the corresponding entry in column (8) of the said Table, namely:-***

Table

| S. No. | Tariff item | Description of goods                   | Country of origin | Country of export | Producer | Exporter | Percentage of landed value |
|--------|-------------|--|-------------------|-------------------|----------|----------|----------------------------|
| (1)    | (2)         | (3)                                    | (4)               | (5)               | (6)      | (7)      | (8)                        |
| .....  |             |  |                   |                   |          |          |                            |
| .....  |             |  |                   |                   |          |          |                            |
|        |             | Castings for wind operated electricity | People’s Republic | People’s Republic | Any      | Any      | 13.44                      |

|    |                               |   |            |          |  |  |  |
|----|-------------------------------|---|------------|----------|--|--|--|
| 2. | 8483 4000, 8503 10 or 8503 90 | generators, whether or not machined, in raw, finished or sub-assembled form, or as a part of a subassembly, or as a part of an equipment/component meant for wind-operated electricity generators | c of China | Of China |  |  |  |
|----|-------------------------------|---|------------|----------|--|--|--|

.....

*Explanation.- For the purposes of this notification, "landed value" shall be the assessable value as determined under the Customs Act 1962, (52 of 1962) and all duties of customs except duties levied under sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act."*

**3.5** Whereas, it further observed that the Castings for Wind Operated Electricity Generators for the purpose of the present notification *also includes a part of a sub-assembly or a part of an equipment/component meant for wind-operated electricity generators*, as described under column (3) of the Table under the said Notification No. 01/2016(CVD) dated 19.01.2016.

**3.6** The importer has imported various parts of WOEG from PR of China classified under tariff item 85030090. Such description of goods falls under the scope of "Casting parts" in terms of the Notification No.01/2016-Customs (CVD) dated 19.01.2016 but, the Countervailing duty, applicable @13.44% was not paid by the Importer on import of such goods (parts of WOEG) applicable under the Notification No. 01/2016-Customs(CVD).

**3.7** Whereas, Non-payment of the Countervailing Duty, in respect of the Bills of Entry, tabulated in Annexure "A", has resulted in short-payment of customs duty (CVD) @13.44% of the landed value of the said goods imported from China, which amounts to **Rs. 8,59,209/-**, (Column No.12 of Annexure-A) for the Bill of entry No. 7579375 dated 04.05.2020 as calculated as per **Annexure-A** attached herewith.

#### **4. Anti-Dumping duty (ADD)**

**4.1** Whereas, it further appears that the above imported goods as specified in column No. 16 of Annexure "A" which are the parts of "**WOEG**" do fall under the implied meaning of **Casting for Wind Operated Electricity Generators** as per the Note (i) of the Table under **Notification No. 42/2017-CUS (ADD)** dated 30.08.2017 and accordingly, the said goods imported from China are liable for **Anti-dumping duty @ 35.92%** of the landed value of the said goods imported from China.

**4.2** In terms of Notification No.42/2017- Cus (ADD) dated 30.08.2017, Anti-Dumping duty (ADD) is also leviable on import of Castings for Wind-operated Electricity Generators (WOEG), whether or not machined, in raw, finished or sub-assembled form, or as a part of sub-assembly, or a part of an equipment/component meant for WOEG falling under tariff item 85030090 of the Customs Tariff. The Anti-Dumping duty(ADD) is applicable on subject goods at the rate of an amount equivalent to the difference between the quantum of anti-dumping duty calculated as per column (8) and the quantum of anti-subsidy/countervailing duty payable, if any, of the said Table under **Notification No. 42/2017-CUS (ADD)** dated 30.08.2017.

**4.3** Relevant para of **Notification No. 42/2017-CUS (ADD)** dated 30.08.2017 read is as under:-

*“..... in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes definitive anti-dumping duty on the subject goods, the description of which is specified in column (3) of the Table below, falling under Chapter heading of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate of an amount equivalent to the difference between the quantum of anti-dumping duty calculated as per column (8) and the quantum of anti-subsidy/countervailing duty payable, if any, of the said Table, namely :*

Table

| S. No. | Subheading or tariff item            | Description of goods                              | Country of origin | Country of export | Producer                                 | Exporter | Duty amount as % of landed value |
|--------|--------------------------------------|---|-------------------|-------------------|--|----------|----------------------------------|
| (1)    | (2)                                  | (3)   | (4)               | (5)               | (6)                                      | (7)      | (8)                              |
| .....  |                                      |   |                   |                   |  |          |                                  |
| 17.    | 8483 40 00, 8503 00 10 or 8503 00 90 | Castings for Wind Operated Electricity Generators | China PR          | China PR          | Any other combination than S.No. 1 to 16 |          | 35.92                            |

**Note – (i) Castings for Wind Operated Electricity Generators** for the purpose of the present notification **implies** "Castings for wind operated electricity generators also known **as castings** for windmill or wind turbine, whether or not machined, in raw, finished or sub assembled form, or **as a part of a sub-assembly, or as a part of an equipment/component meant for wind-operated electricity generators**".

.....

*Explanation. – Landed value of imports for the purpose of this notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under sections 3, 3A, 8B, 9 and 9A of the said Act."*

**4.4** On perusal of both the notifications, i.e. Notification No. 42/2017- Cus (ADD) dated 30.08.2017, for the purpose of levy of ADD and Notification No. 01/2016-Customs (CVD) dated 19.01.2016, for the purpose of levy of CVD vide, it is observed that both are identical to the product. In other words, the goods attract CVD vide Notification No. 01/2016- Customs (CVD) dated 19.01.2016 also attracts ADD vide Notification No.42/2017- Cus (ADD) dated 30.08.2017 and the rate of ADD shall be an amount equivalent to the difference between the quantum of anti-dumping duty calculated as per column (8) and the quantum of anti-subsidy/countervailing duty payable, if any.

**4.5** Whereas, it further appears that the Castings for Wind Operated Electricity Generators for the purpose of the present notification also includes a part of an equipment/component meant for wind-operated electricity generators, as explained vide Note (i) of the Table under the said Notification No. 42/2017-Cus(ADD) dated 30.08.2017.

**4.6** Whereas, Non-payment of the Anti-Dumping Duty, in respect of the BoE, as tabulated in the Annexure "A", has resulted in short-payment of Customs duty (ADD) @35.92% of the landed value of the said goods imported from China, which amounts to Rs. 22,96,337/- (Column No.11 of Annexure-A) with respect of Bill of entry no 7579375 dated 04.05.2020, as calculated as per Annexure A attached herewith.

## **5. Integrated GST (IGST)**

**5.1** Whereas, it appears that Non-payment of the Countervailing Duty and the Anti-Dumping Duty, as discussed hereinabove, has also resulted in short-payment of customs duty (IGST) on the total assessable value arrived at by way of adding CVD and ADD in the landed value, for the purpose of calculation of IGST on imported goods and the differential amount of customs duty (IGST) thus short-paid comes to Rs. 1,57,777/- with respect of Bill of entry no 7579375 dated 04.05.2020, as calculated as per Annexure A (Column No.14 of Annexure-A) attached herewith.

**6.** Thus, total amount of customs duty due to be recovered, comes to **Rs.33,13,323/-**, as calculated as under:-

| SN | Customs Duty                            | Amount             |
|----|---|--------------------|
| 1  | BCD short-paid                          | -                  |
| 2  | SWS short-paid                          | -                  |
| 3  | CVD @13.44%<br><b>(NOT PAID)</b>        | <b>8,59,209/-</b>  |
| 4  | ADD @35.92%-13.44%<br><b>(NOT PAID)</b> | <b>22,96,337/-</b> |
| 5  | <b>Differential IGST not paid</b>       | <b>1,57,777/-</b>  |
| 6  | <b>Total customs Duty Short-paid</b>    | <b>33,13,323/-</b> |

7. Whereas, in response to letter F.No. S/01-45/PCA/ADD/2023-24 dated 11.05.2023 **(RUD-2)**, the said importer has not replied till date.

8. Further, it is observed that the import items do include casting parts which house various other parts and non-declaration of such parts by way of weight and value while being given an opportunity to do so shows disinclination on part of the Importer to provide critical information to the department. The basic function of a casting is in a wind turbine, to be used in a wind mill along with some other non-casting parts and components like tower, blades, etc. which leads to the generation of electricity. Further, a large number of castings are collectively used in a windmill. Some of these castings are assembled along with other products to prepare a sub-assembly. Eventually, a windmill comprises of a number of these sub-assemblies. It is appropriate to consider castings that may be imported as a part of equipment/component within the scope of the product under consideration so long as the scope of the measures is limited to casting portions of these equipment's/components used for wind mills or wind turbines or wind-operated electricity generators. It appears that Importer had intentionally furnished documents such as the Bills of Entry and its invoices, packing lists containing incorrect/in-sufficient material particular with respect to the value and weight of casting parts in the imported items. The items imported undeniably consisted of casting parts and such casting parts were manufactured by simple machining and polishing process and the component weight of these casting parts were significant. It is therefore a matter of fact that the items of import in question do have castings as a component and it is incumbent on the Importer to make a complete and correct declaration. Having failed to do so despite opportunities given to them, there is little option but to demand CVD and ADD on the entire value of the imported items to protect revenue interest. The Importer even if contesting the applicability of the CVD and ADD should have been more forthright and put forth the costing of the casting components which are part of the imported items which was not a difficult exercise.

9. Whereas, it appears that the **Castings for Wind Operated Electricity Generators** for the purpose of the relevant notification **also includes** a **part of a sub-assembly or a part of an equipment/component meant for wind-operated electricity generators**, as described under column (3) of the Table under the said Notification No. 01/2016(CVD) dated 19.01.2016. Whereas, it further appears that the **Castings for Wind Operated Electricity Generators** for the purpose of the relevant Notification **also includes** a **part of an equipment/component meant**

**for wind-operated electricity generators**, as explained vide Note (i) of the Table under the said Notification No. 42/2017-Cus(ADD) dated 30.08.2017. Thus, the response submitted by the importer fails to satisfy the query. **These circumstances mandate to take action to recover the differential amount of duty along with due interest and penalty, under relevant sections of the Customs Act, 1962.**

**10.** Section 17 of the Customs Act, 1962, gives an option to the importer, importing any goods for importation under section 46 *ibid*, to self-assess the duty, if any, leviable on such goods. In the self-assessment era, the importers have to act more responsibility manner and they are also required to build trust by filing the correct details & description of items along with correct classification of the goods. However, the importer, while filing the above mentioned bills of entry have willfully/intentionally not paid the CVD/ADD on their casting goods of Wind Operated Electricity Generators (WOEG), and also resultantly short-paid IGST, thereby causing the short payment of Customs Duty.

**11.** The Importer is a regular importer of parts of WOEG (Casting / Non-casting items), hence, they are believed to be well aware of Notification No. 01/2016-Customs (CVD) dated 19.01.2016 and Notification No.42/2017- Cus (ADD) dated 30.08.2017, but it appears that they have willfully/intentionally not paid the CVD and ADD in terms of Notification No. 01/2016-Customs (CVD) dated 19.01.2016 and Notification No.42/2017- Cus (ADD) dated 30.08.2017, and also resultantly short-paid IGST, thereby causing the short payment of Customs Duty of the above said amount.

**12. VIOLATION OF STATUTORY PROVISIONS:-**

**12.1** In relation to the aforesaid facts, it is pertinent to quote relevant provisions of the Customs Act, 1962 and the importer's violation in respect of the same.

**12.2** Whereas, it appears that the importer has failed to pay Countervailing duty as leviable under sub-section (1) and (6) of Section 9 of the Customs Tariff Act, 1975, read with rules 20 and 22 of the Customs Tariff (IACCDSDADI) Rules, 1995 and Notification No. 01/2016(CVD) dated 19.01.2016, by way of wrongly self-assessing the Bills of entries filed under Section 46 of the Customs Act, 1962.

**12.3** Whereas, it appears that the importer has failed to pay Anti-dumping duty as leviable under sub-section (1) and (5) of Section 9A of the Customs Tariff Act, 1975, read with rules 18 and 20 of the Customs Tariff (IACADDDADI) Rules, 1995 and Notification No. 42/2017-CUS (ADD) dated 30.08.2017, by way of wrongly self-assessing the Bills of entries filed under Section 46 of the Customs Act, 1962.

**12.4** The imported goods, namely, **"Service Lift, 130M HH, 50HZ (parts of WOEG)"**, imported from China, include parts falling under the description of goods as described in Column (3) of the Table under Notification 01/2016(CVD) dated 19.01.2016 and in the implied meaning of **Casting for Wind Operated Electricity Generators** as per the Note (i) of the Table under **Notification No. 42/2017-CUS (ADD)** dated 30.08.2017.

**12.5** As per Section 12 of the Customs Act, 1962 read with Section 9 of the Customs Tariff Act, 1975 and Rules 20 and 22 of the Customs Tariff (IACCDSDADI) Rules, 1995 read with entry at sr. no. 2 of the TABLE under under Notification No. 01/2016(CVD) dated 19.01.2016 and Section 9A of the Customs Tariff Act, 1975 read with Rules 18 and 20 of the Customs Tariff (IACADDDDDADI) Rules, 1995, read with entry at sr. no. 17 of the TABLE under Notification No. 42/2017-CUS(ADD)dated 30.08.2017, the said tariff item, as classified by the importer under Customs Tariff item **85030090**, falling under the description of goods in Column (3) of the Table under Notification No. 01/2016(CVD) dated 19.01.2016, attracts countervailing **Duty @ 13.44%** of the landed value of the said goods imported from China, and when included in the implied meaning of **Casting for Wind Operated Electricity Generators**, attracts **Anti-Dumping Duty @ 35.92%** of the landed value of the said goods imported from China. However, the importer failed to properly self-assess and pay the said countervailing duty and Anti-Dumping Duty, as discussed hereinabove.

**12.6** As per Section 12 of the Customs Act, 1962 read with sub-section (7) of Section 3 of the Customs Tariff Act, 1975 and read with entry at sr. no. 234 of the SCHEDULE I under Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 the said tariff item, as classified by the importer under Customs Tariff item **85030090**, attracts **Integrated GST @ 5%** ad valorem, during the period upto 29.09.2021. The integrated GST is leviable on the value of the imported article as determined under sub-section (8) or sub-section (8A) of Section 3 of the Customs Tariff Act, 1975. Accordingly, all customs duties (including ADD), except IGST and GST Cess, are required to be added in the transaction value to arrive at the assessable value for calculation of the integrated tax. However, the importer failed to properly self-assess and short-paid IGST pro-rata, as discussed hereinabove.

**12.7** As per sub-section (4) and (4A) of Section 46 of the Customs Act, 1962, 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 ensure the accuracy and completeness of the information given therein. However, by way of improper self-assessment in the Bills of entries filed under Section 46 of the Customs Act, 1962, the importer has indulged in evasion of duties of customs, amounting to **Rs.33,13,323/-**, as discussed above.

**12.8** Thus, the importer has contravened the provisions of Section 12 of the Customs Act, 1962 read with Section 9 of the Customs Tariff Act, 1975 and Rules 20 and 22 of the Customs Tariff (IACCDSDADI) Rules, 1995 read with Notification 01/2016(CVD) dated 19.01.2016 and Section 9A of the Customs Tariff Act, 1975 read with Rules 18 and 20 of the Customs Tariff (IACADDDDDADI) Rules, 1995, read with Notification No. 42/2017-CUS (ADD) dated 30.08.2017. The importer has also contravened the provisions of Section 46 of the Customs Act, 1962 and evaded payment of duties of customs amounting to Rs.33,13,323/-, as discussed above by way of improper self-assessment in the Bills of entries filed under Section 46 of the Customs Act, 1962, thus resorting to willful mis-statement and suppression of facts and rendered themselves liable for action as envisaged under Section 28(4) of

the Customs Act, 1962 for recovery of duties short-paid amounting to Rs.33,13,323/-, extended period upto five years is applicable.

**12.9** Whereas, the importer has contravened the provisions of Section 12 of the Customs Act, 1962 read with Section 9 of the Customs Tariff Act, 1975 and Rules 20 and 22 of the Customs Tariff (IACCDSADI) Rules, 1995 read with Notification No. 01/2016(CVD) dated 19.01.2016 and Section 9 of the Customs Tariff Act, 1975 read with Rules 18 and 20 of the Customs Tariff (IACADDDDDADI) Rules, 1995, read with Notification No. 42/2017-CUS (ADD) dated 30.08.2017. The importer has also contravened the provisions of Section 46 of the Customs Act, 1962 and evaded payment of duties of customs amounting to Rs.33,13,323/-,as discussed above and rendered themselves liable for action as envisaged under Section 28(4) of the Customs Act, 1962 for recovery of duties short-paid as discussed above along with interest as stipulated under section 28AA of the Customs Act, 1962 and the importer has rendered themselves liable to penalty under Section 117 of the Customs Act,1962.

**12.10** The importer has evaded payment of duties of customs amounting to **Rs. 33,13,323/-**, as discussed above, by way of improper self-assessment in the Bills of entries filed under Section 46 of the Customs Act, 1962, thus resorting to wilfulmis-statement and suppression of facts, the importer has rendered themselves liable to pay penalty under Section 114A of the Customs Act, 1962.

**12.11 Section 28(4) of the Customs Act, 1962** provides that 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.

**12.12 Section 28AA of the Customs Act, 1962** provides for levy of 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 there under, 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 percent and not exceeding thirty-six percent, 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.

**12.13 Section 28(5) of the Customs Act, 1962** states that '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 percent 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'.

**12.14 Section 28(6) of the Customs Act, 1962** states that 'Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then the proceedings in respect of such person or other person or other persons to whom the notice is employed under sub-section (1) or sub-section (4), shall without prejudice to the provisions of Section 135, 135A and 140 deemed to be conclusive as to the matters stated therein'.

**12.15 It is pertinent to mention that the provisions pertaining to Self-Assessment under the Customs Act 1962** which were implemented w.e.f. 08.04.2011 under the Finance Act 2011, ushers in a trust based Customs-Trade partnership leading to greater facilitation of complaint trade. Board's Circular no. 17/2011 dated 08.04.2011 specifies that the responsibility for assessment has been shifted to the importer/exporter; that Section 17 of the Customs Act 1962 provides for self-assessment of duty on imported and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill, as the case may be, in the electronic form (Section 46 or 50); that the importer or exporter at the time of self-assessment will ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported/export goods while presenting Bill of Entry or Shipping Bill. However, it is viewed that non-compliant importers/exporters could face penal action on account of wrong Self-Assessment made with intent to evade duty or avoid compliance of conditions of notifications, Foreign Trade policy or any other provision under the Customs Act, 1962 or the Allied Acts. From the above mentioned facts, it is clearly evident that the importer has not exercised due diligence in respect of self-assessing the subject goods on their importation and has thus violated the provisions of the Self-Assessment procedures.

**12.16 As per sub-section (4) of Section 46 of Customs Act 1962**, 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. In the subject case, the importer has violated the provisions of the Customs Act 1962 in as much as misclassified the imported goods, resulting in short-payment of customs duties. Therefore such violation amounts to misdeclaration in terms of the Provisions of Section 111(m) of the Customs Act, 1962.

**12.17 Sec 111 of Customs Act, 1962** provides for confiscation of improperly imported goods and the applicable subsections are (m) which has been detailed below:

*“(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 transshipment, with the declaration for transshipment referred to in the proviso to subsection (1) of section 54.”*

**12.18 Sec. 112 (a) of Customs Act, 1962** provides for penalty for improper importation of goods, etc. It states “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.” Since the importer has rendered the impugned goods liable for confiscation under Section 111 of the Customs Act 1962, the importer is liable for penal action under Section 112 (a) of the Customs Act 1962.”*

**12.19 Sec. 114A of the Customs Act, 1962** provides for 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 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 22 sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:

**13.** Now, therefore, M/s. GE India Industrial Private Limited, (IEC code 0393001962), having its address at Plot No. 1/B, Halol Industrial Area, Phase-II, Village Chandrapura, Taluka Halol, Gujarat-389350, are hereby called upon to show cause in writing to the Additional Commissioner of Customs, Customs House Mundra, Kutch, having his office at Mundra Port & SPL Economic Zone, Mundra-370 421, within thirty days from the receipt of this notice, as to why:-

- i. Countervailing duty (CVD) at 13.44% under notification No.01/2016-Cus. (CVD) dated 19.01.2016 on the said goods namely parts of WOEG imported vide the Bills of Entry as detailed in the Annexure-A to this notice should not be applied;
- ii. Anti-Dumping Duty (ADD) at applicable rate under notification No.42/2017-Cus. (ADD) dated 30.08.2017 on the said goods namely

parts of WOEG imported vide the Bills of Entry as detailed in the Annexure-A to this notice should not be applied;

- iii. Assessable Value for the purpose of calculation of IGST should not be recalculated so as to add the amount of the duties of customs of CVD and the ADD as discussed hereinabove to recalculate the amount of IGST payable;
- iv. The differential Customs duties totally amounting to **Rs. 33,13,323/-** (CVD- 8,59,209/- + ADD – 22,96,337/- + **IGST- 1,57,777/-**), (Rupees Thirty Three Lakhs Thirteen Thousand Three Hundred and Twenty Three only), as discussed hereinabove, should not be demanded and recovered from them in terms of Section 28(4) of the Customs Act, 1962 along with applicable interest in terms of Section 28AA of the Customs Act, 1962;
- v. The impugned goods with the total declared Assessable value of Rs. 59,97,112/- as detailed in Annexure-A to this notice, should not be held liable to confiscation under Section 111(m) of the Customs Act, 1962, for short levy of duty by reason of willful misstatement & suppression of facts;
- vi. Penalty should not be imposed upon them under the provision of Section 112(a) and/or 114A and/or 117 of the Customs Act, 1962.

**14.** M/s. GE India Industrial Private Limited, (IEC code 0393001962), having its address at Plot No. 1/B, Halol Industrial Area, Phase-II, Village Chandrapura, Taluka Halol, Gujarat-389350 should state in their written replies to this notice whether they desire to be heard in person. If no reply to this notice is received from them or any of them within 30 days from the date of receipt of this notice or if they fail to appear for the personal hearing on the date and time intimated to them, the case is liable to be decided on the basis of evidence available and merits, without any further reference to them.

**15.** Department/Custom House Mundra reserves its right to amend, modify or supplement this notice. This notice has been issued under the provisions of the Customs Act, 1962 without prejudice to any other action if any that may be initiated against them under any statute for the time being in force.

**16.** The documents relied upon in this Show Cause Notice are listed in **Annexure- B** to this Notice.

**Additional Commissioner  
Custom House, Mundra**

फ़ाइल संख्या/F. No. GEN/ADJ/ADC/1185/2024

**DIN/** दस्तावेज़ पहचान संख्या: 20250171MO0000212762

**By Speed Post/ email****To,**

**M/s. GE India Industrial Private Limited,**  
Plot No. 1/B, Halol Industrial Area,  
Phase-II, Village Chandrapura,  
Taluka Halol, Gujarat-389350.

**Copy to:-**

1. The Deputy/Assistant Commissioner (RRA), Custom House, Mundra.
2. The Deputy/Assistant Commissioner (PCA Section), Custom House, Mundra.
3. The Supdt. (EDI), Customs House, Mundra to upload a copy on the website.

**LIST OF RELIED UPON DOCUMENTS**

| <b>Sr. No:</b> | <b>Description of document</b>      | <b>Remark</b>         |
|----------------|-------------------------------------|-----------------------|
| 1              | Duty Calculation as per Annexure A, | Attached with the SCN |