



प्रधान आयुक्त का कार्यालय, सीमा शुल्क ,अहमदाबाद
'सीमा शुल्क भवन' ,पहली मंजिल ,पुराने हाई कोर्ट के सामने ,नवरंगपुरा,
अहमदाबाद – 380 009.

दूरभाष : (079) 2754 4630 E-mail: cus-ahmd-adj@gov.in फैक्स : (079) 2754 2343

SHOW CAUSE NOTICE

(UNDER SECTION 28, READ WITH SECTION 124, OF CUSTOMS ACT, 1962)

WHEREAS IT APPEARS THAT:-

M/s Multispan Control Instruments Pvt. Ltd., 72B, Phase-I, GIDC, Vatva, Ahmedabad-382445 (hereinafter referred to as 'Importer') had imported 'LED Display' (herein after referred to as 'subject goods') vide the Bill of Entry No. 8000834 dated 25.06.2020 & Bill of Entry No. 4856946 dated 29.07.2021 under CTH 85312000 with declared assessable value Rs. 24,21,332/- through Customs Broker i.e. M/s Mega Clearing & Forwarding Agency.

2. During the course of data analysis by NCTC, Mumbai, it has been noticed that the Importer has imported 'LED DISPLAY PARTS' detailed in Annexure-A(RUD-1). The imported goods appeared wrongly classified in CTH 85312000 as 'Indicator panels incorporating liquid crystal device (LCD) or light-emitting diodes (LED)' and availed exemption of Notification NO. 024/2005-Cus dated 01.03.2005.

3. A letter bearing F. No. IV/22-03/ICD/Analytic Report-02/2022 dated 19.11.2022 was issued to the importer advising them for payment of the differential BDC on the subject goods alongwith applicable interest. The importer has not submitted any reply till date.

4. The heading under CTH 8531 reads as below:

8531	ELECTRIC SOUND OR VISUAL SIGNALLING APPARATUS (FOR EXAMPLE, BELLS, SIRENS, INDICATOR PANELS, BURGLAR OR FIRE ALARMS), OTHER THAN THOSE OF HEADING 8512 OR 8530			
8531 10	- Burglar or fire alarms and similar apparatus			
8531 10 10	--- Burglar alarm	u	10%	-
8531 10 20	--- Fire alarm	u	10%	-
8531 10 90	--- Other	u	10%	-
8531 20 00	- Indicator panels incorporating liquid crystal devices (LCD) or light-emitting diodes (LED)	u	Free	-
8531 80 00	- Other apparatus	u	10%	-
8531 90 00	- Parts	kg	10%	-

, as evident from the above, goods under CTH 85312000 tariff rate is NIL, which is not applicable to other CTIs under 8531.

4.1 In this regard, the relevant Explanatory Notes to the Harmonized System of Nomenclature read as below:

“With the exception of signaling apparatus used on cycles or motor vehicles (heading 85.12) and that for traffic control on roads, railways, etc. (heading 85.30), this heading covers all electrical apparatus used for signaling purposes, whether using sound for the transmission of the signal (bells, buzzers, hooters, etc.) or using visual indication (lamps, flaps, illuminated numbers, etc.), and whether operated by hand (e.g., door bells) or automatically (e.g., burglar alarms).”

Static signs, even if lit electrically (e.g., lamps, lanterns, illuminated panels, etc.) are not regarded as signaling apparatus. They are therefore not covered by this heading but are classified in their own appropriate headings (headings 83.10, 94.05, etc.).

4.2 Indicator panels and the like. These are used (e.g., in offices, hotels and factories) for calling personnel, indicating where a certain person or service is required, indicating whether a room is free or not.

They include:

(1) **Room indicators.** These are large panels with numbers corresponding to a number of rooms. When a button is pressed in the room concerned the corresponding number is either lit up or exposed by the falling away of a shutter or flap.

(2) Number indicators. The signals appear as illuminated figures on the face of a small box; in some apparatus of this kind the calling mechanism is operated by the dial of a telephone. Also clock type indicators in which the numbers are indicated by a hand moving round a dial.

(3) Office indicators, for example, those used to indicate whether the occupant of a particular office is free or not. Some types are merely a simple “come in” or “engaged” sign illuminated at will by the occupant of the office.

(4) Lift indicators. These indicate, on an illuminated board, where the lift is and whether it is going up or down.

(5) Engine room telegraph apparatus for ships.

(6) Station indicating panels for showing the times and platforms of trains.

(7) Indicators for race courses, football stadiums, bowling alleys, etc.

The heading also excludes:

(a) Switches and switch panels, whether or not incorporating simple indicating lights (heading 85.36 or 85.37).

(b) Fire alarms incorporating smoke detectors containing a radioactive substance (heading 90.22).

(c) LCD displays are only classified under this heading when they do not meet the criteria for a monitor (heading 84.71), video monitor (heading 85.28) or a television receiver (heading 85.28)”

5. On conjoint reading of the above notes, it appears that only the complete apparatus used for electrical sound or visual signaling can be classified under CTH 8531. Parts of these apparatus are covered under CTI 85319000. Those signaling apparatus incorporating LCD/LED displays merits classification under CTH 8531 2000 with the BCD exemption to the said goods. Other Parts, other apparatus, Monitors/displays used as inputs for further processing are to be classified in their respective headings.

6. The importer of goods has been defined in the Integrated Goods and Service Tax Act, 2017 (herein after referred to as the "IGST Act, 2017") as bringing goods in India from a place outside India. All import shall be deemed as inter-state supplies and accordingly integrated tax shall be levied in addition to the applicable Customs duties. The IGST Act, 2017 provides that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of Customs are levied on the said goods under the Customs Act, 1962. Section 5 of the Integrated Goods and Services Tax Act, 2017 stipulates that "Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 (51 of 1975) on the value as determined under the said Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962.

7. As per Sub-Section 7 of Section 3 of the Customs Tariff Act, 1975, any article which has been imported into India shall, in addition, be liable to Integrated tax at such rate not exceeding forty percent, as is leviable under Section 5 of the Integrated Goods and Service Tax, 2017 on a like article on its supply in India, on the value of the Imported article as determined under sub-section 8 or sub-section 8A as the case may be.

8. From the Bills of Entry filed by the importer at the time of import of the said goods, it appears that they have wrongly classified the said goods under Tariff Item 85312000 of the CTA, 1975 with an intent to evade payment of the Customs Duty. Even after pointing out / communicating to the importer vide letter dated 09.11.2022 that parts of these apparatus are covered under CTI 85319000, wherein effective rate of Basic Customs Duty is 10%, Social Welfare Surcharge is 10% and Integrated Goods and Services Tax is 18%, and requesting them to pay the differential short paid Customs Duty, along with applicable interest, the importer has not paid the same, which shows that they had clear intention to evade payment of duty, as they suppressed the material facts and deliberately not classified the imported goods under appropriate heading of the CTA, 1975 and not paid the appropriate Customs Duty.

9. As discussed in paras supra, it appears that the Importer has imported the goods "LED DISPLAY PARTS" by wrongly availing the benefit under the Sr. No. 19 of Notification No. 024/2005-Customs dated 01.03.2005 which has led to evasion in the payment of Customs Duty by the Importer. Thus, it appears that the subject imported goods which were imported by wrongly availing the benefit under the Sr.No.19 of Notification No.024/2005- Customs dated 01.03.2005 do not correspond with the entry/ declaration made while filing the Bills of Entry under the Customs Act, 1962 in as much as imported goods "LED DISPLAY PARTS" are not eligible to be imported availing the benefit of Sr.No.19 of Notification No.024/2005- Customs dated 01.03.2005.

10. After introduction of self-assessment through amendment in Section 17 of the Customs Act, 1962 vide Finance Act, 2011, it is the responsibility of the importer to correctly declare the description, classification, applicable exemption notification, applicable duties, rate of duties and its relevant notifications etc. in respect of said imported goods and pay the appropriate duty accordingly, whereas, in the instant case, the importer has failed to correctly classify the imported goods in the Bills of Entry of the said imported goods and suppressed the said material facts with an intent to evade payment of duty and thereby they have not paid the appropriate Customs Duty on the said imported goods.

11. It, therefore appears that the importer has willfully contravened the provisions of Section 17(1) of the Customs Act, 1962 inasmuch as they have failed to correctly self-assess the impugned goods and have also contravened the provisions of sub-sections (4) and (4A) of Section 46 of the Customs Act, 1962 inasmuch as they have failed to ensure the accuracy and completeness of the information given therein.

12. From the above, it can be seen that the importer had intentionally not declared correct classification of the imported goods in the Bills of Entry of the said imported goods and suppressed the said material facts with an intent to evade payment of appropriate Customs Duty and cleared the said imported goods without paying appropriate Customs Duty. Even after pointing out / communicating that they have not appropriately classified the said imported goods and have short paid Customs Duty, they have not paid the same.

13. The aforesaid facts show that the importer had resorted to willful misclassification of the said imported goods in the Bills of Entry of the said imported goods by suppressing the said material facts, which shows the ulterior motive of the importer to evade payment of applicable Customs Duty in respect of said imported goods cleared for home consumption vide Bills of Entry mentioned in Annexure-A to this show cause notice. The details of Customs Duty required to be paid and the amount of Customs Duty short paid by 'the importer' in respect of said imported goods is detailed in Annexure-A to this show cause notice. Thus, Customs Duty of Rs. 3,14,289/- (BCD Rs. 2,42,133/- + SWS Rs. 24,213/- + IGST Rs. 47,942/-) on the said imported goods cleared under Bills of Entry mentioned in Annexure-A to this show cause notice is liable to be demanded under Section 28(4) of the Customs Act, 1962, by invocation of extended period of five years, along with appropriate interest at applicable rate under Section 28AA of the Customs Act, 1962.

14. As per clause (m) of Section 111 of the Customs Act, 1962, any goods brought from a place outside India which do not correspond in respect of value or in any other particular with the entry made under this Act, shall be liable to confiscation. Therefore, the goods valued at Rs. 24,21,332/- imported under the said Bills of Entry appear to be liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962

inasmuch as the same have been imported by mis-classification of the said imported goods.

15. The aforesaid acts of omission and commission on the part of the importer appear to have rendered them liable to penalty as provided under Section 112(a) of the Customs Act, 1962.

16. As already discussed, the Customs duty in the present case appear to has been short levied and short paid by reason of willful mis-statement and suppression of facts on the part of 'the importer', which appear to have made them liable for penalty under Section 114A of the Customs Act, 1962.

17. Now, therefore, M/s Multispan Control Instruments Pvt. Ltd., 72B, Phase-I, GIDC, Vatva, Ahmedabad-382445, are hereby called upon to show cause to the Additional Commissioner of Customs, having his office at 2nd Floor, Custom House, Navrangpura, Ahmedabad, as to why:

- (a) The imported goods should not be held appropriately classifiable under Chapter Heading 85319000 of the Customs Tariff Act, 1975;
- (b) The imported goods having assessable value of Rs. 24,21,332/- (Rupees Twenty-Four Lakh Twenty One Thousand Three Hundred Thirty Two only) as detailed in Annexure-A to this Show Cause Notice, should not be held liable for confiscation under Section 111(m) of the Customs Act 1962, and as the said goods had already been cleared, Redemption Fine in lieu of confiscation should not be imposed under Section 125 of the Customs Act, 1962;
- (c) The Customs Duty amounting to Rs. 3,14,289/- (Rupees Three Lakh Fourteen Thousand Two Hundred Eighty Nine Only) (Basic Customs Duty Rs. 2,42,133/- + Social Welfare Surcharge Rs. 24,213/- + IGST Rs. 47,942/-) short paid, as detailed in Annexure-A to this Show Cause Notice, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;
- (d) Interest at applicable rate under Section 28AA of the Customs Act, 1962, on the aforesaid amount of short levied and short paid Customs Duty mentioned at sub-para (c), should not be charged and recovered from them;
- (e) Penalty should not be imposed on them under the provisions of Section 112(a) of the Customs Act, 1962;
- (f) Penalty should not be imposed on them under Section 114A of the Customs Act, 1962;

18. The importer 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 Additional Commissioner of Customs, Custom House, Navrangpura, Ahmedabad, 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.

19. This Show Cause Notice is issued without prejudice to any other action that may be taken against the noticee or any other person(s) under the Customs Act, 1962, or under any other law for the time being in force in India.

20. The department reserves right to add / alter / change in this notice at any stage, before adjudication on the basis of evidences available or evidences gathered later on.

21. The importer is informed that they have the right to opt for closure of these proceedings under Section 28(6) of the 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 receipt of this Notice and inform the adjudicating authority of such payment in writing.

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


18/4/24
(Vishal Malani)
Additional Commissioner

Encl :

1. Annexure - A (Duty calculation sheet)
2. Copies of Relied Upon documents as per Annexure - B to this Show Cause Notice.

DIN: 20240471MN0000510128

F. No. VIII/10-216/ICD-Khod/O&A/HQ/2023-24

Date : 18.04.2024

BY SPEED POST / E-MAIL / HAND DELIVERY / THROUGH NOTICE BOARD

To,

**M/s Multispan Control Instruments Pvt. Ltd.,
72B, Phase-I, GIDC, Vatva,
Ahmedabad-382445**

Copy to :

- (i) The Deputy Commissioner of Customs, ICD - Khodiyar, Ahmedabad.
- (ii) The Superintendent, Customs, H.Q. (Systems), Ahmedabad, in PDF format for uploading on website of Customs Commissionerate, Ahmedabad.
- ✓(iii) Guard File.