OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
CUSTOMS HOUSE, MP & SEZ
MUNDRA, KUTCH-GUJARAT – 370421
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सत्यमेव जयते

SCN No. 111/2026-27/ADC/ZDC/MCH Date: 23.07.2026

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

M/s. Nucera Tiles Private Limited, 614, 6TH Floor, Arista, Nr Armeda, Sindhu Bhavan Road, Bodakdev, Ahmedabad Gujarat-380054 having IEC No. AAFCN8361D (hereinafter also referred to as "the importer'' for the sake of brevity") filed a Bill of Entry no. 5005494 dated 11.08.2021 through their Customs Broker M/s. MRS SHIPPING LLP for re-import of "Glazed Porcelain/ Vitrified Tiles [CTH 69072100]", declaring a gross weight of 1,39,610 Kg and an assessable value of Rs.21,62,339/-. The above-mentioned consignment was exported vide Shipping Bill No. 2633577dated 23.06.2021, claiming export incentives/taxes as mentioned in Table-A below:

Table-A

Amount in INR

SB NO. & Date	Description of goods	FOB Value	Duty Drawback	RoDTEP	IGST
2633577 & Dt. 23.06.2021	Glazed porcelain/ Vitrified Tiles (RIVOLI-RUST HG-60*120cm, RAZONATO SHELL –HG (60*120cm) and ICELAND BLANG –HG (60*120cm) (CTH:6907 21 00)	20,97,555.48	37756.00	6696.00	Under Bond/ LUT

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

"In exercise of the powers conferred by sub-section (1) of section 25

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

Sr. No.	**Description of goods**	**Conditions**
(1)	(2)	(3)
1	Goods exported - (a) under claim for drawback of any customs or excise duties levied by the Union (b) under claim for drawback of any excise duty levied by a State (c) under claim for refund of integrated tax paid on export goods (d) under bond without payment of integrated tax (e) under duty exemption scheme (DEEC/ Advance Authorisation/DFIA) or Export Promotion Capital Goods Scheme (EPCG) (e)(f)under claim of RoDTEP (f)(g)under claim of RoSCTL	amount of drawback of customs or excise duties allowed at the time of export; amount of excise duty leviable by State at the time and place of importation of the goods. allowed at the time of export; amount of refund of integrated tax, availed at the time of export; amount of integrated tax not paid; amount of integrated tax and compensation cess leviable at the time and place of importation of goods and subject to the following conditions applicable for such goods:- (i) DEEC book has not been finally closed and export in question is de-logged from DEEC Book; Advance Authorisation/DFIA has not been redeemed and the authorisation holder has not been discharged from the export obligation by DGFT;

		(ii)In case of EPCG scheme the period of full export performance has not expired and necessary endorsements regarding reimport have been made;
	(iii)	(iii)The importer had intimated the details of the consignment reimported to the Assistant Commissioner of Customs or Deputy Commissioner of Customs in charge of the factory where the goods were manufactured or the premises from where the goods were supplied and to the licensing authority regarding the fact of reimportation and produces a dated acknowledgement of such intimation at the time of clearance of goods;
	(iv)	(iv) The manufacturer-exporters may be permitted clearance of such goods without payment of Central Excise duty or integrated tax and compensation cess under transit bond to be executed with the Customs authorities at the port of importation, such bond will be cancelled on the production of certificate issued by the jurisdictional Customs authority about receipt of reimported goods into their factory or the premises from where the goods were supplied. by the jurisdictional Customs authority about receipt of re-imported goods into their factory or the premises from where the goods were supplied.

3. From the above-mentioned notification, it is evident that where goods are exported under a claim of Drawback, RoDTEP scheme, or without payment of IGST under bond/LUT, the same goods, upon re-import, are liable for repayment of the incentives availed and the IGST refunded or foregone at the time of export. This is a conditional Notification and to avail the benefit one has to comply with the conditions given thereon.

4. As per law laid down by Hon’ble Supreme Court in a catena of decisions, in the taxing statute, it is the plain language of the

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

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

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

b. CC (Import), Mumbai Vs. Dilip Kumar & Co. [2018(361) E.L.T. 577 S.C.)]

c. CCE, Hyderabad Vs. Sunder Steels Ltd. [2005 (181) E.L.T. 154(SC)]

d. Hotel Leela Venture Ltd. Vs.CC (Gen.), Mumbai [2009(234) E.L.T.389 S.C.)]

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

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

7. In the context of the above background and the legal provisions, a sample import data of re-import against Notification No. 45/2017-Cus dated 30.06.2017 for the period from 01.07.2017 to 31.03.2022 was analysed in detail. This analysis indicated that in respect of Bill of Entry No. 5005494 dated 11.08.2021, the importer had availed the benefit of the Notification No. 45/2017-Cus dated 30.06.2017 and cleared the re-imported goods in violation of the notification conditions i.e. without reversal of amount of RODTEP, and the amount of IGST foregone under bond/LUT at the time of export, however, the Importer has paid Rs.42,756/- vide challan no.1001 on

dated 27.08.2021 benefits availed i.e. Drawback claim. Thus, the non-compliance of above-mentioned notification has resulted in short levy of duty amounting to **Rs.3,84,256/-**as worked out in **Table-B** below:

Table-B

(Amount in INR)

Description of incentives/taxes	**Export incentives/tax benefits claimed at the time of export of goods under SB No.2633577 dated 23.06.2021**	**Benefits reversed at the time of re-import of the goods under BE No. 5005494 dated 11.08.2021**	**Difference of duty payable**
Drawback	37,756	37,756	0
RODTEP	6,696	0	6,696
IGST not paid under bond/LUT scheme	3,77,560 FOB Value = 20,97,555, IGST Rate = 18% ---------------------------- IGST leviable = 3,77,560	0	3,77,560
Total	**4,22,012**	**37,756**	**3,84,256**

8. **<u>RELEVANT LEGAL PROVISIONS</u>:**

(A) Notification No 45/2017-Cus dated 30.06.2017- Exemption of Re-imported Goods from Customs Duties, Integrated Tax, and Compensation Cess.

(B) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

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;
Section 2(23): *"import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*
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;*
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;*
Section 11A: *"illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.*

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.

..

(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.

Section 46. Entry of goods on importation:

(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.

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

(d) *any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*

(l) *any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;*

(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;*

(o) *any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;*

Section 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, harbouring, 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:*

Section 114A. 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 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:*

Provided *further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :*

9. With the introduction of self-assessment under Section 17, more faith is bestowed on the importers, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As part of self-assessment, the importer has been entrusted with the responsibility to correctly self-assess the duty. However, in the instance case, the importer intentionally abused this faith placed upon it by the

law of the land. Therefore, it appears that the importer has wilfully violated the provisions of Section 17(1) of the Act in as much as the importer has failed to correctly self-assess the duty on impugned goods and has also wilfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act. Therefore, the re-imported goods having assessable value of **₹ 21,62,339/-** imported vide impugned Bill of Entry appears to be liable for confiscation under Sections 111(m) & 111(o) of the Customs Act, 1962.

10. It appears that the importer has wilfully and deliberately neglected to reverse the applicable export incentives and amount of IGST against the impugned re-imported goods. Hence, it appears that, in respect of the subject Bill of Entry, non-reversal of export incentives and IGST on the part of the importer has resulted into short levy of duty of **₹ 3,84,256/- (RoDTEP: Rs.6,696/-, IGST:3,77,560/-) (Rupees Three Lakh Eighty Four Thousand Two Hundred Fifty Six Only)** which is recoverable from the importer under the provisions of Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Act. Further, for such act of omission and commission, the importer has rendered themselves liable to penalty under Section 112(a)(ii)/114A of the Customs Act, 1962.

11. Now, therefore, **M/s. NUCERA TILES PRIVATE LIMITED, 614, 6TH Floor, Arista, Nr Armeda, Sindhu Bhavan Road, Bodakdev, Ahmedabad Gujarat-380054** are hereby called upon to show cause to the **Additional Commissioner of Customs,** Import Assessment, Custom House, Mundra, having office at Room No. 112, First Floor, PUB Building, 5B, Mundra (Kutch) Gujarat 370 421, as to why:

(i) The goods, described as, "Glazed Porcelain/Vitrified Tiles (CTH 69072100)", having assessable value of **₹ 21,62,339/- (Rs. Twenty One Lakh Sixty Two Thousand Three Hundred and Thirty Nine Only)**, re-imported vide Bill of Entry No. 5005494 dated 11.08.2021 should not be held liable for confiscation under Section 111(m) & 111(o) of the Customs Act, 1962;

(ii) The differential duty of **₹ 3,84,256/- (Rupees Three Lakh Eighty Four Thousand Two Hundred Fifty Six Only),** as discussed above, for the impugned Bill of Entry, as detailed in Table-B above, should not be demanded and recovered from the noticee under Section 28(4) of the Customs Act, 1962 along with applicable interest thereon under Section 28AA of the Customs Act, 1962;

(iii) Penalty should not be imposed upon the noticee under Section

112(a)(ii)/114A of the Customs Act, 1962.

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

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

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

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

Digitally signed by
Dipakbhai Zala
Date: 24-07-2026
11:02:49

(#ApprovedName#)
#ApprovedByDesignation#,
Additional Commissioner,
Import Assessment,
Custom House, Mundra.

To,
M/s. NUCERA TILES PRIVATE LIMITED,
614, 6TH Floor, Arista, Nr Armeda,
Sindhu Bhavan Road, Bodakdev,
Ahmedabad Gujarat-380054.

Copy to:

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