


F.No. GEN/ADJ/COMM/668/2025-Adjn
SCN No. 32/2025-26/COMM/N.S/Adjn/MCH

	<p align="center">OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421.</p> <p align="center">PHONE:- 02838-271426/271423 FAX :02838- 271425</p> <p align="center">ईमेल- adj-mundra@gov.in</p>
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DIN-20251171MO000012171F

SHOW CAUSE NOTICE

WHEREAS IT APPEARS THAT-

M/s Adani Green Energy Limited (IEC NO 0816920249) (hereinafter referred to as “Auditee”) were selected for Premises Based Audit by the Directorate General of Audit, Indirect Taxes and Customs, New Delhi to gauge the compliance of laws, regulations and procedures followed by Auditee.

2. During the scrutiny of the Bills of Entry presented by AUDITEE at Mundra SEZ Port, Mundra, Gujarat for home consumption, as listed in the Annexure A, for import of goods declared as “Battery – Parts of Robotic Module cleaning system” (3355 Units), having assessable value of Rs. 2,65,79,161/. The same were found to be classified under CTI 8479 8999 and paid duty of Rs.73,71,730/- (BCD @ 7.5% + SWS @ 10% of BCD and IGST @ 18% vide Sl. No III 366 of Schedule II of Notification no 01/2017- IT dtd. 01.07.2017).

3. It is observed by the Audit Commissionerate, Mumbai-I that the subject goods do not merit consideration as parts of machines of CTH8479 in terms of Note 2 (a) of Section XVI of Customs Tariff, which specifies as to which goods are not considered as “Parts” falling under the said Section. The same is reproduced below:

“2. Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8546 or 8547) are to be classified according to the following :

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466 , 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

4. The subject goods i.e. “Battery”, which are in itself a separate article / goods are specifically covered under CTH 8507. Hence, in view of the above Note 2 (a) of

Section XVI, it appears that the goods imported by Auditee as referred above i.e. “Battery - Parts of Robotic Module cleaning system” and cleared under CTI 8479 8999, cannot be considered as Parts of Robotic Module cleaning system, but are more appropriately classifiable under CTI85078000.

5. Further, with regard to the classification of “Battery”, the goods are appropriately covered under the Customs Tariff Head 8507 which is reproduced below:-

HS CODE	Item Description	Basic	SWS	IGST
8507	Electric accumulators, including separators thereof, whether or not rectangular (including square)			
85078000	Other accumulators	15%	1.5%	28%

6. In view of the above discussion, it is observed that the subject goods, i.e., Battery does not merit consideration as a part, in accordance with Note 2 (a) of Section XVI referred above.

7. As such, a detail list of bills of entry wherein the identical goods were imported and cleared by classifying under CTI 8479 8999 is retrieved and tabulated in Annexure ‘A’. Further on working out the short levy of customs duty on account of mis-classification of the goods, the same amounts to Rs. 72,25,332/- (Rupees Seventy Two Lakh Twenty Five Thousand Three Hundred Thirty Two only) as tabulated in Annexure ‘A’.

8. Therefore, in view of the above discussion, as it appeared that the importer had short paid customs duty, which was calculated in Annexure-A amounting to Rs. 72,25,332/- (Rupees Seventy Two Lakh Twenty Five Thousand Three Hundred Thirty Two only), a Consultative Letter no. 3378 dt 12.03.2024 (RUD-1) was issued to the Auditee.

9. In response to the above Consultative Letter, Auditee vide letter dated 03.05.2024 (RUD-2) has forwarded their submissions enclosing three (03) Demand Drafts towards payment of differential duty under Protest. The details of Demand Draft is as under:

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Sl.No.	Demand no./Date	Draft	Amount (in Rs.)	Bill of Entry details
1	009761 02.05.2024	dt	56,83,954/-	8910499 dt 24.11.2023
2	009762 02.05.2024	dt	7,95,034/-	9359610 dt 22.12.2023
3	009760 02.05.2024	dt	7,46,343/-	9359612 dt 22.12.2023

10. The above demand drafts were duly deposited in Cash Section, New Custom House, Mumbai on 07.05.2024. The copies of TR 6 challan No. 26, 27 & 28 all dt 07.05.2024 (RUD-3), are enclosed for ready reference.

11. **Importer's submission:** On perusal of the submissions by the Auditee, the following points emerge:

a. Auditee state that they have imported complete RMCS (Robotic Module Cleaning Systems) in CKD condition.

b. The battery under consideration are specifically designed and custom-engineered for the RMCS and form an integral and essential part of the RMCS without which the same is rendered inoperative and non-functional.

c. They have regularly procuring such RMCS which are supplied alongwith batteries.

d. In the instant cases, as a challenge arose due to the Special License of registration as producer of Waste/used battery in line with the provisions under the Battery Waste Management Rules, 2022 and to applying for and obtaining such a license entails a considerable period of time. Hence commence of the import of Batteries are delayed.

e. The parts, other than batteries (in CKD Condition), are imported and cleared though Mundra SEZ.

f. Certain Court Judgments were cited by the Auditee, to substantiate their plea that in cases where Car/dredgers/Boilers or such goods are imported in CKD condition, and even though their parts/ components are imported separately, entire goods will be classifiable under the complete goods (Car/ Dredger).

g. Customs authorities regularly been accepting the classification of identical RMCS batteries under 8479 without raising any objection thereto. Hence classification of the same goods basis past imports cannot be subject to challenge belatedly.

h. To summarize, they do not agree with the view of the department. However to prove their bonafides, they have submitted/deposited the differential duty, mentioned in Consultative Letter, **Under Protest**.

12. Department's Counter to Auditee submission:

a. On going through the documents i.e. Bills of entry, invoices, Bill of Lading, COO Certificate with regards to consignments in reference, no where it is mentioned/declared that the goods imported vide the subject Bs/E are RMCS in CKD condition and the subject goods are part of earlier consignment of RMCS, i.e., which is claimed to have arrived in CKD condition. Further, the Purchase Order mentioned in respective invoices are different, which is confirmation that goods are of ordered separately. The onus is on the Auditee to declare that the goods, Batteries, in the instant case, are part of entire system imported in CKD condition in separate shipments.

b. Further, going through the citations relied upon by the Auditee, the cases are not applicable in the instant case, as they have not declared the subject goods as Machine in CKD condition. In instance case, the goods are presented separately and declared as "BATTERY", which are in itself a separate article/ goods, classifiable under CTH 8507.

c. To endorse department's view, it is irrefutable fact that Classification is made in accordance with the General Rules of Interpretation ("GRIs"). As per Rule 3(a) of General Rules for the Interpretation, the heading which provides the most specific description shall be preferred to headings providing a more general description.

d. In this backdrop, attention is invited to, Note 2 (a) of Section XVI of Customs Tariff specifies as to which goods are not considered as "Parts" falling under the said Section. The same is reproduced below:

"2. Subject to Note 1 to this Section , Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8546 or 8547) are to be classified according to the following :

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466 , 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

e. In view of the above Note 2 (a) of Section XVI, it appears that the goods imported by Auditee as referred above i.e. “Battery - Parts of Robotic Module cleaning system” and cleared under CTI 8479 8999, declaring as a Parts of Robotic Module cleaning system are in fact “Battery”, which are in itself a separate article/goods specifically covered under CTH 8507. Hence the subject goods does not merit consideration as a part, in accordance with Note 2 (a) of Section XVI.

13. Relevant Legal provisions are as under:

13.1 SECTION 46 OF CUSTOMS ACT, 1962: Entry of goods on importation. -

(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner:

Provided further that] if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

[(3) The importer shall present the bill of entry under sub-section (1) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that a bill of entry may be presented 10[at any time not exceeding thirty days prior to] the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.]

(4) The importer while presenting a bill of entry shall 11*** 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 as may be prescribed].

[(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.]

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice versa.

13.2 SECTION 111 OF CUSTOMS ACT, 1962: 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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

13.3 SECTION 28 OF CUSTOMS ACT, 1962: Recovery of duties not levied or short-levied or erroneously refunded.

(1) "Where any duty has not been levied or not paid or has been short-levied or short paid or erroneously refunded, or any interest payable has not been paid,

part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,—

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or paid or which has been short levied or short paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice,

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

(b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of, —

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer, the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:

Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.

13.4 SECTION 28AA OF THE CUSTOMS ACT, 1962- 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. (3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,— (a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and (b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

13.5 SECTION 112 OF CUSTOMS ACT, 1962: Penalty for improper importation of goods, etc.

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 5 [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:

13.6 **Section 17 of Customs Act 1962: Assessment of Duty**

With the introduction of the Self-Assessment scheme, the onus is on the Importers to comply with the various laws, determine their tax liability correctly and discharge the same. The Importer is required to declare the correct description, value, classification, Notification number, if any, on the imported goods. Self-assessment is supported by Section 17, 18 and 46 of the Customs Act, 1962 and the Bill of Entry (Electronic Declaration) Regulation, 2011. The Importer are squarely responsible for self-assessment of duty on imported goods and for filing of all declaration and related documents and confirming that these are true, correct and complete. Self-Assessment can result in assured facilitation for compliant Importer. However, delinquent Importer would 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 provisions under the Customs Act, 1962 or the allied Acts.

14. (i) It therefore appears from the above that impugned goods are correctly leviable to BCD @15 % & IGST @28% under CTI 8507 8000 of the First Schedule to Customs Tariff Act, 1975. Therefore, the wrong classification under CTH 8479 as per the said bills of Entry wherein the BCD is @ 7.5% & IGST is @ 18%, has led to short levy of Customs duty amounting to Rs. 72,25,332/- (Rs. Seventy Two Lakh Twenty Five Thousand Three Hundred Thirty Two Only) as per calculation sheet in Annexure "A" annexed herewith. Consequently, differential duty amount of Rs. 72,25,332/- (Rs. Seventy Two Lakh Twenty Five Thousand Three Hundred Thirty Two Only) along with applicable interest thereon appears payable under Section 28(1) & Section 28AA of the Customs Act, 1962 by the Auditee.

(ii) Further, it also appears that the Auditee has wrongfully classified the impugned goods under CTH 8483 which resulted in short payment of customs duty. All the aforesaid facts, discussed above wherein the Auditee has misclassified the impugned goods came to light at the time of conducting PBA, only after analysis of the description of the goods covered under subject Bills of Entry filed by the

importer. Wrong declaration of Customs Tariff heading for the subject goods, by the Auditee in order to evade duty thereon appears to have contravened the provisions of Section 46(4) and 46 (4A) of the Customs Act, 1962, and which in turn appears to have rendered the subject goods liable to confiscation in terms of the provisions of Section 111(m) of the Customs Act, 1962, which also appears to have made the Auditee liable for penal action in terms of the provisions of Section 112 of the Customs Act, 1962.

15. Whereas, it appears from the foregoing narration and legal provisions cited above that the Auditee has evaded payment of applicable duty in respect of the goods imported and cleared the goods in contravention of the provisions of the Customs Act 1962. As per the extant instructions, the onus of providing the correct declaration rests on the Auditee and all facilitation is conditional to the same. With the introduction of Self-Assessment, faith is bestowed on the Importers, as the practice of routine assessment, concurrent audit, etc., have been dispensed with and the Importers have been entrusted with the responsibility to correctly self-assess the duty. However, in the instant case, the Auditee intentionally abused the faith placed upon it by the law of the land. Therefore, it appears that the Auditee has violated the provisions of Section 17(1) of the Act in as much as they have failed to correctly self-assess the impugned goods and has also violated the provisions of sub section (4) and (4A) of Section 46 of the Act. Therefore, it appears that in respect of the Bs/E mentioned in Annexure A, such evasion of payment of applicable duty of impugned goods, on the part of the Auditee has resulted in short levy of duty amounting to Rs. 72,25,332/- (Rs. Seventy Two Lakh Twenty Five Thousand Three Hundred Thirty Two Only) which is recoverable from the Auditee under the provisions of Section 28(1) of the Customs Act, 1962, along with interest as applicable under Section 28AA of the Act, but the Importer has paid the differential duty alone as per the TR6 challans listed in para 9 supra. In view of the evasion of payment of applicable Duty during self-assessment by the Auditee in respect of the impugned goods, resulting into short-levy of duty, it appears that the Auditee has rendered the goods mentioned in Annexure-A liable for confiscation under Section 111(m) of the Customs Act, 1962. For such acts/ omissions and the said deliberate wrong self assessment of duty, the Auditee also appears to have rendered themselves liable to penalty under Section 112(a) *ibid*.

16. Further, the amount of Rs.72,25,332/- paid by the Importer as per the TR-6 challans listed in para 9 supra appears to be liable for appropriation towards the short paid duty.

PRE-NOTICE CONSULTATION-

17. In pursuance of proviso to Section 28(1)(a) of the Customs Act, 1962, this office vide letter dated 14.11.2025 granted an opportunity of pre-notice consultation to M/s. Adani Green Energy Limited on 19.11.2025, however, they neither appeared for pre-notice consultation nor made any submission in this regard.

SHOW CAUSE-

18. Now, therefore M/s Adani Green Energy Limited (IEC NO 0816920249), 30 GW Khavda RE Park, Near Karim Shahi, Khavda, Kachchh, Gujarat-370510 is hereby called upon to show cause to the Pr. Commissioner/Commissioner, Mundra Customs within 30 days from the receipt of this Notice as to why:-

- (i) the declared classification of the subject goods under CTI 8479 8999 in the Bills of Entry (as per Annexure-A) should not be rejected and goods be re-classified under CTI 8507 8000 of the First Schedule to the Customs Tariff Act, 1975;
- (ii) the differential duty of customs amounting to Rs. 72,25,332/- (Rs. Seventy Two Lakhs Twenty Five Thousand Three Hundred Thirty Two Only), as detailed in Annexure-A to the Show Cause Notice, should not be demanded and recovered under Section 28(1)(a) of the Customs Act, 1962 alongwith interest at the applicable rate under Section 28AA of the Customs Act, 1962;
- (iii) the amount of Rs. 72,25,332/- paid under protest should not be appropriated against the duty liability;
- (iv) the goods having assessable value of Rs. 3,37,86,910/- (Rupees Three Crores Thirty Seven lakhs Eighty Six Thousand Nine Hundred and Ten only), which have been cleared and not available for seizure, should not be held liable to confiscation under Section 111(m) of the Customs Act, 1962;
- (v) Penalty should not be imposed upon them under Section 112(a)(ii) of the Customs Act, 1962;

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19. The Noticee shall indicate in their written reply as to whether they want to be heard in person before the case is decided. Further, it should also be informed that if no reply is received within the stipulated time or no representation is made or caused when the case is posted for personal hearing, the case will be decided on the basis of details on record without any further reference to them.

20. This notice is issued without prejudice to any other action that may be taken against the notice and/or any other person under the Customs Act, 1962 and/or any other law for the time being in force.

21. 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 them, which may come to the notice of the Department after issuance of this notice and prior to the adjudication of the case.

(Nitin Saini)

Commissioner of Customs

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To,

M/s Adani Green Energy Limited (IEC NO 0816920249)

30 GW Khavda RE Park, Near Karim Shahi,

Khavda, Kachchh, Gujarat-370510

Email- investor.agel@adani.com

Copy To-

- (i) The Office of Commissioner of Customs (Audit), New Custom House, Bapu Jamadar Chowk, Ballard Estate, Mumbai-400001 ([email- CIRCLEA1.AUDITNCH@GOV.IN](mailto:CIRCLEA1.AUDITNCH@GOV.IN))
- (ii) The Assistant Commissioner, Group-5A, Custom House Mundra
- (iii) The Assistant Commissioner, PCA, Custom House Mundra
- (iv) The Superintendent (EDI) for uploading on the website

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List of documents relied upon in this SCN:

RUD No.	Description of Document
RUD No 1	Consultative Letter No. 3378 dated 12.03.2024
RUD No 2	Letter of importer dated 03.05.2024
RUD No 3	TR-6 Challans