

सीमाशुल्क (निवारक) के आयुक्त का कार्यालय,सीमा शुल्क भवन,  
जामनगर- राजकोट हाइवे,विक्टोरिया ब्रिजके पास,  
जामनगर (गुजरात) – 361 001

Office of the Commissioner of Customs (Preventive),  
'SEEMA SHULK BHAVAN', Jamnagar – Rajkot Highway,  
Near Victoria Bridge, Jamnagar (Gujarat) – 361 001

Email: commr-custjmr@nic.in; adj-custjmr@nic.in

दस्तावेज़पहचानसंख्या/Document Identification Number (DIN) – 20241071MM000011161A

SCN No.: COMMR-04/2024-25

Date:22-10-2024

SHOW CAUSE NOTICE

(Issued under the provisions of the Customs Act, 1962)

M/s. Ford India Pvt. Ltd., Revenue Survey No- 01, Village North Kotapura, Taluka –Sanand, Ahmedabad-382 170, (herein after called as “the Noticee / the Importer”), holders of IEC No. 0396011853 and Income Tax Permanent Account Number AAACM4454H, engaged in manufacturing of Automobiles falling under Chapter 8703 of the Customs Tariff Act, 1975, had filed various Bills of Entry as listed in **Annexure – A** to this Show Cause Notice during the period from **20.04.2022 to 18.09.2024**, through their authorized Customs House Broker viz. M/s. Transmarine Corporation, Pipavav, for import of the goods as mentioned in Table – A hereunder, by classifying them under Custom Tariff Heading No. **85437099** of the First schedule to the Customs Tariff Act,1975 (hereinafter referred to as “the said goods”).

TABLE – A

Sr. No.	CTH	Description of Item
i.	8543 7099	TRNSDC ASY C/SHT PSN (TRANSDUCER ASSEMBLY CAMSHAFT POSITION)
ii.	8543 7099	SNS ASY CSHAFT TM (SENSOR ASSEMBLY CRANKSHAFT TIME)

2. Whereas the Noticee, while seeking the clearances for home consumption of the goods as mentioned in foregoing Table – A, had paid the customs duty on the same, as mentioned in Table – B hereunder :

TABLE - B

CTH	Duty Paid
8543 7099	(i) Basic Custom Duty @ 7.5%; (ii) Social Welfare Surcharge @10%; (iii) Integrated Goods and Services Tax @18%.

2.1 Whereas, the description of the Chapter 85 of the First Schedule to the Custom Tariff Act, 1975, read as under in Table - C:

TABLE - C

Sr. No	Section No.	Chapter No.	Description of the Chapter
4	XVI	85	Electrical Machinery and Equipment and Parts thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers and Parts and Accessories of such Articles

3. Whereas, during the course of analysis of above mentioned Bills of Entry filed by the Noticee, it is observed that the imported goods having description as mentioned in the Table-A above, are parts of Safety airbag system. It is also not in dispute that Safety airbag system is a composite module fitted in cars and it is not a ‘single item’ used in isolation. The safety airbag system of the vehicle works as a system where the different components of the system like sensors, electronic control module, airbags and inflator module work in unison, and the imported goods mentioned in Table-A above, comprises one of the components of the safety airbag system. Therefore, the imported goods appeared to be appropriately classifiable under Customs Tariff Heading No. 87089500 meant for classification of “Safety airbags with inflator system; parts thereof”. However, the Noticee appears to have wrongly classified the goods under CTH 85437099, wherein the description of goods under Chapter 85 read as *“Electrical Machinery and Equipment and Parts thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers and Parts and Accessories of such Articles”* and cleared the same at a lower customs duty structure as mentioned above, instead of paying a higher customs duty structure applicable for such goods under correct CTH 87089500.

4. Whereas, the Noticee is a manufacturer of Motor vehicles falling under Chapter Heading 8703 of the Customs Tariff and the said imported goods are meant for the specific purpose for use in the manufacturing of motor cars as well as for sale of the same as car parts of the Motor Vehicles being manufactured by them. Therefore, these imported Parts/ Components/ Equipment of the Motor Vehicles appear to be suitably classifiable under Chapter 87 of the First Schedule to the Customs Tariff Act, 1975, meant for classification of *“Vehicles Other than Railway or Tramway Rolling-Stock and Parts and Accessories thereof”* and specifically under Customs Tariff Heading No. 8708 of the First Schedule to the Customs Tariff Act, 1975, which is meant for classification of *“Parts and accessories of the motor vehicles of headings 87.01 to 87.05”*. The customs duty structure in respect of CTH 8708 of the Customs Tariff, is tabulated in Table – D hereunder:

TABLE - D

CTH	Duty Payable Structure
8708	(i) Basic Custom Duty @ 15% as amended; (ii) Social Welfare Surcharge @10% (iii) Integrated Goods and Services Tax @ 28%.

5. Whereas, it appears that the imported goods are components of Safety airbag system, which is a composite module fitted in cars. The Safety Airbag systems comprises of various components viz. Airbag Control Unit, Sensors, airbags and inflator to perform the desired function of preventing damage to drivers and passengers in case of accident/crash by way of inflating and deflating airbags. Further, when accident/collision happens, it activates the different types of sensors which detect changes in speed, pressure etc. These sensors are in close contact with Airbag Control Unit (ACU) which on analysing the data received from sensors determines whether and how the airbags are to be deployed. If the ACU or electronic control module determines that airbag deployment is necessary, it initiates the inflation stage. Thus, safety airbag system is an integrated system of the above closely knit components to perform the principal function of safety restraint system of the vehicle. The two parts imported by the importer are sensors and electronic control module which are part and parcel of the safety airbag system of the vehicle. Safety air bag system is in the form of a system consisting of a variable number of separate units/parts depending upon the requirement. However, basic composition remains the same to make it working in a motor vehicle. The impugned items are used as constituents of Safety Air Bag system which is to be used as part of motor cars manufactured by the importer.

5.1 Whereas, the description of the tariff item under CTH 87089500 – “*Safety airbags with inflator system; parts thereof*” explicitly indicates that the said tariff item covers the safety airbag system as whole and not just the plain airbag with inflator module. The word ‘**system**’ here qualifies the words ‘safety airbag with inflator’. It is thus evident that the description of the tariff item is for “safety airbag system” as a whole including the inflator module. The safety airbag system of the vehicle works as a system where the different components of the system like sensors, electronic control module, airbags & inflator module work in unison.

5.2 Whereas, as per General Rules for the Interpretation 1, the classification of goods is to be determined as per the terms of the heading and section notes and chapter notes. The parts in question are solely and principally used as constituents of “Safety Airbag System” which is again used solely for fitting in the motor vehicle. The combined prime function of these items is that they are integral part of safety airbag system and for operation of Safety Airbag only. Thus, going by the GRI 1 read with description mentioned in CTH 8708 and Section Note 3 to Section XVII the imported parts used for safety airbag system of motor vehicle are well covered under heading 87089500.

5.3 Whereas, it appears that the importer had classified and self-assessed these two items under residual entries in Chapter 85, although the items are more specifically mentioned in tariff item 87089500. Primarily, the Chapter Head 8543 itself is a residual entry. It reads as “**8543: Electrical machines and apparatus having**

***individual functions, not specified or included elsewhere in this chapter.***” Further, the sub heading 854370 is again residual, which read as ***“854370: other machines and apparatus.”*** The tariff item 85437099 is a four dash residual entry ----OTHER under the three dash residual entry --- OTHER. Therefore, it appears that the Noticee has classified these two items under residual to residual entry whereas there is specific entry for motor vehicle parts under heading 8708 and parts of safety airbag system are specifically mentioned in tariff item 87089500. It further appears that these two items are not general purpose items but exclusively designed for use as parts of motor vehicle. It therefore appears that for classification of such specialized parts of motor vehicle the entries of heading 8708 and tariff item 87089500 are applicable instead of general entries in Chapter 85. Hence, conjoint reading of Notes 2(f) & 3 of section XVII read with Note 1(l) of Section XVI makes it evidently clear that the said parts imported by the Noticee, can only be classified under the heading 8708 and specifically under CTH 87089500.

5.4 Whereas, Note 1 (l) to Section XVI excludes articles of Section XVII from Section XVI under which Chapter 85 falls i.e. Articles of Chapter 87 (including parts & accessories of motor vehicle of Chapter 87) do not fall under Chapter 85 as Chapter 85 is part of Section XVI. Thus, if only Section Note 1(l) of Section XVI and Note 2(f) of Section XVII are considered, a situation emerges wherein each Section excludes the goods of other section by way of respective Section Note. Note 1(l) to Section XVI excludes goods of Chapter 87 (which fall under Section XVII) from Section XVI whereas Note 2(f) of Section XVII excludes goods of Chapter 85 (which falls under Section XVI) from Section XVII (under which Chapter 87 falls). The solution to this situation lies in Note 3 to Section XVII which reads as under: -

*“References in Chapters 86 to 88 to “parts” or “accessories” do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part or accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part or accessory.”*

5.5 Whereas, the effect of Note 3 to Section XVII is that when any part or accessory can fall in Section XVII as well as in another Section, its classification has to be determined by its sole or principal use. In other words, if a part can fall in Chapter 87 as well as in Chapter 85, if it is suitable for use solely or principally with vehicle of Chapter 87, its classification shall be under Chapter 87 (8708) and not under Chapter 85. Conjoint reading of Section Note 1(l) of Section XVI and Note 2(f) & 3 of Section XVII makes it clear that once a part is suitable for use solely or principally with articles of Chapter 87, there is no question of considering entries under chapter 85.

5.6 Whereas, it is not in dispute that the above two items imported by the Noticee, (i) are specifically designed for use by the importer for the purpose of

manufacture of motor vehicle of their own brand, (ii) can only be used in motor vehicle classifiable under CTH 8703, (iii) are identifiable as parts of FORD motor vehicle, and (iv) cannot be used anywhere as general item/parts having general commercial identity i.e. identity other than “parts of Ford motor vehicle”.

5.7 Therefore, conjoint reading of Note 2 & Note 3 of Section XVII and Note 1 (I) of Section XVI make it explicitly clear that since the above two items imported by the Noticee, are suitable for use solely or principally with the articles of Chapter 87 and all are parts of specific motor vehicles, their classification shall be under Chapter 87. Further, Heading 8708 is for “parts and accessories of the motor vehicles of headings 8701 to 8705” and the appropriate Tariff item is 87089500. The tariff item 85437090 is general entry for certain goods and not for the imported goods for specific use in motor vehicle, whereas the heading 8708 specifically covers parts of motor vehicle.

5.8 Whereas, Part (III) PARTS AND ACCESSORIES of the HSN Explanatory Notes to Section XVII, provides as under:

*“It should, however be noted that these heading apply only to those parts or accessories which comply with all three of the following conditions:*

- (a) They must not be excluded by the terms of Note 2 to this Section: and*
- (b) They must be suitable for use solely or principally with the articles of chapter 86 to 88; and*
- (c) They must not be more specifically included elsewhere in the Nomenclature”*

It further appears that in view of above provisions, the imported goods satisfy all the above mentioned three conditions of HSN Explanatory Notes to Section XVII, and hence appears to be classifiable under CTH 87089500.

6. Whereas, it appears that the Bills of Entry as mentioned in Annexure-A to this notice, were filed by the importer classifying the same in CTH 85437099 which attracted lower BCD @ 5% & IGST @ 18%. However, during analysis it was observed that the imported goods in question were parts of safety airbag system which are specifically mentioned in tariff item 87089500, therefore rightly classifiable under CTH 87089500, which attracted higher BCD @ 15% & IGST @ 28% and accordingly these bills of entry were reassessed by the proper officer by re-classifying them under CTH 8708 of the Customs Tariff Act, 1975. However, the importer appealed before the Commissioner (Appeals), Ahmedabad against the re-assessment and the Commissioner (Appeals) remanded the matter with direction to Jurisdictional Adjudicating authority to issue speaking order. The Assistant Commissioner, Customs House Pipavav, vide Order-in-Original No. 09/AC/RNS/GPPL/2023-24 dated 21.12.2023, under remand proceedings, passed the speaking order in respect of 37

items, restoring the classification of the goods from CTH 87089500 to CTH 8543 7099 of the Customs Tariff Act, 1975, as self-assessed by the importer at the time of filling the Bills of Entry, which included the imported goods in question. However, the department has challenged the classification of the goods in question viz. by filing an appeal against the Order-in-Original No. 09/AC/RNS/GPPL/2023-24 dated 21.12.2023 before the Commissioner (Appeals), Ahmedabad in respect of the goods viz. (i) TRNSDC ASY C/SHT PSN (TRANSDUCER ASSEMBLY CAMSHAFT POSITION) (ii) SNS ASY CSHAFT TM (SENSOR ASSEMBLY CRANKSHAFT TIME), which were classified by the importer under CTH 85437099 to the First Schedule to the Customs Tariff Act, 1975, in spite of the fact that the same are classifiable under CTH 87089500 to the First Schedule of the Customs Tariff, 1975.

## **7. RECOVERY OF DUTIES, CONFISCATION OF GOODS & IMPOSITION OF PENALTIES**

### **7.1 Section 17(1) of the Customs Act, 1962 reads as: -**

*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.*

Board Circular No. 17/2011-Customs dated 08.04.2011 reproduced here under for ready reference:

*‘.....Self-Assessment’ of Customs duty in respect of imported and export goods by the importer or exporter, as the case may be. This means that while the responsibility for assessment would be shifted to the importer/exporter, the Customs officers would have the power to verify such assessments and make re-assessment, where warranted. ....*

*2..... 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.....;*

### **7.2 Section 28 of the Customs Act, 1962 provides for recovery of duties not levied or not paid or short-levied or short-paid as under :**

- (1)-----
- (2) -----
- (3) -----

(4) Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any 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.

**7.3 Section 28AA of the Customs Act, 1962** provides for levy of interest on delayed payment of duty as under:

(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 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) .....

**7.4** As per section 46(1) of the Customs Act 1962, the importer of any goods 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 prescribed. Text of the Section 46(1) of the Customs Act, 1962, is as under:

**46. 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 on the customs automated system, 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.*

**7.5 Section 46(4) of the Customs Act 1962** provides that the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods.

**7.6 Section 46(4A) of the Customs Act, 1962** provides that the importer who presents a bill of entry shall ensure the following, namely:-

- (a) the accuracy and completeness of the information given therein;
- (b) the authenticity and validity of any document supporting it; and
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

**7.7 Section 111(m) of the Customs Act, 1962** provides for confiscation of improperly imported goods as under:

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

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case 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.

**7.8 Section 112 of the Customs Act, 1962** provides for 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) .....
- (ii) .....
- (iii) .....
- (iv) .....
- (v) .....

**7.9 Section 114A of the Customs Act, 1962** provides for penalty for short-levy or non-levy of duty in certain cases as under:

*“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 sub-section (8) of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined.”*

7.10 The import of goods has been defined in the IGST Act, 2017 and Section 5 of IGST 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 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. Further, as per Sub Section 7 of Section 3 of 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 IGST Act 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.

## **VIOLATIONS OF VARIOUS LEGAL PROVISIONS UNDER CUSTOMS ACT**

8. Whereas as per Section 17 of the Customs Act, 1962, an importer entering any imported goods under Section 46, shall self-assess the duty leviable on such goods. In the instance case, it appears that the Bill of Entry, as detailed in Annexure-A to this Notice, were wrongly assessed and therefore these bills of entries are required to be re-assessed in terms of the provision of Section 17 of the Customs Act, 1962. Since, the terms assessment includes re-assessment, accordingly these Bills

of Entry are required to be re-assessed in terms of the provisions of Section 17 of the Customs Act, 1962.

9. Whereas, in the light of the facts and circumstances mentioned hereinabove, it appears that during the period from **20.04.2022 to 18.09.2024**, the Noticee had imported the components viz. (i) TRNSDC ASY C/SHT PSN (TRANSDUCER ASSEMBLY CAMSHAFT POSITION) and (ii) SNS ASY CSHAFT TM (SENSOR ASSEMBLY CRANKSHAFT TIME) which are specially designed for Safety Airbag module as well as solely and principally used in Motor Vehicle covered under CTH 8703 of the Customs Tariff Act, 1975 manufactured by the Noticee, wrongly classified the same under CTH 85437099 and cleared the same under 59 Bills of Entry as listed in Annexure-A attached to this Show Cause Notice to avail the benefit of payment of lower BCD @ 7.5% and IGST @ 18%, instead of the correct classification under CTH 87089500, which attracted BCD @ 15% adv. and IGST @ 28%. In view the discussion in foregoing paras, the classification of the imported goods under CTH 85437099 in the Bills of Entry as mentioned in Annexure-A to this Notice, appears to be inappropriate and the Noticee appears to have intentionally chosen to mis-classify the goods under CTH 85437099 to pay lower customs duties viz. BCD @ 7.5% and IGST @ 18%, which resulted in short-payment of Customs Duty amounting to Rs. 1,58,08,268/- as calculated in Annexure-B of this Show Cause Notice.

10. Whereas, it further appears that the Noticee being a manufacturer of Motor vehicle falling under Chapter Heading 8703 ibid, imported the Safety Airbags and parts thereof of Motor Vehicle which are specially designed and exclusively suitable for use in Motor Vehicle of CTH 8703 manufactured by them as well as being aware that these imported Safety Airbags and parts thereof of Motor Vehicle cannot be used for any other purpose, except for use in their specific model of Motor Vehicle of CTH 8703 manufactured by them, the Noticee had intentionally mis-classified the imported goods which resulted in short levy and payment of the Customs duty. It appears that the Noticee has knowingly and deliberately classified the goods under CTH 85437099 to take the wrong benefit of inadmissible lower rate of customs duties and this misclassification culminated into short-payment of Customs Duty amounting to Rs. 1,58,08,268/- as calculated in Annexure-B of this Notice. It also appears that the Noticee has never disclosed the same to the department at any point that they have mis-classified the goods under CTH 85437099 to take the benefit of inadmissible lower rate of duty for the aforesaid Bills of Entry, as mentioned in Annexure-A to this Notice. The same has been noticed only during the analysis of the Bills of Entry by the department. However, it appears that the imported goods are of the nature that are specially designed and exclusively suitable for use as parts in safety airbags and that cannot be used for any other purpose other than for use in their specific model of Motor

Vehicle of CTH 8703. From the above, it appears that the Noticee had knowingly and deliberately indulged in suppression of facts in respect of their imported products and had willfully misrepresented / mis-stated the material facts regarding the goods imported in the declarations made in the import documents including Check lists presented for Bills of Entry before the Customs at the time of import for assessment and clearance, with an intent to evade payment of applicable Customs Duty. Therefore, it appears that the short-paid customs duties amounting to Rs.1,58,08,268/- are required to be demanded and recovered under Section 28(4) of the Customs Act, 1962 along with appropriate interest under Section 28AA of the Customs Act, 1962.

11. Whereas it further appears that the Noticee have imported goods valued at Rs.7,23,36,700/-, as mentioned in Annexure-A to this Notice, by deliberately misclassifying the said goods under CTH 85437099, which are Safety Airbags and Parts thereof of Motor Vehicle which are specially designed to exclusively use for Motor Vehicle manufactured by them and classifiable under CTH 87089500, in contravention of the provisions of Section 46 (4) of the Customs Act, 1962. In terms of Section 46(4) of Customs Act, 1962, the Noticee was required to make a declaration as to truth of the contents of the Bills of Entry submitted for assessment of Customs duty, which in the instant case, the Noticee failed to do in respect of imports of the said goods through CH Pipavav. For these contraventions and violations, the goods appear to fall under the ambit of 'smuggled goods' within the meaning of Section 2(39) of the Customs Act, 1962, and are liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962.

12. Whereas it further appears that the aforesaid acts of suppression of facts and wilful mis-statement by the Noticee led to short levy and short-payment of customs duty of Rs1,58,08,268/-, as mentioned in Annexure-A to this Notice, thus rendering them liable for penalty under Section 114A of the Customs Act, 1962, in as much as the duty amounting to Rs.1,58,08,268/- was short levied and short-paid by reason of wilful mis-statement and suppression of facts with a mala fide intention of evasion of Customs duty. All the aforesaid acts of omission and commission on the part of the Noticee appear to have rendered the subject imported goods totally valued at Rs.7,23,36,700/- as detailed in Annexure-A to the SCN, liable for confiscation under Section 111(m) of the Customs Act, 1962 and the Noticee therefore appears to be liable to penalty under Section 112 of the Customs Act, 1962.

#### **CHARGING SECTION:**

13. Now, therefore, for the aforementioned reasons, the Noticee, M/s. Ford India Pvt. Ltd., Revenue Survey No- 01, Village North Kotapura, Taluka –Sanand,

Ahmedabad-382 170 [IEC No. 0396011853] is hereby called upon to show cause to the Commissioner of Customs, Customs (Preventive), Jamnagar having his office situated at 'SEEMA SHULK BHAVAN', Jamnagar-Rajkot Highway, Near Victoria Bridge, Jamnagar, PIN: 361 001 within 30 days of the receipt of this Notice as to why:

- (a) the declared classification of the imported goods under CTH 85437099 of the First Schedule to the Customs Tariff Act, 1975 in the Bills of Entry as detailed in Annexure-A to this Notice should not be rejected and the said goods should not be re-classified under CTH 87089500 of the First Schedule to the Customs Tariff Act, 1975 and why the subject Bills of Entry should not be reassessed accordingly;
- (b) differential Customs duty amounting to Rs.1,58,08,268/- (Rupees One Crore, Fifty Eight Lakhs, Eight Thousand, Two Hundred and Sixty Eight only), as detailed in Annexure-A to this Notice, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;
- (c) interest on the Customs duty as mentioned in (b) above should not be charged and recovered from them under the provisions of Section 28AA of the Customs Act, 1962;
- (d) the imported goods valued at Rs.**7,23,36,700/-** (Rupees Seven Crores, Twenty Three Lakhs, Thirty Six Thousand and Seven Hundred only), as detailed in Annexure 'A' to this Notice, should not be held liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962;
- (e) Penalty should not be imposed upon them under the provisions of Section 112 and / or 114A of the Customs Act, 1962.

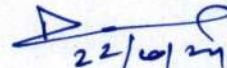
14. The above Noticee is further required to note that their written submissions, if any, should reach this Office within 30 (thirty) days from the date of receipt of this Notice. If no cause is shown by them against the action proposed above within 30 days from the date of receipt of this Show Cause Notice or if they do not appear before the adjudicating authority as and when the case is posted for hearing, the case is liable to be decided ex-parte on the basis of facts and evidences available on record.

15. The Noticee also has an option under Section 127B of the Customs Act, 1962 to settle the case through Settlement Commission by filing an application, if eligible.



16. This Show Cause Notice is issued without prejudice to any other action that may be taken against the Noticee or any other persons concerned in respect of the aforesaid goods under the Customs Act, 1962 and / or any other law for the time being in force.

17. Department reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.

  
22/10/24  
[ Dhirendra Lal ]  
Commissioner

**Encl: - Annexure A & B, as detailed in SCN**

F. No. CUS/RUD/GENC/48/2024-Adjn.

Date: 22.10.2024

**By Speed Post A.D. / E-Mail**

To,  
M/s. Ford India Pvt. Ltd.,  
Revenue Survey No- 01, Village North Kotapura,  
Taluka -Sanand, Ahmedabad - 382 170

Copy to:

1. The Deputy / Assistant Commissioner, Custom House, Pipavav.
2. Guard File.