कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा,
सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT& SPL ECONOMIC ZONE, MUNDRA-370421
Email: group1-mundra@gov.in

SCN NO. 62/2026-27/ADC/ZDC/MCH
DIN: 20260671MO0000823348

Demand cum Show-Cause-Notice

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

M/s Choudhary Industries (IEC-BRGPK8094J), G-98 RIICO Industrial Area Phase 2nd, Hanumangarh Junction-335512 (hereinafter also referred to as "the importer/the Noticee" for the sake of brevity") filed following Bill of Entry having details mentioned as under, through their appointed Customs Broker M/s Gaurav M. Jhaveri at Custom House, Mundra, for clearance of the goods having description "Fuel Oil" , classifying the same under Tariff item 27101959 of first schedule of the Customs Tariff Act, 1975.

S.No.	BE No.	BE Date	Item No.	Description	Assessable Value (in INR.)	Duty (in INR) @10.775%
1	8630175	11.05.2022	1	Fuel Oil	7809709	615991
Total					**7809709**	**615991**

2. It appears that the importer had imported goods namely "Fuel Oil" under chapter heading 27101959 and paid IGST @ 5% under Sr. No. 164 of schedule I of the notification No. 1/2017 dated 28.06.2017. Further, as per Sr. No. 164 of Schedule I of the IGST Notification 1/2017 dated: 28.6.2017, 5% IGST is applicable only to (1) Kerosin Oil PDS (2) Bunker Fuel for use in ship or vessel namely (i) IFO 180 CST (ii) IFO 380 CST (iii) Marine fuel 0.5% FO.

2.1. Whereas, as per Sr. No. 33 of Schedule III of IGST Notification 1/2017 dated 28/6/2017, 18% IGST is applicable on "*Petroleum oils and oils obtained from bituminous minerals, other than petroleum crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the* *preparations; waste oils; Avgas [other than kerosene PDS, petrol, diesel and ATF, not in GST*" falling under CTH 2710.

2.2. Whereas, on verification of the impugned Bill of Entry, it was observed that the importer had cleared the impugned goods namely "Fuel Oil" classifying under chapter heading 27101959 and paid IGST @ 5% under Sr. No. 164 of schedule I of the notification No. 1/2017 dated 28.06.2017. However, as the importer imported the goods "Fuel Oil", which are to be correctly classified under IGST Sr. No. 33 of Schedule-III of the notification ibid and duty is to be levied @ 18% IGST.

3. In view of the foregoing, it appears that the importer had wrongly availed the benefit of Sr. No. 164 of Schedule-I to Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 and discharged IGST @ 5%, whereas the said concessional rate is specifically applicable only to bunker fuels for use in ships or vessels, namely (1) Kerosin Oil PDS (2) Bunker Fuel for use in ship or vessel namely (i) IFO 180 CST (ii) IFO 380 CST (iii) Marine fuel 0.5% FO, falling under CTH 2710. However, the impugned imported goods are appropriately classifiable under Sr. No. 33 of Schedule-III to the aforesaid notification and are correctly leviable to IGST @ 18%. Therefore, by wrongly claiming the benefit of the aforesaid concessional entry and applying IGST @ 5% instead of the applicable rate of 18%, the importer appears to have short paid/levied IGST which worked out amounting to **Rs. 10,43,182 /-,** as detailed below:-

BE No. & Date	Item Description	CTH	Assessable Value	Duty Leviable (BCD-2.5%, SWS-10%, IGST-5%	Duty levied (BCD-2.5%, SWS-10%, IGST-18%	Differential/Short Levy/Payment
8630175 & 11.05.2022	Fuel Oil	27101959	7809709	16,59,173	615991	10,43,182

4. Relevant Legal provisions, in so far as they relate to the facts of the case:-

A. Notification No. 1/2017-Integarted Tax (Rate) dated 28.07.2017

B. The Customs Tariff.

C. Section 46 of the Customs Act, 1962 provides for filing of Bill of Entry upon importation of goods, which casts a responsibility on the importer to declare truthfully, all contents in the Bill of Entry. Relevant portion of Section 46 (4) is reproduced below:-

"(i) 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 as may be prescribed".

D Section 28 (4) of the Customs Act, 1962 provides that "Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or
(b) any willful mis-statement; or
(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice".

E Section 28 (AA) of Customs Act, 1962 provides interest on delayed payment of duty-

(1) Where any duty has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-Section (2), or has paid the duty under sub-Section (2B), of Section 28, shall, in addition to the duty, be liable to pay interest at such rate not

below ten percent and not exceeding thirty-six per cent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-Section (2), or sub-Section (2B), of Section 28, till the date of payment of such duty.

F Section 114A of the Customs Act, 1962 deals with the penalty by reason of collusion or any willful mis-statement or suppression of facts. The relevant provision is reproduced below:-

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 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: 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:

5. The importer/noticee has willfully mis-stated the facts & wrongly availed the concessional benefit of IGST @5% under Sr. No. 164 of Schedule-I of Notification NO. 1/2017-Integarted Tax (Rate) dated 28.06.2017 instead of correct rate of IGST @18% payable under Sr. No. 33 of Schedule-III to the aforesaid notification.

6. Whereas, it appears that the importer/noticee was fully aware of the actual nature, classification of the imported goods; however, the importer/noticee wilfully claimed the inadmissible benefit of concessional rate of IGST under Sr. No. 164 of Schedule-I to Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 and discharged IGST @ 5% instead of the applicable rate of IGST @ 18%, thereby resulting in short payment/short levy of applicable IGST amounting to **Rs. 10,43,182/-** With the introduction of self-assessment under Section 17, more faith is bestowed on the importer, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As a 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 not paid duties correctly on the imported goods. Therefore, it appears that the importer has willfully violated the provisions of Section 17(1) of the Act in as much as importer has failed to correctly self-assessed the impugned goods and has also willfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act. Therefore, the goods having assessable value of **Rs. 16,59,173/-** involved in the impugned Bill of Entry, appears to liable for confiscation under Section 111(m) of the Customs Act, 1962.

7. Now, therefore, **M/s Choudhary Industries** (IEC-BRGPK8094J), G-98 RIICO Industrial Area Phase 2nd, Hanumangarh Junction-335512 are hereby called upon to show cause to the Additional Commissioner of Customs, Import Assessment, Custom House, Mundra, having office at PUB Building, 5B, Mundra (Kutch) Gujarat 370 421, as to why:-

i. The benefit of concessional IGST @5% under Sr. No. 164 of Schedule-I of Notification No. 1/2017-Integarted Tax (Rate) dated 28.07.2017 should not be denied in respect of the impugned imported goods and the same under aforesaid Bills of Entry should not be re-classified and re-assessed under Sr. No. 33 of Schedule-III to Notification No. 1/2017-Integrated Tax (Rate) dated 28.06.2017 at the applicable rate of IGST @ 18%;

ii. The goods having assessable value of **Rs. 16,59,173/-** covered under Bill(s) of Entry as detailed in above table, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

iii. The differential duty worked out as short levy amounting to **Rs. 10,43,182/- (Rupees Ten Lakh Forty Three Thousand One Hundred Eighty Two only)** for subject Bill(s) of Entry as detailed in above table, should not be recovered from importer under Section 28 (4) of the Customs Act, 1962 along with the interest thereon as per Section 28AA of the Customs Act, 1962, as applicable.

iv. Penalty should not be imposed upon them under Section 114A of the Customs Act, 1962.

8. The importer further required to produce at the time of show 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 adjudicating authority, 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.

9. 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.

10. 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.

11. The present show cause notice is issued without prejudice to any other action that may be taken under any other provision of 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/corrigendum to this Show Cause Notice if any further fact/ documents come to notice.

Digitally signed by
Dipakbhai Zala
Date: 01-06-2026
18:07:23

#ApprovedByName#
#ApprovedByDesignation#
Import Assessment
Custom House Mundra.

To,
M/s Choudhary Industries
(IEC-BRGPK8094J),
G-98 RIICO Industrial Area Phase,
2nd, Hanumangarh Junction-335512

Copy to:

1. The Dy. Commissioner of Customs, (Audit/EDI/RRA) Mundra Customs.
2. Guard File.