



Date: 29-04-2026

DIN:20260471MO000000EF12

Show-Cause-Notice - 33/2026-27/ADC/ZDC/MCH**(Issued under section 28 of Customs Act, 1962)**

M/s. CREATIVE IMPEX (IEC: BBQPK4527C), located at Office NO.3/4, Foolwadi Complex, Moviya Road, Gondal, Gondal, Gujarat, 360311 (hereinafter also referred to as "the Importer/the Noticee" for the sake of brevity") had filed following BoEs for importation of the item mentioned below in Table-A through CB M/s Aman Seatrans Private Limited, by paying the IGST 12% (Schedule-II Sr. No.195B of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended). The details of said goods are as under:

Table-A

BE No. & Date	Inv. no.	Item No.	Description of goods	Classification	Assessable value (in Rs.)	IGST Sr. No.	IGST Paid (Rs) @ 12%
4167132 dt. 02.06.2021	1	1	Mechanical Sprayer 16L For Agriculture Purpose Only	84242000	547963.38	II195B	71180.40
4167132 dt. 02.06.2021	1	2	Mechanical Sprayer 16L For Agriculture Purpose Only	84242000	1150723.09	II195B	149478.9

TOTAL**16,98,686****2,20,659**

2. An analysis of data (ANALYTICS REPORT – 25/2022-23) in respect of Import of goods classified under the heading 8424 with regard to wrong claim of IGST rate @12% (Schedule-II, 195AA&195B) instead of IGST rate @ 18% applicable for such goods under Schedule-III, Sr. No. 325 of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017, resulting in short levy of IGST, was carried out by the NCTC, Mumbai. This analysis revealed that several importers had cleared goods, other than "Nozzles for drip irrigation equipment or nozzles for sprinklers and Sprinklers; drip irrigation system including laterals; mechanical sprayers", claiming a lower IGST rate @ 12% under

Sr.No.195AA & 195B of Schedule II, instead of the applicable IGST rate @ 18% under Sr.No.325 of Schedule III of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended).

3. The Importer had filed BoEs for home clearance of the goods (as mentioned in Table-A) under Heading 8424 of the first schedule of the Customs Tariff Act, 1975 while discharging IGST @ 12% in terms of Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate).

4. The relevant entries of the rate of IGST under Schedule-II and Schedule-III of IGST Notification 01/2017-IGST(Rate) dated 28.06.2017 for Sub-heading 84 are reproduced here under:

Table-B

Sr. No. of Schedule of IGST Notification 01/2017	IGST Rate	Chapter/Tariff item as per Schedule-I	Description of goods
II-195B	II (12%)	8424	Sprinklers; drip irrigation system including laterals; mechanical sprayers.
III-325	III(18%)	8424	Mechanical appliances (whether or not hand operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines (other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers)

5. From the above Table B, it is amply clear that Sr. No. 325 of Schedule-III (III-325) levying IGST rate of 18%, excludes the description of goods “other than sprinklers; drip irrigation systems including laterals; mechanical sprayer; nozzles for drip irrigation equipment or nozzles for sprinklers)”. The said goods are covered under Schedule-II, 195B of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended).

6. Accordingly, it is noted that goods covered under Schedule-II, 195B of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended), specifically meant for “Sprinklers; drip irrigation system including laterals; mechanical sprayers”. The goods imported by the importer as detailed in Table A, appears to fall under Schedule-III, Sr. No. 325 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 as in Table-B. The importer has wrongly claimed a lower IGST rate @ 12% for goods under Schedule-II, Sr. No. 195B, instead of paying a higher IGST rate @ 18% applicable for such goods under Schedule-III, Sr. No. 325 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017.

7. The descriptions of said items as in Table-A claiming the benefit of IGST rate @ 12% under Sr. No. 195B of Schedule II of Notification No.01/2017-

Integrated Tax (Rate) dated 28.06.2017 (as amended) have been further examined. This analysis revealed that none of the goods are Sprinklers; drip irrigation system including laterals; mechanical sprayers, as per the description mentioned in the said Bill of Entry, though they have been cleared at a lower IGST @ 12% under the aforementioned serial numbers of Schedule II, instead of paying a higher IGST rate @ 18% applicable for such goods under Schedule-III, Sr. No. 325 of Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended).

8. In context of above provisions, items of Bill of Entry mentioned in Table-A were cleared at @12% IGST rate against Sr. No. 195B of Schedule-II, instead of the applicable IGST rate 18% of Sr. No. 325 of Schedule- III, and short-levy of IGST @ 6% (i.e. 18% minus 12%), resulting in short levy of IGST amounting to **Rs 1,10,330/-**. Details are as:

Table-C:

BE No. & Date	Inv. No.	Item No.	Description of goods	Classification	Assessable value (in Rs.)	IGST Paid (Rs) @ 12%	Applicable IGST as per S.No. 325 of Schedule III of n otf. 01/2017 @ 18% (Rs.)	IGST Short Paid (Rs)
41671 32 dt. 02.06. 2021	1	1	MECHANICAL SPRAYER 16L FOR AGRICULTURE PURPOSE ONLY	842 420 00	547963.38	71180.4	106771	35590
41671 32 dt. 02.06. 2021	1	2	MECHANICAL SPRAYER 16L FOR AGRICULTURE PURPOSE ONLY	842 420 00	1150723.1	149478.9	224218	74739
TOTAL					16,98,686			110330

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

A . **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”.

B. 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”.

C. 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:

D. Section 111 of the 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 3 [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];

- E. **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:

10. It is observed that the importer has classified the impugned goods under Serial No. 195B of Schedule-II of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 and discharged IGST @ 12%. However, on examination of the description, nature, and use of the goods, it appears that the said goods do not conform to the description specified under IGST Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate), and are more appropriately classifiable under Serial No. 325 of Schedule-III of the said Notification, attracting IGST @ 18%. Thus, the importer has incorrectly discharged IGST at a lower rate, resulting in short payment of duty.

11. It is further observed that the importer, at the time of filing the Bill of Entry as detailed in Table-A, did not declare the complete and correct particulars regarding the nature, specifications, and intended use of the goods so as to justify classification under the concessional entry. The description declared in the Bill of Entry appears to be general and not sufficiently indicative of the goods being specifically covered under "sprinklers; drip irrigation system including laterals; mechanical sprayers" as envisaged under Serial No. 195B of Schedule-II. By adopting such classification without adequate basis, the importer has availed an inadmissible benefit of lower rate of IGST.

12. Whereas, it is apparent that the importer/noticee was in complete knowledge of the correct nature of the goods nevertheless, the importer claimed undue notification benefit for the said goods in order to clear the goods by wrongly availed Customs duty i.e. IGST on a lower side under Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) which prescribes IGST @ 12%. 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.

Therefore, it appears that the importer has wilfully 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 wilfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act. Therefore, the goods having assessable value of **Rs. 16,98,686/-** as detailed in above table, appears to liable for confiscation under Section 111(m) of the Customs Act, 1962.

13. In view of the foregoing, it appears that the importer has mis-declared/misrepresented material particulars relating to the classification and applicable rate of IGST on the imported goods, with an intent to avail inadmissible benefit of lower rate of tax. The above acts are not merely interpretational in nature but involve suppression of material facts relevant for assessment. Therefore, the differential IGST amounting to **Rs. 1,10,330/-** (Rupees One Lakh Ten Thousand Three Hundred Thirty Only) which is recoverable from the importer under the provisions of Section 28(4) of the Customs Act, 1962 along with interest as applicable under Section 28AA of the Act. For such act of omission and commission, the importer also appears to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.

14. Now, therefore, M/s. Creative Impex (IEC: BBQPK4527C), located at Office No. 3/4, Foolwadi Complex, Moviya Road, Gondal, Gondal, Gujarat, 360311, are hereby called upon to show cause to the **Additional Commissioner of Customs, Import Assessment, Group-V**, Custom House, Mundra, having office at Room No. 112, PUB Building, Mundra (Kutch) Gujarat 370 421, as to why:-

i. the Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) on the goods as detailed in Table-A, should not be denied and the same should not be re-assessed at correct rate of IGST @18% under Sr. No. 325 of Schedule III of IGST Notification No. 01/2017;

ii The goods having assessable value of **Rs. 16,98,686/-** covered under Bill of Entry as detailed in above Table-A, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

iii. The differential duty i.e. IGST worked out to **Rs 1,10,330** (Rupees One Lakh Ten Thousand Three Hundred Thirty Only) in respect of Bill of Entry as detailed in above table A, should not be recovered under Section 28 (4) of the Customs Act, 1962 along with applicable 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.

15. 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 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.

16. 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.

17. 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.

18. 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.

Zala Dipakbhai Chimanbhai
Additional Commissioner of Customs
Assessment Group-5, Mundra
Customs

To,

M/s. Creative Impex (IEC: BBQPK4527C),
Office NO.3/4, Foolwadi Complex,
Moviya Road, Gondal,
Gondal, Gujarat, 360311