

	सीमाशुल्क (निवारक) केआयुक्तकाकार्यालय,सीमाशुल्कभवन,
	जामनगर- राजकोटहाइवे,विक्टोरियाब्रिजकेपास,
	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	

दस्तावेजपहचानसंख्या/Document Identification Number (DIN) – 20240871MM000000D92A

SCN No.: COMMR-02/2024-25

Date: 30.08.2024

SHOW CAUSE NOTICE

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

M/s. Gangotri Industries hold IEC No: ABOPP5754B and GSTIN 24ABOPP5754B1ZL (herein after referred as 'Noticee'), having their office at 383-Mehta Tiles Compound, Gujarat Housing Board, Singarwa-Kathwada Road, Ahmedabad-380024, are engaged in import of Saw Dust Powder / Wood Waste Powder (for making incense stick / aggarbatti), at the Port of Pipavav.

2. Whereas, the said Noticee had filed Bills of Entry, as per details, given below:-

Sr. No.	BE No. & Date	Description of the Goods	CTSH declared	COO	AV	COO Benefit
01	2355553 / 08.09.2022	Saw Dust for making Aggarbatti	44013900	VN	1403531	As per Noti. No. 46/2011 (S.No.542-I)
02	3477440 / 16.11.2022	Saw Dust for making incense stick	44013900	VN	609918.4	--do--
03	3685791 / 10.12.2022	--do--	44013900	VN	605488	--do--
04	3770815 / 16.12.2022	Saw Dust for making Aggarbatti	44013900	VN	1328779	--do--
05	4374842 / 27.01.2023	--do--	44013900	VN	1332272	--do--
06	4552298 / 08.02.2023	Saw dust powder (Saw dust powder for making incense stick)	44013900	VN	623273/-	Not availed benefit
07	4632860 / 14.02.2023	--do--	44013900	VN	622776.5	Not availed benefit
08	4904959 / 04.03.2023	Saw Dust for making Aggarbatti	44013900	VN	1280556	As per Noti. No. 46/2011 (S.No.542-I)
09	4927182 / 06.03.2023	Saw Dust for making incense stick	44013900	VN	1270175	--do--
10	5202225 /	Saw Dust	44013900	VN	1259852	--do--

	24.03.2023	Powder for making Aggarbatti				
11	5772257 / 02.05.2023	--do--	44013900	VN	1133501	--do--
12	6150706 / 27.05.2023	Saw Dust Powder for making incense stick	44013900	VN	1076653	--do--
13	6350322 / 10.06.2023	--do--	44013900	VN	544768.8	--do--
14	6350323 / 10.06.2023	Saw Dust Powder for making Aggarbatti	44013900	VN	1136909	--do--
15	6389898 / 13.06.2023	Saw Dust Powder for making incense stick	44013900	VN	1096877	--do--
16	7139221 / 01.08.2023	Saw Dust Powder for making Aggarbatti	44013900	VN	1201448	--do--
17	7197986 / 04.08.2023	Saw Dust Powder for making incense stick	44013900	VN	1615152	--do--
18	7583071 / 29.08.2023	--do--	44014100	VN	1103788	--do--
19	6565627 / 24.06.2023	Saw Dust Powder for making Aggarbatti	44014100	VN	1132138	--do--
20	7468395 / 22.08.2023	Saw Dust Powder for making Aggarbatti	44014100	VN	1215208	--do--
21	7774209 / 11.09.2023	--do--	44014100	VN	1215932	--do--
22	8506725 / 28.10.2023	--do--	44014100	VN	1219553	--do--
23	9025839 / 01.12.2023	--do--	44014100	VN	1218104	--do--
24	9150988 / 09.12.2023	Saw Dust Powder for making incense stick	44014100	VN	550647.6	--do--
25	9251375 / 15.12.2023	Saw Dust Powder for making Aggarbatti	44014100	VN	1221001	--do--
26	9852670 / 27.01.2024	--do--	44014100	VN	1146451	--do--
27	2500692 / 09.03.2024	--do--	44014100	VN	1141680	--do--
28	3012102 / 13.04.2024	--do--	44014100	VN	1149859	--do--
29	8800634 / 17.11.2023	Wood Waste Dust	44013900	CN	748384.9	Not availed benefit
30	9806997 / 24.01.2024	--do--	44013900	CN	736505.8	Not availed benefit
31	3064293 / 17.04.2024	--do--	44013900	CN	762524	Not availed benefit
32	3231645 / 27.04.2024	--do--	44013900	CN	739133	Not availed benefit

3. Whereas, as per various documents viz. (1) Invoice, (2) Bill of Lading, (3) Fumigation Certificate, (4) Country of Origin Certificate, Phytosanitary Certificate presented along with the said Bills of Entry, the goods under import have been described as Saw Dust Powder / Wood Powder (for Making Incense Stick / Aggarbatti), therefore, it

transpires that the goods imported are to be used for making incense stick commonly known as 'agarbatti'.

4. Whereas, the Noticee have classified & self-assessed the said goods under Custom Tariff Sub-Heading No. **44013900/44014100** of the 1st Schedule to the Customs Tariff in the above mentioned Bills of Entry with Basic Customs Duty (BCD) @ 5%, SWS @ 10% of BCD and IGST @ 5% (as per Notification No. 001/2017-IGST (Rate) (Sr. No 198 of Schedule-I). The Noticee also availed benefit of exemption from payment of Basic Customs Duty (BCD) as per Notification No. 046/2011-Customs (Sr. No. 542-I) in respect of goods originated in Vietnam, on the strength of Country of Origin (COO) Certificate issued by the AIAFTA authorities, Vietnam. The above mentioned Bills of Entry were either selected for assessments/ cleared through RMS. The Noticee had paid the appropriate duty self-assessed thereon followed by the Out of Customs charge of the goods by the proper officer. These Bills of Entry were later on marked for Post Clearance Audit (PCA).

5. Whereas, the Post Clearance Audit of the Bills of Entry filed by the Noticee was carried out by the Office of the Commissioner of Customs (Prev.), Jamnagar. Chapter Note (1) to Chapter 44 falling under Section-IX of the Customs Tariff stipulates as under:-

SECTION IX

WOOD AND ARTICLES OF WOOD; WOOD CHARCOAL; CORK AND ARTICLES OF CORK; MANUFACTURERS OF STRAW, OF ESPARTO OR OF OTHER PLATING MATERIALS; BASKETWARE AND WICKERWORK

CHAPTER 44

Wood and articles of wood; wood charcoal

NOTES : 1. This Chapter does not cover:

- (a) wood, in chips, in shavings, crushed, ground or powdered, **of a kind used primarily in perfumery**, in pharmacy, or for insecticidal, fungicidal or similar purposes (heading 1211);
- (b) bamboos or other materials of a woody nature of a kind used primarily for plaiting, in the rough, whether or not split, sawn lengthwise or cut to length (heading 1401);
- (c) wood, in chips, in shavings, ground or powdered, of a kind used primarily in dyeing or in tanning (heading 1404);

5.1 Upon careful reading of clause (a) to Note 1 mentioned above, it appears that if the Saw Dust Powder imported vide above Bills of Entry, though classifiable in CTH 44, for a definite purpose is excluded from the said CTH, wherein the definite purpose should be such imported goods should be used for **of a kind used primarily in perfumery**, in pharmacy, or for insecticidal, fungicidal or similar purposes and such goods are classifiable under CTH 1211.

5.2 It further appears from the above that Saw Dust/ Wood Powder is regularly classifiable under **CTH 4401** for the purpose of levy of Customs duty as per the provisions of Customs Act, 1962 & Customs Tariff Act, 1975. However, by virtue of clause (a) to Note 1 of Chapter 44 of the Customs Tariff, Saw Dust/ Wood Powder is classifiable differently depending upon its usage. As such, Saw Dust / Wood Powder / Joss Powder etc., when used primarily in perfumery, its classification is excluded from Chapter 44 and become classifiable under Heading 1211. In the present case, it appears that the specific purpose of import of such goods has been explicitly mentioned in their import documents i.e. for the purpose of making of incense stick, commonly known as Aggarbatti. Further, the Incense Stick or Aggarbatti is used to spread fragrance while burning, therefore, it transpires that the Incense Stick / Aggarbatti falls in the category of 'perfumery'.

5.3 The relevant extract of CTH-1211 is reproduced herein below :-

CTH-1211

PLANTS AND PARTS OF PLANTS (INCLUDING SEEDS AND FRUITS), OF A KIND USED PRIMARILY IN PERFUMERY, IN PHARMACY OR FOR INSECTICIDAL, FUNGICIDAL OR SIMILAR PURPOSE, FRESH, CHILLED, FROZEN OR DRIED, WHETHER OR NOT CUT, CRUSHED OR POWDERED

--- Leaves, powder, flowers and pods:

1211 90 21	----	Belladonna leaves	- 30% / 15%
1211 90 22	----	Senna leaves and pods	- 30% / 15%
1211 90 23	----	Neem leaves, powder 3	- 30% / 15%
1211 90 24	----	Gymnema powder	- 30% / 15%
1211 90 25	----	Cubeb powder	- 30% / 15%
1211 90 26	----	Pyrethrum	- 30% / 15%
1211 90 29	----	Other	- 30% / 15%

From the above, it appears that the Saw Dust/ Wood Powder/ Joss Powder etc. imported for use in making Incense Stick/ Aggarbatti would merit classification under CTH 12119029 and not under CTH **44013900/44014100**. Further, by classifying the goods under CTH 44013900/ 44014100, the importer paid NIL BCD by availing benefit of Exemption Notification No.046/2011-Customs (Sr. No. 542-I) when imported from Vietnam under AIAFTA, though it attracted Basic Customs Duty (BCD) @ 15% along with SWS @ 10% of BCD & IGST @ 5% (as per Notification No. 001/2017-IGST (Rate) (Sr. No 73 of Schedule-I). It further appears that the said goods when classified under CTH i.e. 12119029 attracted Basic Customs Duty (BCD) @ 15%, SWS @ 10% of BCD & IGST @ 5% (as per Notification No. 001/2017-IGST (Rate) (Sr. No 73 of Schedule-I), and the benefit of NIL payment of BCD in terms of Notification No. 046/2011-Cus dated 01.06.2011 is not extended for the said classification. Thus, it appears that there is a mis-classification of imported goods under CTH 44013900/44014100, resulting into short-levy/ short-payment of Customs Duty.

6. Whereas, the aforesaid observation was communicated to the Noticee by the Assistant Commissioner of Customs, C.H. GPPL, Pipavav separately vide letters issued from F. No. PCA/JMN/GPPL/CL-1/2024 (DIN No. 20240271MM000000B3CF) dated 15.02.2024 (**RUD-1**) and 15.02.2024 (DIN No. 20240271MM00005025B5) (**RUD-2**) to the Noticee and requested to pay differential Customs duty with applicable interest.

7. Whereas it appears that the Noticee did not agree with the observations communicated vide above letters and filed submission with the Deputy / Assistant Commissioner, Customs House, Pipavav vide letter Ref.: Nil, both dated 18-03-2024 (bearing Custom House Pipavav Inward No.3969 and 3970 respectively) [**RUD-3**], in which, the Noticee, inter alia, contended that:

- 7.1 they have filed BoEs for clearance of the imported goods namely Saw Dust Powder (Saw Dust Powder for making Incense Stick/ Aggarbatti) and have classified the goods under Chapter 44 (CTH 44013900 / 44014100) being Tariff Item specific for the saw dust. However, the department have not been agreed with this classification and have proposed classification/ classified the same under 12 (CTH 1211 9029) by linking use of the subject goods in making 'Aggarbatti' to the expression "of kind used primarily in perfumery" appearing under CTH 1211. The classification proposed by the department is completely erroneous for the following amongst other reason which are for kind consideration;
- 7.2 the distinction between the item that give fragrance and those which don't critical for arriving at correct and lawful classification, when Chapter heading 1211 is being considered; it is an admitted position that the item, saw dust powder, is earmarked a specific place in the tariff i.e. CTH 4401 4100, however, guided by declaration made on the bill of entry that is saw dust powder has been imported for making incense stick, it is proposed to classify the item under CTH heading 1211 by treating the incense stick as perfumery;
- 7.3 the decision of Hon'ble in the case of Shri Mahalaxmi Flour Mills v/s Commr. Of Cus. Chennai, 2004 (167) ELT 429 (Tri-Bang) would act as the guiding light for the purpose of applying chapter heading 1211. Para 2 of the decision re reproduced below for the ease of ready reference :-

"We have carefully considered the submissions made by both sides. From the records we find that the appellants have imported "Desapped Sandal Wood Roots)". The appellants have stated that the imported goods would be covered into powder and used in the manufacture of "Aggarbatti". Plants/parts of a kind used primarily in perfumery, etc. are covered by Chapter 12 of the Customs Tariff Act. Since the goods are to be used in the manufacture of "Aggarbatti" for giving fragrance, therefore, they are primarily used for the purpose of perfumery."

In the present case, the entry in Heading 12.11 of the Customs Tariff Act, is as under :-

"Plants and parts of plants (Including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purpose. Fresh or chilled whether or not cut, crushed or powdered",

"Since the Sandal Wood Roots, after being powdered, are to be used in manufacture of "Aggarbatti" and it can only be used as perfumery for giving fragrance, the interpretation of the perfumery as given by the Apex Court in the case of Pardeep Aggarbatti (supra) is not applicable in the present case. We do not find any merit in the appeal filed by the party."

And thus, as per the criteria, duly appreciated by Hon'ble Tribunal, only such item which give fragrance shall be classified under CTH 1211.

8. Whereas, it appears that the contentions of the Noticee is not proper in as much as:-

8.1 as per Rule 1 of General Rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, "the titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the heading of any relative Section or Chapter Note... ..". Clause (a) to Note 1 in Chapter 44 of the Customs Tariff Act (CTA), 1975 is explicitly clear and excludes goods viz. wood, in chips, shaving, crushed, grounded, powdered form, a kind used, inter alia, in perfumery, in pharmacy, or for insecticidal, fungicidal or similar purposes, from the purview of chapter 44 of the CTA, 1975. In the instant case, it is a fact that the Saw Dust Powder was meant for making Incense Stick, commonly known as "Aggarbatti". Further, the incense stick or Aggarbatti is used to spread fragrance, thus, it is considered as a perfumery product. Owing to specified purpose or usage for making incense, the imported goods i.e. "Saw dust powder for making Incense Stick" is correctly classifiable under CTH 1211;

8.2 conjoint reading of clause (a) of Note 1 to Chapter 44 along with Customs Tariff Head 1211, it transpires that the primary usage of the goods is relevant for the classification of the goods. Thus, if at all whether the goods (raw material) for the purpose of making of incense stick sought to be classified under CTH 1211 contains fragrance or otherwise, has no significance. Moreover, there are many other factors, apart from fragrance, such as moisture content, hardness or softness, etc. which makes the goods fit to be used for perfumery. On the contrary it can be construed that, had the goods in question were used for the purposes such as for making plywood or charcoal or industrial purpose, then the goods shall have been classified at appropriate place under Chapter 44, which is not the case herein.

8.3 clause (a) to Note 1 of chapter 44 further provides that the wood, in chips, shaving, crushed, grounded, powdered form, and to be used in perfumery or pharmacy or

insecticide or fungicidal or similar purposes, is excluded from the purview of chapter 44 of the CTA, 1975 and classifiable under CTH 1211. Thus, it is amply clear that the exclusion of the product from Chapter 44 is specifically based on the imported goods usage, i.e. if it is used in perfumery or pharmacy or insecticide or fungicidal or similar purposes and there is no mention about goods to possess fragrance in the exclusion clause, as construed by the noticee. In this backdrop, it is not relevant that the goods "saw dust powder" generated as waste during sawing the wood, contains any fragrance or otherwise? Once, it is used for the intended purpose described in clause (a) to Note 1 of Chapter 44, such goods inevitably gets excluded from the purview of that Chapter and by no stretch of imagination, it can be classified in that Chapter, i.e. in Chapter 44.

8.4 the quoting of the case-law of Sri Mahalakshmi Flour Mills Vs. Commr. Of Cus., Chennai [2004 (167) ELT 429 (Tri.-Bang.)] is an to emphasize that since Sandal Wood itself contains fragrance, therefore, classifiable under CTH 1211. The reliance has been wrongly placed on the said case law in as much as the referred case-law stipulates that " Since the goods are to be used in the manufacture of "Aggarbatti" for giving fragrance, therefore, they are primarily used for the purpose of perfumery." and it nowhere stipulates that the goods used in perfumery should itself be with fragrance. It is mere coincidence that in referred citation, the goods imported was Sandal Wood Roots which itself contains fragrance, otherwise, the case-law cited by the Noticee is not in conformity of the view taken by the noticee. On the contrary, the said case law is rebutting the view of the department only. As a result, the argument that Saw Dust Powder is not fragrance bearing substance in Aggarbatti and is only binding material only is not relevant. Hence, the *maxim ejusdem generis* is also not applicable as claimed by the Noticee.

8.5 Further, as regards the submission of the Noticee that Entry 121190209 is preceded by the entries i.e. 12119021 to 12119026 which deal with items namely Beladona leaves, Senna leaves and pods, Neem leaves, powder, Gymnema powder, Cubeb powder and Pyrethrum respectively and department proposed to classify Saw Dust Powder meant for use in Aggarbatti against entry 1211 90 29, it is observed that these entries are specific one particularly for leaves or pods or powders of Beladona or Senna or Neem or Gymnema or Cubeb. However, the description of the goods declared in Bill of Entry or supporting documents nowhere indicate that the goods in question is leaves or pods as well as powder of Beladona or Senna or Neem or Gymnema or Cubeb to be appropriately classifiable against Entry 12119021 to 12119026. There is no specific declaration of exact origin of Saw Dust or Wood Powder. As such, in absence of any other supporting documents regarding the type of Saw Dust Powder, the imported goods is more specifically classifiable against Entry 12119029 only.

9. Accordingly, the goods i.e. Saw dust powder (Saw dust powder for making Incense Stick)" appears to be classifiable under CTH 12119029 instead of under CTH 44013900 / 44014100, thereby the Noticee appears to be liable to pay Basic Customs Duty (BCD) @ 15%, SWS @ 10% of BCD & IGST @ 5% (as per Notification No. 001/2017-IGST (Rate) (Sr. No 73 of Schedule-I). It also appears that the noticee is not eligible for the benefit of exemption from basic customs duty under Sr.No. 542(I) of Notification No. 046/2011-Cus dated 01.06.2011, in as much as the Country of Origin (COO) Certificate(s) issued by the AIAFTA authorities are for the goods falling under ITC(HS) 44013900 / 44014100.

10. RECOVERY OF DUTIES AND INTEREST

10.1 **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) 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 the 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;

.....

10.2 **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)

10.3 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

11. Whereas, as discussed in the foregoing paras, it appears that imported goods as mentioned in Annexure-A to this Notice, being Saw dust powder for making Incense Stick, the same are correctly classifiable under CTH 12119029 which attracts BCD @ 15%, SWS @ 10% of BCD & IGST @ 5% (as per Notification No. 001/2017-IGST (Rate) (Sr. No 73 of Schedule-I). It also appears that the noticee is not eligible for the benefit of AIFTA under Sr.No. 542(I) of Notification No. 046/2011-Cus dated 01.06.2011, since the eligibility is only on goods classified under CTH 44013900/ 44014100. Whereas, in view the discussions in foregoing paras, the Noticee has wrongly classified the imported goods under CTH 44013900/ 44014100 in the Bills of Entry as mentioned in Annexure-A to this Notice, resulting into payment of lower customs duties viz. BCD @ NIL, by wrongly availing the benefit of exemption from payment of Basic Customs Duty (BCD) as per Notification No. 046/2011-Customs (Sr. No. 542-I) in respect of goods originated in Vietnam, on the strength of Country of Origin (COO) Certificate issued by the AIAFTA authorities, SWS @ 10% of BCD [paid NIL in view of NIL BCD] and IGST @ 5% (as per Notification No. 001/2017-IGST (Rate) (Sr. No 198 of Schedule-I). Therefore, it appears that wrong classification of the imported goods by the Noticee in CTH 44013900/ 44014100 instead of CTH 12119029, has resulted in short-payment of Customs Duty amounting to Rs. 55,55,305/-, as calculated in Annexure-A of this Show Cause Notice, is required to be recovered from the Noticee under Section 28(1) of the Customs Act, 1962 along with interest, as applicable, under Section 28AA ibid.

12. As stipulated under proviso to clause (a) to sub-section (1) of Section 28 of the Customs Act, 1962 read with the pre-Notice Consultation Regulations, 2018, the Noticee was informed the intention about issuance of the Show Cause Notice on the above grounds by the Commissioner of Customs (Preventive), Jamnagar vide letter F. No. CUS/4210/2024-Adjn. dated 14-08-2024 and requested to submit the written submission in the matter, if any and also to intimate in writing in case they wish to be heard in person, in terms of Regulation 3(2) of the Pre_Notify Consultation Regulations, 2018.

12.1 The Noticee had vide their letter reference No. Nil dated 30-08-2024 submitted their reply to the pre-notice consultation letter. In their submission, the Noticee, inter alia, reiterated their earlier written submissions dated 18-03-2024 in response to letter F.No. PCA/JMN/GPPL/CL-1/2024/2410 dated 15-02-2024 of A.C., Custom House, GPPL, Pipavav informing the observations discussed in paras supra, raised during the post clearance audit of the Bills of Entry filed by the Noticee. The Noticee further contended that since the assessment has already been attained finality, no duty can be lawfully demanded without having filed any appeal against the assessment orders, placing reliance on the Tribunal's decision in the case of Shri Rumen Dey Vs. Commissioner of Customs (Prev.), Shillong. The Noticee also contended that they have correctly classified the item, saw dust powder meant for use in Aggarbatti as burning medium under CTH 4401 and waived requirement for personal hearing in the matter.

CHARGING SECTION:

13. Now, therefore, for the aforementioned reasons, the Noticee, M/s. Gangotri Industries [IEC No: ABOPP5754B and GSTIN 24ABOPP5754B1ZL], 383-Mehta Tiles Compound, Gujarat Housing Board, Singarwa-Kathwada Road, Ahmedabad-380024 is hereby called upon to show cause to the Commissioner of Customs, Customs Commissionerate (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:

- (i) the declared classification of the imported goods under CTH 44013900/44014100 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 12112990 of the First Schedule to the Customs Tariff Act, 1975 and why the subject Bills of Entry should not be reassessed accordingly;
- (ii) differential Customs duty amounting to Rs.55,55,305/- (Rupees Fifty Five Lakhs, Fifty Five Thousand, Three Hundred and Five only), as detailed in Annexure-A to this Notice, should not be demanded and recovered from them under Section 28(1) of the Customs Act, 1962;

(iii) interest on the Customs duty as mentioned in (ii) above should not be charged and recovered from them under the provisions of Section 28AA of the Customs Act, 1962;

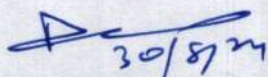
14. The above Noticee is further required to note that their written submissions, if any, should reach this Office within 30 (thirty) days from the date of receipt of this Notice. If no cause is shown by them against the action proposed above within 30 days from the date of receipt of this Show Cause 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 documents relied upon in the present Notice are as listed at **Annexure-Z**.

16. 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.

17. 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.

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


[Dharendra Lal]
Commissioner

Encl: - Annexure A and Z as detailed in SCN

F. No. CUS/4210/2024-Adjn.

Date: 30.08.2024

By Regd. Post A.D./ E-Mail/HAND DELIVERY

To

M/s. Gangotri Industries,
383-Mehta Tiles Compound, Gujarat Housing Board,
Singarwa-Kathwada Road,
Ahmedabad 380024.

Copy to:-

1. The Deputy / Assistant Commissioner, Customs, GPPL, Pipavav.
2. Guard file.

ANNEXURE-Z

LIST OF DOCUMENTS RELIED UPON IN SHOW CAUSE NOTICE NO. COMMR-02/2024-25 DATED 30.08.2024, ISSUED TO M/S. GANGOTRI INDUSTRIES 383-MEHTA TILES COMPOUND, GUJARAT HOUSING BOARD, SINGARWA-KATHWADA ROAD, AHMEDABAD-380 024.


Sl. No.	Description of the documents	Remarks
1	Letter F.No. PCA/JMN/GPPL/CL-1/2024 (DIN – 20240271MM000000B3CF) dated 15.02.2024.	Available with the Noticee
2	Letter F.No. PCA/JMN/GPPL/CL-1/2024 (DIN – 20240271MM00005025B5) dated 15.02.2024.	Available with the Noticee
3	Two letters, both dated 18.03.2024(Inward No.3969 and 3970, both dated 19.03.2024).	Available with the Noticee
4	Bills of Entry as listed in Annexure-A to the Show Cause Notice	Available with the Noticee

Annexure - A

M/s. GANGOTRI INDUSTRIES																									
Sr. No.	BE NO	BE Date	Country of Origin	Item Description	CTH	Quantity	UQC	Unit	Assess Value(Items)	CUSTOMS DUTY PAYABLE						CUSTOMS DUTY PAID						Differential Customs Duty payable			
										BCD Rate	BCD (In Rs.)	SWS @ 10% of BCD	IGST @ 5%	Total Duty (In Rs.)	BCD Rate	BCD (In Rs.)	SWS @ 10% of BCD	IGST @ 5%	Total Duty (In Rs.)						
1	2355553	08/09/2022	VN	SAW DUST POWDER FOR MAKING AGARBATTI	44013900	57200 KGS		0.305	1403530.7	15%	210530	21053	81756	313339	0%	46/2011	0	0	70177	70177	243162				
2	3477440	26/11/2022	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	28400 KGS		0.26	609918.4	15%	91488	9149	35528	136165	0%	46/2011	0	0	30496	30496	105669				
3	3685791	10/12/2022	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	28400 KGS		0.26	605488	15%	90823	9082	35270	135175	0%	46/2011	0	0	30274	30274	104901				
4	370815	16/12/2022	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	56800 KGS		0.28	1328779.2	15%	199317	19932	77401	296650	0%	46/2011	0	0	66439	66439	230211				
5	4374842	27/01/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	56.8 MTS		285	1332772.4	15%	199841	19984	77605	297430	0%	46/2011	0	0	66614	66614	230816				
6	4552298	08/02/2023	VN	SAW DUST POWDER (SAW DUST POWDER FOR MAKING INCENSE STICK)	44013900	28 MTS		269	623273	15%	93491	9349	36306	139146	5%	46/2011	31164	3116	32878	67158	71988				
7	4632860	14/02/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	28.4 MTS		265	622776.5	15%	93416	9342	36277	139035	5%	46/2011	31139	3114	32851	67104	71931				
8	4904959	04/03/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	56800 KGS		0.27	1280956	15%	192083	19208	74592	285883	0%	46/2011	0	0	64028	64028	221855				
9	4927182	06/03/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	56760 KGS		0.268	1270175.28	15%	190526	19053	73988	283567	0%	46/2011	0	0	63509	63509	220058				
10	5202225	24/03/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	56800 KGS		0.265	1259852.4	15%	188978	18898	73386	281262	0%	46/2011	0	0	62993	62993	218269				
11	5772257	02/05/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	56800 KGS		0.24	1133500.8	15%	170025	17003	66026	253054	0%	46/2011	0	0	56675	56675	196379				
12	6150706	27/05/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	55000 KGS		0.235	1076652.5	15%	161498	16150	62715	240363	0%	46/2011	0	0	53833	53833	186530				
13	6350322	10/06/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	28400 KGS		0.23	544768.8	15%	81715	8172	31733	121620	0%	46/2011	0	0	27238	27238	94382				
14	6350323	10/06/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	56800 KGS		0.24	1136908.8	15%	170536	17054	66275	253815	0%	46/2011	0	0	56845	56845	196970				
15	6386898	13/06/2023	VN	SAW DUST POWDER (SAW DUST POWDER FOR MAKING INCENSE STICK)	44013900	54800 KGS		0.24	1056876.8	15%	164532	16453	63893	244878	0%	46/2011	0	0	54844	54844	190034				
16	7139221	01/08/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44013900	56800 KGS		0.255	1201441.8	15%	180217	18022	69984	268223	0%	46/2011	0	0	60072	60072	208151				
17	7197986	04/08/2023	VN	SAW DUST POWDER (SAW DUST POWDER FOR MAKING INCENSE STICK)	44013900	84 MTS		230	1615152	15%	242273	24227	94083	360583	0%	46/2011	0	0	80758	80758	279825				
18	7583071	29/08/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44014100	57200 KGS		0.23	1103788.4	15%	165568	16557	64296	246421	0%	46/2011	0	0	55189	55189	191232				
19	6565627	24/06/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44014100	56800 KGS		0.24	1132137.6	15%	169821	16982	65947	252750	0%	46/2011	0	0	56607	56607	196143				
20	7468395	22/08/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44014100	56800 KGS		0.255	1215207.6	15%	182281	18228	70786	271295	0%	46/2011	0	0	60760	60760	210535				
21	7774209	11/09/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44014100	56800 KGS		0.255	1215931.8	15%	182390	18239	70828	271457	0%	46/2011	0	0	60797	60797	210660				
22	8506725	28/10/2023	VN	SAW DUST POWDER FOR MAKING INCENSE STICK	44014100	56800 KGS		0.255	1219552.8	15%	182933	18293	71039	272265	0%	46/2011	0	0	60978	60978	211287				

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23	9025899	01/12/2023	VN	SAW DUST POWDER FOR MAKING	44014100	56800	KGS	0.255	1218104.4	15%	182716	18272	70955	271943	0%	46/2011	0	0	0	60905	60905	211038
				SAW DUST POWDER FOR MAKING	44014100	28400	KGS	0.23	550647.6	15%	82597	8260	32075	122932	0%	46/2011	0	0	0	27532	27532	95400
24	9150988	09/12/2023	VN	INCENSE STICK	44014100	56800	KGS	0.255	1221001.2	15%	183150	18315	71123	277588	0%	46/2011	0	0	0	61050	61050	211538
25	9251375	15/12/2023	VN	SAW DUST POWDER FOR MAKING	44014100	56800	KGS	0.24	1146451.2	15%	171968	17197	66781	255946	0%	46/2011	0	0	0	57323	57323	198633
26	9852670	27/01/2024	VN	SAW DUST POWDER FOR MAKING	44014100	56800	KGS	0.24	1141680	15%	171252	17125	66503	254880	0%	46/2011	0	0	0	57084	57084	197796
27	2500692	09/03/2024	VN	SAW DUST POWDER FOR MAKING	44014100	56800	KGS	0.24	1149859.2	15%	172479	17248	66979	256706	0%	46/2011	0	0	0	57493	57493	199213
28	3012102	13/04/2024	CN	SAW DUST POWDER FOR MAKING	44014100	56800	KGS	0.24	1149859.2	15%	172479	17248	66979	256706	0%	46/2011	0	0	0	57493	57493	199213
29	8800634	17/11/2023	CN	WOOD WASTE DUST	44013900	28250	KGS	0.315	748384.88	15%	112258	11226	104624	228108	5%	NA	37419	3742	94746	135907	92201	
30	9806997	24/01/2024	CN	WOOD WASTE DUST	44013900	28250	KGS	0.31	736505.75	15%	110476	11048	42901	164475	5%	NA	36825	3683	38851	79359	85066	
31	3064293	17/04/2024	CN	WOOD WASTE DUST	44013900	28250	KGS	0.32	762524	15%	114379	11438	44417	170246	5%	NA	38126	3813	40223	82162	88072	
32	3231645	27/04/2024	CN	WOOD WASTE DUST	44013900	28.25	MTS	310	739133	15%	110870	11087	43055	165012	5%	NA	36957	3696	38989	79642	85370	
Total Value										33442838.8												5555305


Supdt. CH. Ppavar