

	<p>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. Phone No. 02838-271165/66/67/68 FAX No. 02838-271169/62 Group3-mundra@gov.in</p>
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A	FILE NO.	CUS/APR/MISC/6165/2024-Gr 3-O/o Pr Commr-Cus-Mundra
B	SCN NO.	128/2025-26/ADC/ZDC/MCH
C	ISSUED BY	Dipak Zala Additional Commissioner of Customs Custom House, Mundra
D	NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/आयातक	M/s. Prem Impex, D 8A Ground Floor, Sector A 3, Tron,ICA City Loni, Ghaziabad, Uttar Pradesh
E	DIN/दस्तावेज पहचान संख्या	20251271MO0000013781

Show Cause Notice

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

M/s Prem Impex, D 8A Ground Floor, Sector A-3, Tronica City Loni, Ghaziabad, Uttar Pradesh having IEC No. 0509060340 (hereinafter also referred to as “the importer” for the sake of brevity”) has filed Bills of Entry as mentioned in Annexure-A attached to this Notice for import of Strap (Garment accessories) CTH 58062000.

2. It is noticed that the importer has misclassified the goods under CTH 58062000 (BCD- 10%) instead of correct classification under CTH 58063200 (BCD- 20%) and wrongly claimed the benefit of Sr. No. 145 of Notification No. 82/2017-Customs dated 27.10.2017 to evade higher BCD under the said CTH which has resulted into short payment of Customs duty on part of the importer.

3. Whereas, ‘Other narrow woven fabrics made of man-made fibres’ are

classifiable under CTH 58063200 and attract BCD at the rate of 20 per cent (Notification No. 82/2017-Customs, Serial No.146 dated 27 October 2017). The imported goods were classified under CTH 58062000 and cleared levying BCD at concessional rate of 10 per cent under aforesaid notification, serial no.145.

4. Whereas, serial no. 145 for concessional BCD was applicable for import of 'other narrow woven fabrics of cotton' and 'of other textile materials' respectively. Although, imported goods appear to be made of Polyester/Nylon which are a kind of man-made fibres, accordingly merit classification under CTH 58063200 and leviable to BCD at the rate of 20 percent instead of 10 applied. Thus, misclassification of imported goods resulted in short levy of duty.

5. Classification: The goods classified under CTH 5806 are as given below:

(1)	(2)	(3)	(4)	(5)
5806	NARROW WOVEN FABRICS OTHER THAN GOODS OF HEADING 5807; NARROW FABRICS CONSISTING OF WARP WITHOUT WEFT ASSEMBLED BY MEANS OF AN ADHESIVE (BOLDUCS)			
5806 10 00	- Woven pile fabrics (including terry toweling and similar terry fabrics) and chenille fabrics	kg.	10%	-
5806 20 00	- Other woven fabrics, containing by weight 5% or more of elastomeric yarn or rubber thread	kg.	10%	-
	- <i>Other woven fabrics :</i>			
5806 31	-- <i>Of cotton :</i>			
5806 31 10	--- Typewriter ribbon cloth	kg.	10%	-
5806 31 20	--- Newar cotton	kg.	10%	-
5806 31 90	--- Other	kg.	10%	-
5806 32 00	-- Of man-made fibres	kg.	20%	-
5806 39	-- <i>Of other textile materials :</i>			
5806 39 10	--- Goat hair putti's tape	kg.	10%	-
5806 39 20	--- Jute webbing	kg.	10%	-
5806 39 30	--- Other narrow fabrics of jute	kg.	10%	-
5806 39 90	--- Other	kg.	10%	-
5806 40 00	- Fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)	kg.	10%	-

From the above table, it can be seen that for all the goods covered under CTH 5806, BCD is 10% except for CTH 58063200 wherein BCD is 20%.

6. Notification: The relevant extract of Notification No. 82/2017-Customs dated 27.10.2017 is as given below:

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description	Rate
145.	5806 (except 5806 32 00)	All goods	10%
146.	5806 32 00	All goods	20%

It is noticed the importer has misclassified the goods made of Polyester/Nylon which are a kind of man-made fibres under CTH 58062000 instead of correct classification under CTI 58063200 and wrongly claimed the benefit of Sr.No. 145 of Notification No. 82/2017-Customs dated 27.10.2017 to evade higher BCD.

7. Relevant Legal provisions, in so far related to the facts of the case are as under:-

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.

....

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 28. Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. –

(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”.

Section 28AA. Interest on delayed payment of duty. –

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

Section 46: Entry of goods on importation:

(4) 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, relating to the imported goods.

(4A) the importer who presents a bill of entry shall ensure the following, namely:

- (a) The accuracy and completeness of the information given therein;*
- (b) The authenticity and validity of any document supporting it; and*
- (c) Compliance with the restriction or prohibition, if any, relating to the*

goods under this Act or under any other law for the time being in force.

Section 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 of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;

...

Section 112. Penalty for improper importation of goods, etc. – *Any person,-*

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b)

shall be liable,-

(i)

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Section 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:

8. 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 by the importer, they have been entrusted with the responsibility to correctly self-assess the duty. However, in the instant case, the importer intentionally abused this faith placed upon them by the law of the land. 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-assess the duty on 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. 93,68,645/-** imported vide the said Bills of Entry appear liable for confiscation under Section 111(m) of the Customs Act, 1962.

9. Whereas, it appears that the importer has misclassified the goods under CTH 58062000 instead of correct classification under CTH 58063200 and wrongly claimed the benefit of Sr. No. 145 of Notification No. 82/2017-Customs dated 27.10.2017 to evade higher BCD under the said CTH, which has resulted into short payment of Customs duty amounting to **Rs. 10,82,079/- (Rupees Ten Lakh Eighty-Two Thousand Seventy-Nine only)** and the same is required to be recovered from the importer under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Act. For such act of omission and commission, the importer has rendered themselves liable to penalty under Section 112(a)(ii) and/or 114A of the Customs Act, 1962.

10. Now, therefore, M/s Prem Impex, D 8A Ground Floor, Sector A-3, Tronica City Loni, Ghaziabad, Uttar Pradesh, are hereby called upon to show cause to the **Additional Commissioner of Customs, Import Assessment (Gr-3)**, Custom House, Mundra, having office at 1st Floor, Room

No. 112, PUB Building, 5B, Mundra (Kutch) Gujarat 370 421, as to why:

- (i) The classification of the goods declared under CTH 58062000 in Bills of Entry as mentioned in Annexure-A to this Notice, should not be rejected and the said goods should not be classified under CTH 58063200;
- (ii) The above said goods having assessable value of **Rs. 93,68,645/- (Rupees Ninety-Three Lakh Sixty-Eight Thousand Six Hundred Forty-Five only)** should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;
- (iii) Differential Customs duty of **Rs. 10,82,079/- (Rupees Ten Lakh Eighty-Two Thousand Seventy-Nine only)** in respect of the above said goods imported vide Bills of Entry as mentioned in Annexure-A to this Notice, should not be recovered from them under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- (iv) Penalty should not be imposed upon them under Section 112(a)(ii) and/or 114A of the Customs Act, 1962.

11. The importer is 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.

12. 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.

13. 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.

14. The importer 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.

Additional Commissioner of Customs,
Import Assessment (Gr-3),
Custom House, Mundra.

To,
M/s Prem Impex,
D 8A Ground Floor,
Sector A-3, Tronica City Loni,
Ghaziabad, Uttar Pradesh

Copy to:

1. The Deputy/Assistant Commissioner of Customs (RRA), CH, Mundra.
2. The Deputy/Assistant Commissioner of Customs (TRC), CH, Mundra.
3. The Deputy/Assistant Commissioner of Customs (EDI), CH, Mundra.
4. Office Copy.

Annexure-A

B/E No.	B/E Date	Name of the Importer	Inv. Sr.No.	Item Description	Item Sr.No.	Declared CTH	Correct CTH	Assessable Value	Total Duty Paid	BCD Payable @20%	SWS Payable	IGST Payable	Total Duty Payable	Differential Duty Payable
1	2	3	4	5	6	7	8	9	10	11	12	13	14 =11+12+13	15 =14-10
9895018	09-12-2020	PREM IMPEX	1	STRAP	1	58062000	58063200	962007	159212	192401	19240	58682	270324	111112
2056580	22-12-2020	PREM IMPEX	1	STRAP	1	58062000	58063200	818188	135410	163638	16364	49909	229911	94501
2149211	29-12-2020	PREM IMPEX	1	STRAP	1	58062000	58063200	762287	126158	152457	15246	46499	214203	88045
2503917	25-01-2021	PREM IMPEX	1	STRAP	1	58062000	58063200	756143	125142	151229	15123	46125	212476	87334
3993264	18-05-2021	PREM IMPEX	1	STRAP	1	58062000	58063200	752319	124509	150464	15046	45891	211402	86893
4631353	10-07-2021	PREM IMPEX	1	STRAP	1	58062000	58063200	747003	123629	149401	14940	45567	209908	86279
5856258	16-10-2021	PREM IMPEX	1	STRAP	1	58062000	58063200	757287	125331	151457	15146	46195	212798	87467
6105831	02-11-2021	PREM IMPEX	1	STRAP(OTHER DETAILS AS PER INV AND P LIST)	1	58062000	58063200	776109	128446	155222	15522	47343	218087	89641
6407537	25-11-2021	PREM IMPEX	1	STRAP(OTHER DETAILS AS PER INV AND P LIST)	1	58062000	58063200	853810	141305	170762	17076	52082	239921	98616
6840223	26-12-2021	PREM IMPEX	1	STRAP(OTHER DETAILS AS PER INV AND P LIST)	1	58062000	58063200	693677	114804	138735	13874	42314	194923	80119
6937227	03-01-2022	PREM IMPEX	1	STRAP(OTHER DETAILS AS PER INV AND P LIST)	1	58062000	58063200	730248	120856	146050	14605	44545	205200	84344
7302153	31-01-2022	PREM IMPEX	1	STRAP(OTHER DETAILS AS PER INV AND P LIST)	1	58062000	58063200	759568	125708	151914	15191	46334	213439	87730
				Total				9368645		1873729	187373	571487	2632590	1082079