
 सत्यमेव जयते	<p>भारतसरकार / Government of India</p> <p>वित्तमंत्रालय / Ministry of Finance</p> <p>आयुक्त सीमाशुल्क एन.एस.-II कार्यालय</p> <p>Office of Commissioner of Customs NS-II</p> <p>Jawaharlal Nehru Custom House, Nhava Sheva,</p> <p>Dist- Raigad, Maharashtra – 400 707</p>	
<p>F. No.: S/10-879/2024-25/ADC/LIC/NS-II/CAC/JNCH</p> <p>CUS/LIC/MISC/69/2025-LIC-O/o- Commr-Cus-NS-II Date of Order: 22.08.2025</p> <p>SCN NO. 1688/2024-25/JC/LIC/NS-II/CAC/JNCH Date of Issue: 22.08.2025</p>		
<p>Order Passed by: Dr. Chittaranjan Prakash Wagh डॉ. चित्तरंजनप्रकाशवाघ</p> <p>Addl. Commissioner of Customs, अपरआयुक्तसीमाशुल्क</p> <p>License (NS-II), JNCH, Nhava Sheva</p> <p>O-IN-O No: 714/2025-26/ADC/NS-II/CAC/JNCH</p> <p>M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)</p> <p>DIN: 20250878 NT 000000 ABLE</p>		

मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त) अपील(, जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता .उरण, जिला - रायगढ़, महाराष्ट्र 400707 - को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील (नियमावली, 1982 के अनुसार फॉर्म सी.ए1- संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।।

ORDER-IN-ORIGINAL

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies with the Commissioner of Customs (Appeals),

Jawaharlal Nehru Custom House, Sheva, Taluka: Uran, Dist: Raigad, Maharashtra – 400707 under Section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 annexed to the Customs (Appeals) Rules, 1982. The appeal should bear a Court Fee stamp of Rs.2.00 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 2.00 only as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1870.

3. Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Sub: Adjudication of Show Cause Notice No. 1688/2024-25/JC/LIC/NS-II/CAC/JNCH dtd. 04.02.2025 issued to M/s. Eastern Chemicals (Mumbai) Private Limited (310025656).

BRIEF FACT OF THE CASE

Alert Circular No. 07/2021 dated 26.07.2021 was issued by NCTC wherein it was observed that some exporters had availed wrong MEIS benefit @ 3% of FOB value by mis-classifying the goods under CTH 29420090 instead of correct CTH 2901 to 2941 where MEIS benefit was @ 2% of FOB value. Accordingly, an audit of **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** having address at **601-A, 6th Floor, Morya Land Mark II, Oshiwara Link Road, Andheri West, Mumbai, Maharashtra-400053** (hereinafter referred to as the “Exporter”) was conducted.

2. During the post-clearance audit, export data of **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** was scrutinized and it was noticed that they had filed Shipping bills as mentioned in Annexure-A to show cause notice for export of goods viz. **“Diphenhydramine Hydrochloride BP and Glibenclamide IP”** classifying them under CTH 29420090 of the first schedule of the Customs Tariff Act, 1975 which covers **“OTHER ORGANIC COMPOUNDS; other organic compounds; other,”** claiming MEIS benefit @ 3% of FOB value. However, the said goods appeared to be correctly classifiable under tariff item CTH 29221990 and 29359090

For ease of reference, the relevant headings are reproduced below:

Table-1

Sr.No.	CTH	Description of the goods as per first Schedule to the CustomsTariffAct,1975.
1	29420090	OTHER ORGANIC COMPOUND (Not classified elsewhere); Other; other
2	29221990	OXYGEN-FUNCTION AMINO-COMPOUNDS - Amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen function; other; other
3	29359090	SULPHONAMIDES; Other

3. **Classification of exported goods.**

For better understanding of the above relevant tariff headings, relevant chapter notes are reproduced as below:

A) Custom Tariff Heading 2942 is reproduced as under:

2942 Other Organic Compound (Not classified elsewhere) :This heading covers separate chemically defined organic compounds not classified elsewhere.

1. Ketenes*. Like ketones, these are characterised by a carbonyl group ($>C=O$) but it is linked to the neighbouring carbon atom by a double bond (e.g., ketene, diphenylketene). This heading however excludes diketene which is a lactone of heading 29.32.
2. Boron trifluoride complexes with acetic acid, diethyl ether or phenol*.
3. Dithymol di-iodide.

294200 - Other organic compound:

--- Cefadroxil & its salts, Ibuprofane, Diazepam, Nifedipine, Ranitidine, Danes salt of D(-) Phenyl Glycine, D(-) para hydroxyl Dane's Salts:

29420090--- Other

B) Custom Tariff Heading 2922 is reproduced as under:

29.22-Oxygen-function amino-compounds.

-Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof:

2922.41-Lysine and its esters; salts thereof

2922.42--Glutamic acid and its salts

2922.43-Anthranilic acid and its salts

2922.44 Tilidine (INN) and its salts

2922.49--Other

2922.50-Amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen function

29225090--Other

C) Custom Tariff Heading 2935 is reproduced as under:

29.35-Sulphonamides.

2935.90-Other

Classification of Goods as mentioned above:-

I.DIPHENHYDRAMINE HCL(29221990):-

Diphenhydramine hydrochloride is a type of organic compound known as an amino alcohol, and it is often referred to as a "histamine H1 antagonist" or "antihistamine." While it does contain an amino alcohol functional group (an amino group and an alcohol group). Diphenhydramine contains an amine (NH_2) group and an alcohol (OH) group in its chemical structure, which classifies it as an amino alcohol. Diphenhydramine hydrochloride is the hydrochloride salt of diphenhydramine. This means that it includes a chloride ion (Cl^-) from hydrochloric acid (HCl). The addition of the hydrochloride salt is often done to improve solubility and stability for pharmaceutical use. It belongs to the class of

compounds known as ethanolamines. Specifically, it is an ethanolamine derivative. Chemical formula of this item is C17H22ClNO, This formula represents the composition of the compound, including the number and types of atoms in its structure. Accordingly, the same appears to be correctly classifiable under CTH 29221990.

(i i) **Glibenclamide(29359090)** :-The chemical formula of glibenclamide is C23H28ClN3O5S, indicating the types and numbers of atoms in the molecule. Glibenclamide is a sulfonylurea compound and belongs to a class of drugs known as sulfonylureas. It contains a sulfonamide functional group (-SO2NH2) as well as an amide functional group (-CONH2) in its chemical structure. IUPAC name of Glibenclamide is 5-chloro-N-[2-[4-[[[cyclohexylamino)carbonyl)amino]sulfonyl]phenyl]ethyl]-2-methoxybenzamide.

Further, from above it is evident that only those organic compounds which are not specified elsewhere can be classified under heading 2942.In the present case, as per chapter notes as discussed supra, the exported items, i.e. “**Diphenhydramine Hydrochloride BP and Glibenclamide IP**”would be out of the scope of Tariff Heading 2942 as claimed by the exporter and appears to correctly classifiable under CTH 29221990 and 29359090 which attracts MEIS @ 2% instead of 3% as claimed by the exporter.

4. EXPORT INCENTIVES UNDER DUTY CREDIT SCRIPS-MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS): -

4.1 In terms of Chapter 3 of the Foreign Trade Policy (FTP) 2015-2020 exporters are issued duty credit scrips under two schemes for exports of Merchandise and Services namely (i) Merchandise Exports from India Scheme (MEIS) & (ii) Service Exports from India Scheme (SEIS) with an objective to provide rewards to the exporter to offset infrastructural inefficiencies and associated costs involved in export of goods/ products, which are produced/ manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

4.2 The Merchandise Exports from India Scheme (MEIS) provides benefits to exports of notified goods with the ITC (HS) code made to the notified markets, listed under Appendix 3B of the Hand book of Procedures (HBoP) in the form of Duty Credit Scrips. Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise). The basis of calculation of reward would be FOB value of exports realized in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in free foreign exchange, whichever is less, unless otherwise specified.

4.3 Directorate General of Foreign Trade (DGFT), Ministry of Commerce vide Public Notice No. 61/2015-20 dated 07.03.2017 re-notifies the MEIS Schedule Appendix 3B (Table-2) harmonizing MEIS Schedule with ITC(HS), 2017. The MEIS entitlement as per Public Notice No. 61/2015-20 dated 07.03.2017 as amended, on the products classifiable under relevant HS Codes as per table-C is as under:

Table-2

SrNo.	ITC(HS)Code2017 (EightDigit)	Descriptions of goods as per ITC(HS)2017	MEISSr.No.	MEISReward Rate (In %)
1.	29420090	Other	1633	3%
2.	29221990	Other	1399	2%

3.	29359090	Other	1547	2%
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5. It appeared that the said exporter had not made correct and truthful declaration of the material facts in their shipping bills by misclassifying their goods and thereby claimed undue MEIS benefits @ 3%, instead of applicable 2%, amounting to **R s 25175.39 /-** (**Rupees Twenty-Five Thousand One Hundred Seventy-Five and Thirty-Nine Paise Only**) which were utilized for payment of customs duty towards the imports by them vide advised C. L. No. 129/2023-24/JNCH(A1) dt.03.05.2023.

6. From the Chapter notes, chapter headings and reasons as elaborated in foregoing paras, it appears that **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** have wilfully mis-stated the classifications of the subject goods exported by them and suppressed the actual classification in their export documents filed before the Customs authorities as well as DGFT with an intent to avail undue benefit of MEIS scheme and therefore the MEIS scrips obtained by them on the basis of such manipulated documents becomes invalid and it can be termed that they were obtained fraudulently. It appears that **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** by resorting to such acts, have contravened various provisions of Customs Act, 1962.

7. Vide Finance Act, 2011 with effect from 08.04.2011 “Self-Assessment” has been introduced under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or the exporter by filing a bill of entry or shipping bill as the case may be, in the electronic form, as per Section 46 or 50 respectively. Thus, under self-assessment, it is the importer or exporter who will ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported/exported goods while presenting Bill of Entry or Shipping Bill. In the present case, **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** have deliberately contravened the above said provisions with an intention to wrongfully avail excess MEIS benefit fraudulently, which were legitimately due to them.

8. From the facts discussed in the foregoing paras, it appears that:

8.1 The exporter **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** had misclassified the goods declared as “**Diphenhydramine Hydrochloride BP and Glibenclamide IP**” under CTH 29420090 instead of correct CTH 29221990 and 29359090. Accordingly, it appears that **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** had deliberately claimed wrong classification with intent to fraudulently avail the benefit of MEIS at higher rate of 3% instead of 2% of FOB value. Further, the undue benefits of MEIS availed and utilized by mis-classifying the said exported goods is required to be denied.

8.2 **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** presented a large number of shipping bills before DGFT to obtain MEIS License/Scrips. The duty credit/granted on such MEIS License/Scrips includes MEIS credit earned on correctly classifiable goods at appropriate eligible rates. However, it appears that **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** has deliberately mis-classified the export goods under CTH 29420090 in shipping bills having FOB value of **Rs. 25,17,540/- (Rupees Twenty-Five Lakh Seventeen Thousand Five Hundred and Forty only)** during the calendar year 2019 and 2020, as detailed in Annexure-A to the SCN appears to be

recoverable as per section 28(4) and/or 28AAA of the Customs Act, 1962, as applicable.

9. It is evident that MEIS benefit, covered by Customs Notification No.24/2015-Customs dated 08/ 4/2015, as amended, is a custom duty exemption by way of debit through MEIS Scrips. The power to exempt would include within its ambit the power to demand duty in the event such exemption is wrongly claimed/mis-used. Since the MEIS Scrips/Licenses, have been obtained by M/s. **Eastern Chemicals (Mumbai) Private Limited (310025656)** by mis-classification of the export goods as discussed in the foregoing paras, are therefore liable for suspension/ cancellation/ restriction. Hence the exemptions claimed by the importers are not admissible and duty at the appropriate rate is leviable on the imports to the extent of duty credit denied and same is required to be recovered from M/s. **Eastern Chemicals (Mumbai) Private Limited (310025656)**.

10. **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)** had contravened the provisions of Section 50(2) of the Customs Act, 1962 by willfully mis-declaring/misclassifying their export goods and intentionally claimed undue MEIS benefit which resulted in loss of government revenue of **Rs. 25175.39 /- (Rupees Twenty-Five Thousand One Hundred Seventy-Five and Thirty-Nine Paise Only)**. On culmination of the investigation, the subject show cause notice was issued to **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)**, calling upon them to show cause as to why:

(i) The declared classification of the subject goods "**Diphenhydramine Hydrochloride BP and Glibenclamide IP**" as mentioned in the shipping bills under CTH 29420090 should not be rejected and the subject goods should not be re-classified under CTH 29221990 and 29359090 of the first schedule to the Customs Tariff Act, 1975 and the said shipping bills should not be re-assessed.

(ii) The exported goods, having total declared FOB value **Rs. 125,17,540 /-(Rupees Twenty-Five Lakh Seventeen Thousand Five Hundred and Forty only)** (as detailed in Annexure-A), should not be held liable to confiscated under section 113(i) of Customs Act, 1962 although the same are not available for confiscation.

(iii) Export benefit availed by the Exporter in terms of MEIS through shipping bills as detailed in Annexure-A for, **Rs. 25175.39 /- (Rupees Twenty-Five Thousand One Hundred Seventy-Five and Thirty-Nine Paise Only)** should not be recovered as per section 28(4) read with section 28AAA 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 the provisions of sections 114(iii), 114AA & 114AB of the Customs Act, 1962.

11. A personal hearing Memo dated 29.07.2025 was issued to the Exporter for appearing on 08.08.2025 before adjudication authority for personal hearing in virtual mode in the subject matter. In response to the said PH Memo dated 29.07.2025, Mr. Santosh A. Panchal, Consultant, on behalf of **M/s. Eastern Chemicals (Mumbai) Private Limited (310025656)**, was conducted the personal hearing on 08.08.2025 in virtual mode and he stated that they have already paid the excess MEIS amount with applicable interest and penalty and the challan copy of the same are submitted as proof of payment.

12. I find that the Exporter had already paid duty demanded of Rs.25176/-alongwith applicable interest of Rs.4358/-(up to 08.09.2023) and penalty of Rs. 3780/- (on differential Duty @ 15%) vide Challan No. HCM670, HCM671 dated 08.09.2023 and

HCM1963 dated 27.09.2023 before issuance of the said SCN dated 04.02.2025. Further, the said challans has been verified with the Cash Section, JNCH and the Cash Section, JNCH, vide letter F. No. S/10-GEN-03/2017-18/CASH/JNCH Pt-III dated 12.08.2025, confirmed that the Differential MEIS amount of Rs.25176/-, applicable interest of Rs. 4358/-(up to 08.09.2023) and penalty of Rs. 3780/- (on differential Duty @ 15%) has been paid by the Exporter through the said challans.

13. I find that 28(6) of the Customs Act, 1962, reads as under:

Section 28(6): *“Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-*

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) ...

13.1 Further, as per section 28(5) of the Customs Act, 1962, the noticee may pay the duty in full or in part, as may be accepted by him, alongwith interest under section 28AA and penalty equal to 15% of the duty specified in the notice, within 30 days of the receipt of the notice. I find that the noticee had already paid the duty amount of Rs.25176/-alongwith applicable interest of Rs.4358/-(up to 08.09.2023) and penalty of Rs. 3780/- (on differential Duty @ 15%) vide Challan No. HCM670, HCM671 dated 08.09.2023 and HCM1963 dated 27.09.2023 i.e. before issuance of the said SCN dated 04.02.2025. Further, the Cash Section, JNCH, vide letter F. No. S/10-GEN-03/2017-18/CASH/JNCH Pt-III dated 12.08.2025, confirmed that the Differential MEIS amount of Rs.25176/-, applicable interest of Rs. 4358/-(up to 08.09.2023) and penalty of Rs. 3780/- (on differential Duty @ 15%) has been paid by the Exporter through the said challans.

13.2. I find that the Noticee had paid the Differential MEIS amount of Rs.25176/-alongwith applicable interest of Rs.4358/-(up to 08.09.2023) and penalty of Rs. 3780/- (on differential Duty @ 15%) prior to the issuance of the said SCN dated 04.02.2025. Hence, I hold that the proviso of Section 28(6) of the Customs Act, 1962 is squarely applicable in the instant matter and the matter shall be deemed as concluded.

14. I find that the SCN proposes for confiscation of the impugned goods under section 113(i) of the Customs Act, 1962. In this regard, from the facts discussed in the SCN and case records, it is established that the noticee had mis-classified their export goods and availed inadmissible MEIS benefits. Therefore, I hold that the impugned good are liable to confiscation under section 113(i) of the Customs Act, 1962.

15. However, with regard to imposition of redemption fine under section 125 of the

Customs Act, 1962, I have gone through Section 125, of the Customs Act which provides for option to pay fine in lieu of confiscation Section 125 of Customs Act reads as-

Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody, such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that where the proceedings are deemed to be concluded under proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of goods which are not prohibited or restricted, no such fine shall be imposed.

16. Since the matter is being concluded in terms of sub-section (6) of section 28 of the Customs Act, 1962, I find that the law provides that no fine, in lieu of confiscation of the goods, is imposable under section 125 of the Customs Act, 1962.

17. In view of the above discussion and findings, I pass the following order:

ORDER

(i) I order conclusion of the proceeding in respect of the subject Show Cause Notice No.1688/2024-25/JC/LIC/NS-II/CAC/JNCH dated 04.02.2025 against M/s **Eastern Chemicals (Mumbai) Private Limited (310025656)**, in terms of sub section (6) of section 28 of the Customs Act 1962.

(ii) I order to appropriate recovery made by way of voluntary payment by M/s **Eastern Chemicals (Mumbai) Private Limited (310025656)** against the duty, interest and penalty.

18. This order is issued without prejudice to any other action that may be taken against the noticee(s) or against any other person(s)/ Entities concerned, under the Customs Act, 1962, and/or under any other law for the time being in force in India.

Digitally signed by
Wagh Chittaranjan Prakash
Date: 22-08-2025 13:26:22
Prakash Chittaranjan Prakash Wagh)
Addl. Commissioner of Customs
NS-II, JNCH, Nhava Sheva.

To,

M/s. **Eastern Chemicals (Mumbai) Private Limited (310025656)**
601-A, 6th Floor, Morya Land Mark II,
Oshiwara Link Road, Andheri West,
Mumbai, Maharashtra-400053
E-mail-domestic@ecmpl.com
Copy to :

1. The Commissioner of Customs, NS-II, JNCH, Zone-II.
2. The Addl. Director General of Foreign Trade, CGO Office, Churchgate, Mumbai-400020.
3. The Asst./Deputy Commissioner of Customs, Audit(Circle- A1), JNCH.
4. The Asst./Deputy Commissioner of Customs, CRRC, JNCH.
5. The Asst./Deputy Commissioner of Customs, Review Cell
6. The Asst./Deputy Commissioner of Customs, CEAC
7. The Asst./Deputy Commissioner of Customs, EDI, JNCH for uploading on website
8. CHS Section for display on notice board.
9. Master File