

 सत्यमेव जयते BHARAT SARKAR	सीमाशुल्क प्रधानआयुक्तकाकार्यालय)एनएस(1- OFFICE OF PR. COMMISSIONER OF CUSTOMS (NS-1) जवाहरलालनेहरूस्टमहाउस, न्हावा-शेवा JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA ताल-उरण, जिला -रायगढ़ ,महाराष्ट्र 707 400- TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707	 INDIAN CUSTOMS
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F. No.: CUS/APR/MISC-711/2025/Gr. IIG/JNCH	Date of Order: 02/09/2025
SCN No.: 218/2020-21/ADC/Gr. IIG/CAC/JNCH	Date of SCN: 03.08.2020
DIN No.:20250978NW000000D4F0	

Passed by: Jay G. Waghmare
Joint Commissioner of Customs (NS-I), JNCH, Nhava Sheva.

द्वारा पारित :वाघमारे जय जी.
 संयुक्तआयुक्त, सीमाशुल्क, एनएस-I, जेएनसीएच

Order No. 753(L)/2025-26/JC/GR.IIG/NS-I/CAC/JNCH
Name of Party/Noticee: M/s Dow Chemical International Pvt. Ltd (IEC- 0398016666) -----

मूलआदेश

- यह प्रति जिस व्यक्तिको जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
- 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 सीमा शुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमा शुल्क (अपील)नियमावली, 1982 के अनुसार फॉर्म सी.ए.1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूपमें 1.50 रुपये मात्र का स्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इसपर न्यायालय फीस के रूपमें 1.50 रुपये का स्टांप भी लगाया जायेगा जैसाकि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मदके अंतर्गत निर्धारित किया गया है।
- 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 शास्तिके संबंध में विवाद होने पर शास्तिका भुगतान करेगा।

ORDER-IN-ORIGINAL

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

Jawaharlal Nehru Custom House, Sheva, Tal :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 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 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. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.

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.

Brief Facts of the Case:

A Show Cause Notice (SCN) No. 218/2020-21 Gr IIG/JNCH dated 03.08.2020 was issued to M/s Dow Chemical International Pvt. Ltd (IEC- 0398016666) (herein after referred to as Importer/Noticee) having declared address at Plot No. 8, A/1, Kalwa Block, Thane Belapur Road, T.T.C MIDC, Navi Mumbai, Maharashtra – 400703, w.r.t. Bills of Entry filed for clearance of "Voranol EP 1900 Polyol having declared Country of Origin as 'Spain (EU)' under sub-heading 390720 of the Custom Tariffs as per Table -A of the subject SCN.

2. Notification No.09/2015-Customs-(ADD) dated 07.04.2015 imposed Anti-Dumping Duty @rates specified therein, on the goods with description as "Flexible Slabstock Polyol of molecular weight 3000-4000", falling under Sub-heading 3907 20 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from Australia, European Union and Singapore and imported into India.

3. During Audit by the Customs Receipt Audit (CRA), it was observed that some of the importers had imported Flexible Slabstock Polyol of Molecular Weight 3000-4000 from Spain (European Union) without payment of applicable Anti-Dumping Duty. Bills of Entry as mentioned above in Table A above, were also assessed without levying ADD resulting in non-levy of Anti-Dumping duty. The ADD applicable for the above-said Bills of Entry are as per details hereunder in Table-B:

TABLE-A

SR NO.	IMPORTER	B/E No Date	Ass.Value (in Rs.)	Applicable ADD as per Sr.no.4 of Notn.No. 09.2015	Qty,in kgs	Ex. rate	ADD to be paid(in Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	-	3874766/	4292269	154.94 USD	39980	67.45	417819

		11.01.2016		per MTS			
2		5589974/ 10.06.2016	4510712	154.94 USD per MTS	40240	68.30	425836
3		5683094/ 18.06.2016	4679173	154.94 USD per MTS	40240	68.05	426175
4		5921488/ 09.07.2016	4635854	154.94 USD per MTS	40440	68.20	<u>427326</u>
5		6721227/ 14.09.2016	3853651	154.94 USD per MTS	33600	67.90	<u>353456</u>
6		6985018/ 05.10.2016	1958857	154.94 USD per MTS	16800	67.75	176353
7	Dow Chemical International Pvt.Ltd	7118129/ 17.10.2016	3903257	154.94 USD per MTS	33600	67.50	351404
8		7118195/ 17.10.2016	3903257	154.94 USD per MTS	33600	67.50	351404
9		7302685/ 02.11.2016	3906148	154.94 USD per MTS	33600	67.55	351664
10		7311274/ 02.11.2016	3906148	154.94 USD per MTS	33600	67.55	351664
11		7566587/ 23.11.2016	1665291	154.94 USD per MTS	16800	68.80	179086
12		8099892/ 06.01.2017	3857220	154.94 USD per MTS	33600	67.90	353486
13		8251434/ 19.01.2017	1679814	154.94 USD per MTS	16800	69.40	180648
14		8246463/ 19.01.2017	1785855	154.94 USD per MTS	16800	69.40	180648
15		8283853/ 23.01.2017	1679814	154.94 USD per MTS	16800	69.40	180648
Total			4,99,17,320/-				45,36,631/-

4. From the details given in Table -A and B above, it can be observed that the importer had not paid the ADD on the subject goods in case of these Bills of Entry. The quantum of differential duty due to non- levy of ADD is amounting to Rs. 45,36,631/-.

5. Therefore, in terms of Section 124 read with Section 28(4) of the Act, M/s Dow Chemical International Pvt. Ltd (IEC- 0398016666) was called upon to show cause to the Additional Commissioner of Customs, Gr IIG, NS-I, JNCH, as to why:

- i. In case of imports vide Bill of Entry No. 3874766/11.01.2016, 5589974/10.06.2016, 5683094/18.06.2016, 5921488/09.07.2016, 6721227/14.09.2016, 6985018/05.10.2016, 7118129/17.10.2016, 7118195/17.10.2016, 7302685/02.11.2016, 7311274/02.11.2016, 7566587/23.11.2016,

- 8099892/06.01.2017, 8251434/19.01.2017, 8248463/19.01.2017 8283853/23.01.2017 at NIL. rate of ADD should not be rejected and the ADD @154.94 USD Per MTS under Notification No. 09/2015-Cus. (ADD) dated 07.04.2015 should not be levied.
- ii. The differential duty of Rs. 45,36,631/- should not be demanded for the Bills of Entry mentioned in TABLE-B under Section 28 (4) of the Act along with applicable interest as per Section 28AA.
 - iii. The goods having Assessable Value of Rs. 4,99,17,320/- should not be held liable for confiscation under Section 111(m) of the Act.
 - iv. Penalty should not be imposed under Section 112(a) and/or Section 114 A of the act.
6. The subject SCN was adjudicated by the Joint Commissioner of Customs, Gr IIG, JNCH vide Order-in-Original No. 256/2021-22/JC/NS-I/CAC/JNCH dated 14.12.2021. Wherein it was ordered for re-assessment of the above-said Bills of Entry with as detailed in Table A with levy of applicable Anti-Dumping Duty vide Notification No. 09/2015-Cus. (ADD) dated 07.04.2015, confirmed the demand of differential duty of Rs. 45,36,631/- (Rupees Forty-Five Lakhs Thirty-Six Thousand Six Hundred Thirty-One) under Section 28 (8) read with Suction 28 (4) along with the applicable interest as applicable under Section 28AA from the Appellant, the goods were held liable for confiscation under section 111(m) of the Customs Act, 1962 and penalty of Rs 45,36,631/- was imposed under Section 114A of the Customs Act 1962. Aggrieved with the above-said Order-in-Original No. 256/2021-22/JC/NS-UCAC/JNCH dated 14.12.2021, the Appellant M/s Dow Chemical International Pvt Ltd. Mumbai, filed the appeal before the Commissioner(A), Mumbai - II. The Commissioner Appeals, Mumbai - II vide OIA No. 898(Gr.IIG)/2024(JNCH)/Appeals dated 08.07.2024 remanded back the matter to the original authority by ordering that:

Thus, as discussed above, the impugned Order-in-Original No. 256/2021-22/JC/NS-I/CAC/JNCH dated 14.12.2021 passed by the Joint Commissioner of Customs, NS-I, JNCH, Nhava Sheva is set aside and the matter is remanded back to the Original Authority, to re-examine the case afresh and pass appropriate 'Order' with reasons in consistence with law. rules regulations and instructions on the subject after providing due opportunity to the appellant to justify and explain their stand with documentary evidences in compliance of principles of natural justice.

Accordingly, the Appeal no. 608/2024 filed by M/s G. R. C. Industries against Order-in-Original No. 256/2021-22/JC/NS-I/CAC/JNCH dated 14.12.2021 passed by the Joint Commissioner of Customs, NS-I, JNCH, Nhava Sheva is disposed of by way of remand back to the Original Authority in above terms.

Further, vide corrigendum dated 30.08.2024 issued under F.No. S/49-156/2022-Misc/JNCH/Appeals, the name of the appellant was corrected to "M/s. Dow

Chemical International Pvt. Ltd." which had been inadvertently mentioned as "M/s. G.R.C. Industries" in para 8 of the OIO.

PERSONAL HEARING AND DOCUMENTS SUBMITTED

7. In this regard, the importer was given an opportunity to attend a personal hearing vide letter dated 22.05.2025, and the hearing was scheduled on 03.06.2025, Mr. Sanjay Mahajan, the authorised representative of M/s. Dow Chemical International Pvt. Ltd., appeared for the personal hearing on 03.06.2025. He submitted that all the previous Bills of Entry, which were earlier provisionally assessed, have been finalized without payment of Anti-Dumping Duty (ADD). He further stated that at present also Bills of Entry with the same goods have also been assessed without the levy of ADD, as the same goods were previously assessed finally without ADD. The importer has submitted documents mentioned below vide mail and vide letter dated 29.07.2025.

- i. TR Institute of Chemical Technology 22.02.2021
- ii. TR Bombay Test House dated 23.12.2019
- iii. OIA No. 898 (Gr IIG)-2024-JNCH-Appeals-Dated 08.07.2024
- iv. OIA No. 898 (Gr IIG)-2024-JNCH-Appeals-Dated 30.08.2024
- v. Letter to JC-ADC Gr IIG JNCH 25.10.2024
- vi. Letter to JC-ADC Gr IIG JNCH 01.12.2024
- vii. B/E 5564404 Dated 05.11.2019
- viii. B/E 6386333 Dated 07.01.2020
- ix. B/E 7930698 Dated 17.06.2020
- x. B/E 3921595 Dated 12.05.2021
- xi. DC's Group 2G, JNCH -Letter 14.12.2022 Cancellation of Bonds & BG
- xii. Dow CIPL- Letter of Authority Dated 02.06.2025

Findings & Discussion

8. I have carefully examined the facts of the case, the documents presented, and the explanations provided by the appellant. The issue in the present appeal pertains to the applicability of Anti-Dumping Duty (ADD) on the imported product "**Voranol™ EP-1900 Polyol**", which was imported through 15 Bills of Entry, as detailed in Table-A above.

9. I find that, show Cause Notice No. 218/2020-21/Gr IIG JNCH dated 03.08.2020 was issued to the importer for alleged short-levy of ADD under Notification No. 09/2015-Customs (ADD) dated 07.04.2015, which was not paid at the time of clearance of the goods. The goods were declared as "**Voranol™ EP-1900 Polyol**", classified under Customs Tariff Sub-heading 390720, and were imported from Spain (European Union)

under the aforementioned Bills of Entry.

10. Notification No. 09/2015-Customs (ADD) dated 07.04.2015 imposes Anti-Dumping Duty at the rates specified therein on goods described as "Flexible Slabstock Polyol of molecular weight 3000-4000", falling under Tariff Sub-heading 3907 20, originating in or exported from Australia, the European Union, and Singapore.

11. I find that the matter was adjudicated earlier vide Order-in-Original No. 256/2021-22/JC/NS-1/CAC/JNCH dated 14.12.2021, wherein it was held that ADD was applicable to the subject goods. However, it is now noted that the test reports from Bombay Test House (dated 23.12.2019) and the Institute of Chemical Technology, Mumbai (dated 22.10.2021), which were material to determining the nature of the imported goods, were not considered or discussed in detail during the adjudication proceedings. Now, it is found that two representative samples of "Voranol™ EP-1900 Polyol" were drawn from live consignments under Bill of Entry No. 5564404 dated 05.11.2019 and Bill of Entry No. 6706927 dated 31.03.2020 and sent for testing to verify whether the imported goods qualified as "Flexible Slabstock Polyol".

12. The **first sample**, sent to **Bombay Test House**, was tested and the report dated **23.12.2019** states: *"The goods under import, Voranol™ EP-1900 Polyol, are a divalent polyol with a molecular weight of 4070 g/mol."*

13. The **second sample**, sent to the **Institute of Chemical Technology, Mumbai**, resulted in a report dated **22.10.2021**, which clearly states:

- "1. The sample polyol has a number-average molecular weight of 4000 and is a diol.*
- 2. The sample is **not** a Slabstock Polyol."*

In order to impose Anti-Dumping Duty under Notification No. 09/2015-Customs (ADD), it must be established that the imported goods fall within the specific product description of "Flexible Slabstock Polyol of molecular weight 3000-4000". However, both test reports indicate that the imported goods do not meet this description: The Bombay Test House report identifies the product as a divalent polyol with a molecular weight slightly exceeding the specified range (4070 g/mol).

14. More significantly, the Institute of Chemical Technology, Mumbai categorically states that the sample is not a Slabstock Polyol. In light of the above test results, particularly the conclusive statement from the Institute of Chemical Technology that the product is not a Slabstock Polyol, it is evident that "Voranol™ EP-1900 Polyol" does not fall within the scope of the product description covered under Notification No. 09/2015-Customs (ADD)

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dated 07.04.2015. Therefore, no Anti-Dumping Duty is leviable on the said goods, and the earlier adjudication does not sustain in view of the evidence now taken on record.

15. In view of the above facts of the case, the documentary evidences on record and findings detailed above, I pass the following order.

ORDER

I order to reassess Bills of Entries mentioned in Table- A without levy of ADD under Notification No. 09/2015-Customs (ADD) dated 07.04.2015.

16. This order is issued without prejudice to any other action may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved under the provisions of the Customs Act, 1962, and/or other law for the time being in force in the Republic of India.

Digitally signed by
Jay Girijappa Waghmare
Date: 02-09-2025
16:51:20

(Jay G. Waghmare)
Joint Commissioner of Customs,
Gr 2G, NS-I, JNCH, Nhava-Sheva

To,
M/s Dow Chemical International Pvt. Ltd (IEC- 0398016666)
Plot No. 8, A/1, Kalwa Block, Thane Belapur Road, T.T.C MIDC, Navi Mumbai,
Maharashtra – 400703

Copy To:

1. Dy. Commissioner of Customs, CRAC, JNCH, Nhava Sheva
2. Dy. Commissioner of Customs, CAC, JNCH, Nhava Sheva (for information)
3. Office Copy.
4. Notice Board.