भारतसरकार

भारतसरकार/ Government of India
वित्तमंत्रालय / Ministry of Finance
सीमाशुल्क प्रधान आयुक्त आयुक्त का कार्यालय, न्हावा शेवा-I, मुंबई सीमा शुल्कजोन-II
जवाहर लाल नेहरू कस्टम हाउस, पोस्ट: शेवा, तालुका: उरण, जिला: रायगढ़, महाराष्ट्र-4007007
OFFICE OF THE Pr. COMMISSIONER OF CUSTOMS, NS-I, MUMBAI CUSTOMS ZONE-II
JAWAHAR LAL NEHRU CUSTOM HOUSE, Post: Sheva, Taluka: Uran,
Dist: Raigad, Maharastra-400707.

F. No. S/26-Misc-191/2023-24/Gr II CF JNCH — Date of order: 26.09.2025
F. No. S/10-Adj-36 /2025-26/JC/Group II (C-F) — Date of issue: 29.09.2025

SCN No. 1792(L)/2024-25/JC/GR.IIC-F/NS-I/CAC/JNCH dated 20.03.2025

DIN: 20250978NW0000888CC9.

Passed by: Dr. Parul Singhal
Joint Commissioner of Customs
Gr. 2 (C-F), NS-I, JNCH, Nhava Sheva.

Order No. 885 (L)/2025-26/JC/Gr. II (C-F)/NS-I/CAC/JNCH
Name of Importer: M/s. Krishi Rasayan Exports Pvt. Ltd.(IEC No. 0296015890)

मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि: शुल्क 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 (अपीलनियमावली, 1982 के अनुसार फॉर्म सी.ए.1 संलग्नक में की जानी चाहिए । अपील पर न्यायालय फीस केरूप में 1.50 रुपये मात्र का स्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी । यदिइस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टांप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 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 (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

M/s. Krishi Rasayan Exports Pvt. Ltd. (IEC No. 0296015890), having address as Plot No. 19/1, GIDC Estate Panoli, Ankleshwar, Dist-Bharuch-Gujarat-394115 (hereinafter referred to as 'Importer') filed Bill of Entry No. **2094230 dated 11.02.2024** for clearance of import of the goods as detailed in Table-I below. The goods were manufactured by M/s. Lier Chemical Co. Ltd, China. The total declared assessable value of the goods is Rs. 68,67,110/- and the declared duty was Rs. 21,27,431/-. The details of the goods declared by Importer is as given in table-I below:

Table-I

Sr. No	**BE No. & date**	**CTI**	**Goods description**	**Total Quantity declared**	**Declared Ass. Value in Rs**	**Declared duty in Rs**
1.	**2094230 dated 11.02.2024**	38089390	Glufosinate ammonium technical 95% w/w tech	10000 kgs	68,67,110/-	21,27,431/-

2. The importer M/s. Krishi Rasayan Exports Pvt. Ltd., filed writ petition before the Hon'ble Bombay High Court, Mumbai vide writ petition no.(L) 7617 of 2024 in case of M/s. Krishi Rasayan Exports Pvt. Ltd vs Commissioner of Customs (I) and Ors. dated 13.03.2024 in respect of goods imported vide BE Nos. 2094230 dated 11.02.2024, 2454601 & 2454602 both dated 29.02.2024 regarding the importability of goods in respect of DGFT Notification No. 58/ 2023 dated 23.01.2024. Later, the aforesaid Writ petition was dismissed by the Hon'ble Bombay High Court on 01.07.2024.

2.2 After the Hon'ble Bombay High court order dated 01.07.2024, the goods covered vide BE No. 2094230 dated 11.02.2024 were examined and representative sealed samples were forwarded to CIL, New Delhi to determine the genuineness of imported goods. As per the CIB RC No. CIR-18945/2023-Glufosinate Ammonium Technical 95% W/w Min. (447) issued to the importer M/s. Krishi Rasayan Exports Pvt. Ltd., the active ingredient i.e. Glufosinate Ammonium Technical should be 95% W/w Minimum as per the condition mentioned vide point 7 (iv) of the aforesaid CIB&RC.

3. The representative sealed samples (RSS) of the above examined goods imported by the said importer were forwarded to CIL, New Delhi vide Test Memo no. 346 dated 12.07.2024 to ascertain the purity and verify the declaration made by the importer with respect to purity of the goods. The test report dated 28.08.2024 submitted by CIL, New Delhi indicated that the importer has mis-declared the purity of the goods. Details of the said reports are as under;

Table-III

Sr No.	BE	Lab Code	Observations as per CIL, New Delhi test report dated 28.08.2024
1.	2094230 dated 11.02.2024	INV-20/2024	a) The sample is in the form of homogenous powder, free from visible extraneous powder. b) The sample tests positive for the presence of Glufosinate ammonium-90.0%.

Further, the CIL test report reads as:

"It may be noted that

1. *Glufosinate Ammonium is registered by the Registration Committee as 50% and 95% Technical minimum for use in the country. The a.i. content of the sample has been declared by the importer as 95 % tech Min. However, the sample contains ai content as 90 % only. The sample does not conform to the relevant product specification in the active ingredient test requirement, hence misbranded. Further, Sale/use/import/distribution of misbranded pesticide is a violation of section 17 of the Insecticides Act, 1968.*
2. *Under section 3(k) of the Insecticides Act. 1968, an insecticide shall be deemed to be misbranded—(i) if its label contains any statement, design or graphic representation relating thereto which is false or misleading in any material particular, or if its package is otherwise deceptive in respect of its contents."*

3.1 In view of the test report dated 28.08.2024 issued by CIL, New Delhi, it is noticed that the importer has imported goods i.e. Glufosinate Ammonium having a purity of 90.0% i.e. below the prescribed active ingredient of 95% w/w min. as per the CIB RC No. CIR-18945/2023-Glufosinate Ammonium Technical 95% W/w Min.(447). Therefore, it appears that the importer has violated the conditions of the aforesaid CIBRC, since the imported goods does not conform to the relevant product specification in the active ingredient test requirement, hence are misbranded; Further, Sale/use/import/distribution of misbranded pesticide is a violation of section 17 of the Insecticides Act, 1968.

3.2 The aforesaid test report was conveyed to the importer M/s. Krishi Rasayan Exports Pvt. Ltd. but the importer vide letter dated 24.09.2024 requested for re-sampling and re-testing of the goods covered vide BE No. 2094230 dated 11.02.2024 citing reason that the RSS might have been drawn from loose packets of the goods which have caught moisture due to monsoon and rainy season; which might have caused the mishandling of sample resulting in minimization of AI content.
In view of the above request made by importer, the competent authority allowed re-sampling and re-testing of goods in presence of authorized chemist of importer. The sampling of goods covered vide the aforesaid BE was done on 03.12.2024 and the representative sealed sample was forwarded for testing to CIL, New Delhi vide TR No. 730 dated 03.12.2024.

3.3 CIL, New Delhi vide the test report dated 03.03.2025 against the Test memo No. 730 dated 03.12.2024 submitted the following:

Table-IV

Sr No.	BE	Lab Code	Observations as per CIL, New Delhi test report dated 03.03.2025
1.	2094230 dated 11.02.2024	INV-32/2024	c) The sample is in the form of homogenous powder, free from visible extraneous powder. d) The sample tests positive for the presence of Glufosinate ammonium-91.97%.

Further, the CIL test report reads as:

"It may be noted that

1. *Glufosinate Ammonium is registered by the Registration Committee as 50% and 95% Technical minimum for use in the country. The a.i. content of the sample has been declared by the importer as 95 % tech Min. However, the sample contains ai content as 91.97 % only. The sample does not conform to the relevant product specification in the active ingredient test requirement, hence misbranded. Further, Sale/use/import/distribution of misbranded pesticide is a violation of section 17 of the Insecticides Act, 1968.*
2. *Under section 3(k) of the Insecticides Act. 1968, an insecticide shall be deemed to be misbranded—(i) if its label contains any statement, design or graphic representation relating thereto which is false or misleading in any material particular, or if its package is otherwise deceptive in respect of its contents."*

From the above-mentioned test report, it is noticed that the importer has imported goods i.e. Glufosinate Ammonium having a purity of 91.97% i.e. below the prescribed active ingredient of 95% w/w min. as per the CIB RC No. CIR-18945/2023-Glufosinate Ammonium Technical 95% W/w Min.(447).

4. On perusal of test report dated 28.08.2024 and second test report dated 03.03.2025 for the goods covered vide BE No. 2094230 dated 11.02.2024, it appears that the importer M/s. Krishi Rasayan Exports Pvt. Ltd. has imported goods i.e. Glufosinate Ammonium having a purity of 90.0%-91.97% i.e. below the prescribed active ingredient of 95% w/w min. as per the CIB RC No. CIR-18945/2023-Glufosinate Ammonium Technical 95% W/w Min. (447). Therefore, it appears that the importer has violated the conditions of the aforesaid CIB & RC since the imported goods does not conform to the relevant product specification in the active ingredient test requirement, hence are misbranded; Further, Sale/use/import/distribution of misbranded pesticide is a violation of section 17 of the Insecticides Act, 1968.

Consequently, the goods covered under BE No. 2094230 dated 11.02.2024 appears prohibited goods under Section 2(33) of the Customs Act, 1962 read with section 17 of the Insecticides Act, 1968. Accordingly, the said goods appeared liable for confiscation under Section 111(d) & Section 111(m) of the Customs Act, 1962.

5. M/s. Krishi Rasayan Exports Pvt. Ltd. imported the goods i.e. Glufosinate Ammonium by declaring the purity 95% w/w min. However, the test reports from CIL, New Delhi revealed that the purity was lesser against the purity declared by the importer. The said import was made as per the CIB RC No. CIR-18945/2023-Glufosinate Ammonium Technical 95% W/w Min.(447). As per the said CIB & RC, the import shall be governed by conditions in general as per certification of registration under Section 9(3) of the Insecticide Act, 1968.

(i) The registration is subject to the strict compliance of various provisions of the Insecticides Act, 1968 as amended from time to time and Rules, bye-laws framed and notification issued there under and as amended from time to time.

(ii) The insecticide shall have the specific composition (kind, name and percentage of the ingredients) as detailed in their respective certificate of registration attached with this Investigation Report.

(iii) Every consignment of the product shall be accompanied with the invoice, showing particulars of the insecticide, total quantity, pack size, etc. issued by the approved source import (not by the supplier). If a consignment is not accompanied by this document, the same shall be termed as illegally imported consignment.

6. The Krishi Rasayan Exports Pvt. Ltd. is a manufacturer and was well aware about the provisions and consequences of its violation. Therefore, it appeared that M/s Krishi Rasayan Exports Pvt. Ltd. have not adhered to the provisions of the Registration Certificate of Insecticide Board intentionally and will-fully and resorted to import of the restricted goods having less purity in contravention of their CIB & RC license in this regard. Therefore, the said goods appeared to be in purview of prohibited goods explained under the provisions of the Section 2(33) of the Customs Act, 1962.

7. In terms of Section 46 of the Customs Act, 1962, while presenting the Bills of Entry before the Customs authority for clearance of the imported goods, it was duty of the importer to declare the accuracy and completeness of the information given therein. The importer is working under the regime of self-assessment, where it is the sole responsibility of the importer to place correct facts before the assessing authority. In the instant case, the importer failed in presenting Bills of Entry in terms of its accuracy and completeness of the information given therein in contravention of Section 46 of the Customs Act, 1962. This resulted in violation of Section 46 of the Customs Act, 1962. Hence it appeared that M/s Krishi Rasayan Exports Pvt. Ltd. imported the products mentioned in Table-I in contravention of the provisions of Section 9(3) of the Insecticides Act, 1968 rendering the goods imported in purview of prohibited goods under the category of Section 2(33) of the Customs Act, 1962.

8. Further, condition 7(iv) of the CIB RC No. CIR-18945/2023-Glufosinate Ammonium Technical 95% W/w Min.(447) states that the composition of the active ingredient i.e. Glufosinate Ammonium should be 95% w/w min alongwith certain impurities as mentioned under the said condition. The importer imported the subject goods with below the permissible purity vide BE No. 2094230 dated 11.02.2024 and resorted to violation of the said registration licence. The goods imported vide the subject bills of entry appear prohibited goods as the same were imported in contravention of rule and regulation of CIB & RC and registration certificate issued to the importer in this regard.

9. Also, the Office of the Commissioner of Customs, NS-V issued the Standing Order No. 51/2015 dated 08.10.2015 to sensitized the trade with respect to guidelines to be followed by the trade to import the insecticide/pesticides and it appears, that the importer imported the subject goods in contravention of the said circular by not adhering the conditions of the CIB & RC issued to them.

10. As per the provisions of Section 2(33) of the Customs Act 1962 and section 17 of the Insecticide Act, 1968 the impugned goods appear prohibited goods for the purpose of the Customs Act 1962 and section 17 of the Insecticide Act, 1968. Consequently, the impugned goods appear liable for confiscation under section 111(d) and 111(m) of the Customs Act 1962.

11. **Relevant Legal Provisions:**

The Customs Act, 1962:

Section 2(33) of the Customs Act, 1962:

(33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

Section 17:- Assessment of Duty

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter regarding valuation of goods, classification, exemption or concessions of duty availed consequent to any notification issued therefor under this Act and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re- assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

SECTION 46. Entry of goods on importation. –

(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(d) of the Customs Act, 1962:

any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

111(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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-Section (1) of Section 54;*

Section 112 of the Customs Act, 1962 : *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) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has to believe are liable to confiscation under Section 111, shall be liable to penalty for improper importation of the goods.

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 1 [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

Section 114AA*. Penalty for use of false and incorrect material.—If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.*

The Insecticides Act, 1968:

Section 9 of The Insecticides Act, 1968: Registration of insecticides-

(1) Any person desiring to import or manufacture any insecticide may apply to the Registration Committee for the registration of such insecticide and there shall be a separate application for each such insecticide: Provided that any person engaged in the business of import or manufacture of any insecticide immediately before the commencement of this section shall make an application to the Registration Committee within a period of 2 [seventeen months] from the date of such commencement for the registration of any insecticide which he has been importing or manufacturing before that date: 3 [Provided further that where any person referred to in the preceding proviso fails to make an application under that proviso within the period specified therein, he may make such application at any time thereafter on payment of a penalty of one hundred rupees for every month or part thereof after the expiry of such period for the registration of each such insecticide.]

(2) Every application under sub-section (1) shall be made in such form and contain such particulars as may be prescribed.

(3) On receipt of any such application for the registration of an insecticide, the Committee may, after such enquiry as it deems fit and after satisfying itself that the insecticide to which the application relates conforms to the claims made by the importer or by the manufacturer, as the case may be, as regards the efficacy of the insecticide and its safety to human beings and animals, register 1 [on such conditions as may be specified by it] and on payment of such fee as may be prescribed, the insecticide, allot a registration number thereto and issue a certificate of registration in token thereof within a period of twelve months from the date of receipt of the application: Provided that the Committee may, if it is unable within the said period to arrive at a decision on the basis of the materials placed before it, extend the period by a further period not exceeding six months: Provided further that if the Committee is of opinion that the precautions claimed by the applicant as being sufficient to ensure safety to human beings or animals are not such as can be easily observed or that notwithstanding the observance of such precautions the use of the insecticide involves serious risk to human beings or animals, it may refuse to register the insecticide.

(4) Notwithstanding anything contained in this section, where an insecticide has been registered on the application of any person, any other person desiring to import or manufacture the insecticide or engaged in the business of, import or manufacture thereof shall on application and on payment of prescribed fee be allotted a registration number and granted a certificate of registration in respect thereof on the same conditions on which the insecticide was originally registered.

***Section 17** of The Insecticides Act, 1968: Prohibition of import and manufacture of certain insecticides. —*

"(1) No person shall, himself or by any person on his behalf, import or manufacture—

(a) any misbranded insecticide;

(b) any insecticide the sale, distribution or use of which is for the time being prohibited under section 27;

(c) any insecticide except in accordance with the conditions on which it was registered;

(d) any insecticide in contravention of any other provision of this Act or of any rule made thereunder:

Provided that any person who has applied for registration of an insecticide 1 [under any of the provisos] to sub-section (1) of section 9 may continue to import or manufacture any such insecticide and such insecticide shall not be deemed to be a misbranded insecticide within the meaning of sub-clause (vi) or sub-clause (vii) or sub-clause (viii) of clause (k) of section 3, until he has been informed by the Registration Committee of its decision to refuse to register the said insecticide.

(2) No person shall, himself or by any person on his behalf, manufacture any insecticide except under, and in accordance with the conditions of, a licence issued for such purpose under this Act."

12. Findings:

(a) M/s. Krishi Rasayan Exports Pvt. Ltd. had filed Bill of Entry No. 2094230 dated 11.02.2024 for the clearance of product registered as pesticide/insecticide viz. Glufosinate ammonium technical 95% min. w/w tech for the clearance under Registered Certificates as Insecticides / Pesticides registered under section 9(3) of the Insecticides Act, 1968. The said product was registered under the Insecticide Board with particular purity, source of import and supplier. However, the importer imported the subject consignments in contravention of the provisions of the Certificate of Registration by importing the said goods of purity less than 95% in respect of active ingredient. The goods do not conform to the relevant product specification in the active ingredient test requirement, hence are misbranded. Further, Sale/use/import/distribution of misbranded pesticide is a violation of section 17 of the Insecticides Act, 1968.

(b) From the provisions of Section 2(33) of the Customs Act, 1962 and Section 17 of the Insecticides Act, 1968, it appears that the impugned goods are prohibited goods for the purpose of the Customs Act, 1962 and the Insecticides Act, 1968.

(c) Consequently, the goods i.e. Glufosinate ammonium technical 95% min. w/w tech imported vide Bill of Entry No. 2094230 dated 11.02.2024 having total assessable value of Rs. 68,67,110/- appears liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962, read with Section 9 and 17 of the Insecticides Act, 1968.

(d) By the way of above omission and/or commission, the importer M/s. Krishi Rasayan Exports Pvt. Ltd has rendered the goods imported vide the Bill of Entry No. 2094230 dated 11.02.2024 liable for confiscation under Section 111(d) & 111(m) of the Customs Act, 1962. Therefore, M/s. Krishi Rasayan Exports Pvt. Ltd rendered itself liable for penal action under Section 112(a) of the Customs Act, 1962.

(e) Such type of goods having less purity could not have been imported without knowledge of the importer and the same facts appeared intentionally and wilfully on part of importer. For the acts of omission and commission, the importer M/s. Krishi Rasayan Exports Pvt. Ltd rendered itself liable for penal action under Section 114AA of the Customs Act, 1962.

13. Now, therefore, in exercise of the powers conferred by Section 124 of the Customs Act, 1962, the M/s. Krishi Rasayan Exports Pvt. Ltd. (IEC No. 0296015890) having address at Plot No. 19/1, GIDC Estate Panoli, Ankleshwar, Dist-Bharuch-Gujarat-394115 was called upon to Show Cause as to why:

I. The importation of the goods i.e. Glufosinate ammonium technical 95% min. w/w tech as covered under Bill of Entry No. 2094230 dated 11.02.2024 should not be considered as a violation of the provisions outlined in Section 9 and Section 17 of the Insecticides Act, 1968, by reason of importing the said goods of lower purity than prescribed in the CIB RC No. CIR-18945/2023-Glufosinate Ammonium Technical 95% W/w Min. (447). The imported goods covered under Bill of Entry No. 2094230 dated 11.02.2024, should not be considered as a prohibited goods for the violation of the provisions of Section 17 of the Insecticides Act, 1968 and Section 2(33) of the Customs Act, 1962.

II. The subject goods i.e. Glufosinate ammonium technical 95% min. w/w tech imported vide the Bill of Entry No. 2094230 dated 11.02.2024 having total assessable value of Rs. 68,67,110/- should not be held liable for confiscation under Section 111(d) & 111 (m) of the Customs Act, 1962, read with Section 9 and 17 of the Insecticides Act, 1968.

III. The penalty should not be imposed on Importer under Section 112(a) and/or Section 114A and Section 114AA of the Customs Act 1962.

Record of Personal Hearing and Submission of Importer

14. In line with the principles of natural justice, virtual personal hearings were granted to the importer on 02.07.2025, in response of the same importer vide their letter dated 27.06.2025 requested that Personal Hearing in the said mater may be granted after 15 days, accordingly next personal hearing was granted on 30.07.2025. Neither Importer nor his representative appeared for personal hearing on 30.07.2025. Mr. Krishnesh Sarda, Commercial Manager appeared on behalf of the importer M/s. Krishi Rasayan Exports Pvt. Ltd. for physical personal hearing on 06.08.2025 and reiterated the submissions made vide letter dated 05.08.2025 at the time of personal hearing.

14.2 The importer M/s. Krishi Rasayan Exports Pvt. Ltd. vide letter dated 05.08.2025 with reference to the Show Cause Notice dated 20.03.2025 has submitted that the importer is involved in Import & Export of various insecticides, herbicides and agrochemicals. The importer submitted that they have signed contract on 5th of January 2024 for 3 cargo of given product Glufosinate Technical 95% min out of which 1st cargo shipped on 26th January 2024 and BOE filed for the subject BOE No. 2094230 dated 11.02.2024. The given BOE was held for assessment due to applicability of Gazette Notification CG-DL-E-23012024-251571 S.N. 315 issued on 23.01.2024 and effective from 21st January 2024, for Import of Glufosinate Technical under HSN Code 38089390 which is "prohibited for import below CIF Value of Rs. 1289/ Kg". Later on, it was found that the said Notification issued by DGFT mentions the product as "Glufosinate technical". As per the Pesticide Manual, the IUPAC name of that product is 2-Amino-4-[lzydroxyl (methyl) plzosph01yl] butanoic acid. However, the product imported by them is "Glufosinate Ammonium Technical" which is a completely different product and for which IUPAC name is Ammonium 4- [Hydro>,..y (Metlzyl) P/zospizinoyl]-DI-H Omoalal111ate, Ammonium DI-Homoalanin-4-YI(Metlzyl)Pizospizjnate salt. The CAS Nos of both the products are different. The CAS No. of Glufosinate Technical (which is mentioned in the Notification) is 51276-47-2. So, the Minimum import price Notification was not applicable to said cargo, which was communicated to department and accepted by department also. However, the same was ordered for sampling to check for test of Glufosinate Ammonium Technical 95% minimum along with 2 more consignment under investigation of SIIB Vide BOE No. 2454602 and No. 22454601 both dated 29/02/2024 imported under same order contract from same supplier. As per test reports received for all 3 cargo, Consignment under BOE No. 2454602 and No. 22454601 both dated 29/02/2024 got qualified as per correct purity however consignment under subject BOE No.2094230 dated 11.02.2025 identified with less purity as permitted i.e. 90% vide test report dated 28.08.2024 and 91.97% vide report dated 03.03.2025.

14.3 Further, importer submitted that all three consignments imported under same Contract and shipped before arrival of the subject BOE. However, the next two consignments sample passed and cleared with purity as permitted. The subject consignment in also from same approved manufacture & same description. As the herbicide degrades its purity gradually subject to it's storage condition and material handling, and also when it comes in connection of moisture, it may happen that consignment was stored under section 49 warehouse with some of the possible reasons, hence it is disqualified in purity test which was conducted after 6 months and 1 year of material arrival. But considering, the genuenity of other two imported consignments under BOE No. 2454602 and No. 22454601 both dated 29/02/2024, as well as past consignments imported with required minimum purity as tested by their lab, it appears clearly that material with lower purity is not imported with their knowledge and nothing is intentionally and willfully on their part and not misbranded from their side. The goods are already stored under Section 49, in Customs Bonded Warehouse since more than 1 and a half years, the storage cost of which is already a deemed fine and penalty for them.

14.4 Considering the above facts and condition the importer request the authority to allow them to clear cargo as purity is dropped due to long storage under various unavoidable circumstances or for return of Cargo with no Fine and penalty and request for order under subject SCN as resolved in favour of them.

Discussion and Findings

15. I have carefully gone through the, facts of the case and submission made by the Importer.

16. I find that the fundamental issue to be decided in the matter is whether impugned goods imported vide Bill of Entry No. 2094230 dated 11.02.2024 is restricted/prohibited in nature or otherwise.

17. I find that the importer M/s. Krishi Rasayan Exports Pvt. Ltd. has filed Bill of Entry No. 2094230 dated 11.02.2024 for the goods declared as 'Glufosinate ammonium technical 95% w/w tech' having total assessable value of goods as Rs. 68,67,110/-.

18. I find that on scrutiny of Bill of Entry No. 2094230 dated 11.02.2024 and other import related documents i.e. As per the CIB& RC No. CIR-18945/2023-Glufosinate Ammonium Technical 95% W/w Min.(447) issued to the importer M/s. Krishi Rasayan Exports Pvt. Ltd., the active ingredient i.e. Glufosinate Ammonium Technical should be 95% W/w Minimum as per the condition mentioned vide point 7 (iv) of the aforesaid CIB & RC.

Further, from the test report dated 28.08.2024 against the Test Memo no. 346 dated 12.07.2024 of the goods which were conducted by CIL, New Delhi, it has been found that the importer has mis-declared the purity of the goods covered vide Bill of Entry No. 2094230 dated 11.02.2024, details as mentioned in Table-III.

18.1. I also find that the importer requested for re-sampling and re-testing of the goods covered vide BE No. 2094230 dated 11.02.2024 citing reason that the RSS might have been drawn from loose packets of the goods which have caught moisture due to monsoon and rainy season; which might have caused the mishandling of sample resulting in minimization of AI content.

In view of the above request made by importer, the competent authority allowed re-sampling and re-testing of goods in presence of authorized chemist of importer.

Further, from the re-test report dated 03.03.2025 against the Test memo No. 730 dated 03.12.2024 of the goods which were conducted by CIL, New Delhi, it has been found that the importer has mis-declared the purity of the goods covered vide Bill of Entry No. 2094230 dated 11.02.2024, details as mentioned in Table-IV.

19. On perusal of test report dated 28.08.2024 and second test report dated 03.03.2025 for the goods covered vide Bill of Entry No. 2094230 dated 11.02.2024, I find that the importer M/s. Krishi Rasayan Exports Pvt. Ltd. has imported the goods were of lesser purity as that of declared in the above said Bill of Entry thereby violating the import conditions of CIB & RC, since the imported goods does not conform to the relevant product specification in the active ingredient test requirement, hence are misbranded; Further, Sale/use/import/distribution of misbranded pesticide is a violation of section 17 of the Insecticides Act, 1968.

20. On a conjoint reading of Section 9, 17 of the Insecticides Act, 1968 and Section 2(33) of the Customs Act, 1962, I find the imported goods liable for confiscation under Section 111(d) of the Customs Act, 1962. Moreover, the goods being of different composition as compared to the declaration made in the Bill of entry, the goods are also liable for confiscation under Section 111(m) of the Customs Act, 1962.

21. I also find that the importer M/s. Krishi Rasayan Exports Pvt. Ltd. is a manufacturer and was well aware about the provisions and consequences of its violation. The importer has not adhered to the provisions of the Registration Certificate of Insecticide Further, the importer has failed to present the Bills of Entry in terms of its accuracy and completeness of the information given therein and has contravened the provisions of Section 46 of the Customs Act, 1962. As discussed in the preceding paras, the goods are found to be liable for confiscation and consequently, penalty is imposable under Section 112(a) of the Customs Act, 1962.

22. In view of the above, I find that the goods imported vide Bill of Entry No. 2094230 dated 11.02.2024 is prohibited goods under Section 2(33) of the Customs Act, 1962 and Section 17 of the Insecticides Act, 1968. Therefore, the goods 'Glufosinate ammonium technical 95% w/w tech' imported vide the Bill of Entry No. 2094230 dated 11.02.2024 having total assessable value of goods as Rs. 68,67,110/- is liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962, read with Section 9 and 17 of the Insecticides Act, 1968 and by the way of above omission and/or commission, the importer M/s. Krishi Rasayan Exports Pvt. Ltd. has rendered himself liable for penal action under Section 112(a) of the Customs Act, 1962. Further, I also find that Such type of goods having less purity could not have been imported without knowledge of the importer and the same facts appeared intentionally and wilfully on part of importer. Despite being aware of the facts that the imported goods are misbranded and Sale/use/import/distribution of misbranded pesticide is a violation of section 17 of the Insecticides Act, 1968, the importer tried to file the Bill of Entry for clearance of imported goods. This itself is grave offence and misleading information and suppression of the facts, for this act of omission and commission, the importer M/s. Krishi Rasayan Exports Pvt. Ltd. rendered itself liable for penal action under Section 114AA of the Customs Act, 1962.

23. I also find that request of the Importer for re-export of goods may be accepted subject to payment redemption fine and penalty as the Importer vide letter dated 05.08.2025 requested the authority to allow them to clear cargo as purity is dropped due to long storage under various unavoidable circumstances or for return of Cargo i.e Re-Export of consignment and request for order under subject SCN as resolved in favor of them. In this regard, attention is invited to Customs Notification no. 4-Cus dated 08.01.1962 wherein it was held that goods imported but not allowed for clearance on ground of non-fulfillment of import trade control regulation can be re-exported without payment of export duty, if goods are allowed to be re-exported on payment of fine or otherwise. Thus, in such cases, payment of fine and penalty is payable, if imposed by Adjudicating Authority.

24. In view of the above, I pass the following order:

ORDER

(i) I order to confiscate the impugned goods covered vide Bill of Entry No. 2094230 dated 11.02.2024 having total assessable value of goods as Rs. 68,67,110/- under Section 111(d) & 111(m) of the Customs Act, 1962 read with Section 9 and Section 17 of the Insecticides Act, 1968. However, I give an option to the importer to redeem the said goods for re-export purpose on payment of **Redemption fine of Rs. 3,00,000/- (Rupees Three Lakh Only)** under Section 125 of the Customs Act, 1962 within 120 days from the issuance of this order.

(ii) I order to impose **Penalty of Rs. 1,00,000 /- (Rupees One Lakh Only)** on the importer M/s. Krishi Rasayan Exports Pvt. Ltd. under Section 112 (a) of the Customs Act, 1962.

(iii) I order to impose **Penalty of Rs. 1,00,000 /- (Rupees One Lakh Only)** on the importer M/s. Krishi Rasayan Exports Pvt. Ltd. under Section 114AA of the Customs Act, 1962.

(iv) I refrain from imposing penalty under section 114A of the Customs Act, 1962, as I have already imposed penalty under section 112 (a) of the Customs Act, 1962.

25. This order is issued without prejudice to any other action that 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 Customs Act, 1962 and / or any other Act or law, rules being in force in the Republic of India.

पारुल 26/9/25

(Dr. Parul Singhal)/ (डॉ. पारुल सिंघल)
Joint Commissioner of Customs/ संयुक्त आयुक्त सीमाशुल्क,
Group-II (C-F), NS- I, JNCH/ग्रुप-II (C-F), एन.एस.-I,जेएनसीएच.

To:

M/s. Krishi Rasayan Exports Pvt. Ltd.,
Plot No. 19/1, GIDC Estate Panoli, Ankleshwar,
Dist-Bharuch-Gujarat-394115.

Copy to:-
1. Pr. Commissioner of Customs, NS-I, JNCH
2. Dy. Commissioner of Customs, CRAC (I), JNCH
3. Dy. Commissioner of Customs, Centralized Adjudication Cell, JNCH
4. Dy. Commr. of Customs, EDI, JNCH.
5. Office Copy-

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