सीमाशुल्कआयुक्तकाकार्यालय,(एन.एस.-I),
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I),
न्हावा-शेवा,जवाहरलालनेहरूसीमाशुल्कभवन,
NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE,
ता. उरण,जिला-रायगड,महाराष्ट्र-400707
TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA – 400 707.

F. No. S/10-706/2024-25/JC/Gr IIG /NS-I/CAC/JNCH **Date of order:** 09.10.2025
SCN No.-1357 /24-25/ADC/Gr.II(G)/CAC/JNCH **Date of issue:** 10.10.2025
Dated 07.11.2024

Passed by: Dr. Parul Singhal
Joint Commissioner of Customs (NS-I)
Gr. IIG, JNCH, NhavaSheva

Order No. 944 /2025-26/JC/Gr.IIG/NS-I/CAC/JNCH
DIN. No. 20251078NW0000999B49
Name of Party/Noticee/Importer: M/s Kajal Plasto Chem Pvt.Ltd.

मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि:शुल्क दी जाती है।

2.इसआदेश के विरुद्धअपील सीमाशुल्क अधिनियम1962 की धारा 128(1) के तहत इसआदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्कआयुक्त(अपील), जवाहरलालनेहरूसीमाशुल्कभवन, शेवा, ता. उरण, जिला- रायगढ़, महाराष्ट्र-400707 को की जा सकती है।अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 केअनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए।अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र का स्टांप लगाया जायेगाऔर साथ में यहआदेश या इसकी एक प्रति लगायी जायेगी।यदि इस 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 फीसअधिनियम1970 कीअनुसूची1, मद6 केअंतर्गत निर्धारित किया गया है।

3. इस निर्णय या आदेश के विरुद्धअपील 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

On the basis of the Analytics Report 13/2021-22 dated 13/05/2021 issued by the NCTC, Mumbai, on the issue of "short levy of BCD @ 2.5% on polymers of Vinyl Chloride (PVC)" the data pertaining to imports under CTH 3904 made by the importer M/s Kajal Plasto Chem Pvt.Ltd., through JNCH (INNSA1) was analysed in detail. It was observed that M/S Kajal Plasto Chem Pvt.Ltd. (IEC - 3106002433) having address as 37, 2nd Bhoiwada, 2nd Floor, Bhuleshwar, Mumbai-400002, had imported products of PVC classifying under heading 3904 vide various bills of entry availing ineligible BCD concessional benefit under Notification No. 50/2017-Cus dated 30.06.2017 (Sr. No. 267) from 06/07/2019 to 21/05/2022. The goods were cleared under on payment of BCD @ 7.5% instead of 10%.

2. With effect from 06/07/2019, the description of the said entry (Sr. No. 267) was amended to read as "All goods other than polymers of Vinyl Chloride" vide serial no. 19 of Notification No. 25/2019-Cus dated 06/07/2019, accordingly concessional BCD rate was withdrawn and said goods were to be cleared after payment of BCD @ 10%. Further, vide Sr. No. 3 of Notification No. 26/2022-Cus dated 21/05/2022, the description of the entry was again amended to read as " All Goods", accordingly concessional rate of 2.5% was again given to said goods. So, the said good were to be levied BCD @ 10% from 06/07/2019 to 21/05/2022. However, it appeared that importer had wrongly availed concessional benefit under Notification No. 50/2017-Cus dated 30.06.2017 (Sr. No. 267) for the period 06/07/2019 to 21/05/2022 and thus the duty not paid duty to incorrect availment of said exemption notification was recoverable from the importer.

3. The total assessable value of the BE items so imported is ₹1152900.00/- and it appears that a short levy of duty amounting to ₹37411.61/- (as detailed in Table-'A') was recoverable from the Importer along with applicable interest and penalty.

BE No & Date	Full Item description	Total Assessable Value	BCD rate	BCD Notification Serial No.	Total Duty Amount	Total Duty Foregone	SCD Amount	DIFF BCD	DIFF SCD	DIFF IGST	Total DIFF Duty
5594008 Date 08.11.2019	PVC Resin B57 Suspension Resin	1152900	7.5	267	319756.9	37411.5	8646.8	28822.5	2882.25	5706.85	37411.6

4. In view of the above, Consultative letter bearing No.1797 dated 13.01.2023 was issued to the importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty alongwith applicable interest and penalty. However, no reply or submission was given by importer in this regard.

5. Whereas, consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' had been introduced in customs clearance. Section 17 of the Customs Act, effective from 08.04.2011 [CBEC's (now CBIC) Circular No 17/2011 dated 08.04.2011] provided for self-assessment of duty on imported goods by the Importer himself by filing a bill of entry, in the electronic form. Section 46 of the Customs Act, 1962 made it mandatory for the Importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry should be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a bill of entry number was generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it was the Importer who had to ensure that he declared the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it was the added and enhanced responsibility of the Importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

6. Therefore, in view of the above facts, it appeared that the importer had deliberately not paid the duty by wilful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby had attempted to take undue benefit amounting to ₹37,411.61/-(as detailed in Table-'A'). Therefore, the differential duty, so not paid, was liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

7. Section 111(o) of Customs Act, 1962 provided for confiscation of the goods if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which condition was not observed unless the non-observance of the condition was sanctioned by the proper officer. Section 111(m) of Customs Act, 1962 provided for confiscation of the goods if any goods which did 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 transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54.

8. It appeared that the Importer had failed to comply with the conditions mentioned above; therefore, it also appeared that the imported goods were liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962.

9. It further appeared that the Importer for the acts of omission and commissions mentioned above had rendered themselves liable for penal action under section 112(a) and/ or 114A of the Customs Act. 1962.

10. In view of the above, the importer, M/s. Kajal Plasto Chem Pvt.Ltd. was called to show cause as to why:

(i) Differential/short paid Duty amounting to ₹ 37,411.61 /-for the subject goods imported vide Bills of Entry as detailed in Table-'A' should not be demanded under Section 28(4) of the Customs Act, 1962.

(ii) In addition to the duty short paid, interest on delayed payment of Custom Duty should not be recovered from the Importer under section 28AA of the Customs Act. 1962.

(iii) The said subject goods imported vide Bills of Entry as detailed in Table-'A' having assessable value of ₹11,52,900.00/- should not be held liable for confiscation under Section 111(m) and/or 111(o) of the Customs Act, 1962.Penalty should not be imposed on them under Section 112(a) of the Customs Act. 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.

(iv) Penalty should not be imposed under Section 114A of Customs Act, 1962 for short levy of duty.

WRITTEN SUBMISSIONS AND RECORDS OF PERSONAL HEARING

11. Observing the principle of Natural Justice, opportunities for personal hearing was granted to the Noticee on 12.09.2025. In this regard, an email dated 11.09.2025 was received from the noticee vide which it was informed that the said matter has already been covered under a different Show Cause Notice no. 619/21-22/Gr IIG/ JNCH dated 28.01.2022 for which they have already paid an anount Rs 52,372/-. In this regard, the noticee forwarded copies of aforementioned Show Cause Notice dated 28.01.2022 and copy of challan. The noticee further requested exemption from the Personal Hearing.

DISCUSSIONS AND FINDINGS

12. I have gone through the facts of the case, material on record and written submission of the importer. From the submission of the Importer as it appeared that on the Same issue another Show Cause Notice bearing No. 619/21-22/GR IIG/JNCH dated 28.01.2022 has already been issued to the importer, therefore, a letter Vide even file no. dated 26.09 2025 was written to the Assistant Commissioner, Group IIG, NS-I, JNCH requesting to provide clarity on the same. The Assistant Commissioner, Group IG was also requested to provide clarity on the observed difference in IEC Nos mentioned in the said two Show Cause Notices.

13. In this regard, a reply vide letter File No. S/26-Misc-509/2021-22/Gr IIG dated 01.10.2025 was received from the Assistant Commissioner, Group IIG, vide which it has been informed that *the same matter has already been adjudicated vide OIO No. 1363/2022-23/ADC/ NS-I/CAC/JNCH dated 10.02.2023*. Further, with regards to the IEC, it was informed by the Assistant Commissioner that *the correct IEC code was found as: 0397058896, which is same in the previous SCN and in OIO issued*.

14. I have further compared both the Show Cause Notices and the aforementioned Order in Original. In this regard I find that the issue contained, Bill of Entry, Demand and charges proposed in both the Show Cause Notices are the same, which has been dealt in the said Order in Original.

15. In view of the above, I find that since the instant matter is already covered by another Show Cause Notice No. 619/21-22/GR IIG/ JNCH dated 28.01.2022 which has already been adjudicated vide OI0 No. 1363/2022-23/ ADC/NS-I/CAC/JNCH dated 10.02.2023, therefore, without going into the merit of the case, I find that there is no requirement to proceed in the instant matter as the same will amount to double jeopardy. In this regard, I will rely on the case of State (NCT of Delhi) v. Sanjay - 2014 (9) SCC 772, wherein, the hon'ble Court inter alia held as follows:

"52. It is a well-known principle that the rule against double jeopardy is based on a maxim nemodebetbisvexari pro una et eademcausa, which means no man shall be put in jeopardy twice for one and the same offence. Article 20 of the

Constitution provides that no person shall be prosecuted or punished for the offence more than once. However, it is also settled that a subsequent trial or a prosecution and punishment has no bar if the ingredients of the two offences are distinct."

ORDER

16. In view of the finding that the instant Show Cause Notice is a duplicity of earlier issued Show Cause Notice No. 619/21-22/GR IIG/ JNCH dated 28.01.2022, which has already been adjudicated vide OIO No. 1363/2022 23/ADC/NS-I/CAC/JNCH dated 10.02.2023, therefore, I order for the conclusion of the proceedings initiated vide the instant Show Cause Notice No. 1357/2024-25/JC/Gr.II(G)/NS-I/CAC/JNCH dated 07.11.2024.

17. 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 provisions of the Customs Act,1962, and/or any other law for the time being in force in the Republic of India.

पारुल
9/10/25

(डॉ पारुल सिंघल/ Dr. PARUL SINGHAL)
संयुक्तआयुक्तसीमाशुल्क/Jt. Commissioner of Customs
ग्रुप-IIG, एन .एस-.I,जेएनसीएच ./Group-IIG, NS- I

To,
M/S Kajal Plasto Chem Pvt. Ltd.
37, 2nd Bhoiwada, 2nd Floor,
Bhuleshwar, Mumbai-400002.

Copy to:

1. The Additional Commissioner of Customs, Audit Circle D1, JNCH
2. The Deputy Commissioner of Customs, Central Adjudication Cell, JNCH.
3. The Deputy Commissioner of Customs, Gr IIG, JNCH.
4. The Deputy Commissioner of Customs, Review Cell, JNCH
5. The Deputy Commissioner of Customs, Recovery Cell, JNCH
6. The Deputy Commissioner, EDI, JNCH for uploading on JNCH website
7. Notice Board
8. Office Copy