



**OFFICE OF THE COMMISSIONER OF CUSTOMS
(NS-I),**

सीमाशुल्क आयुक्त का कार्यालय (एनएस-I)



**NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM
HOUSE,**

न्हावा-शेवा, जवाहरलाल नेहरू कस्टम हाउस,

**TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-
400707.**

ताल, उरण, जिला- रायगढ़-महाराष्ट्र 707 400 -

F.No.CUS/SHED/MISC/585/2025

Date of Order: 28-07-2025

5/10-AJ-29/25-26/IIA-B

Date of issue:

DIN No.- 20250778NW0000222060

Order Passed by: Shri K. Mahipal Chandra

Joint Commissioner of Customs (NS-I),

Gr II(A-B), JNCH, Nhava-Sheva

Order No. 562(L) /25-26/JC/Gr 2AB/NS-I/CAC/JNCH

आदेशसंख्या : (L) /25-26/JC/Gr 2AB/NS-I/CAC/JNCH

Name of Party/Noticee: M/s Bharat Link Private Limited (IEC No. AALCB4380J)

मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निशुल्क 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 सीमाशुल्क भवन, शेवा, ताउरण, जिला रायगढ़, महाराष्ट्र 400707- को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील 1982, नियमावली) के अनुसार फॉर्म सी1.ए. संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 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 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करनेवाला 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

- 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, Nhava-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.
- 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 Bharat Link Private Limited (IEC No. AALCB4380J), (*herein after referred to as the Importer*) having address UNIT NO: A-118, AMAR GYAN CO-OP PREMISES SOCIETY LTD, THANE WEST 400607 has filed the Bill of Entry No. 8897788 Dt. 15.03.2025 (*hereinafter referred to as the said BE*) for import of 'KCL Technical Type B with AC (Not for fertilizer related use) (Potassium chloride)' and classified the goods under CTH 28273990 in said bill of entry. The details are as per Table-A below:-

Table-A

Sr. No	Items Description	Declared CTH	Quantity(NET Weight(NW)/NOS)	Total Assessable Value(Rs.)	Duty applicable
1.	KCL Technical Type B with AC (Not for fertilizer related use) (Potassium chloride)	28273990	24500 Kgs.	Rs. 10,38,981/-	Rs. 2,88,162/-

2. The said bill of entry was assessed on 2nd check basis and goods to be examined 100% as per examination order. The docks officer has forwarded the file to Group-IIAB with the following observation:-

2.1. As per examination order, the goods were examined and on examination goods were found as declared in terms of quantity. As per the Customs Tariff, heading 2827 covers *Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides*. However, on going through explanatory notes for this heading 2827 issued by World Customs Organization (WCO), potassium chloride, even in the pure state, fall in headings 31.04 or 31.05 and it is excluded from heading 2827. Reference of the said explanatory notes is attached herewith. Since there is only one fertilizing element (Potassium) in the said imported goods and it contains 98% KCL, therefore, it should be classified in CTH 31042000 of heading 3104.

2.2 From the above para, it appears that goods should be classified in chapter 31 and this chapter covers most products in general use as natural or artificial fertilisers. Further, on going through **manufacture's website** (Dead Sea Works Ltd, Israel), it appears that imported goods Potassium Chloride (generally known as Potash) are used as fertilisers. Therefore, it appears that imported goods may be used as fertiliser and provisions of Fertiliser Control Order, 1985 should be applicable on the said goods.

2.3 On the basis of above, it appears that imported goods appears to be mis-declared in terms of classification and provisions of Fertiliser Control Order, 1985 to be applicable on the said goods.

3. Upon perusal of the objection raised by the Docks officer, this office has ordered for sampling of the impugned goods. The representative sealed samples were drawn and forwarded to DYCC, JNCH for testing the same.

3.1 The DYCC has submitted its report Lab No. 794/II dated 16.06.2025 in respect of the Bill of Entry No. 8897788 dated 15.05.2025 which states:

"The sample as received is in the form of white crystalline powder. it is composed of potassium chloride.

% of Potassium Chloride = 97.95%.

As per IS:4150-1984, reaffirmed-2000, it falls under the category of technical (grade-2).

Actual end use of sample may be ascertained at your end."

3.2 Further, Regional Fertiliser Control Laboratory (RFCL) has also endorsed on the physical copy of the Bill of Entry that "the Item (KCL technical type B) imported for the industrial use as per end use declaration not for agriculture use. It is out of Scope."

4. As per the Customs Tariff, heading 2827 covers *Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides*. However, on going through explanatory notes for this heading 2827 issued by World Customs Organization (WCO), potassium chloride, even in the pure state, fall in headings 31.04 or 31.05 and it is excluded from heading 2827. Reference of the said explanatory notes is attached herewith. Since there is only one fertilizing element (Potassium) in the said imported goods and it contains 98% KCL, therefore, it should be classified in CTH 31042000 of heading 3104.

5. In view of the above, that imported goods appears to be mis-declared in terms of classification as the importer has classified the goods under CTH 28273990 instead of 31042000. Hence, the impugned goods appear to be liable

to confiscation under section 111(m) of the Customs Act, 1962.

WRITTEN SUBMISSIONS AND RECORD OF PERSONAL HEARING

6. The importer vide letter dated 22.07.2025 has requested not to issue any PH (personal Hearing) and SCN in the subject matter.

DISCUSSIONS AND FINDING

7. I have carefully gone through the facts, submissions made by the importer, available records, and applicable provisions of the Acts/Rules/Notifications/Circulars etc. The importer has requested for waiver of personal hearing and SCN. Thus, I find that principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been complied with and I therefore, proceed based on facts of the case and available records which have already been narrated in the initial portion of this order. I find that the main issue before me is to decide:

- Whether the declared CTH 28273990 of the impugned goods is liable for rejection and the same is classifiable under CTH 31042000;
- Whether goods are liable for confiscation under Section 111(m) of Customs Act, 1962;
- Whether importer is liable for penalty under Section 112(a) of Customs Act, 1962;

8. I find that the DYCC JNCH vide its report No. 794/II dated 16.06.2025 has confirmed that **as per IS:4150-1984, reaffirmed-2000, potassium chloride falls under the category of technical (grade-2) and** Regional Fertiliser Control Laboratory (RFCL) has also endorsed on the physical copy of the Bill of Entry that **"the Item (KCL technical type B) imported for the industrial use as per end use declaration not for agriculture use. It is out of Scope."**

9. I also find that as per the Customs Tariff, heading 2827 covers *Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides*. However, on going through explanatory notes for this heading 2827 issued by World Customs Organization (WCO), potassium chloride, even in the pure state, fall in headings 31.04 or 31.05 and it is excluded from heading 2827. Reference of the said explanatory notes is attached herewith. Since there is only one fertilizing element (Potassium) in the said imported goods and it contains 98% KCL, therefore, I find the impugned goods should be classified under CTH 31042000 instead of 28273990.

10. In view of the discussions in the above Paras, I find that the importer has mis-declared the impugned goods covered under Bill of Entry 8897788 dated 15.05.2025 in terms of classification. Therefore, the goods covered under said Bill of Entry are liable for confiscation under Section 111(m) of the Customs Act, 1962.

11. As the goods have been held liable to confiscation under Section 111(m) of the Customs Act, 1962 read, I find that the Importer, for its acts of omission and commission, is liable for penalty under Section 112(a)(ii) of the Act.

12. Section 125 of the Customs Act, 1962 provides that 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 an option to pay in lieu of confiscation such fine as the said officers thinks fit. In the present case, I find that the DYCC, JNCH has confirmed that the imported goods "potassium chloride is of technical grade and further, RFCL has also endorsed on the physical copy of the Bill of Entry that **"the Item (KCL technical type B) imported for the industrial use as per end use declaration not for agriculture use. It is out of Scope."** Accordingly, I hereby offer the option to pay a redemption fine under Section 125 of the Customs Act, 1962, in lieu of confiscation of the mis-declared goods for clearance purpose.

13. I find that there is no revenue implication due to change of classification from CTH 28273990 to CTH 31042000, therefore, I am taking a lenient view to imposing Redemption Fine and Personal Penalty.

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

ORDER

- i. I reject the declared CTH 28273990 of the imported goods under Bill of Entry 8897788 dated 15.05.2025 and order to re-classify the same under CTH 31042000.
- ii. I order for confiscation of goods imported vide Bill of Entry 8897788 dated 15.05.2025 having total Assessable value of **Rs. 10,38,981/- (Rupees Ten Lakhs Thirty Eight Thousand Nine Hundred and Eighty One Only)** under Section 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem the goods on payment of redemption fine of Rs. 25,000 (Rupees Twenty Five Thousand Only) under section 125(1) of the Customs Act, 1962.
- iii. I impose a penalty of Rs. 5,000 (Rupees Five Thousand Only) under Section 112 (a) (ii) of the Customs Act,

1962 on the Importer.

iv. The Importer is also liable to pay applicable duty and charges (if any) in terms of Section 125(2) of customs Act, 1962 in addition to Redemption fine and penalty imposed above.

15. This Order is issued without any prejudice to any other action that may be taken against the said goods/notice and or/against any other firm/person concern under the provision of Customs Act, 1962 and are any other law for the time being in force, in India.

Digitally signed by
K Mahipal Chandra
Date: 28-07-2025
13:24:26

(K. Mahipal Chandra)
Joint Commissioner of Customs,
Group 2AB, NS-I, JNCH

To,
✓ M/s Bharat Link Private Limited (IEC No. AALCB4380J),
UNIT NO: A-118, AMAR GYAN CO-OP PREMISES SOCIETY LTD,
THANE WEST 400607

Issued by speed post
EM 71 8637786IN

Copy to:

1. The Commissioner of Customs, NS-I, JNCH
- ✓ 2. The Deputy Commissioner of Customs, CRAC, JNCH
- ✓ 3. The Deputy Commissioner of Customs, CAC, JNCH (for information)
4. The Deputy Commissioner of Customs, EDI, JNCH
- ✓ 5. Office Copy.
6. Notice Board.

