



□ □ (□ - II)□□ ,
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS- II,
 □ □ □ □ , □ ,
JAWAHAR LAL NEHRU CUSTOM HOUSE, NHAVA - SHEVA,
 □ □ , □ - □ - 400707, □ .
TAL. URAN DIST- RAIGAD - 400 707, MAHARASHTRA.

F. No. CUS/DOCK/414-2025Exp(Docks)

Date of Order: ०१. ११. 2025

Date of issue : ०३. ११. 2025

DIN NO.: 20251178 NT000000F15E

Order passed by: **Ms. Sangeeta Adhikari,**
Asst. Commissioner of Customs,
CEAC (NS-II), JNCH, NHAVA SHEVA

Order-in-Original No. 1334 /2025-26/AC/CEAC/NS-II/CAC/JNCH

Name of the Party/Noticee: M/s. LEBEN LABORATORIES PVT. LTD.. (IEC No. 0396056695)

मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 कीधारा 128 (1) के तहत इस आदेशकी 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.ए.-1 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।
- 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

- 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 (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.
- 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.



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TAL. URAN DIST- RAIGAD - 400 707, MAHARASHTRA.

F. No. CUS/DOCK/414-2025Exp(Docks)

Date of Order: .2025

Date of issue : .2025

DIN NO.:

Order passed by: **Ms. Sangeeta Adhikari,**
Asst. Commissioner of Customs,
CEAC (NS-II), JNCH, NHAVA SHEVA

Order-in-Original No. /2025-26/AC/CEAC/NS-II/CAC/JNCH

Name of the Party/Noticee: M/s. LEBEN LABORATORIES PVT. LTD.. (IEC No. 0396056695)

मूलआदेश

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

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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.

BRIEF FACTS OF THE CASE

M/s. LEBEN LABORATORIES PVT. LTD.. (IEC No.0396056695) having registered address at L4 & L5, Phase III, MIDC Akola-444104, Maharashtra (hereinafter called as **"the Exporter"** or **"the Noticee"** for sake of brevity) has filed a Shipping Bill No. 5058709 DT 05.09.2025 through their authorized Customs Broker firm, M/s. MOHANLAL & BROTHERS (CB No. 11/243) (hereinafter referred to as **"the CB"**) for the export of "various Pharmaceutical Products" (hereinafter called as **"the goods"**) in a Factory Stuffed Container No. SEGU6439221 along with shipping bills 5059352 DT 05.09.2025, 5058993 DT 05.09.2025, 5059283 DT 05.09.2025, 5058871 DT 05.09.2025 and 5059164 DT 05.09.2025. While examination of goods, drugs combination of 2 items covered under **Shipping Bill No. 5058709 Dt. 05.09.2025** mentioned in invoice at Sr. No. 27 as "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" and at Sr. No. 33,34 and 35 as "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" were found listed in banned list. The details of the goods are as under:

TABLE - I

Sr. No .	S/Bill No. & Date	Description of Goods	Declare d Qty. (Boxes)	RIT C	FOB Value (in Rs.)	Drawba ck Claimed (in Rs.)	RoDTEP Claimed (in Rs.)	IGST Claimed (in Rs.)
1	5058709 DT 05.09.20 25	KELVIN-P LITE SYRUP” with composition as “PARACETAMOL and PROMETHAZINE (Item No. 27)	7231	300 490 29	2,31,044	2,524.34	1,473	27,725.22
2		SINURHON TABLET” with composition as “CHLORPHENIRAMI NE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrou s) (item no 33,34,35)	1859	300 490 93	5,06,116	5,529.72/-	3,225/-	60,733.88/-
3		Other remaining goods in the S/Bill			49,75,846			
TOTAL FOB of S/ Bill					57,13,006	66,138	38,581	7,66,243

2. OBSERVATIONS OF THE DOCKS OFFICER AND EXAMINATION OF THE

GOODS: During scrutiny of the documents, the Docks Officer observed that goods at Sr. No. 27 as "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" and at Sr. No. 33,34 and 35 as "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" classified under RITC 3004 9029 and 300 9093 respectively. These tablets are Banned/Restricted as per Sr. No. 195 and 105 of List of Drugs Prohibited for Manufacture and Sale through Gazetted Notifications issued by The Ministry of Health & Family Welfare u/s. 26A of the Drugs & Cosmetics Act, 1940. Accordingly, it is mandated that export of the Pharmaceutical Products having above

combination are Banned/Restricted for export without NOC from Central Drugs Standard Control Organization ('CDSCO' in short).

2.1. This fact was brought to the notice of the Exporter through their authorized CB. In response, the Exporter produced No-Objection Certificate (NOC) from CDSCO wherein NOC was granted to the exporter to manufacture the above-mentioned combination at Sr. No. 27 on 18.09.2025. However, it was observed that the goods had marking of Manufacturing Date (July2025) i.e. prior to NOC to manufacturer was given on 18.09.2025. Therefore, it is apparent that the goods were manufactured before granting NOC by CDSCO and are attempted to be exported vide impugned S/Bill before obtaining NOC from CDSCO and the same was obtained subsequently on 18.09.2025. Therefore, it is apparent that the requisite NOC was not available with the Exporter at the time of filing of the S/Bill and carting of the goods and presented before Customs Authority for exportation.

Further the CDSCO NOC for items at Sr. No. 33,34,35 of the invoice was granted to the exporter to manufacture the above-mentioned combination on 27.09.2025. In this case also goods were manufactured before granting NOC by CDSCO and are attempted to be exported vide impugned S/Bill before obtaining NOC from CDSCO and the same was obtained subsequently on 27.09.2025. Therefore, it is apparent that the requisite NOC was not available with the Exporter at the time of filing of the S/Bill and carting of the goods and presented before Customs Authority for exportation.

2.2. Further, Condition No. 4 of the NOC states "The stocks of the drugs manufactured shall invariably bear the inscription "For Export only-Not for Domestic Consumption" on the labels affixed to their cartons/packaging", however, on physical examination of goods, it is noticed that the goods do not have any such markings/inscription on it, which is mandatory as per CDSCO NOC.

3. As the Exporter has produced a NOC for "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" mentioned at Sr. No. 27 and SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" mentioned at Sr. No. 33,34 and 35 from CDSCO for 'Manufacture' and 'Export Only' of the impugned goods, however, the Docks Officer noticed that the subject CDSCO NOC is post-dated, i.e. issued after manufacture of the goods and carted the same for export at JNCH Port and as exporter failed to produce any NOC for goods, therefore, the issue was referred to CEAC Section, JNCH for adjudication purpose.

4. RELEVANT LEGAL PROVISIONS:

4.1. The Customs Act, 1962:

- A. **Section 11H (a) of the Customs Act, 1962:** "illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force.
- B. **Section 50 of the Customs Act, 1962: Entry of goods for exportation.**
 (1) The exporter of any goods shall make entry thereof by presenting [electronically] on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods

to be exported by land, a bill of export [in such form and manner as may be prescribed]:

Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner.]

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section 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.

C. **Section 113 (d) of the Customs Act, 1962:** any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force, shall be liable to confiscation.

D. **Section 114 (i) of the Customs Act, 1962:** Any person 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 113, or abets the doing or omission of such an act, shall be liable, 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 not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is the greater.

E. **Section 118. Confiscation of packages and their contents. -**

...

(b) Where any goods are brought in a package within the limits of a Customs area for the purpose of exportation and are liable to confiscation, the package and any other goods contained therein shall also be liable to confiscation.

4.2. **Foreign Trade (Development and Regulation) Act, 1992:**

A. **Section 11:** (1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made there under and the foreign trade policy for the time being in force.

5. The exporter has filed a Drawback S/Bill No. 5058709 DT 05.09.2025 through CB, M/s. MOHANLAL & BROTHERS (CB No. 11/243) for the export of Pharmaceutical Products to Malawi . The declared FOB Value of the said goods covered under above mentioned S/Bill is Rs. 57,13,006.28/- and the Exporter has claimed Drawback amounting to Rs. 66,138.03/-; RoDTEP amounting to Rs. 38,580.52/- and IGST Refund amounting to Rs. 7,66,242.92/-.

5.1. The subject goods were brought to JNCH Port for export in a Factory Stuffed Container. However, the Docks Officer on perusal of the supporting documents observed that the Item No. 27 of the S/Bill, is declared as "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE and item no 33,34 and 35 as "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous). The constituents of the subject Tablets are 'Restricted' in nature and required a NOC from

CDSCO for its manufacture as well as export. However, the Importer has not produced the requisite NOC along with export documents. Hence, the Exporter was appraised and advised to submit the said NOC. In response, the Exporter has produced CDSCO NOC dated 18.09.2025 for "KELVIN-P LITE SYRUP" and 27.09.2025 for "SINURHON TABLET". However, the Docks Officer noticed that the subject Tablets were manufactured in the month of July 2025 and carted the same for exportation in factory stuffed container on 05.09.2025, whereas, the CDSCO has issued NOC for the impugned goods on 18.09.2025 and 27.09.2025 (which has submitted by the Exporter to the Docks Officer on a query is being raised), i.e. after manufacture and carting of goods for exportation.

5.2. On perusal of subject NOC, the Docks Officer noticed that condition No. 4 of the said NOC stipulated that the impugned goods should carry a declaration on it to the effect that "For Export only-Not for Domestic Consumption". Therefore, the Docks Officer after obtaining permission from the Competent Authority has opened the said Factory Stuffed container and physically examined the goods, which revealed that no such declaration is available on the consignment. Therefore, it is apparent that the Exporter has attempted to export 'Restricted Goods' out of India without valid NOC from CDSCO and requisite inscription on the impugned goods. The Exporter has submitted the other requisite documents except the CDSCO NOC and requisite declaration of "FOR EXPORT ONLY" on the goods, which is mandatory in exportation of the impugned goods.

5.3. It is pertinent to mention here that 'Restricted Goods' under the Customs Act are items whose import or export is not absolutely prohibited but requires prior authorization in the form of an Import/Export License from the DGFT or other Competent Authorities, CDSCO in present case. Examples of Restricted Goods for export under Indian law include certain chemicals, pharmaceuticals, drones and specific electronics. Without the necessary license or fulfillment of prescribed conditions, Restricted Goods are liable for confiscation, and the importer or exporter may face fine/penalties u/s. 113 & 114 of the Customs Act, 1962.

5.4. Thus, the Exporter has attempted to export the goods, i.e. "KELVIN-P LITE SYRUP" (Item No. 27 of the S/Bill) and "SINURHON TABLET" (Item No. 33, 34, 35 of the S/Bill) to Malawi is a 'Restricted Item' in terms of List of Drugs Prohibited for Manufacture and Sale (Sr. No. 105 and 195) issued by The Ministry of Health & Family Welfare through Gazetted Notifications u/s. 26A of the Drugs & Cosmetics Act, 1940. The export of said goods can only be allowed against NOC issued by CDSCO. In the instant case, it is apparent that the Exporter has applied to CDSCO for issuance of such NOC, however, manufactured the impugned goods and attempted to export the same without obtaining NOC from CDSCO. Therefore, it appears that the Exporter has attempted to export "KELVIN-P LITE SYRUP" (Item No. 27 of the S/Bill) and "SINURHON TABLET" (Item No. 33, 34, 35 of the S/Bill) having banned/restricted constituents in violation of Restriction imposed by CDSCO, which they have produced on being asked for the same by the Docks Officer, that too found to be post-dated.

5.5. It is the responsibility of the Exporter to ensure 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, thus, by attempting to export the Restricted Goods without NOC and that too without inscription "FOR EXPORT ONLY" on the goods, the Exporter has violated the provisions of Section 50 (3) of the Customs Act, 1962 and provisions of section 11 of Foreign Trade (Development and Regulation) Act, 1992 in as much, as they filed S/Bill to the Customs Authorities in respect of goods which required NOC from CDSCO for being exported. However, the Exporter has produced the requisite NOC from CDSCO after the goods were manufactured and being carted before Customs Authorities for exportation.

5.6. Section 50 (3) of the Customs Act, 1962 mandates that the Exporter who presents a S/Bill under the said Section shall ensure the 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. As the Exporter had not made declaration truthfully in the said S/Bill, they have contravened these provisions in as much as they have filed S/Bill without having valid NOC issued by the CDSCO. Thus, it appears that the said goods were attempted to be exported in violation of Section 50 (3) of the Customs Act, 1962 read with Section 11 (1) of Foreign Trade (Development & Regulation) Act 1992, as the Exporter had not furnished requisite CDSCO NOC to the Custom Authorities along with other export documents at the time of carting of the goods.

5.7. The attempt to export the impugned goods is considered as violation of Restriction imposed by CDSCO under Drugs & Cosmetics Act, 1940 appears to fall under the ambit of Section 11H (a) of Customs Act, 1962, as the act amounts to 'illegal export' by them in as much as they attempted to export the goods in contravention to provisions of section 50 (3) of the Customs Act, 1962 read with Section 11 of Foreign Trade (Development and Regulation) Act, 1992. As discussed herein above, the subject goods covered under S/Bill No. 5058709 DT 05.09.2025 i.e. "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" and "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL" are Restricted Items in terms of its constituents.

5.8. Any Prohibition referred to in the Section 113 (d) of the Customs Act, 1962 apply to any type of Prohibition, i.e. complete or partial. It is well settled law that any Restriction on import or export is to an extent a 'Prohibition' and therefore, expression 'any Prohibition' in section 113 (d) of Customs Act, 1962 includes restrictions. 'Restriction' is one type of 'Prohibition', if policy condition is not fulfilled or complied with. In the instant case, goods do not fulfil the condition for their export as they violate the provisions specified in Drugs & Cosmetics Act, 1962, provisions of Foreign Trade (Development and Regulation) Act, 1992 and provisions of the Customs Act, 1962 as discussed above, they are to be deemed 'Prohibited'. In view of the above, goods covered under the subject S/Bill No. 5058709 DT 05.09.2025 i.e. "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" and "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL (Item No. 27, 33, 34 and 35 of the S/Bill) having FOB value of Rs. 2,31,044/- and Rs. 5,06,116/- respectively are therefore liable to be confiscated u/s. 113 (d) of the Customs Act, 1962. These acts of omission and commission on the part of the Exporting firm rendered them liable for penal action u/s. 114 (i) *ibid*.

6. It is thus cogent and clear that the Exporter had attempted to export KELVIN-P LITE SYRUP and "SINURHON TABLET" (a Restricted Item due to its constituents) under S/Bill No. **5058709 Dt. 05.09.2025** without fulfilling the conditions of Restriction imposed by the CDSCO under the provisions of Drugs and Cosmetics Act, 1940, and thereby acted in a manner which rendered the said goods liable for confiscation in terms of the provisions of Section 113 (d) of the Customs Act, 1962.

6.1. It further appears that the Exporter have rendered themselves liable to penalty in terms of Section 114 (i) of the Customs Act, 1962 on account of attempting to export improperly as their omission and commission has rendered the goods liable for confiscation u/s. 113 *ibid*.

7. Based on the facts depicted above, it appears that:

- i. The impugned export goods declared as "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" (Item No. 27 of the S/Bill) attempted to be exported under S/Bill No. **5058709 Dt. 05.09.2025** having total FOB value of Rs. 2,31,044/- are liable for confiscation u/s. 113 (d) of the Customs Act, 1962.
- ii. The impugned export goods declared as "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" (Item No. 33, 34, 35 of the S/Bill) attempted to be exported under S/Bill No. **5058709 Dt. 05.09.2025** having total FOB value of Rs. 5,06,116/- are liable for confiscation u/s. 113 (d) of the Customs Act, 1962.
- ii. M/s. LEBEN LABORATORIES PVT. LTD.(IEC No.0396056695) is liable for penalty u/s. 114 (i) of the Customs Act, 1962.

8. The Exporter vide their letter dated 24.10.2025 requested for waiver of SCN and PH in the matter and requested to decide the case on merits.

9. At the request of the Exporter, grounds on which it is proposed to confiscate the goods or to impose penalty has been orally explained to the Exporter. The Exporter requested to take a lenient view and grant permission to export the goods to the desired destination as they have applied and received requisite CDSCO NOC. The Exporter vide letter dated 24.10.2025 addressed to the Asstt. Commissioner, CEAC, JNCH voluntarily requested for waiver of SCN and PH in the matter and to decide the case on merits. Accordingly, in terms of first proviso to Section 124 of the Customs Act, 1962, written notice has not been given to the Exporter, however, they were sensitized by the Officers of CEAC, JNCH w.r.t. proposed provisions of Customs Act for confiscation of the goods and imposition of fine/penalty on them.

RECORDING OF PERSONAL HEARING

10. The allegations levelled against the Exporter firm in the present matter have been appraised to them as stipulated in provisions of Section 124 of the Customs Act, 1962, which has been acknowledge by the Exporter. The Exporter vide letter dated 24.10.2025 addressed to the Dy. Commissioner of Customs, CEAC, JNCH specifically and voluntarily

requested for waiver of SCN and PH and requested to decide the said case on merit on the basis of facts of the case. Therefore, no PH was conducted in the present case.

DISCUSSION AND FINDINGS

11. I have carefully gone through the facts of the case and evidences available on records. I find that in the instant case, the Exporter vide their letter dated 24.10.2025 requested the department for waiver of SCN and PH in the instant case and decide the case on merits. I find that in the instant case, the Exporter has failed to produce requisite CDSCO NOC for export of "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" mentioned at Sr. No. 27 of the S/ Bill and as "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" at Sr. No. 33,34 and 35 of the S/ Bill, however, requested to grant the permission to export the goods as they have obtained NOC from CDSCO which covered the present consignment. I find that the Exporter vide letter dated 24.10.2025 requested for waiver of SCN and PH. Accordingly, I accept the request of Exporting firm for waiver of SCN and PH and I proceed to adjudicate the case on merits on the basis of evidences available on records.

12. I find that in the instant case, M/s. LEBEN LABORATORIES PVT. LTD. has filed a S/Bill No. 5058709 DT 05.09.2025 through their authorized Customs Broker firm, M/s. MOHANLAL & BROTHERS (CB No. 11/243) for the export of various "Pharmaceutical Products" in a Factory Stuffed Container No. SEGU6439221. The declared FOB Value of the said goods covered under above mentioned S/Bill is Rs. 57,13,006.28/- and the Exporter has claimed Drawback amounting to Rs. 66,138.03/-; RoDTEP amounting to Rs. 38,580.52/- and IGST Refund amounting to Rs. 7,66,242.92/, as detailed in Table-I above.

13. I find that the Export Docks Officer, during the course of scrutiny of the documents and subsequent export of the goods, observed that the goods declared at Sr. No. 27 as "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" and at Sr. No. 33,34 and 35 as "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" falls under the category of 'Restricted Goods' under List of Drugs Prohibited for Manufacture and Sale (Sr. No. 195 and 105) issued by the Ministry of Health & Family Welfare u/s. 26A of the Drugs & Cosmetics Act, 1940 through Gazetted Notifications. The export of said item requires NOC from CDSCO. In the instant case, the Exporter has submitted the requisite NOC dated 18.09.2025 and 27.09.2025 issued by CDSCO post manufacture and carting of the goods. Also, the Docks Officer noticed that in terms of Condition No. 4 of the CDSCO NOC, the mandatory inscription "For Export only-Not for Domestic Consumption" on the impugned goods.

14. I find that the Docks Officer directed the CB firm to produce NOC issued by CDSCO. In response, the Exporter produced a No-Objection Certificate (NOC) from CDSCO wherein NOC was granted to the exporter to manufacture the above-mentioned combination at Sr. No. 27 on 18.09.2025. However, it was observed that the goods had

marking of Manufacturing Date (July2025) i.e. prior to NOC given on 18.09.2025. Therefore, I note that the goods were manufactured before granting NOC by CDSCO and are attempted to be exported vide impugned S/Bill before obtaining NOC from CDSCO and the same was obtained subsequently on 18.09.2025. Therefore, it is apparent that the requisite NOC was not available with the Exporter at the time of filing of the S/Bill and carting of the goods and presented before Customs Authority for exportation.

Further the CDSCO NOC for items at Sr. No. 33,34,35 of the invoice was granted to the exporter to manufacture the above-mentioned combination on 27.09.2025. In this case also, goods were manufactured before granting NOC by CDSCO and are attempted to be exported vide impugned S/Bill before obtaining NOC from CDSCO and the same was obtained subsequently on 27.09.2025. Therefore, I note that the requisite NOC was not available with the Exporter at the time of filing of the S/Bill and carting of the goods and presented before Customs Authority for exportation. Therefore, though it is a matter of fact that at the time of filing of S/Bill the exporter was not in possession of requisite CDSCO NOC, therefore, I am inclined to hold the goods liable for confiscation u/s. 113 (d) of the Customs Act, 1962, however, I am inclined to grant permission to export the goods and take a lenient view while imposing Fine/ Penalty on the Exporter.

15. I find that the Exporter has furnished the CDSCO NOC dated 18.09.2025 and 27.09.2025 and requested to grant them permission to export the goods to the desired destination.

15.1. The above facts make it clear that though the goods attempted to be exported by the Exporter are actually 'Restricted Goods', hence, required NOC from CDSCO for exportation, which they have submitted on 18.09.2025 and 27.09.2025. Therefore, it is apparent that the Exporter has attempted to export, these Restricted Goods without valid NOC from CDSCO.

16. In view of the discussions above, I find that the Exporter has attempted to export of "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" and "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous) vide above mentioned S/Bill, which are 'Restricted Goods', hence, the Exporter has contravened the provisions of Section 50 (3) of the Customs Act, 1962 read with Section 11 of FT (D&R) Act, 1992. Therefore, I find and hold that the impugned goods liable, for confiscation under the provisions of Section 113 (d) of the Customs Act, 1962. However, as the exporter has submitted CDSCO NOC dated 18.09.2025 and 27.09.2025 which covered the goods under present S/Bill, I am inclined to allow the goods to be exported subject to payment of Redemption Fine u/s. 125 of the Customs Act, 1962.

16.1. I find that consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of export incentives on exported goods by the exporter himself by filing a S/Bill, in the electronic form. Section 50 of the Customs Act, 1962 makes it mandatory for the exporter to make entry for the export goods by presenting a S/Bill electronically to the

Proper Officer. Thus, under self-assessment, it is the exporter who has to ensure that he declares the correct RITC, applicable export incentives, value in respect of the export goods while presenting the S/Bill. Self-Assessment can result in assured facilitation for compliant exporters. However, delinquent exporters would face penal action on account of wrong self-assessment made with intent to evade duty or avoid compliance of conditions of Notifications, Foreign Trade Policy or to avail undue export benefits/incentives or any other provisions under the Customs Act, 1962 or the allied Acts. However, the facts as stated above appear to reveal that the Exporter has attempted to export 'Restricted Goods' for export Banned List of Drugs issued by Ministry of Health and Family Welfare, without valid NOC from the CDSCO as well as without inscription on the subject goods to the effect that the subject goods are for Export Only, which is mandatory for export of the subject goods. These acts of omission and commission on the part of the Exporter is in contravention of provisions of Customs Act and FT (D&R) Act, which rendered the goods liable for confiscation under the provisions of Section 113 (d) of the Customs Act, 1962.

16.2. I find that the goods, viz. "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" (Item No. 27 of the S/Bill) having total FOB value of Rs. 2,31,044/- and "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" (Item No. 33, 34, 35 of the S/Bill) having total FOB value of Rs. 5,06,116/- are in custody of Customs and same is liable for confiscation in terms of Section 113 (d) of the Customs Act, 1962, however, as the Exporter has requested to release the goods for exportation, the same are being allowed on imposition of redemption fine u/s. 125 of the Customs Act, 1962.

16.3. Therefore, I find and hold that the offending goods, viz. "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" (Item No. 27 of the S/Bill) having total FOB value of Rs. 2,31,044/- and "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" (Item No. 33, 34, 35 of the S/Bill) having total FOB value of Rs. 5,06,116/- are liable for confiscation u/s. 113 (d) of the Customs Act, 1962, however, I am inclined to allow the goods to be exported to Malawi on payment of Redemption Fine u/s. 125 *ibid*.

17. I find that the acts of omission and commission on the part of the Exporter, who attempted to export 'Restricted Goods', without valid NOC issued by CDSCO, has rendered the goods liable for confiscation u/s. 113 of the Customs Act, 1962 which rendered the Exporters liable for penal action u/s. 114 (i) *ibid*, and I hold so.

18. In view of the above discussions, I pass the following order.

ORDER

19.

(i) I order confiscation of goods viz. "KELVIN-P LITE SYRUP" with composition as "PARACETAMOL and PROMETHAZINE" (Item No. 27 of the S/Bill) having total FOB

value of Rs. 2,31,044/- and "SINURHON TABLET" with composition as "CHLORPHENIRAMINE MALEATE, PHENYLEPHRINE HYDROCHLORIDE, PARACETAMOL and CAFFEINE(Anhydrous)" (Item No. 33, 34, 35 of the S/Bill) having total FOB value of Rs. 5,06,116/- attempted to be exported vide S/Bill No. 5058709 DT 05.09.2025 filed by the Exporter, M/s. LEBEN LABORATORIES PVT. LTD. under the provisions of Section 113 (d) of the Customs Act, 1962 being 'Restricted' in nature (Item No. 3 of the S/Bill).

(ii) I order to redeem the goods for exportation on payment of Redemption Fine of **Rs. 30,000/- (Rupees Thirty Thousand only)** by the Exporter, M/s. LEBEN LABORATORIES PVT. LTD. u/s. 125 of the said Act *ibid*.

(iii) I impose a penalty of **Rs 60,000/- (Rupees Sixty Thousand only)** on the Exporter, M/s. LEBEN LABORATORIES PVT. LTD. under the provisions of Section 114 (i) of the Customs Act, 1962.

20. This order is issued without prejudice to any other action that may be taken against the Noticee(s) or any other person(s) concerned with the said goods under the Customs Act, 1962 or any other law for the time being in force in India.

SA
1/11/25

(Ms. Sangeeta Adhikari)
Asst. Commissioner of Customs,
CEAC (NS-II), JNCH.

To,

M/s. LEBEN LABORATORIES PVT. LTD.,
L4 & L5, Phase III, MIDC Akola-444104,
Maharashtra

Copy to:

1. The Commissioner of Customs, NS-II, JNCH, Nhava Sheva.
2. The Dy. Commissioner of Customs, Review Cell, NS-II, JNCH, Nhava Sheva.
3. The Dy. Commissioner of Customs, CRRC Cell, NS-II, JNCH, Nhava Sheva.
4. The Dy. Commissioner of Customs, CAC, NS-II, JNCH, Nhava Sheva
5. EDI Section, for upload on the JNCH website.
6. The Supdt., CHS, JNCH, Nhava Sheva - for display on Notice Board.
7. Office Copy.