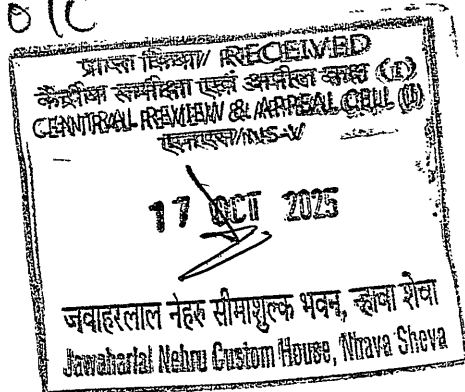


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भारत सरकार/ Government of India
वित्त मंत्रालय/ Ministry of Finance
आयुक्त सीमा शुल्क एनएस-II का कार्यालय,
केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन
न्हावा शेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र 400-707
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
CENTRALIZED ADJUDICATION CELL,
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA
SHEVA,
DIST- RAIGAD, MAHARASHTRA-400707



F.No. : S/10-27/2025-26/ADC/LIC/NS-II/CAC/JNCH

S/40-LUT-2794/2014 Gr.VIID/JNCH

आदेशकीतिथि : 16.10.2025

SCN No. 1151/2018-19/DMC/JNCH

जारी किए जाने की तिथि : 16.10.2025

Order Passed by:

Chittaranjan Prakash Wagh
Additional Commissioner of Customs,
एनएस-II, जेएनसीएच.

डॉ. चितरंजन प्रकाश वाघ
अतिरिक्त आयुक्त, सीमा शुल्क
(NS-II), JNCH, NHAVA SHEVA

Dr

आदेशसंख्या25-26/ :/ADC/NS-II/LIC/CAC/JNCH

Order No. : 984 /25-26/ADC/NS-II/LIC/CAC/JNCH

DIN NO. : 20251078NT000000400A

Name of Party : M/s Schwabe Incoat (IEC No. 0396022006)

मूल आदेश

Order-In-Original

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

1. This copy is granted free of charge for the use of the person to whom it is issued.

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 (अपील (नियमावली, 1982 में संलग्न फॉर्म सी.ए1. 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 इस की 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।

2. An appeal against this order lies with the Commissioner of Customs (Appeals), Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad under Section 128 (1) of the Custom 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 appeared in Custom (Appeals) Rule, 1982. The appeal should bear a court fee stamp of ₹ 2.00 rupees paid 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 ₹ 2.00 rupees only as prescribed under Schedule 1, item 6 of the Court Fees Act, 1870.

3. 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।

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.

Sub:-Adjudication of Show Cause Notice No. 1151/2018-19/DMC/JNCH dated 18.12.2018 issued to M/s. Schwabe Incoat (IEC No. 0396022006).

BRIEF FACT OF THE CASE

1. M/s Schwabe Incoat (IEC No. 0396022006) declared IEC address as 1/204, Navjivan Society, 2nd Floor, Lamington Road, Mumbai, Maharashtra-400008 (hereinafter referred to as "the importer") have obtained exemption from payment of Customs Duty in respect of clearance of imported goods in terms of Notification No.96 /2009-Cus dated 11.09.2009 under Advance Authorisation No. 0310772384 dated 28.02.2014 (herein after referred to as "License") for duty saved amount of Rs.6,80,662/-.

2. The importer M/s Schwabe Incoat (IEC No. 0396022006), had cleared imported goods of assessable value of Rs. 26,32,872/-(Rupees Twenty Six Lakhs Thirty Two Thousand Eight Hundred Seventy Two only) under Advance Authorisation No. 0310772384 dated 28.02.2014 in terms of Customs Notification No. 96 /2009-Cus dated 11.09.2009 at concessional rate of duty. The importer has executed Bond dated 16.10.2014 which was accepted by the Assistant Commissioner of Customs and they had also given an undertaking to fulfil the conditions of the Bond, Advance Authorisation and the relevant, Custom Notification at the time of registration of the license at Nhava Sheva port.

3. Further, as per the conditions of the said Customs Notification No. 96 /2009-Cus dated 11.09.2009, License Condition and undertaking given in the Bond, the importer was required to produce proof of fulfilment of export obligation within the period as prescribed in the said notification.

4. Further, as per the provision of Section 143 of the Customs Act, 1962, the said imported goods were allowed clearance by the proper officer on execution of bond by the importer wherein the importer bounded themselves to discharge liability in certain manner, which they have failed to do so by not submitting Export Obligation Discharge Certificate (EODC). Thus the importer appeared to have not complied with the mandatory conditions of Customs Notification No. 96 /2009-Cus dated 11.09.2009, License Condition and undertaking given in the Bond.

5. In view of above, a show cause notice No. 1151/2018-19/DMC/JNCH dated 18.12.2018 was issued to the Importer wherein it has been alleged that the importer M/s Schwabe Incoat (IEC No. 0396022006) is liable to pay customs duty amounting to Rs. 6,80,662/-. (Rs. Six Lakhs Eighty Thousand Six Hundred Sixty Two Only) in respect of the said imported goods along with interest at the applicable rate in terms of the said notification read with conditions stipulated in the said Notification read with the conditions of the Bond

executed by the Importer and the conditions of the said License. It is also alleged that the imported goods were not used for intended purpose for which the exemption from duty was claimed, therefore, the same are liable for confiscation under Section 111(o) of the Customs Act, 1962. It is also proposed that the importer is liable for penalty under section 112(a) of the Customs Act, 1962 for their act of commission or omission which render the goods liable for confiscation.

6. Therefore the Importer M/s **Schwabe Incoat (IEC No. 0396022006)** were called upon to show cause to the Joint Commissioner of Customs, Nhava Sheva-II, having his office at Jawaharlal Nehru Customs House, Nhava Sheva, Tal.Uran, Dist. Raigad, Maharashtra-400707 as to why:-

(i) The imported goods of declared Assessable Value of **Rs. 26,32,872/- (Rupees Twenty Six Lakhs Thirty Two Thousand Eight Hundred Seventy Two only)**, should not be held liable for confiscation under section 111 (o) of the Customs Act, 1962 read with conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Custom Notification 96/2009-Cus dated 11.09.2009 as amended/applicable.

(ii) Duty forgone amount of **Rs. 6,80,662/- (Rs. Six Lakhs Eighty Thousand Six Hundred Sixty Two Only)** along with applicable interest (from the date of clearance of goods to the date of payment of duty) should not be recovered in terms of conditions of Bond executed under section 143 of the Customs Act 1962 read with Customs Notification No. 96/2009-Cus dated 11.09.2009 read with condition of Advance Authorization.

(iii) Penalty should not be imposed on the importer under section 112(a) of the Customs Act 1962 for the acts of omission and commission.

(iv) Bond furnished by the importer should not be enforced for recovery of duty, interest, penalty and redemption fine, if any.

7. The Importer was required to produce all evidences upon which they intend to rely in support of their defense and indicate in their written reply as to whether they intend to be heard in person before the case is adjudicated, failing which it will be presumed that they do not desire a personal hearing.

8. The importer was also informed that if no reply is received within 30 (Thirty) days of receipt of this notice and do not appear before the adjudicating authority when the case is posted for hearing, the case will be decided ex-parte on the basis of material available on record.

Replies/Written Submission

9. The importer has submitted their submission dated 17.04.2025 through email and they stated that the EODC fulfilled 100% within stipulated time period Further they have submitted Redemption letter dated 01.01.2014 issued to them against the Advance Authorisation No. 0310772384 dated 28.02.2014.

RECORD OF PERSONAL HEARING

10. In line with the principle of natural justice, letter was issued to the Importer with a request to appear before Adjudicating Authority for personal hearing on 07.04.2025 and 03.10.2025. Shri Jayantilal Bhandari, Partner, attended personal hearing on 09.10.2025 on virtual mode. They stated that they have already completed the EODC under advance Authorisation No. 0310772384 dated 28.02.2014. they have submitted the Redemption letter 01.01.2014 through email and requested to close the issue under SCN.

DISCUSSIONS AND FINDINGS

11. I have carefully gone through the facts of the case, available records and written submission from the Importer. I find that in compliance to the provisions of section 28(8) and 122(A) of the Customs Act, 1962 and in terms of principles of natural justice, opportunity for personal hearing was given to the Importer on 07.04.2025 and 03.10.2025, the Partner of the said Importer attended the Personal Hearing on 09.10.2025 on virtual mode. Hence the principles of natural justice have been followed during the adjudication proceeding. Accordingly, I proceed to decide the case.

12. I find that the importer M/s **Schwabe Incoat (IEC No. 0396022006)** have obtained exemption from payment of Duty against clearance of imported goods in terms of Customs Notification No. 96/2009-Cus dated 11.09.2009 against Advance Authorisation No. 0310772384 dated 28.02.2014 for duty saved amount of Rs.6,80,662/-(Rs. Six Lakhs Eighty Thousand Six Hundred Sixty Two Only). It is alleged in the Show Cause Notice that the Importer could not produce EODC certificate within the period as prescribed, hence the importer is liable to pay Duty saved amount along with applicable interest. It also alleged in SCN that the imported goods were not used for intended purpose for which the exemption from payment of duty was claimed, therefore, aforesaid goods are liable for confiscation under section 111 (o) of the Customs Act, 1962 read with conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification 96/2009-Cus dated 11.09.2009 (and /or relevant Customs Notification issued/amended and applicable from time to time). It therefore appeared that Importer for the acts of omissions and commissions mentioned above has rendered themselves liable for penal action under Section 112 (a) of the Customs Act, 1962.

13. In view of the above, I find that the issues to be decided are:

(i) Whether the imported goods of declared Assessable Value of **Rs. 26,32,872/-(Rupees Twenty Six Lakhs Thirty Two Thousand Eight Hundred Seventy Two only)** should be held liable for confiscation under Section 111(o) of the Customs Act, 1962 read with relevant Notifications as amended.

(ii) whether the duty saved amount of Rs. 6,80,662/-(Rs. Six Lakhs Eighty Thousand Six Hundred Sixty Two Only) along with applicable interest should be recovered in terms of conditions of Bond executed under section 143 of the Customs Act 1962 read with Customs Notification No. 96/2009-Cus dated 11.09.2009.

(iii) Whether penalty should be imposed on the importer under Section 112(a) of the Customs Act, 1962.

(iv) Whether Bond furnished by the importer should be enforced for recovery of duty, interest, penalty and Redemption Fine, if any.

14. I find that the importer had imported goods of declared Assessable Value of **Rs. 26,32,872/-(Rupees Twenty Six Lakhs Thirty Two Thousand Eight Hundred Seventy Two only)** under Advance Authorisation No. 0310772384 dated 28.02.2014 in terms of Customs Notification No. 96/2009-Cus dated 11.09.2009 at concessional rate of duty for duty saved amount of Rs 6,80,662/-.

15. I find that the importer executed Bond dated 16.10.2014 and had given an

undertaking to fulfil the conditions of the Bond, Advance Authorisation and the relevant, Custom Notification at the time of registration of the said license at Nhava Sheva port.

16. I find that as per the provisions of Section 143 of the Customs Act, 1962, the said imported goods were allowed clearance by the proper officer on execution of bond by the importer wherein the importer bounded themselves to discharge liability in certain manner, which they have failed to do so by not submitting export obligation discharge certificate by not fulfilling the export obligation. Thus the importer appeared to have not complied with the conditions of Customs Notification No. 96/2009-Cus dated 11.09.2009 and conditions of the Bond. thus goods are liable for confiscation under section 111(o) of the Customs Act, 1962 and thereby importer have rendered themselves liable to penalty under section 112(a) of the Customs, Act, 1962 read with Section 143 of the Customs Act, 1962.

17. I find that the importer has submitted scan copy of Redemption Letter dated 08.08.2019 issued vide File No. 03/88/165/00036/AM17/dated 28.02.2014 in respect of Advance Authorization No. 0310772384 dated 28.02.2014 issued by S.M.BHOINKAR, FTDO, DGFT, Mumbai. In the said Redemption Certificate dated 08.08.2019 it is stated that Export Obligation met in full value as well as in quantity term, in proportion to import made. Consequently, the case has been redeemed in terms of Para 4.26 of Handbook of Procedures 2004-09.

18. I find that the said Redemption letter dated 08.08.2019 issued to the M/s. **Schwabe Incoat (IEC No. 0396022006)** against the Advance Authorization No. 0310772384 dated 28.02.2014 has been verified with DGFT, Mumbai personally on 10.10.2025 by the staff of EPSMMC Cell, JNCH.

19. I find that when enquired with the official website of DGFT in the respect of **View Authorisation/ Transmission details against the said Advance Authorization No. 0310772384 dated 28.02.2014**, it is showing the Authorization status as **"Closed"**. Therefore, importer has fulfilled condition of Customs Notification No. 96/2009-Cus dated 11.09.2009. As such Customs duty benefit under Customs Notification No. 96/2009-Cus dated 11.09.2009 is applicable in case of goods imported by M/s. **Schwabe Incoat (IEC No. 0396022006)** under Advance Authorization No. 0310772384 dated 28.02.2014. Thus, there is no customs duty demand. In absence of Customs duty demand, charges levelled against Authorisation Holder in Show Cause Notice No. 1151/2018-19/DMC/JNCH dated 18.12.2018 the demand notice is not sustainable as per the above findings and do not sustain hence required to be dropped.

20. I find that Customs duty benefit under Customs Notification No.96/2009-Cus dated 11.09.2009 is applicable in case of goods imported by M/s. **Schwabe Incoat (IEC No. 0396022006)** under Advance Authorization No. 0310772384 dated 28.02.2014. Further, on receipt of closure/redemption letter from DGFT, imported goods against Advance Authorization No.0310772384 dated 28.02.2014 are not liable for confiscation under 111(o) of Customs Act, 1962. In absence of confiscation, question of imposing redemption fine under section 125 of Customs Act, 1962 doesn't arise.

21. Further when the recovery of duty saved amount is not sustainable, the question of recovery of applicable interest and imposition of penalty under Section-112(a) of the Customs Act, 1962 as proposed in the Show Cause Notice, does not arise.

22. In view of the above, I pass the following order.

ORDER

(i). I hereby drop all the proceedings initiated against M/s. **Schwabe Incoat (IEC No. 0396022006)** vide the Show Cause Notice No. 1151/2018-19/DMC/JNCH dated 18.12.2018.

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

(Dr. Chittaranjan Prakash Wagh)
Digitally signed by
Wagh Chittaranjan Prakash
Date: 16-10-2025 13:38:15
NS-II, JNCH, Nhava Sheva.

To.

M/s **Schwabe Incoat (IEC No. 0396022006)**

1/204, Navjivan Society, 2nd Floor, Lamington Road,
Mumbai, Maharashtra-400008
E-mail-schwabeincoat.ho@gmail.com

CM7142534711N

Copy To:

1. The Commissioner of Customs, NS-II, JNCH, Nhava-Sheva
2. The DC/ CRRC, JNCH
3. The DC/ Review Cell (CRAC), JNCH
4. The DC EPSMMC Cell, JNCH.
5. The AC/DC of EDI, JNCH for uploading on website
6. Notice Board, JNCH, Nhava-Sheva.
7. Master File/ Office Copy.

