

 सत्यमेव जयते	भारतसरकार/ Government of India वित्तमंत्रालय / Ministry of Finance आयुक्त सीमाशुल्क एन.एस.-II का कार्यालय Office of Commissioner of Customs NS-II Jawaharlal Nehru Custom House, Nhava Sheva, Dist- Raigad, Maharashtra – 400 707	
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F. No.: S/10-818/2024-25/ADC/LIC/NS-II/CAC/JNCH

CUS/LIC/MISC/737/2024-LIC O/o- Commr-Cus-NS-II Date of Order: 02.09.2025

SCN NO. 1368/2024-25/AC/LIC/NS-II/CAC/JNCH Date of Issue: 02.09.2025

Order Passed by: Dr. Chittaranjan Prakash Wagh डॉ. चित्तरंजनप्रकाशवाघ

Addl. Commissioner of Customs, अपरआयुक्तसीमाशुल्क
License (NS-II), JNCH, Nhava Sheva

O-IN-O No: 748 /2025-26/ADC/NS-II/CAC/JNCH

M/s.G-Rish Pharma (IEC:308046901)

DIN: 20250978NT000000B59C

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 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 के अनुसार फॉर्म सी.ए1- 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.

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. 1368/2024-25/AC/LIC/NS-II/CAC/JNCH dtd. 08.11.2024 and corrigendum dated 23.01.2025 issued to M/s. G-Rish Pharma (IEC:308046901).

BRIEF FACT OF THE CASE

Alert Circular No. 07/2021 dated 26.07.2021 was issued by NCTC wherein it was observed that some exporters had availed wrong MEIS benefit @ 3% of FOB value by misclassifying the goods under CTH 29420090 instead of correct CTH 2901 to 2941 where MEIS benefit was @ 2% of FOB value. Accordingly, an audit of M/s. G-Rish Pharma (IEC:308046901) having address at 302, Shri Arihant CHS Ltd, Sector-16A, Vashi, Navi Mumbai-400703 and another address at 238, The Commodity Exchange, Plot 2,3& 4, Sector-19A, Vashi, Navi Mumbai, Thane(MH)-400705 (here in after referred to as the "Exporter") was conducted.

2. During the post-clearance audit, export data of M/s. G-Rish Pharma (IEC:308046901) was scrutinized and it was noticed that they had filed Shipping bills as mentioned in Annexure-A to show cause notice for export of goods viz. "Diclofenac Potassium and Aceclofenac" (herein after referred to as 'the subject goods') classifying under CTH 29420090 of the first schedule of the Customs Tariff Act, 1975 which covers "OTHER ORGANIC COMPOUNDS; other," claiming MEIS benefit @ 3% of FOB value. However, the said goods appeared to be correctly classifiable under tariff item CTH 29224990.

3. Classification of exported goods.

For better understanding of the above relevant tariff headings, explanatory notes to the relevant chapter heading are reproduced as below:

A) Custom Tariff Heading 2942 is reproduced as under:

2942 Other Organic Compound (Not classified elsewhere) :This heading covers separate chemically defined organic compounds not classified elsewhere.

1. Ketenes*. Like ketones, these are characterized by a carbonyl group ($>C=O$) but it is linked to the neighbouring carbon atom by a double bond (e.g., ketene, diphenylketene). This heading however excludes diketene which is a lactone of heading 29.32.
2. Boron trifluoride complexes with acetic acid, diethyl ether or phenol*.

3. Dithymol di-iodide.

294200 - Other organic compound:

--- Cefadroxil& its salts, Ibuprofane, Diazepam, Nifedipine, Ranitidine, Danes salt of D(-) Phenyl Glycine, D(-) para hydroxyl Dane's Salts:

29420090--- Other

B) Custom Tariff Heading 2922 is reproduced as under:

2922 - Oxygen-function amino-compounds

29224990 – Other

2922 19 90 Other Amino-naphthols and other amino-phenols, other than those containing more than one kind of oxygen function, their ethers and esters; salts thereof

4. EXPORT INCENTIVES UNDER DUTY CREDIT SCRIPS-MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS): -

4.1 In terms of Chapter 3 of the Foreign Trade Policy (FTP) 2015-2020 exporters are issued duty credit scrips under two schemes for exports of Merchandise and Services namely (i) Merchandise Exports from India Scheme (MEIS) & (ii) Service Exports from India Scheme (SEIS) with an objective to provide rewards to the exporter to offset infrastructural inefficiencies and associated costs involved in export of goods/ products, which are produced/ manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

4.2 The Merchandise Exports from India Scheme (MEIS) provides benefits to exports of notified goods with the ITC (HS) code made to the notified markets, listed under Appendix 3B of the Hand book of Procedures (HBOP) in the form of Duty Credit Scrips. Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise). The basis of calculation of reward would be FOB value of exports realized in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in free foreign exchange, whichever is less, unless otherwise specified.

Table-1

Sr No.	ITC (HS) Code 2017 (Eight Digit)	Descriptions of goods as per ITC(HS) 2017	MEIS Sr. No.	MEIS Reward Rate (In %)
1.	29420090	Other organic compound	1633	3%
2.	29224990	Oxygen-function amino-compound -- Other	1428	2%

5. It appeared that the said Exporter had not made correct and truthful declaration of the material facts in their shipping bills by misclassifying their goods and thereby claimed undue MEIS benefits @ 3%, instead of applicable 2%, amounting to **Rs. 32122.94/- (Rupees Thirty Two Thousand One Hundred Twenty Two and Ninety Four Paise Only)** which were utilized for payment of customs duty towards the imports by them vide advised C. L. No.149/2023-24/JNCH(A1) dt.03.05.2023.

6. From the Chapter notes, chapter headings and reasons as elaborated in foregoing paras, it appears that M/s **G-Rish Pharma (IEC:308046901)** have wilfully mis-stated the

classifications of the subject goods exported by them and suppressed the actual classification in their export documents filed before the Customs authorities as well as DGFT with an intent to avail undue benefit of MEIS scheme and therefore the MEIS scrips obtained by them on the basis of such manipulated documents becomes invalid and it can be termed that they were obtained fraudulently. It appears that **M/s G-Rish Pharma (IEC:308046901)** by resorting to such acts, have contravened various provisions of Customs Act, 1962.

7. Vide Finance Act, 2011 with effect from 08.04.2011 "Self-Assessment" has been introduced under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or the exporter by filing a bill of entry or shipping bill as the case may be, in the electronic form, as per Section 46 or 50 respectively. Thus, under self-assessment, it is the Importer or Exporter who will ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported/exported goods while presenting Bill of Entry or Shipping Bill. In the present case, **M/s G-Rish Pharma (IEC:308046901)** have deliberately contravened the above said provisions with an intention to wrongfully avail excess MEIS benefit fraudulently, which were legitimately due to them.

8. From the facts discussed in the foregoing paras, it appears that:

8.1 The Exporter **M/s G-Rish Pharma (IEC:308046901)** had misclassified the goods declared as "**Diclofenac Potassium and Aceclofenac**" under CTH 29420090 instead of correct CTH 29224990. Accordingly, it appears that **M/s G-Rish Pharma (IEC:308046901)** had deliberately claimed wrong classification with intent to fraudulently avail the benefit of MEIS at higher rate of 3% instead of 2% of FOB value. Further, the undue benefits of MEIS availed and utilized by mis-classifying the said exported goods is required to be denied.

8.2 **M/s G-Rish Pharma (IEC:308046901)** presented a large number of shipping bills before DGFT to obtain MEIS License/Scrips. The duty credit/granted on such MEIS License/Scrips includes MEIS credit earned on correctly classifiable goods at appropriate eligible rates. However, it appears that **M/s G-Rish Pharma (IEC:308046901)** has deliberately mis-classified the export goods under CTH 29420090 in shipping bills having FOB value of Rs. 0.32 Crores as mentioned in calculation sheet to the SCN appears to be recoverable as per section 28(4) and/or 28AAA of the Customs Act, 1962, as applicable.

9. CULPABILITY AND LIABILITY OF EXPORTER

Whereas the audit conducted, as discussed in the foregoing paras, revealed that the **M/s G-Rish Pharma (IEC:308046901)** by way of willful mis-statement, mis-representation and suppression of facts as regards the classification of goods, presented the subject goods for export before the designated authority of Customs with intent to fraudulently avail benefit of MEIS. **M/s G-Rish Pharma (IEC:308046901)** have violated the provisions of Section 17 and 50 of the Customs Act, 1962 which was their duty to comply with. In view of the above, it, therefore, appears that the Exporter have indulged in fraudulent export of goods by mis-declaring the actual classification of goods so exported, which squarely falls within the ambit of 'illegal export' as defined in section 11H(a) of the Customs Act, 1962 in as much as the same was in contravention of various provisions of Customs Act, 1962, Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules 1993 and Foreign Trade Policy.

9.1. Whereas Rule 14(2) of Foreign Trade (Regulation) Rules, 1993 prohibits employing of any corrupt or fraudulent practice for the purpose of exporting any goods for obtaining any license. Further, the said goods are liable for confiscation in terms of Section 113 (i) of the Customs Act, 1962 as the same were exported by mis-declaring the classification. The above-mentioned acts of commission and omission on the part of M/s G-Rish Pharma (IEC:308046901) have rendered the goods exported by resorting to mis-declaration in terms of classification of goods, liable for confiscation under the provisions of Section 113 (i) of the Customs Act, 1962. The above-mentioned acts of commission and omission on the part of M/s G-Rish Pharma (IEC:308046901) have rendered various goods exported by resorting to mis-declaration in terms of classification of goods, with declared FOB value of Rs. 0.32 Crores as mentioned in calculation sheet to the SCN, liable for confiscation under the provisions of Section 113 (i) of the Customs Act, 1962.

9.2. By misclassifying the goods with an intention to avail wrongful/ ineligible/ undue MEIS benefit, M/s G-Rish Pharma (IEC:308046901) has violated the provisions of Customs Act and has rendered the goods liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962. Further, all the above-mentioned acts of commission and omission on the part of M/s G-Rish Pharma (IEC:308046901) have rendered them liable for penal action under Section 114(iii), 114AA & 114AB of the Customs Act, 1962 with respect to the goods exported by mis-classifying the classification.

10. M/s G-Rish Pharma (IEC:308046901) had contravened the provisions of Section 50(2) of the Customs Act, 1962 by willfully mis-declaring/misclassifying their export goods and intentionally claimed undue MEIS benefit which resulted in loss of government revenue of Rs. 32122.94/- (Rupees Thirty Two Thousand One Hundred Twenty Two and Ninety Four Paise Only). On culmination of the investigation, the subject show cause notice was issued to M/s G-Rish Pharma (IEC:308046901) calling upon them to show cause as to why:

- i. The declared classification of the subject goods "Organic Product" as mentioned in the shipping bills under CTH 29420090 should not be rejected and the subject goods should not be re-classified under CTH 29224990 of the first schedule to the Customs Tariff Act, 1975 and the said shipping bills should not be re-assessed.
- ii. The exported goods, having total declared FOB value of Rs. 0.32 Crores as mentioned in calculation sheet, should not be held liable to confiscation under Section 113 (i) of Customs Act, 1962 although the same are not available for confiscation;
- iii. Export benefit availed by the Exporter in terms of MEIS through shipping bills as detailed in Annexure- A for Rs 32122.94/- (Rupees Thirty Two Thousand One Hundred Twenty Two and Ninety Four Paise Only) should not be recovered as per Section 28(4) read with Section 28AAA, of the Customs Act, 1962 along with interest as applicable thereon under Section 28AA, 28(5) of the Customs Act, 1962.
- iv. Penalty should not be imposed upon them under the provisions of sections 114(iii), 114AA & 114AB of the Customs Act, 1962.

RECORD OF PERSONAL HEARING

11. In line with the principles of natural justice, letters were issued to the Exporter with a request to appear before Adjudicating Authority for personal hearing. Shri Vaibhav Saraf, Export Manager, attended personal hearing on 05.08.2025 in virtual mode. He stated that they have already paid the excess MEIS amount with applicable interest and same has been

submitted. They will submit their written submission for clarification regarding classification the goods.

WRITTEN SUBMISSION OF THE EXPORTER

12. The Exporter vide e-mail (info@g-rishpharma.com) dated 21.08.2025 has informed that they have already deposited the amount of Rs.32,122.94/- alongwith interest, purely as a measure of good faith and without prejudice to our rights. The classification adopted by them under CTH 29420090 was correct and bona fide, and they therefore requested that the SCN proceedings be dropped and the amount deposited be treated as paid under protest and refunded to us under Section 27 of the Customs Act, 1962.

They submitted in connection with the exports of Diclofenac Potassium and Aceclofenac made by M/s G-Rish Pharma.

(i) Bonafide Action – No Suppression or Misdeclaration

All export documents clearly described the products as “Diclofenac Potassium” and “Aceclofenac.”

At the outset, they deny all allegations of misclassification, willful misstatement, or suppression of facts. their classification of the said goods under CTH 29420090 has been made bona fide, based on the chemical characteristics, trade practice, and consistent approvals by Customs and DGFT authorities in the past.

The HS Code was adopted in line with industry practice and Customs’ own past acceptance.

The issue is purely interpretational in nature and has been clarified only after the NCTC Circular of 2021. Hence, there can be no allegation of wilful misstatement, suppression, or fraud.

This report provides a comprehensive technical and legal justification for the classification of Diclofenac Potassium and Aceclofenac under HS Code 29420090 and rebuts the allegations raised in the Show Cause Notice (SCN) regarding misclassification under HS Code 29224990.

Scientific Justification Based on Chemical Structure:

Diclofenac Potassium

Chemical Name: 2-[(2,6-Dichlorophenyl)amino]benzeneacetic acid, monopotassium salt

Structural Insight: Diclofenac Potassium is a non-steroidal anti-inflammatory drug (NSAID). It contains a phenylacetic acid moiety with a secondary amine linkage, but no functional amino group as defined under HS 2922. It is not an oxygen-function amino-compound, nor is it an amino acid, ester or amide of an amino acid. It is a complex organic compound more appropriately falling under residual heading 2942 (Other Organic Compounds).

Aceclofenac

Chemical Name: 2-[2-[2-[(2,6-dichlorophenyl)amino]phenyl]acetyl]oxyacetic acid

PubChem ID: 59735

Structural Insight: Like Diclofenac, Aceclofenac is also an NSAID, derived from phenylacetic acid. It contains an ester linkage and chlorinated aromatic rings, not characteristic of amino compounds. It lacks structural features typically found in 2922 classified substances.

Diclofenac: Key Structural Features	Aceclofenac: Key Structural Features
Contains two aromatic rings (chlorinated phenyl groups).	A derivative of Diclofenac.
Contains two aromatic rings (chlorinated phenyl groups).	Contains an ester functional group (–COO–) connecting the diclofenac base to an acetic acid derivative.
Has a carboxylic acid (–COOH) group – part of an acetic acid side chain.	No direct bond between amino group and oxygen-function group.
The amine is not directly bonded to a hydroxyl (–OH) or oxygen-functional group.	More complex structure due to esterification.
Complex multi-ring system not resembling simple amino-phenols or amino alcohols.	
Conclusion: Does not qualify as an oxygen-function amino-compound	Conclusion: Even further removed from the definition of 2922. It's a multi-functional organic compound, not a simple amino derivative.

Conclusion: Both molecules are complex organic compounds and not structurally classifiable under 2922. Their characteristics better match heading 29420090.

The heading 2942 includes:

“Chemically defined organic compounds not classified elsewhere.”

And they listed **Ibuprofen, Diazepam, Ranitidine, etc. as falling under 2942.**

So Diclofenac, which: Is a defined organic compound Has a carboxyl group like Ibuprofen Does not fit into other headings like 2922 (which is for amines or amino acids) must be classified under 2942. The inclusion of Ibuprofen under 2942 proves that common carboxylic acid structures with C=O bonds are valid. Diclofenac Potassium has the same –COOH derivative structure, is chemically defined, and not classifiable under 2922. Therefore, it clearly falls under 29420090.”

The Misleading Assumption:

“Since Diclofenac has a C=O, and 2922 is for organic nitrogen compounds (like amino acids), Diclofenac doesn’t qualify for 2942.”

But this is completely wrong, because: C=O (carbonyl groups) are very common in organic compounds, including those under many different tariff headings.2942 is not limited to ketenes only. Ketenes are just one example of a compound that fits there. Ibuprofen, which they themselves list under 2942, also contains a C=O group (in its –COOH).So if your logic were correct, Ibuprofen wouldn’t be there either, but it is.

(ii) Tariff Note & Explanatory Note Justification (HS Classification)

HS Code Definitions:

2922: Oxygen-function amino-compounds

Typically includes amino acids, their esters/salts, and their derivatives.

2942: Other organic compounds

A residual heading for compounds not classifiable elsewhere in Chapter 29.

As per Harmonized System Explanatory Notes, classification should follow:

Functional group hierarchy. Most specific description.

Since the compounds in question are not "amino compounds" by function, but rather aryl-acetic acid derivatives, they logically fall under 2942.

(iii) DGFT —MEIS Eligibility Proof

Under the MEIS Schedule, products classified under HS Code 29420090 have been notified as eligible for incentives. No specific MEIS coverage exists under 29224990 for Diclofenac or Aceclofenac. Export declarations and shipping bills were made with HS Code 29420090, and were accepted by customs. Port authorities and DGFT never flagged these as misclassified at the time of claim.

(iv) Relevant Case Laws / Classification Rulings

Case	Tribunal	Verdict
M/s. Ankur Drugs & Pharma Ltd.	CESTAT	NSAIDs like Diclofenac are not to be classified under 2922 as amino-compounds
M/S. Lupin Laboratories Ltd.	Supreme Court / Advance Ruling	Similar derivative of phenylacetic acid classified under 2942

Conclusion: Based on chemical structure, official listings, and trade data, Diclofenac Potassium and Aceclofenac fall under HS code 2942.00.90, not 2922.49.90.

DISCUSSION AND FINDINGS

13. I have carefully gone through the entire records of the case and the case has been examined in the light of the evidences produced by the department, applicable laws/rules in the matter. I find that the subject Show Cause Notice was issued on 08.11.2024 under Section 124 read with Section 28(4) read with Section 28AAA of the Customs Act 1962 for alleged misclassification of goods. Further, in compliance to the provisions of Section 28(8) and Section 122(b) of the Customs Act, 1962 and in terms of the principles of natural justice, opportunities for Personal Hearing (PH) were granted to the Exporter. Thus, the principles of natural justice have been followed during the adjudication proceedings. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the allegations made in the SCN as well as the submissions / contentions made by the Exporter.

14. The main issues for consideration before me are as under:

i. whether the impugned export goods, i.e. "Diclofenac Potassium and Aceclofenac" were

misclassified by the Exporter under CTH 29420090 instead of correct CTH 29224990 as per the show cause notice.

ii. Whether the alleged mis-classification, if any, was done wilfully and deliberately with an intent to avail inadmissible MEIS benefits.

iii. Whether the Exporter are liable for further consequential action under various sections of Customs Act, 1962 as detailed in the subject show cause notice.

15. Now, I consider the first issue i.e. classification of the impugned export goods. In this regard, I have carefully gone through the entries related to Heading and the relevant Subheading and the information from available on the open source internet, I observed from relevant chapter notes that- tariff headings, explanatory notes to the relevant chapter heading issued by the World Customs Organization very specifically states that tariff heading 2942 covers other organic compound(Not classified elsewhere). This heading covers separate chemically defined organic compounds not classified elsewhere ex- Ketenes; Boron trifluoride complexes with acetic acid, diethyl ether or phenol; Dithymol di-iodide.

A) Custom Tariff Heading 2942 is reproduced as under:

2942 Other Organic Compound (Not classified elsewhere) :This heading covers separate chemically defined organic compounds not classified elsewhere.

1. Ketenes*. Like ketones, these are characterised by a carbonyl group ($>C=O$) but it is linked to the neighbouring carbon atom by a double bond (e.g., ketene, diphenylketene). This heading however excludes diketene which is a lactone of heading 29.32.
2. Boron trifluoride complexes with acetic acid, diethyl ether or phenol*.
3. Dithymol di-iodide.

294200 - Other organic compound:

--- Cefadroxil & its salts, Ibuprofane, Diazepam, Nifedipine, Ranitidine, Danes salt of D(-) Phenyl Glycine, D(-) para hydroxyl Dane's Salts:

29420090--- Other

B) Custom Tariff Heading 2922 is reproduced as under:

29.22-Oxygen-function amino-compounds(+)

- Amino-alcohols, other than those containing more than one kind of oxygenfunction, their ethers and esters; salts thereof:

2922 11-- Monoethanolamine and its salts

2922.12--Diethanolamine and its salts

2922.14-- Dextropropoxyphene (INN) and its salts

2922.15--Triethanolamine

2922.16-- Diethanolammoniumperfluorooctane sulphonate

2922.17--Methyldiethanolamine and ethyldiethanolamine

2922.18--2-(N,N-Diisopropylamino)ethanol

2922.19-- Other

-Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof:

2922.41--Lysine and its esters, salts thereof

2922.42--Glutamic acid and its salts

2922.43--Anthranilic acid and its salts

2922.44--Tilidine (INN) and its salts.

2922.49--Other

DICLOFENAC POTASSIUM(29224990):- Diclofenac is a complex organic compound with a distinctive chemical structure. The Chemical Formula is $C_{14}H_{10}Cl_2KNO_2$ it has carbon (C), hydrogen (H), chlorine (Cl), potassium (K), nitrogen (N), and oxygen (O) atoms interconnected in the molecular structure of diclofenac potassium. It is a compound that contains an amino group, specifically an amino function in its chemical structure. The chemical structure of diclofenac includes an amino group, and its molecular formula $C_{14}H_{10}Cl_2KNO_2$, indicating the presence of carbon (C), hydrogen (H), chlorine (Cl), potassium (K), nitrogen (N), and oxygen (O) atoms, as well as an amino function in the form of an amino group (NH_2). Accordingly, the same appears to be correctly classifiable under CTH 29224990.

ACECLOFENAC (29224990)- Aceclofenac belongs to the class of organic compounds known as phenylacetic acids. It is a derivative of diclofenac. Chemical formula of this item is $C_{16}H_{13}Cl_2NO_4$. In this structure, amide functional group (NH_2) as well as oxygen atoms (O) presents within the molecule. Aceclofenac is classified as an oxygen-functional amino compound due to the presence of these functional groups. It contains an oxygen function within its amino compound ($-NH_2$) structure. This oxygen function is part of the amide linkage in aceclofenac chemical structure. The IUPAC name of Aceclofenac is 2-[(2,6- dichlorophenyl)amino] phenylacetoxycetic acid. Accordingly, the same appears to be correctly classifiable under CTH 29224990.

15.1 Further, from above it is evident that only those organic compounds which are not specified elsewhere can be classified under heading 2942. In the present case, as per chapter notes as discussed supra, the exported items, i.e. "**Diclofenac Potassium and Aceclofenac**" would be out of the scope of Tariff Heading 2942 as claimed by the Exporter and appears to be correctly classifiable under CTH 29224990 which attracts MEIS @ 2% instead of 3% as claimed by the exporter.

16. Now, the next issue before me is whether the Exporter had mis-classified the impugned goods wilfully and deliberately with the intention to avail MEIS benefits on higher side. In this regard, I find that the Merchandise Exports from India Scheme (MEIS) provides benefits to exports of notified goods with the ITC (HS) code made to the notified markets, listed under Appendix 3B of the Handbook of Procedures (HBOP) in the form of Duty Credit Scrips. Besides, Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise] which are based on the FOB value of exports realized in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in free foreign exchange, whichever is less, unless otherwise specified.

17. I find that the Exporter by way of wilful mis-statement, mis-representation and suppression of facts as regards the classification of goods, presented the subject goods for export before the designated authority of Customs with intent to fraudulently avail benefit of MEIS. Exporter had violated the provisions of Section 17 and 50 of the Customs Act, 1962 which was their duty to comply with.

17.1 In view of the above, I find that the Exporter has indulged in fraudulent export of goods by mis-declaring the actual classification of goods so exported, which squarely falls within the ambit of 'illegal export' as defined in section 11H(a) of the Customs Act, 1962 in as much as the same was in contravention of various provisions of Customs Act, 1962, Foreign Trade (Development and Regulation) Act, 1992, Foreign Trade (Regulation) Rules 1993 and Foreign Trade Policy.

17.2 Further I find that the Rule 14(2) of Foreign Trade (Regulation) Rules, 1993 prohibits employing of any corrupt or fraudulent practice for the purpose of exporting any goods for obtaining any license. Hence, the said goods are liable for confiscation in terms of Section 113(i) of the Customs Act, 1962 as the same were exported by mis-declaring the classification. The above-mentioned acts of commission and omission on the part of **M/s G-Rish Pharma (IEC:308046901)** had rendered the goods exported by resorting to mis-declaration in terms of classification of goods, liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962. The above-mentioned acts of commission and omission on the part of **M/s G-Rish Pharma (IEC:308046901)** had rendered the impugned goods exported by resorting to mis-declaration in terms of classification of goods, liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962.

17.3 I notice that by misclassifying the subject goods with an intention to avail wrongful/ineligible /undue MEIS benefit amounting to **Rs. 32122.94/-(Rupees Thirty Two Thousand One Hundred Twenty Two and Ninety Four Paise Only)**, **M/s G-Rish Pharma (IEC:308046901)** had violated the provisions of Customs Act and other violations on the part of the exporter as discussed hereinabove and subsequently, have rendered the impugned goods liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962. Further, I find that for all the above-mentioned acts of commission and omission on the part of **M/s G-Rish Pharma (IEC:308046901)** had rendered themselves liable for penal action under Section 114(iii), 114AA & 114AB of the Customs Act, 1962 with respect to the goods exported.

17.4 I find that **M/s G-Rish Pharma (IEC:308046901)** has paid the differential MEIS amount of **Rs. 32123 /-** alongwith applicable interest of **Rs. 26507(upto 10.08.2025)/-** vide e-challan no. 2044861840 and 4609221919 both dated 04.08.2025 (total amount of **Rs. 58,630/-**) under protest. The above said payment made by the Exporter has been verified with ICEGATE PORTAL online.

17.5 I find that since the above act of omission and commission on the part of the Exporter had rendered the goods liable for confiscation u/s 113(i) of the Customs Act, 1962, the Exporter had rendered themselves liable to penalty under Section 114(iii) of the Customs Act, 1962.

17.6 I also find that the Exporter has knowingly and intentionally made the declaration in the subject shipping bills which is false or incorrect with respect to the classification of the subject goods for undue claim of export benefits under MEIS. Therefore, this act of **M/s G-Rish Pharma (IEC:308046901)** had rendered themselves liable to penal action under Section 114AA of the Customs Act, 1962 for signing false declaration in the shipping bills.

17.7 I find that M/s G-Rish Pharma (IEC:308046901) claimed the instrument viz. MEIS benefits @ 3% of the FOB value instead of 2% by intentional mis-declaration of classification of the exported goods. Therefore, M/s G-Rish Pharma (IEC:308046901) is also liable for penalty u/s 114 AB of Customs Act, 1962 for this intentional mis-declaration of classification.

18. In view of foregoing discussion above made in the light of the facts of investigation and relied upon documents, I pass following order: -

ORDER

(i) I reject the declared classification under 29420090 of the subject goods in the Shipping Bills (as detailed in Annexure-A to the SCN) and re-classify the said goods under CTH 29224990 of the First Schedule to the Customs Tariff Act, 1975 and order to re-assess the said Shipping Bills accordingly;

(ii) I confiscate the impugned exported goods, having total declared FOB value of Rs. 0.32 Crores as mentioned in Annexure-A (Rs.32,12,293.95 as mentioned in CL dated 03.05.2023) under Section 113(i) of Customs Act, 1962. However, in lieu of confiscation, I impose redemption fine of Rs. 8,000 /- (Rs. Eight Thousand only) under section 125 of the Customs Act, 1962;

(iii) I reject the export benefit availed in terms of MEIS through Shipping Bills as detailed in Annexure-A to the SCN amounting to Rs. 32,122.94/-(Rupees Thirty Two Thousand One Hundred Twenty Two and Ninety Four Paise Only) and I order to recover the same from M/s G-Rish Pharma (IEC:308046901) under section 28(4) and/or 28AAA of the Customs Act, 1962 along with interest thereon under section 28AA of the Customs Act, 1962, as applicable.

(iv) However, M/s G-Rish Pharma (IEC:308046901) has paid the differential MEIS amount of Rs. 32,123 /- alongwith applicable interest of Rs. 26,507/-(upto 10.08.2025) vide e-challan no. 2044861840 and 4609221919 both dated 04.08.2025 (total amount of Rs. 58,630/-) and same has been verified with ICEGATE PORTAL online. Accordingly, the amounts paid shall be appropriated towards duty and interest so demanded.

(v) I impose penalty of Rs.8,000 /- (Rs.Eight Thousand only) under section 114(iii) of the Customs Act, 1962 upon M/s G-Rish Pharma (IEC:308046901)

(vi) I impose penalty of Rs.8,000 /- (Rs.Eight Thousand only) under section 114AA of the Customs Act, 1962 upon M/s G-Rish Pharma (IEC:308046901)

(vii) I impose penalty of Rs.8,000 /- (Rs.Eight Thousand only) under Section 114AB of the Customs Act, 1962 upon M/s G-Rish Pharma (IEC:308046901)

19. This order is issued without prejudice to any other action that may be taken against the Exporter(s) or against any other person(s)/ Entities concerned, under the Customs Act, 1962, and/or under any other law for the time being in force in India.

Digitally signed by Chittaranjan Prakash Wagh)
Wagh Chittaranjan Prakash
Date: 02-09-2025 12:26:34
NS-11, JNCH, Nhava Sheva.

To,

M/s G-Rish Pharma (IEC:308046901)

238, The Commodity Exchange,

Plot 2,3& 4, Sector-19A,

Vashi, Navi Mumbai, Thane(MH)-400705 EM9880710571N

Email-info@g-rishpharma.com.

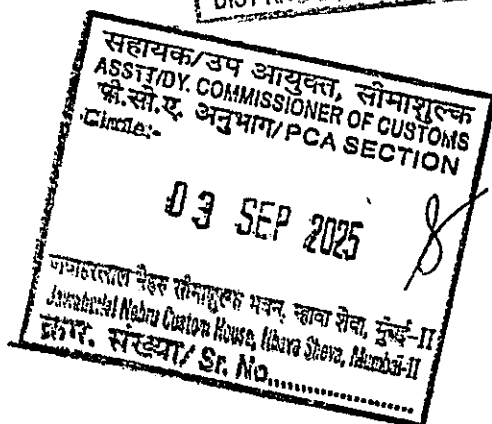
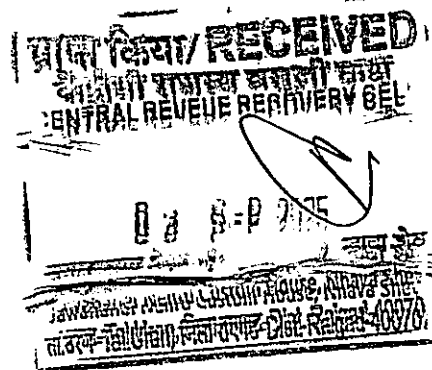
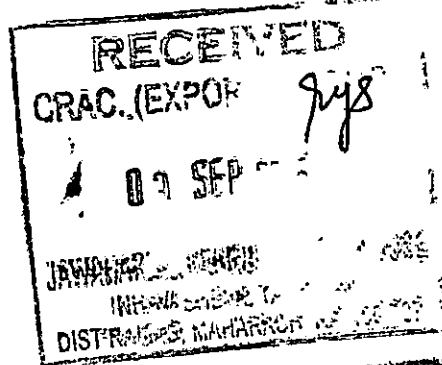
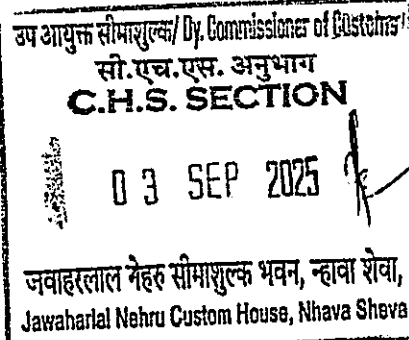
Copy to :

1. The Commissioner of Customs, NS-II, JNCH, Zone-II.
2. The Addl. Director General of Foreign Trade, CGO Office, Churchgate, Mumbai-400020. EM9880710651N EM9869154361N
3. The Asst./Deputy Commissioner of Customs, Audit(A1), JNCH.
4. The AC/DC of Customs, License Section/NS-II, JNCH
5. The Asst./Deputy Commissioner of Customs, CRRC, JNCH.
6. The Asst./Deputy Commissioner of Customs, Review Cell
7. The Asst./Deputy Commissioner of Customs, CEAC
8. The Asst./Deputy Commissioner of Customs, EDI, JNCH for uploading on website
9. CHS Section for display on notice board.
10. Master File

सी.ई.ए.सी./C.E.A.C.

प्राप्त किया/RECEIVED

जवाहरलाल नेहरू सीमाशुल्क भवन, मुंबई-



Sam
03/09/25
TA/Licenses