 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	
F. No.: S/10-814/2024-25/ADC/LIC/NS-II/CAC/JNCH CUS/LIC/MISC/363/2024-LIC-O/o- Commr-Cus-NS-II Date of Order: 02.09.2025 SCN NO. 534/2024-25/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: 749 /2025-26/ADC/NS-II/CAC/JNCH M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191) DIN: 20250978NT000000DFA0		

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. 534/2024-25/AC/LIC/NS-II/CAC/JNCH dtd. 14.06.2024 and corrigendum dated 23.01.2025 and 21.08.2025 issued to M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191).

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 mis-classifying 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191) having address at 5-4-187/7/3, MG Road, Secunderabad, Hyderabad, Talangana-500003(here in after referred to as the"Exporter") was conducted.

2 . During the post-clearance audit, export data of M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191) was scrutinized and it was noticed that they had filed Shipping bills as mentioned in Annexure-B to show cause notice for export of goods viz. "Cyclobenzaprine HCL" "(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 29214990 as per Table-A.

Table-A

Sr.No.	Description of Exported goods	Declared CTH by the exporter	Correct CTH
1	Cyclobenzaprine HCL	29420090	29214990

For ease of reference, the relevant headings are reproduced below:

Table-B

Sr.No.	CTH	Description of the goods as per first Schedule to the Customs Tariff Act, 1975.
1	29214990	AMINE- FUNCTION COMPOUNDS Acyclic monoamines and their derivatives; salts thereof; other; other

3. Classification of exported goods.

For better understanding of the above relevant tariff headings, relevant chapter notes 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 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 2921 is reproduced as under:

2921 Amine-Function Compounds

-Aromatic monoamines and their derivative; salts thereof:

292149—Other:

Classification of Goods as mentioned above:-

I . CYCLOBENZAPRINE HYDROCHLORIDE-(29214990) its chemical formula is $C_{20}H_{23}ClN_2$: indicates the specific atoms and their ratios in the compound. It consists of carbon (C), hydrogen (H), chlorine (Cl), and nitrogen (N) atoms. It is organic compounds that contain a single amine (NH_2) functional group. In this case, the compound likely contains an amine group (NH_2) as part of its structure. Its molecule consists of three fused rings: two benzene rings and a cycloheptadiene ring. Its belongs to Aromatic monoamines which are a class of compounds that typically include a benzene ring (an aromatic ring) and an amine group.

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. "Cyclobenzaprine HCL" would be out of the scope of Tariff Heading 2942 as claimed by the exporter and appears to correctly classifiable under CTH mentioned in Table-A above which attracts MEIS @ 2% instead of 3% as claimed by the exporter.

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.

4.3 Directorate General of Foreign Trade (DGFT), Ministry of Commerce vide Public Notice No. 61/2015-20 dated 07.03.2017 re-notifies the MEIS Schedule Appendix 3B (Table-2) harmonizing MEIS Schedule with ITC(HS), 2017. The MEIS entitlement as per Public Notice No. 61/2015-20 dated 07.03.2017 as amended, on the products classifiable under relevant HS Codes as per table-C is as under:

Table-C

SrNo.	ITC(HS)Code2017 (EightDigit)	Descriptions of goods as per ITC(HS)2017	MEISSr.No.	MEISReward Rate (In %)
1.	29420090	Other	1633	3%
2.	29214990	Other	1384	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. 22,124/- (Rupees Twenty Two Thousand One Hundred and Twenty Four Only)** which were utilized for payment of customs duty towards the imports by them vide advised C. L. No. 217/2023-24/JNCH (A1) dated 03.05.2023.

6. From the Chapter notes, chapter headings and reasons as elaborated in foregoing paras, it appears that **M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191) had misclassified the goods declared as "Cyclobenzaprine HCL" under CTH 29420090 instead of correct CTH mentioned above in Table A. Accordingly, it appears that M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191) 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191) presented a large number of shipping bills before DGFT to obtain MEIS License/Scripts. The duty credit/granted on such MEIS License/Scripts includes MEIS credit earned on correctly classifiable goods at appropriate eligible rates. However, it appears that M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191) has deliberately mis-classified the export goods under CTH 29420090 in shipping bills having FOB value of Rs. 22,12,368/-(Rupees Twenty Two Lakhs Twelve Thousand Three Hundred Sixty Eight Only) during the calendar year 2019 and 2020, as detailed in Annexure-B 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 NOTICEES

Whereas the audit conducted, as discussed in the foregoing paras, revealed that the M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191) 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. M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191) 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191) 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191) have rendered various goods exported by resorting to mis-declaration in terms of classification of goods, with declared FOB value of Rs. 22,12,368/-(Rupees Twenty Two Lakhs Twelve Thousand Three Hundred Sixty Eight Only) as detailed in Annexure-B to this notice, 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191) 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. **Shruti Drugs Pvt Ltd (IEC No. 0996001191)** 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. It is evident that MEIS benefit, covered by Customs Notification No.24/2015-Customs dated 08/ 4/2015, as amended, is a custom duty exemption by way of debit through MEIS Scrips. The power to exempt would include within its ambit the power to demand duty in the event such exemption is wrongly claimed/mis-used. Since the MEIS Scrips/Licenses, have been obtained by M/s. **Shruti Drugs Pvt Ltd (IEC No. 0996001191)** by mis-classification of the export goods as discussed in the foregoing paras, are therefore liable for suspension/ cancellation/ restriction. Hence the exemptions claimed by the importers are not admissible and duty at the appropriate rate is leviable on the imports to the extent of duty credit denied and same is required to be recovered from M/s. **Shruti Drugs Pvt Ltd (IEC No. 0996001191)**.

11. M/s. **Shruti Drugs Pvt Ltd (IEC No. 0996001191)** 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. 22,124/- (**Rupees Twenty Two Thousand One Hundred and Twenty Four Only**) on culmination of the investigation, the subject show cause notice was issued to M/s. **Shruti Drugs Pvt Ltd (IEC No. 0996001191)**, calling upon them to show cause as to why:

(i) The declared classification of the subject goods i.e. "**Cyclobenzaprine HCL**" in the shipping bills as detailed in Annexure-B under CTH 29420090 should not be rejected and the subject goods should not be re-classified under CTH as per Table-A above and the said shipping bills should not be re-assessed.

(ii) The exported goods, having total declared FOB value Rs. 22,12,368/- (**Rupees Twenty Two Lakhs Twelve Thousand Three Hundred Sixty Eight Only**) as detailed in Annexure-B, should not be held liable to confiscated under section 113(i) of Customs Act, 1962 although the same are not available for confiscation..

(iii) The export benefit in terms of MEIS through shipping bills as detailed in Annexure-B, amounting to Rs. 22,124/- (**Rupees Twenty Two Thousand One Hundred and Twenty Four Only**) should not be recovered as per section 28(4) read with section 28AAA of the Customs Act, 1962 along with applicable interest under section 28AA 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

12. 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 on 20.02.2025, 26.05.2025 and 12.06.2025. However the Exporter vide their letter dated 11.06.2025 send via mail requested to extend the PH for 15 days.

In this regard, the adjudicating authority has fixed personal hearing on 15.07.2025

and same was informed to the Exporter vide PH Memo dated 27.06.2025. In response to this PH Memo dated 27.06.2025, the Exporter vide mail dated 15.07.2025 informed that Mr. Nishit Prakash Kadakia (Director) was about to attend personal hearing on virtual mode but unfortunately due to continuous visitors coming to office he could not attend the Personal Hearing on virtual mode. Further, the Exporter informed vide mobile conversation that they will ready for personal hearing on 17.07.2025 on virtual mode. The exporter informed vide mail dated 17.07.2025 that the person who wanted to attend the Personal hearing was not able to attend personal hearing as he was hospitalized due to sugar levels and BP issue.

Finally Mr. Nishit Prakash Kadakia (Director) attended personal hearing on 05.08.2025 on virtual mode as per their convenience and he stated that they are the Merchant Exporter and submitted their written submission within a week.

WRITTEN SUBMISSION OF THE EXPORTER

13. The Exporter in their written submission dated 13.08.2025 stated that:

We are just Merchant Exporters and follow the instructions as per the purchase Invoice received from our principle manufacturer RL Finechem Pvt. Ltd. Who is a manufacturer of various API's (Active Pharmaceutical Ingredients) and have supplied them the said product vide invoice no. SD/19014 dated 21.06.2019 SB No. 5120282 dated 25/06/2019 in which they had classified the product under HS code No. 29420090.

Since we are only Merchant Exporters we have not changed any information declared by them in Invoice and shipped the goods to our customer overseas under same name, classification and style as shipped by them to us

They requested to accept their plea since they have been exporting this product under same HS code 29420090 for many years and accept their submission.

DISCUSSION AND FINDINGS

14. 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 14.06.2024 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 Noticee. 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 Noticee.

15. I find that a corrigendum to SCN No. 534/2024-25/AC/LIC/NS-II/CAC/JNCH dtd. 14.06.2024 was issued vide F. No. CUS/LIC/MISC/363/2024-LIC dated 23.01.2025 in respect of Para 16, line No. 14, the words Assistant Commissioner of Customs, License Section, NS-II JNCH, Nhava Sheva, may be read as Additional/Joint Commissioner of Customs, License Section, NS-II, JNCH, Nhava Sheva.

Further, a corrigendum to SCN No. 534/2024-25/AC/LIC/NS-II/CAC/JNCH dtd.

14.06.2024 was issued vide F. No. CUS/LIC/MISC/363/2024-LIC dated 21.08.2025 in respect of Para No. 4.3 "Table-C Sr. No.2 column in MEIS Sr. No. 1384 may be read as "1370".

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

- i. whether the impugned export goods, i.e "Cyclobenzaprine HCL" was misclassified by the Noticee under CTH 29420090 instead of CTH 29214990 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 Noticee are liable for further consequential action under various sections of Customs Act, 1962 as detailed in the subject show cause notice.

17. RELEVANT PROVISIONS OF LAW APPLICABLE IN THIS CASE

The relevant provisions of the Customs Act relating to export of goods in general, the liability of the goods to confiscation and liability to penalty for improper exportation under the provisions of the Custom Act, 1962, Foreign Trade (Development & Regulation) Act, 1992, Foreign Trade (Regulation) Rules, 1993 are summarized as under:

- i. **Section 11(1) of the Foreign Trade (Development and Regulation) Act. 1992:** "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 export and import policy (now termed as Foreign Trade Policy) for the time being in force".
- ii. **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;
- iii. **Section 17(1) of the Customs Act, 1962:** After an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50, the imported goods or the export goods, as the case may be, or such part thereof as may be necessary may, without undue delay, be examined and tested by the proper officer.
- iv. **Section 28 (4) of the Customs Act. 1962:** Where any duty has not been, (levied or not paid or has been short-levied or short-paid) or erroneously refunded, or interest payable has not been paid, part paid or erroneously refunded, by reason of,
 - (a) collusion; or
 - (b) any willful mis-statement; or
 - (c) suppression of fact.

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

- v. **SECTION 28AA Of the Customs Act, 1962:** Interest on delayed payment of duty
- (1) Notwithstanding anything contained in any judgment, decree, order or direction of any

court, Appellate Tribunal or any authority or in an other provision of this Act or the rules made there under, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent and not exceeding thirty-six per cent per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be payable where,

(a) The duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) Such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.

(vi) **SECTION 28AAA Of the Customs Act, 1962 : Recovery of duties in certain cases.** (1) Where an instrument issued to a person has been obtained by him by means of

- (a) collusion; or
- (b) willful misstatement; or
- (c) suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), by such person or his agent or employee and such instrument is utilised under the provisions of this Act or the rules made or notifications issued there under, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued. Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.

(vii) **Section 50 (2) of the Customs Act, 1962;** The exporter of any goods, while presenting a Shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(viii) **Section 50 (3) of the Customs Act, 1962:** The exporter who presents a Shipping bill or bill of export under this section shall ensure the following, namely:- The accuracy and completeness of the information given therein; The authenticity and validity of any document supporting it; and Compliance with restriction or prohibition, if any, relating to the goods under this Act or under any law for the time being in force.

(ix) **Section 113 (i) of the Customs Act, 1962:** Confiscation of goods attempted to be improperly exported, etc. The following export goods shall be liable to confiscation- any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act.

(x) **Section 114 (iii) of the Customs Act, 1962** : in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.

(xi) **Section 114AA of the Customs Act, 1962** : If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

(xii) **Section 114 AB of the Customs Act, 1962**: (Penalty for obtaining Instrument by fraud etc.): Where any person has obtained any instrument by fraud, collusion, wilful misstatement or suppression of facts and such instrument has been utilised by such person or any other person for discharging duty, the person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument.

18. 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 and 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 2921 is reproduced as under:

2921 Amine-Function Compounds

-Aromatic monoamines and their derivative; salts thereof:

292149—Other:

Classification of Goods as mentioned above:-

I . CYCLOBENZAPRINE HYDROCHLORIDE-(29214990) its chemical formula is $C_{20}H_{23}ClN_2$: indicates the specific atoms and their ratios in the compound. It consists of

carbon (C), hydrogen (H), chlorine (Cl), and nitrogen (N) atoms. It is organic compounds that contain a single amine (NH₂) functional group. In this case, the compound likely contains an amine group (NH₂) as part of its structure. Its molecule consists of three fused rings: two benzene rings and a cycloheptadiene ring. It belongs to Aromatic monoamines which are a class of compounds that typically include a benzene ring (an aromatic ring) and an amine group.

18.1 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. "Cyclobenzaprine HCL" would be out of the scope of Tariff Heading 2942 as claimed by the exporter and appears to correctly classifiable under CTH mentioned in Table-A above which attracts MEIS @ 2% instead of 3% as claimed by the Exporter.

19. 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.

19.1 I find from Table-C above that goods classifiable under Customs Tariff Heading 29214990 are entitled to benefit under MEIS Schemes at the rate of 2% instead of 3% of FOB value under MEIS Schemes.

19.2 Further, I find that the Exporter had mis-declared the classification of the goods in their Shipping Bills and other documents to avail excess MEIS benefit. By no stretch of imagination, such mis-declaration and mis-statement can be regarded as without the Exporter's will and intention, especially when such mis-declaration leads to availment of inadmissible benefit of MEIS by them. As already observed M/s Shruti Drugs Pvt Ltd (IEC No. 0996001191) had classified the impugned goods under CTH 29420090 to claim inadmissible MEIS benefits. This shows that the decision to classify the export product under wrong CTH was taken to avail higher MEIS benefit, which clearly indicate that it is not due to lack of knowledge or unintentional mistake, but it is a wilful "decision" to misclassify the goods with the intention to wrongfully avail undue MEIS benefit and as such it constitutes wilful misstatement fit for invoking provisions of Section 28AAA of the Customs Act, 1962.

19.3. I find from the Chapter notes, chapter headings and the relevant Subheading and the information from available on the open source internet and reasons as elaborated in foregoing paras that M/s Shruti Drugs Pvt Ltd (IEC No. 0996001191) had 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 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 become invalid and hence, it can be said that the same were obtained fraudulently. I find that by resorting to such acts, M/s Shruti Drugs Pvt Ltd (IEC No. 0996001191), had contravened the various provisions of Customs Act, 1962.

19.4 I notice that vide Finance Act, 2011 with effect from 08.04.2011 "Self-Assessment" had been introduced under the Customs Act, 1962. With the introduction of self-assessment under the Customs Act, more faith is bestowed on the exporter, as the practice of routine assessment, concurrent audit and examination has been dispensed with and the exporters have been assigned with the responsibility of assessing their own goods under Section 17(1) of the Customs Act, 1962. Section 17(1) of the said Act provided 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. As a part of self-assessment by the said exporter, it is their duty to present correct facts and declare to the Customs authority about their inability to classify the subject goods rather to mis-classify the goods. The onus is on the exporter to ensure that accurate and complete information is given in the shipping bill, as mandated under section 50(2) & 50(3) of the Customs Act, 1962. As per substantive provisions of section 50(3) of the Customs Act, 1962, 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 restrictions or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Thus, under self-assessment, it is the importer or exporter who would ensure that they declare 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, I find that M/s Shruti Drugs Pvt Ltd (IEC No. 0996001191) had deliberately contravened the above said provisions with an intention to avail MEIS benefits fraudulently which are not legitimately due to them.

19.5 However, I observe that the exporter had not fulfilled the statutory obligation of correct and truthful declaration of the material facts of the exports document i.e. shipping bills, wherein the Exporter had mis-classified the goods with an intention to claim higher export benefits in form of the MEIS as explained above. Thus, by misclassifying the goods, undue MEIS benefits amounting to Rs. 22,124/- (**Rupees Twenty Two Thousand One Hundred and Twenty Four Only**) had been wrongly claimed by the Exporter.

19.6 I find that in the instant case that the exporter had given a declaration under section 50(2) of the Customs Act, 1962 for the truthfulness of the content submitted at the time of filing Shipping bills. However, the exporter had not correctly classified the exported goods and therefore wrong MEIS benefit @ 3% instead of applicable MEIS @ 2% of FOB value on the subject goods was claimed by the exporter. Hence the Exporter had submitted a false declaration under section 50(2) of the Customs Act, 1962 which amounts to wilful mis-declaration. Further, I observe that the Exporter had suppressed the facts of applicability of Correct MEIS benefit @2% while claiming MEIS benefit from DGFT and intentionally claimed undue MEIS benefit on the goods exported vide Shipping bills as mentioned in Annexure-B. This act of exporter had resulted into loss of government revenue of Rs 22,124/- (**Rupees Twenty Two Thousand One Hundred and Twenty Four Only**) and had accrued monetary benefit to the Exporter. Therefore, Exporter had wilfully mis-stated, mis-represented and suppressed the facts with an intention to gain undue MEIS benefit. As the Exporter got the undue monetary benefit, due to the said act of mis-classification of the subject exported goods and the same was done deliberately by mis-classification of the said goods in the above said Shipping bills during self-assessment which amounts to wilful mis-

declaration.

19.7 I further observe that the exporter presented a large number of shipping bills before DGFT to obtain MEIS License/Scripts under dispute. The duty credit granted on such MEIS License/Scripts included MEIS credit earned on correctly classifiable goods at appropriate eligible rates as well as on mis-classified products. I further find that **M/s Shruti Drugs Pvt Ltd (IEC No. 0996001191)** had deliberately mis-classified the export goods under CTH 29420090 in all the shipping bills having FOB value of **Rs. 22,12,368/-** as detailed in Annexure-B to the subject SCN, to claim and avail undue higher rate of MEIS benefits which are not due to them. **M/s Shruti Drugs Pvt Ltd (IEC No. 0996001191)**, thus claimed undue export benefit in terms of MEIS through Shipping Bills **22,124/- (Rupees Twenty Two Thousand One Hundred and Twenty Four Only)** as indicated in Annexure-B to the subject notice. The amount of **Rs. 22,124/- (Rupees Twenty Two Thousand One Hundred and Twenty Four Only)** is therefore liable to recovered under per section 28(4) and/or 28AAA of the Customs Act, 1962, as applicable alongwith the applicable interest.

19.8 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 on higher side. **M/s Shruti Drugs Pvt Ltd (IEC No. 0996001191)** had violated the provisions of Section 17 and 50 of the Customs Act, 1962 which is their duty to comply with. In view of the above, I therefore, find that **M/s Shruti Drugs Pvt Ltd (IEC No. 0996001191)** had indulged in fraudulent export of the goods by mis-declaring the actual classification of goods so exported, which squarely fell 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.

Moreover, as the Exporter has been working under the regime of self-assessment, where they have been given liberty to determine every aspect of a consignment from the classification to declaration of value of the goods, it was the sole responsibility of the Exporter to place correct facts and figures before the Assessing Authority. In the instant case, the Exporter had the full knowledge of the fact that they did not follow the correct MEIS Reward Rate in respect of the declared export goods but they preferred suppressing the fact from the Customs Authority for claiming the MEIS Reward Rate on higher side.

20. In view of the above discussion, I find that MEIS benefit, covered by Customs Notification No.24/2015-Customs dated 08/04/2015, as amended, was a custom duty exemption by way of debit through MEIS Scripts. The power to exempt would include within its ambit the power to demand duty in the event such exemption is wrongly claimed/mis-used. Since the MEIS Scripts/Licenses had been obtained by **M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** by mis-classification of the export goods, as discussed in the preceding paras, they are therefore liable for suspension/cancellation /restriction. Hence, I find that the exemptions claimed by the importers are not admissible and duty at the appropriate rate is leviable on the imports to the extent of duty credit denied and the same is required to be recovered from **M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191)**. Therefore, I find that undue benefit of MEIS availed amounting to **Rs. 22,124/- (Rupees Twenty Two Thousand One Hundred and Twenty Four Only)** is liable to be denied and recovered under the provisions of section 28(4) and /or 28AAA of the Customs Act, 1962 alongwith interest under section 28AA of the Customs Act, 1962.

21. 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** had rendered the impugned goods exported having declared FOB value of **Rs. 22,12,368/-** 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.

22 I find that by misclassifying the subject goods with an intention to avail wrongful/ ineligible /undue MEIS benefit amounting to **Rs. 22,124/- (Rupees Twenty-Two Thousand One Hundred and Twenty-Four Only)**. **M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** had rendered themselves liable for penal action under Section 28AA, 114(iii), 114AA & 114AB of the Customs Act, 1962 with respect to the goods exported.

23. I find that the Exporter had violated the provisions of Rule 11 of the Foreign Trade (Regulations), 1993 as well as the provision of section 50(2) of the Customs Act, 1962 by mis-classifying the subject exported goods and claimed undue MEIS which was not admissible to them, thereby rendered the exported goods covered by Shipping Bills as detailed in the Annexure-B of the subject show cause notice, liable to confiscation under Section 113(i) of the Customs Act, 1962.

23.1 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.

23.2 I also find that the Exporter have 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191)**, had rendered themselves liable to penal action under Section 114AA of the Customs Act, 1962 for signing false declaration in the shipping bill.

23.3 I find that **M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** had 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. Shruti Drugs Pvt Ltd (IEC No. 0996001191)** is also liable for penalty under section 114 AB of Customs Act, 1962 for this intentional mis-declaration of classification.

24. 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-B to the SCN) and re-classify the said goods under respective CTH 29214990 Customs Tariff Heading of the First Schedule to the Customs Tariff Act, 1975.

(ii) I confiscate the impugned exported goods, having total declared FOB value of Rs. 22,12,368/- (Rupees Twenty Two Lakhs Twelve Thousand Three Hundred Sixty Eight Only) as detailed in Annexure-B under Section 113(i) of Customs Act, 1962. However, in lieu of confiscation, I impose redemption fine of Rs.10,000 /- (Rs. Ten 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-B to the SCN amounting to Rs. 22,124/- (Rupees Twenty Two Thousand One Hundred and Twenty Four Only) and I order to recover the same from M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191) 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) I impose penalty of Rs.10,000 /- (Rs. Ten Thousand only) under section 114(iii) of the Customs Act, 1962 upon M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191).

(v) I impose penalty of Rs.10,000 /- (Rs. Ten Thousand only) under section 114AA of the Customs Act, 1962 upon M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191).

(vi) I impose penalty of Rs.10,000 /- (Rs. Ten Thousand only) under Section 114AB of the Customs Act, 1962 upon M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191).

25. This order is issued without prejudice to any other action that may be taken against the noticee(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
Wagh Chittaranjan Prakash
(Pr. Chittaranjan Prakash Wagh)
Date: 02-09-2025 12:10:28
Addl. Commissioner of Customs
NS-II, JNCH, Nhava Sheva.

To,

M/s. Shruti Drugs Pvt Ltd (IEC No. 0996001191)
5-4-187/7/3, MG Road,
Secunderabad, Hyderabad,
Talangana-500003.
Email-nishitk@yahoo.com

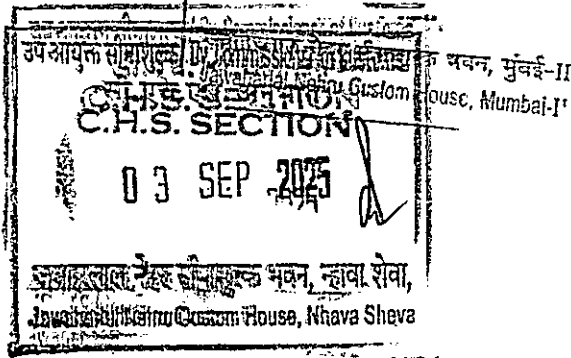
EM988070215N

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. EM989154361N

3. The Asst./Deputy Commissioner of Customs, Audit, 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
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