

	OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-I सीमा-शुल्क आयुक्त का कार्यालय, एनएस-I CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा-शुल्क भवन, NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA 400707 न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400 707
---	--

Date of Order : 07.10.2025
आदेश की तिथि : 07.10.2025
07.10.2025

Date of Issue: 07.10.2025
जारी किए जाने की तिथि:

DIN: 20251078NW0000013284

F. No. S/10-115/2024-25/Commr/NS-I/Gr II (C-F)/CAC/JNCH
SCN No. 1133/2024-25/Commr/ NS-I/Gr. II (C-F)/ CAC/JNCH dated 25.09.2024

Passed by: Shri Yashodhan Wanage
पारितकर्ता: श्री यशोधन वानगे

Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva
प्रधानआयुक्त, सीमाशुल्क (एनएस-1), जेएनसीएच, न्हावाशेवा

Order No.: 224/2025-26 /Pr. Commr./NS-I /CAC /JNCH
आदेशसं. : 224/2025-26/प्र. आयुक्त/एनएस-1/ सीएसी/जेएनसीएच

Name of Party/Noticees: M/s Croda India Company Private Limited & CB M/s. Freight Carriers Pvt Ltd
पक्षकार (पार्टी)/ नोटिसीकानाम: मेसर्स क्रोडा इंडिया कंपनी प्राइवेट लिमिटेड और सी. बी.मेसर्स फ्रेट कैरियर्स प्राइवेट लिमिटेड

ORDER-IN-ORIGINAL

मूलआदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.
1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि: शुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.
2.इस आदेश से व्यथित कोई भी व्यक्ति सीमा-शुल्क अधिनियम१९६२की धारा १२९(ए) के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्याय पीठ (वेस्टरीज़नलबेंच), ३४, पी. डी. मेलो रोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal: -

3. अपील दाखिल करने संबंधी मुख्य मुद्दे: -

Form -Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - फार्म नं. सी ए ३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

Time Limit-Within 3 months from the date of communication of this order.

समय सीमा- इस आदेश की सूचना की तारीख से ३ महीने के भीतर

Fee- (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.

फीस- (क) (एक हजार रुपये-जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५ लाख रुपये या उससे कम है ।

(b) Rs. Five Thousand - Where amount of duty & Page 2 of 1

interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakhs.

(ख) पाँच हजार रुपये- जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५ लाख रुपये से अधिक परंतु ५० लाख रुपये से कम है।

(c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.

(ग) दस हजार रुपये-जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५० लाख रुपये से अधिक है ।

Mode of Payment - A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति- क्रॉस बैंकड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सीईएसटीएटी, मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमा-शुल्क अधिनियम, १९६२, सीमा-शुल्क (अपील) नियम, १९८२ सीमा-शुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129 of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्ति का ७.५% जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमा-शुल्क अधिनियम, १९६२ की धारा १२८ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी ।

BRIEF FACTS OF THE CASE

The importer M/s. Croda India Company Private Limited (IEC-302048499) having office address at Plot No. 1/1, TTC Industrial Area, Koparkhairane, Thane Belapur Road, Navi Mumbai-400 710 (hereinafter referred to as importer) had filed various Bills of Entry, details are tabulated in Annexure-A to the Show cause Notice, for the clearance of imported goods declared under CTH 29051700 and 38237090 through their Customs Broker. The goods under subject Bills of Entry were imported by the importer under lower/Nil rate of ADD, subject to certain conditions as mentioned in the Notification No. 28/2018-Customs (ADD) dated 25.05.2018 including producer, exporter, country of origin, country of export etc. The analysis of the import data revealed that the importer had mis used the above notification in order to avail the benefit of lower duty rate.

The importer had imported the goods falling under CTI 29051700 and 38237090 without paying the true applicable Anti-Dumping Duty as per the Notification No. 28/2018-Customs (ADD) dated 25.05.2018, further amended vide Notification No 48/2018 dated 25.09.2018. The extract of the said notification is given below: -

Table-I

S. N o.	Sub-heading s	Description of goods	County of origin	County of export	Producer	Exporter	Amo unt	Uni t	Curr ency
1	2	3	4	5	6	7	8	9	10
1	2905 17, 2905 19, 3823 70	All types of Saturated Fatty Alcohols excluding Capryl Alcohols (C8) and Decyl Alcohols (C10) and blends of C8 and C10	Indones ia	Singap ore	M/s PT Eco green Oleochem icals	M/s Eco green Oleochemi cals (Singapore) Pte Ltd.	NIL	MT	USD
2	2905 17, 2905 19, 3823 70	-do-	Indones ia	Indones ia	M/s PT Musim Mas	M/s Inter-Continental Oils & Fats Pte Ltd, Singapore	7.1	MT	USD
3	2905 17, 2905 19, 3823 70	-do-	Indones ia	Indones ia	M/s PT Wilmar Nabati	M/s Wilmar Trading Pte Ltd., Singapore	52.2 3	MT	USD
4	2905 17, 2905 19, 3823 70	-do-	Indones ia	Indones ia	Any combinati on other than Sl. Nos. 1, 2 & 3	Any combinatio n other than Sl. Nos. 1, 2 & 3	92.2 3	MT	USD
5	2905 17, 2905 19, 3823 70	-do-	Indones ia	Any	Any	Any	92.2 3	MT	USD
6	2905 17,	-do-	Any	Indones	Any	Any	92.2	MT	USD

	2905 19, 3823 70		country other than those subject to antidum ping duty	ia			3		
7	2905 17, 2905 19, 3823 70	-do-	Malaysi a	Malaysi a	M/s FPG Oleochem icals Sdh Bhd	M/s Procter & Gamble Internation al Operations SA, Singapor	17.6 4	MT	USD
8	2905 17, 2905 19, 3823 70	-do-	Malaysi a	Malaysi a	M/s KL - Kepong Oleomas Sdn Bhd	M/s KL - Kepong Oleomas Sdn Bhd	NIL	MT	USD
9	2905 17, 2905 19, 3823 70	-do-	Malaysi a	Malaysi a	Any combinati on other than Sl. Nos. 7 & 8	Any combinatio n other than Sl. Nos. 7 & 8	37.6 4	MT	USD
10	2905 17, 2905 19, 3823 70	-do-	Malaysi a	Any Countr y	Any	Any	37.6 4	MT	USD
11	2905 17, 2905 19, 3823 70	-do-	Any country other than those subject to antidum ping duty	Malaysi a	Any	Any	37.6 4	MT	USD
12	2905 17, 2905 19, 3823 70	-do-	Thailan d	Thailan d	M/s Thai Fatty Alcohols Co. Ltd.	M/s Thai Fatty Alcohols Co. Ltd.	NIL	MT	USD
13	2905 17, 2905 19, 3823 70	-do-	Thailan d	Thailan d	Any combinati on other than Sl. No. 12	Any combinatio n other than Sl. No. 12	22.5	MT	USD
14	2905 17, 2905 19, 3823 70	-do-	Any country other than country of origin	Thailan d	Any	Any	22.5	MT	USD
15	2905 17, 2905 19, 3823 70	-do-	Thailan d	Any country	Any	Any	22.5	MT	USD

Whereas, Para 2 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018 mentions as follows: -

“The anti-dumping duty imposed shall be effective for the period of five years (unless revoked, amended or superseded earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian Currency”.

Thus, it appears that the importer is required to pay ADD as per the said notification. However, the importer had not paid the ADD.

Further, amendment was done vide Notification No.13/2019-Customs (ADD), 14th March, 2019, wherein relevant para reads as below:

“And Whereas, M/s. PT. Energi Sejahtera Mas (Producer) Indonesia and through M/s. Sinarmas Cepsa Pte Ltd (Exporter/trader), Singapore have requested for review in terms of rule 22 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, in respect of exports of the subject goods made by them, and the designated authority, vide new shipper review notification No.7/38/2018-DGTR, dated the 15th January 2019, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 15th January 2019, has recommended provisional assessment of all exports of the subject goods made by the above stated party till the completion of the review by it;

Now Therefore, in exercise of the powers conferred by sub-rule (2) of rule 22 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid recommendation of the designated authority, hereby orders that pending the outcome of the said review by the designated authority, the subject goods, when originating in or exported from the subject country by M/s. PT. Energi Sejahtera Mas (Producer) Indonesia and through M/s. Sinarmas Cepsa Pte Ltd (Exporter/trader), Singapore and imported into India, shall be subjected to provisional assessment till the review is completed.

1. The provisional assessment may be subject to such security or guarantee as the proper officer of customs deems fit for payment of the deficiency, if any, in case a definitive antidumping duty is imposed retrospectively, on completion of investigation by the designated authority.

2. In case of recommendation of anti-dumping duty after completion of the said review by the designated authority, the importer shall be liable to pay the amount of such anti-dumping duty recommended on review and imposed on all imports of subject goods when originating in or exported from the subject country by M/s. PT. Energi Sejahtera Mas (Producer) Indonesia and through M/s. Sinarmas Cepsa Pte Ltd (Exporter/trader), Singapore and imported into India, from the date of initiation of the said review”

Further Notification No 23/2022-Customs (ADD) dated 12.07.2022 makes the following amendment in the notification 28/2018-Customs (ADD) dated 25.05.2018 and below entry is added:

Table-II

S.N o.	Sub-headings	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
1	2	3	4	5	6	7	8	9	10
16	2905 17, 2905 19, 3823 70	-do-	Indonesia	Any country including Indonesia	PT. ENERGI SEJAHTER A MAS	Sinarma s CEP SA Pte. Ltd.	51.64	MT	USD

****Note.** - The principal notification No. 28/2018 Customs (ADD), dated the 25th May, 2018 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 498(E), dated the 25th May, 2018 and last amended by notification No. 41/2019-Customs (ADD), dated the 25th October, 2019, published in the official Gazette vide number G.S.R. 812 (E), dated the 25th October, 2019.

1.3. The Anti-dumping duty levied on the import vide Notification 28/2018-Customs (ADD) dated 25.05.2018 was applicable to subject Bills of Entry, but applicable Anti-dumping duty was not paid for the said Bills of Entry by the importer.

Further, during the investigation, it was seen that the importer had opted the benefit of S. No. 1 of Notification 28/2018-Customs (Nil Anti-Dumping) as shown in Table-I for various consignments under the condition that the Producer is “PT Ecogreen Oleochemicals” & Exporter is “Ecogreen Oleochemicals (Singapore) Pte Ltd” along with other mentioned conditions in the said notification. On scrutiny of the relevant documents, it is seen that the goods have not been exported from Singapore, but the same have been transshipped at Singapore. The details mentioned on the Bill of Lading for these consignments clearly indicated that the goods were for "Transshipment at Singapore on Vessel - Shipped on Board on Pre-Carriage Vessel at Batam, Indonesia,". This also indicated that there is no ‘Export Declaration/ Bill of Export/Shipping Bill’ presented at Singapore. Therefore, the mandatory condition of country of export as Singapore is not being fulfilled by the Exporter. Consequently, it appears that the importer inappropriately claimed the benefit of S. No. 1 of Notification 28/2018-Customs.

Copy of one such Bill of Lading uploaded in e-sanchit by the importer is as below:

Freight Detail & Charges	Unit/Tons	Rate/Tariff	Per	Total Prepaid	Total Collect
RECEIVED by the Carrier the Goods as specified above in apparent good order and condition unless otherwise stated, to be transported to such place as agreed, authorised or permitted herein and subject to all the terms and conditions appearing on the front and reverse of this Bill of Lading to which the Merchant agrees by accepting this Bill of Lading, any local privileges and customs notwithstanding. The particulars given above as stated by the shipper and the weight, measure, quantity, condition, contents and value of the goods are unknown to the carrier. In WITNESS whereof one (1) original Bill of Lading has been signed if not otherwise stated above, the same being accomplished the other(s) if any, to be void. If required by the Carrier on (1) original Bill of Lading must be surrendered duly endorse in exchanges for the goods of delivery order.			Prepaid at : SINGAPORE Collect at : Place of Issue : SINGAPORE Dated : 20/12/2021		
JURISDICTION AND LAW CLAUSE The contract evidenced by or contained in this Bill of Lading is governed by the law of Singapore and any claim or disputes arising hereunder or in connection herewith shall be determined by the Courts in Singapore and no other Court.			AS AGENT FOR CARRIER SILKARGO LINES		

Attached List
Vessel/Voyage : SINAR SORONG VOY. 122W
B/L NUMBER : SILKNSAE019102
Sailed SIN : 20/12/2021

Container No/ Seal	No of	Description	Weight (KG)	Volume (M3)
TRANSHIPMENT AT SINGAPORE ON VESSEL SINAR SORONG VOY. 122W SHIPPED ON BOARD ON PRE-CARRIAGE VESSEL BUANA OCEAN 08 VOY. 811217 AS AT BATAM, INDONESIA ON 16 DECEMBER 2021 14 DAYS FREE TANK DETENTION AT DESTINATION THEREAFTER WILL APPLY USD 35 PERTANK PER DAY FREIGHT PREPAID				

1.4. The importer had imported the goods from Supplier (M/S. ECOGREEN OLEOCHEMICALS (Singapore) without paying the applicable Anti-Dumping Duty as per the ADD notification.

The details of the bills of entry are tabulated below:

Sr . N o.	BE Num ber	BE Da te	Full Item Description	Q UA NT IT Y	UQ C	Assessa ble Value Amoun t	Cust oms Brok er Nam e	ADD Rate (In USD per Mtr Ton)	Differen tial ADD (In Rs)	IGST on Differen tial ADD (In Rs) @18%
1	6827961	24-12-2021	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB (ISOTANK) ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB (ISOTANK)	19.9	MT S	4922123.7	FREIGHT CARRIERS PVT LTD	92.23	141599.336	25487.8804
2	25674	23-	ECOROL 18/98P	15	MT	556810	FREI	92.2	111229.3	20021.28

	98	09-2022	MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)		S	2	GHT CAR RIER S PVT LTD	3	8	84
3	8840481	26-05-2022	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MT S	4727790	FREI GHT CAR RIER S PVT LTD	92.23	108739.17	19573.0506
4	7811739	10-03-2022	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) STEARYL ALCHOL PASTILLES	15	MT S	3878106.8	FREI GHT CAR RIER S PVT LTD	92.23	106041.443	19087.4597
5	7978357	23-03-2022	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB (ISOTANK) ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB (ISOTANK)	19.9	MT S	4927598.2	FREI GHT CAR RIER S PVT LTD	92.23	141140.491	25405.2884
6	6689561	30-01-2020	ECOROL 18/98P(STEARYL ALCOHOL PASTILLES) STEARYL ALCHOL PASTILLES	15	MT S	1332690	FREI GHT CAR RIER S PVT LTD	92.23	99124.1925	17842.3547
7	5094994	28-09-2019	ECOROL 68/50P (CETYL STEARYL ALCOHOL PASTILLES) RSPO MB GRADEECOROL 68/50P (CETYL STEARYL ALCOHOL PASTILLES) RSPO MB GRAD	15	MT S	1326675	FREI GHT CAR RIER S PVT LTD	92.23	99885.09	17979.3162
8	6805265	08-02-2020	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) LAURYL MYRISTYL ALCOHOL	19.81	MT S	2236841.2	FREI GHT CAR RIER S PVT LTD	92.23	131823.555	23728.2399
9	6293167	30-12-2019	ECOROL 68/50P (CETYL STEARYL ALCOHOL PASTILLES) MB CETYL STEARYL	15	MT S	1321162.5	FREI GHT CAR RIER S PVT LTD	92.23	99470.055	17904.6099

			ALCOHOL							
10	2525464	20-09-2022	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MTS	5568102	FREIGHT CARRIERS PVT LTD	92.23	111229.38	20021.2884
11	5344052	07-09-2021	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MTS	1686060	FREIGHT CARRIERS PVT LTD	92.23	102306.128	18415.103
12	3341964	17-11-2022	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MTS	4776600	FREIGHT CARRIERS PVT LTD	92.23	115933.11	20867.9598
13	2152736	25-08-2022	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MTS	5288850	FREIGHT CARRIERS PVT LTD	92.23	111367.725	20046.1905
14	4830411	27-07-2021	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) RSPO SCC ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) RSPO SSC	30	MTS	3438240	FREIGHT CARRIERS PVT LTD	92.23	208624.26	37552.3668
15	3024788	25-10-2022	ECOROL 68/50P (CETYL STEARYL ALCOHOL) RSPO MB GRADE (CETYL STEARYL ALCOHOL)	15	MTS	3297270	FREIGHT CARRIERS PVT LTD	92.23	116071.455	20892.8619
16	8217440	20-07-2020	ECOROL 18/98P (STEARYL ALCOHOL) RSPO MB GRADE (STEARYL ALCOHOL) STEARYL ALCOHOL	15	MTS	1398337.5	FREIGHT CARRIERS PVT LTD	92.23	105280.545	18950.4981
17	2821141	18-02-2021	ECOROL 18/98P (STEARYL ALCOHOL) RSPO MB GRADE (STEARYL ALCHOL	15	MTS	1549800	FREIGHT CARRIERS PVT LTD	92.23	102098.61	18377.7498

			PASTILLES) STEARYL ALCHOL PASTILLES							
18	2517657	27-01-2021	ECOROL 18/98P (STEARYL ALCOHOL) RSPO MB GRADE (STEARYL ALCOHOL PASTILLES) STEARYL ALCHOL PASTILLES	15	MTS	1550850	FREIGHT CARRIERS PVT LTD	92.23	102167.783	18390.2009
19	3355019	30-03-2021	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB LAURYL MYRISTYL ALCOHOL	19.7	MTS	3178989	FREIGHT CARRIERS PVT LTD	92.23	133271.889	23988.94
20	2965754	20-10-2022	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MTS	4699650	FREIGHT CARRIERS PVT LTD	92.23	114065.453	20531.7815
21	4076529	25-05-2021	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB	19.7	MTS	3226091.7	FREIGHT CARRIERS PVT LTD	92.23	134634.587	24234.2257
22	2568035	23-09-2022	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB (ISOTANK) ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB (ISOTANK)	19.9	MTS	3247918.8	FREIGHT CARRIERS PVT LTD	92.23	147564.311	26561.5759
23	5179871	25-08-2021	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB	19.95	MTS	3585573.6	FREIGHT CARRIERS PVT LTD	92.23	138367.135	24906.0843
24	9024133	01-10-2020	ECOROL 18/98P (STEARYL ALCOHOL) RSPO MB	15	MTS	1426725	FREIGHT CARRIER	92.23	103205.37	18576.9666

			GRADE (STEARYL ALCHOL PASTILLES) STEARYL ALCHOL PASTILLES				S PVT LTD			
2 5	27139 69	10- 02- 20 21	ECOROL 18/98P (STEARYL ALCOHOL) RSPO MB GRADE STEARYL ALCHOL PASTILLES	15	MT S	162729 0	FREI GHT CAR RIER S PVT LTD	92.2 3	102098. 61	18377.74 98
2 6	90714 74	06- 10- 20 20	ECOROL 68/50P (CETYL STEARYL ALCOHOL) RSPO MB GRADE (CETYL STEARYL ALCOHOL) CETYL STEARYL ALCOHOL	15	MT S	143598 7.5	FREI GHT CAR RIER S PVT LTD	92.2 3	103067. 025	18552.06 45
2 7	23311 09	07- 09- 20 22	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MT S	528556 5	FREI GHT CAR RIER S PVT LTD	92.2 3	111298.5 53	20033.73 95
2 8	30597 47	28- 10- 20 22	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MT S	478230 0	FREI GHT CAR RIER S PVT LTD	92.2 3	116071.4 55	20892.86 19
2 9	69068 71	31- 12- 20 21	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) STEARYL ALCHOL PASTILLES	30	MT S	585105 6	FREI GHT CAR RIER S PVT LTD	92.2 3	213466. 335	38423.94 03
3 0	48549 88	11- 10- 20 19	ECOROL 68/50P (CETYL STEARYL ALCOHOL PASTILLES) MB CETYL STEARYL ALCOHOL	15	MT S	133770 0	FREI GHT CAR RIER S PVT LTD	92.2 3	100715. 16	18128.72 88
3 1	99839 96	12- 08- 20 22	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MT S	527242 5	FREI GHT CAR RIER S PVT LTD	92.2 3	111021.8 63	19983.93 53
3 2	30772 32	29- 10-	ECOROL 18/98P MB (STEARYL	15	MT S	478230 0	FREI GHT	92.2 3	116071.4 55	20892.86 19

		20 22	ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)				CAR RIER S PVT LTD			
3 3	84814 11	14- 08- 20 20	ECOROL 18/98P (STEARYL ALCOHOL) (SEARYL ALCOHOL) CETYL STEARYL ALCOHOL	15	MT S	130668 7.5	FREI GHT CAR RIER S PVT LTD	92.2 3	104796. 338	18863.34 08
3 4	87828 16	11- 09- 20 20	ECOROL 68/50P (CETYL STEARYL ALCOHOL) RSPO MB GRADE (CETYL STEARYL ALCOHOL PASTILLES MB) CETYL STEARYL ALCOHOL PASTILLES MB	15	MT S	142827 7.5	FREI GHT CAR RIER S PVT LTD	92.2 3	102513. 645	18452.45 61
3 5	85983 70	26- 08- 20 20	ECOROL 18/98P (STEARYL ALCOHOL) (STEARYL ALCOHOL) STEARYL ALCOHOL	15	MT S	130927 5	FREI GHT CAR RIER S PVT LTD	92.2 3	105003. 855	18900.69 39
3 6	24486 45	21- 01- 20 21	ECOROL 18/98P (STEARYL ALCOHOL) RSPO MB GRADE (STEARYL ALCOHOL PASTILLES) STEARYL ALCHOL PASTILLES	15	MT S	155400 0	FREI GHT CAR RIER S PVT LTD	92.2 3	102375. 3	18427.55 4
3 7	34305 71	23- 11- 20 22	ECOROL 68/50P (CETYL STEARYL ALCOHOL) RSPO MB GRADE (CETYL STEARYL ALCOHOL)	15	MT S	324618 0	FREI GHT CAR RIER S PVT LTD	92.2 3	114272.9 7	20569.13 46
3 8	43866 12	28- 01- 20 23	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MT S	362943 0	FREI GHT CAR RIER S PVT LTD	92.2 3	113857.9 35	20494.42 83
3 9	96900 92	24- 11- 20 20	ECOROL 68/50P (CETYL STEARYL ALCOHOL) RSPO MB GRADE (CETYL	15	MT S	152844 0	FREI GHT CAR RIER S PVT	92.2 3	104035. 44	18726.37 92

			STEARYL ALCOHOL) CETYL STEARYL ALCOHOL				LTD			
4 0	50212 98	12- 08- 20 21	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	15	MT S	171228 0	FREI GHT CAR RIER S PVT LTD	92.2 3	103897. 095	18701.47 71
4 1	87837 09	11- 09- 20 20	ECOROL 18/98P (STEARYL ALCOHOL) RSPO MB GRADE (STEARYL ALCOHOL PASTILLES) STEARYL ALCOHOL PASTILLES)	15	MT S	141716 2.5	FREI GHT CAR RIER S PVT LTD	92.2 3	102513. 645	18452.45 61
4 2	38744 17	23- 12- 20 22	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB (ISOTANK) ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB (ISO Tank)	19. 91	MT S	306080 4.1	FREI GHT CAR RIER S PVT LTD	92.2 3	153422. 807	27616.10 52
4 3	43530 51	17- 06- 20 21	ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB ECOROL 24 (LAURYL MYRISTYL ALCOHOL) RSPO MB	19. 69	MT S	321792 6.9	FREI GHT CAR RIER S PVT LTD	92.2 3	134293. 843	24172.89 18
4 4	82039 57	09- 04- 20 22	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES)	30	MT S	932428 8	FREI GHT CAR RIER S PVT LTD	92.2 3	212497. 92	38249.62 56
4 5	77365 47	04- 03- 20 22	ECOROL 18/98P MB (STEARYL ALCOHOL PASTILLES) STEARYL ALCHOL PASTILLES	15	MT S	387350 7.8	FREI GHT CAR RIER S PVT LTD	92.2 3	106041. 443	19087.45 97
4 6	82488 93	22- 07- 20 20	ECOROL 68/50P (CETYL STEARYL ALCOHOL) RSPO MB GRADE (CETYL	15	MT S	139833 7.5	FREI GHT CAR RIER S PVT	92.2 3	105280. 545	18950.49 81

			STEARYL ALCOHOL) CETYL STEARYL ALCOHOL				LTD			
									5523853 .69	994293.6 64

1.5. Whereas, consequent upon amendment to the section 17 of the Customs Act, 1962 vide the Finance Act, 2011, "self-assessment" has been introduced effective from 08.04.2011 which provides for self-assessment of duty on imported goods by the importer himself by filing Bill of Entry, in electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make entry for the imported goods by presenting the Bill of Entry electronically to the Proper Officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962) the Bill of entry has been deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the Service Centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self- assessment vide Finance Act, 2011 in terms of Section 17 and Section 46 of the Customs Act, 1962, it is the added and enhanced responsibility of the importer to declare true and correct declaration in all aspects including levy of correct duty.

1.6. The Anti-dumping duty vide Notification 28/2018-Customs (ADD) dated 25.05.2018 was leviable on the import of the Saturated Fatty Alcohol goods originating from Indonesia, Malaysia & Thailand and imported into India with effect from 25.05.2018. Hence, the importer had not paid the differential Anti-dumping duty amounting to Rs. 55,23,854/- and IGST on not paid Anti-dumping Duty amounting to Rs 9,94,293.7/- as explained in the preceding paras.

1.7. As per section 46(4) the importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any and such other documents relating to the imported goods as may be prescribed. In the instant case, the importer has not declared the truth of the contents in the bill of entry and hence the not paid the applicable Anti-dumping duty and IGST. Since such Anti-dumping duty and IGST appears to have arisen due to suppression and willful misstatement by the importer, the demand for differential duty is invokable under the extended period as per the provisions of Section 28 (4) of the Customs Act, 1962.

1.8. From the above investigation, it appeared that the said goods have been imported by the importer by not paying applicable Anti-dumping duty leviable under Notification 28/2018-Customs (ADD) dated 25.05.2018 which resulted into short payment of Anti-dumping duty of Rs. 55,23,854 /- & IGST on not paid Anti-dumping Duty amounting to Rs 9,94,293.7/- (total amounting to Rs 65,18,147.7/-). Accordingly, M/s Croda India Company Private Limited has committed these infirmities with a view to resort to evasion of duty with malafide intention to defraud the exchequer of its rightful duty

thereby clearly attracting the penal provisions of Section 114A of the Customs Act, 1962 as well.

1.9. This act of willful mis-declaration by the importer it appeared that the said goods have been imported by the importer by not paying applicable Anti-dumping duty leviable under Notification 28/2018-Customs (ADD) dated 25.05.2018 which resulted into short payment of Anti-dumping duty of Rs. 55,23,854 /- & IGST on not paid Anti-dumping Duty amounting to Rs 9,94,293.7/- (total amounting to Rs 65,18,147.7/-), liable for confiscation in terms of provisions of Section 111 (m) of the Customs Act, 1962.

1.10. This act of commission and omission, of mis-declaration of the goods, has rendered the subject goods liable to confiscation in terms of provisions of Section 111(m) of the Customs Act, 1962, consequently, rendered the Importer liable for penal action in terms of provisions of Section 112(a) of the Customs Act, 1962.

1.11. The importer had knowingly and intentionally made, used declarations and documents which are false and incorrect during the import transaction under Customs Act, 1962 with the department with an intention to evade Customs duty thereby rendering themselves liable for penalty under Section 114AA of the Customs Act, 1962.

1.12. Further, the Customs Broker M/s. Freight Carriers Pvt Ltd. (AAACF4177ECH001) has filed the bills of Entry on behalf of the importer M/s Croda India Company Private Limited without **verifying the information as mentioned in the Bills of lading and Invoice** while filing the Bills of Entry, which resulted in non-levy/short-levy of correct ADD as per Notification 28/2018-Customs (ADD) dated 25.05.2018 by the importer M/s Croda India Company Private Limited. It is seen that the aforesaid Customs broker failed to file the said Bills of Entry as per correct serial no. 6 of the ADD Notification no. 28/2018-Customs (ADD) dated 25.05.2018 even though it is evident from the Bills of lading and Invoices of the respective Bills of Entry that the said goods have been transshipped at Singapore but were Shipped on Board on Pre-Carriage Vessel at Indonesia. However, there was no 'Export Declaration/ Bill of Export/Shipping Bill' presented at Singapore by the importer, despite this the CB filed Bills of entry and claimed benefit of S.No. 01 of Notification 28/2018-Customs instead of filing under ADD Sr. No. 6 of the notification. Therefore, it appeared that the Customs Broker M/s. Freight Carriers Pvt Ltd. also failed to exercise due diligence to ascertain the correctness of information while filing BEs for clearance of cargo, and this failure on the part of CB resulted in revenue loss to the exchequer. Accordingly, Customs Broker M/s. Freight Carriers Pvt Ltd., has committed these infirmities with a view to resort to evasion of duty with malafide intention to defraud the exchequer of the rightful duty thereby clearly attracting the penal provisions of **Section 112(a) and /or 114A and Section 114AA** of the Customs Act, 1962.

1.13. Therefore, in terms of Section 124 read with Section 28(4) of the Customs Act, 1962, M/s. Croda India Company Private Limited (IEC-0302048499) was called upon to Show Cause to the **Commissioner of Customs, N.S.-I, JNCH, Nhava-Sheva, Taluka-Uran, District-Raigad, Maharashtra-400707**, as to why: -

- a) The Anti-dumping duty vide Notification No. 28/2018-Customs (ADD) dated 25.05.2018, further amended vide Notification No 48/2018 dated 25.09.2018 should not be levied on the import of the goods "Saturated Fatty Alcohol" imported against the Bills of Entry, as tabulated in attached Annexure-A of the Show Cause Notice.

- b) The differential **Anti-dumping duty of Rs. 55,23,854 /- & IGST** on not paid Anti-dumping Duty amounting to Rs 9,94,293.7/- (total amounting to Rs 65,18,147.7/- as explained in the preceding paras should not be demanded and recovered as per section 28(4) of the Customs Act, 1962, and accordingly, the applicable interest against the same should not be demanded and recovered under section 28AA of the Customs Act, 1962.
- c) The goods covered under the Bills of Entry as tabulated in attached Annexure-A of the Show Cause Notice should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- d) Penalty should not be imposed on M/s Croda India Company Private Limited (IEC-302048499) under the provisions of Sections 112(a) and/or 114A, and/or 114AA of the Customs Act, 1962.
- e) Penalty should not be imposed on the Customs brokers i.e. M/s. Freight Carriers Pvt Ltd. (AAACF4177ECH001) under the provisions of **Section 112(a) and /or 114A and Section 114AA** of the Customs Act, 1962.

1. WRITTEN SUBMISSION OF THE NOTICEE:

2.1. Shri Deepak Singhanian, Site Head Manufacturing, Croda India Company Private Limited vide letter dated 11.08.2025 has made following submissions:

- a) At the outset, we deny all the allegations and averments as made in the Show Cause Notice as the same is far from the facts and reality.
- b) All our imports of Saturated Fatty Alcohols have only been from EOS Ecogreen Oleochemicals (Singapore) Pte Ltd ('EOS').
- c) Our orders have been issued in name of EOS and EOS issued Invoices for all shipments on us (Croda India). We remitted Payments against these imports to EOS.
- d) As a practice, P.T. Ecogreen Oleochemicals ("PTEO-Indonesia") sells to EOS (Singapore) on Ex. Factory Basis and thereafter EOS (Singapore) sells on CIF basis in India. This process was endorsed by the DGTR in its final findings at the time of determination of Anti-Dumping Duty (ADD) proceedings in which imports of Saturated Fatty Alcohols in India manufactured by PTEO-Indonesia and exported by EOS (Singapore), were exempted from levy of any ADD.
- e) Accordingly, all our shipments imported from EOS (Singapore) have been custom cleared under Sr No. 1 of the applicable Notification, providing eligibility for Zero Anti-Dumping Duty.
- f) We had enclosed copies of respective Bills of Entry, Invoice, Packing List issued by EOS. Bilis of Lading, AIFTA Form AI, & our Purchase Orders, from EOS (Singapore) as provided in (Annexure II) to Croda's Reply covering shipments from EOS for the reference period.
- g) Since these imports are from an exempted Indonesian Producer, PT Ecogreen Oleochemicals Indonesia i.e. PTEO-Indonesia and Exported by Ecogreen Oleochemicals Singapore Pte. Ltd. i.e. EOS, Singapore, these imports have been correctly classified under Sr. No. 1 of the Notification No. 28/2018-Customs (ADD)

Dated 25.05.2018 (Annexure III) & subsequent revised Notification No: 48/2018 dated 25.09.2018. (Annexure IV).

- h) In respect of the above point, reference may be made to Disclosure statement issued under File No. 14/51/2016-DGAD, Government of India, Ministry of Commerce & Industry. Department of Commerce (Directorate General of Anti-Dumping & Allied Duties), New Delhi, dated 23.04.2018 which had been provided by us as (Annexure V) to Croda's Reply. In this regard, please refer Page 24 and 25 Paras 29 to 31 describing the transaction process of PTEO-Indonesia and EOS.
- i) The reference process of manufacture by PTEO Indonesia and sales by EOS has been a historical process since many years and the same is in line with the ADD Investigations conducted by the Authority and Disclosure Statement as referred to hereinabove at Sr. No. 7. Same process has been followed in respect of all our imports.
- j) Internationally recognized practice of imposition of anti-dumping duty has consistently been referring to producer in the country of the origin of the product being investigated, irrespective of its coordinate of export. This is consistent with the Final findings in the Sunset Review Anti-Dumping Investigation concerning imports of Saturated Fatty Alcohol originating in or exported from Indonesia, Malaysia and Thailand under F. No. 7/01/2022-DGTR (Annexure VI). As per Recommendations appearing in para-L page no 75 based on the Conclusion appearing in Para K page no 74 and the relevant Duty Table, Country of Export has been mentioned as "Any including the Country of Origin" thereby declaring a clear intention of the authorities towards the levy of Definitive Duties on the Producers based on the investigations. This has been provided in Croda's Reply as (Annexure I).
- k) Referring to the COO issued under FTA for the said transactions, which had THIRD PARTY INVOICING duly Ticked on it under Sr. No. 13 of the COO document. The name of EOS has been recorded on the COO. Shipment via Singapore is in line with the process described by Ecogreen during investigations and that follows the WCO norms in respect of Transshipment.
- l) In view of the above and without prejudice to our right to place on records any more relevant information, it is clear that the imports of Saturated Fatty Alcohol by our company during the said period from May 2019 to May 2023 was correctly classified and customs cleared in accordance with the prevailing rules, regulations, applicable Notifications and procedures.
- m) The SCN raised a total claim amounting to Rs. 55,23,854 on account of ADD and Rs. 9,94,293.7 on account of IGST, however the basis of such a claim was not mentioned in the SCN. The reference of Serial Number 6 of Notification No. 28/2018 has been made only in Para 13 of the SCN which is addressed to the Customs Brokers (CHA). However, a simple reading of the said Sr. No. 6 in Notification No. 28/2018 refers to "Malaysia" as "Country of origin" producer as M/s FPG Oleochemicals Sdh Bhd and exporter as M/s Procter & Gamble International Operations SA, Singapore, however none of these factors are applicable to our products. **So, there is no reason to classify our products under**

Sr. No. 6 of Notification No. 28/2018. The subsequent Notification No. 48/2018 dated 25th September 2018, in Sr. No. 6 referred to "Country of origin" as "ANY COUNTRY OTHER THAN THOSE SUBJECT TO ANTI DUMPING DUTY" whereas the "country of origin for our products is Indonesia. Therefore, there is no basis for levy of ADD in this case.

- n) We, therefore, humbly request the authority to accept the submissions made by us, in respect of the Imports from Ecogreen, which have been correctly classified under Sr. No. 1 of the relevant Notification No. 28/2018 OR 48/2018 by the noticee and thus there has been no misdeclaration or duty avoidance.
- o) **Demand is barred by limitation:** The present SCN is issued under the provision of Section 28(4) of the Customs Act invoking a longer period for demanding the customs duty. Since there is no willful misstatement or suppression of any facts with an intent to evade the payment of duty, the invocation of longer period is bad in law and on this ground alone, the entire demand is required to be quashed and set aside.
- p) **There are no grounds for levy of penalty:** Our products clearly fall under sr. no. 1 of the notification No. 28/2018 OR 48/2018 as factually established above. So clearly there was no willful misstatement or collusion or suppression to evade payment of duty. In the present SCN penalties under different provisions of the Customs Act have been proposed, which cannot be done in the absence of willful misstatement or collusion or suppression.
- q) A reiteration, that no wrong was done by the importers, in respect of imports from Ecogreen Oleochemicals. In view of the same, we request for the proceedings against Croda India Company Pvt Ltd be dropped and the claims as well as SCN be withdrawn.

3. RECORD OF PERSONAL HEARINGS

3.1 Following the principal of natural justice and in terms of Section 28(8) read with Section 122A of the Customs Act, 1962, the Noticees were granted opportunity for personal hearing (PH) on 12.08.2025 by the Adjudicating Authority which was attended by the Shri Charudatta Bhawe, Supply Chain Manager, Croda India Company Pvt., Pradnaya Kulkarni, Import Export Manager, Croda India Company Pvt. Ltd., Manohar Shanbaug, CHA. During personal hearing, submissions made earlier vide letter dated 11.08.2025, which have been recorded in above para, were reiterated.

4. DISCUSSION AND FINDINGS

4.1 I have carefully gone through the Show Cause Notice, material on record and facts of the case, as well as written and oral submissions made by the Noticee. Accordingly, I proceed to decide the case on merit.

4.2 The adjudicating authority has to take the views/objections of the noticee on board and consider before passing the order. In the instant case, the personal hearing was granted to the noticee's on 12.08.2025 by the Adjudicating Authority which was attended by Shri Charudatta Bhawe, Supply Chain Manager, Croda India Company Pvt., Pradnaya Kulkarni, Import Export Manager, Croda India Company Pvt. Ltd. Manohar Shanbaug, CHA. The recordings of the personal hearing are placed in para 3 of this order.

4.3 I find that in compliance to the provisions of Section 28(8) and Section 122A 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.

4.4 The present proceedings emanate from Show Cause Notice No. 1133/2024-25/COMMR/NS-I/Gr. II(C-F)/CAC/JNCH dated 25.09.2024 to M/s. Croda India Company Private Limited and its Customs Broker Freight Carriers Private Limited, alleging wrongful availment of exemption from Anti-Dumping Duty (ADD) on imports of Saturated Fatty Alcohols under various Bills of Entry by mis-declaring the country of export as Singapore. The SCN alleges that the importer inappropriately claimed benefit of Sr. No. 1 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018 (NIL ADD) though the goods were actually shipped from Batam, Indonesia and merely transshipped at Singapore, without any export declaration being filed there. The SCN contends that the goods fall under Sr. No. 6 of the said Notification attracting ADD at the rate of USD 92.23 per MT, and accordingly, differential ADD amounting to ₹55,23,854/- along with IGST of ₹9,94,294/- (totaling ₹65,18,148/-) is recoverable under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA. The SCN further proposes holding the goods liable for confiscation under Section 111(m) of the Act, and seeks imposition of penalties upon M/s. Croda India Company Private Limited under Sections 112(a), 114A and 114AA of the Customs Act, 1962. It also proposes penal action against the Customs Broker Freight Carriers Pvt. Ltd. under Sections 112(a), 114A and 114AA for their alleged failure to exercise due diligence while filing the impugned Bills of Entry.

4.5 I find that the importer, M/s. Croda India Company Private Limited, has contended that the exemption from Anti-Dumping Duty (ADD) under Sr. No. 1 of Notification No. 28/2018-Customs (ADD) was rightly claimed, as the consignments were produced by M/s. PT Ecogreen Oleochemicals, Indonesia and exported through their related entity, M/s. Ecogreen Oleochemicals (Singapore) Pte. Ltd. The importer has submitted that internationally recognized practice of imposition of anti-dumping duty has consistently been referring to producer in the country of the origin of the product being investigated, irrespective of its coordinate of export. It is further contended that this is consistent with the Final findings in the Sunset Review Anti-Dumping Investigation concerning imports of Saturated Fatty Alcohol originating in or exported from Indonesia, Malaysia and Thailand under F. No. 7/01/2022-DGTR. The importer submitted that as per recommendations based on the Conclusion and the relevant Duty Table, Country of Export has been mentioned as "Any including the Country of Origin" thereby declaring a clear intention of the authorities towards the levy of Definitive Duties on the Producers based on the investigations. The importer submitted that shipment via Singapore is in line with the process described by Ecogreen during investigations and that follows the WCO norms in respect of Transshipment. Accordingly, the importer has prayed for dropping of the demand, interest, penalty, and confiscation proposed in the Show Cause Notice.

4.6 I have carefully gone through the records of the case, the allegations made in the Show Cause Notice, and the written and oral submissions made by the importer. The issue for determination is whether the importer, M/s. Croda India Company Private Limited, was eligible to claim exemption from Anti-Dumping Duty (ADD) under Sr. No. 1 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018, in respect of consignments of Saturated Fatty Alcohols produced by M/s. PT Ecogreen Oleochemicals, Indonesia and invoiced by M/s. Ecogreen Oleochemicals (Singapore) Pte. Ltd. The department has alleged that since no export declaration was filed at Singapore and the consignments were merely transshipped through Singapore, the benefit of the said notification was not available, and consequently, the imports were liable to ADD under Sr. No. 6 of the notification. On the other hand, the importer has argued that Ecogreen Singapore was the actual exporter in terms of international trade practice, that DGAD's Final Findings recognized such exports through Singapore, and that in any case, subsequent Sunset

Review has clarified that PT Ecogreen Indonesia attracts NIL ADD irrespective of the country of export. Therefore, the demand of ADD along with interest and the proposals for confiscation and penalties are liable to be dropped.

4.7 On careful perusal of the Show Cause Notice, reply filed by the Noticee, and the case records, I find that the following main issues arise for determination in this case:

- A. Whether or not the goods imported under the Bills of Entry mentioned in Annexure-A of the SCN are **rightly covered for the purpose of Anti-Dumping Duty under Serial No. 1 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018, attracting NIL rate of ADD, or under Serial No. 6 of the said Notification, attracting ADD @ USD 92.23 per MT.**
- B. Whether or not the differential Anti-Dumping Duty of ₹55,23,854/- and IGST thereon of ₹9,94,294/- (totaling ₹65,18,148/-) is recoverable from the importer M/s. Croda India Company Pvt. Ltd. under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA.
- C. Whether or not the imported goods covered under the Bills of Entry in question are liable to confiscation under Section 111(m) of the Customs Act, 1962.
- D. Whether or not penalty is imposable on the importer M/s. Croda India Company Pvt. Ltd. under Sections 112(a), 114A and 114AA of the Customs Act, 1962.
- E. Whether or not penalties are imposable on the Customs Broker Freight Carriers Pvt. Ltd. under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.8 After having framed the substantive issues raised in the SCN which are required to be decided, I now proceed to examine each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN; provision of the Customs Act, 1962; nuances of various judicial pronouncements, as well as Noticee's oral and written submissions and documents / evidences available on record.

A. Whether or not the goods imported under the Bills of Entry mentioned in Annexure-A of the SCN are rightly covered for the purpose of Anti-Dumping Duty under Serial No. 1 of Notification No. 28/2018-Customs (ADD) dated 25.05.2018, attracting NIL rate of ADD, or under Serial No. 6 of the said Notification, attracting ADD @ USD 92.23 per MT.

4.9 I find that in respect of the consignments under dispute, the Noticee's submission that the goods were produced by M/s. PT Ecogreen Oleochemicals, Indonesia and exported through M/s. Ecogreen Oleochemicals (Singapore) Pte. Ltd., thereby attracting NIL ADD under Serial No. 1 of Notification No. 28/2018-Customs (ADD), is borne out from the records. The import documents on file, including the commercial invoices, packing lists, and Certificates of Origin, clearly establish Indonesia as the country of origin, PT Ecogreen Oleochemicals as the producer, and Ecogreen Singapore as the exporter. The Bills of Lading further confirm that the consignments were first shipped from Batam, Indonesia on feeder vessels, and subsequently loaded onto mother vessels at Singapore, thus identifying Singapore as the port of loading.

4.10 I find that Notification No. 28/2018-Customs (ADD) dated 25.05.2018 was issued pursuant to the Final Findings of the Designated Authority (DGAD) in the anti-dumping investigation concerning imports of Saturated Fatty Alcohols. In the said findings, the Authority clearly recorded that exports made by M/s. PT Ecogreen Oleochemicals, Indonesia were effected through their related trading arm, M/s. Ecogreen Oleochemicals (Singapore) Pte. Ltd. It was precisely on this basis that Sr. No. 1 of the Notification prescribed a NIL rate of duty for such

exports. Thus, the legislative intent underlying the exemption entry was to exempt the exports of PT Ecogreen routed through Ecogreen Singapore, recognizing that such transactions were not causing injury to the domestic industry. In light of this background, it would not be correct to interpret the entry in a manner that defeats the very objective for which it was created.

4.11 I further find merit in the importer's contention that Ecogreen Singapore was the actual exporter of the goods in terms of international trade practice. The commercial invoices, packing lists, were all issued by Ecogreen Singapore. It is a well-recognized practice in international trade that goods produced in one country may be invoiced and exported through a related entity in another country, without such practice affecting the eligibility for benefits where the policy intent clearly permits the same. In the present case, although the consignments were loaded at Batam, Indonesia on feeder vessels and transshipped at Singapore onto mother vessels, the port of loading as per the bill of lading was Singapore, which is consistent with global shipping practice. The absence of a shipping bill filed at Singapore cannot by itself negate the fact that Ecogreen Singapore was the exporter of record for the purposes of the notification, since the exemption entry does not prescribe such a procedural requirement.

4.12 I also take note of the findings of the Designated Authority in the Sunset Review vide Final Findings Notification No. 7/01/2022-DGTR dated 02.02.2023, wherein it was categorically recorded that exports made by M/s. PT Ecogreen Oleochemicals, Indonesia attract a NIL rate of anti-dumping duty, irrespective of the country of export. This clarification from the authority which originally conducted the anti-dumping investigation leaves no ambiguity as to the policy intent. It is evident that the exemption was producer-specific and not meant to be restricted or denied merely because the goods were routed through or transshipped at Singapore. Accordingly, the reliance placed in the SCN on procedural aspects such as non-filing of a shipping bill at Singapore is of no consequence, as the binding clarification of the Designated Authority leaves no scope for denying the NIL duty benefit to PT Ecogreen's exports. Para 146 of Sunset Review vide Final Findings Notification No. 7/01/2022-DGTR dated 02.02.2023 is quoted below for reference:

"146. Therefore, Authority recommends continuation of anti-dumping measure as fixed rate duty. Accordingly, definitive anti-dumping duty equal to the amount mentioned in Column 7 of the Duty Table below is recommended to be imposed for five (5) years from the date of the Notification to be issued by the Central Government, on imports of the subject goods described at Column 3 of the Duty Table, originating in or exported from Indonesia, Malaysia and Thailand.

DUTY TABLE

S. No.	Heading/ Subheading	Description of Goods	Country of Origin	Country of Export	Producer	Amount (USD/MT)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	2905.17, 2905.19, 3823.70	Saturated Fatty Alcohol of Carbon chain length C12 to C18 and their blends	Indonesia	Any including Indonesia	M/s PT Ecogreen Oleochemicals	Nil

4.13 Section 9A and 9B of Customs Tariff Act, 1975 are quoted below for reference: -

"Section 9A. Anti- dumping duty on dumped articles. -

(1) Where ¹ [any article is exported by an exporter or producer] from any country or territory (hereinafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti-dumping duty not exceeding the margin of dumping in relation to such article.

Explanation. For the purposes of this section, -

(a) "margin of dumping", in relation to an article, means the difference between its export price and its normal value;

(b) "export price", in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is no export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);

(c) "normal value", in relation to an article, means -

(i) the comparable price, in the ordinary course of trade, for the like article when ² [destined for consumption] in the exporting country or territory as determined in accordance with the rules made under sub section (6); or

(ii) when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either -

(a) comparable representative price of the like article when exported from the exporting country or ³ [territory to] an appropriate third country as determined in accordance with the rules made under sub-section (6); or

(b) the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made under sub-section (6):

Provided that in the case of import of the article from a country other than the country of origin and where the article has been merely transshipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin.

⁴ [(1A) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article subject to such anti-dumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be ⁵ [, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify].]

⁶ [(1B) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that absorption of anti-dumping duty imposed under sub-section (1) has taken place whereby the anti-dumping duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, by notification in the Official Gazette, specify.

Explanation. - For the purposes of this sub-section, "absorption of anti-dumping duty" is said to have taken place, -

(a) if there is a decrease in the export price of an article without any commensurate change in the cost of production of such article or export price of such article to countries other than India or resale price in India of such article imported from the exporting country or territory; or

(b) under such other circumstances as may be provided by rules.]

(2) The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the normal value and the margin of dumping in relation to any article, impose on the importation of such article into India an anti-dumping duty on the basis of a provisional estimate of such value and margin and if such anti-dumping duty exceeds the margin as so determined: -

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such anti-dumping duty; and

(b) refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of the anti-dumping duty as so reduced.

⁷ [(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any anti-dumping duty imposed under sub-section (2) shall not apply to articles imported by a hundred percent export-oriented undertaking or a unit in a special economic zone, unless, -

- (i) it is specifically made applicable in such notification or to such undertaking or unit; or
- (ii) such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, anti-dumping duty shall be imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.

Explanation. - For the purposes of this section, -

(a) the expression "hundred percent export-oriented undertaking" shall have the same meaning as assigned to it in clause (i) of Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944 (1 of 1944);

(b) the expression "special economic zone" shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).]

(3) If the Central Government, in respect of the dumped article under inquiry, is of the opinion that -

- (i) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury; and
- (ii) the injury is caused by massive dumping of an article imported in a relatively short time which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied, the Central Government may, by notification in the Official Gazette, levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section, and notwithstanding anything contained in any law for the time being in force, such duty shall be payable at such rate and from such date as may be specified in the notification.

(4) The anti-dumping duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period ⁸ [upto five years] and such further period shall commence from the date of order of such extension:

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

⁹ [**Provided** also that if the said duty is revoked temporarily, the period of such revocation shall not exceed one year at a time.]

(6) The margin of dumping as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for any anti-dumping duty under this section may be identified, and for the manner in which the export price and the normal value of, and the margin of dumping in relation to, such articles may be determined and for the assessment and collection of such anti-dumping duty.

¹⁰ [(6A) The margin of dumping in relation to an article, exported by an exporter or producer, under inquiry under sub-section (6) shall be determined on the basis of records concerning normal value and export price maintained, and information provided, by such exporter or producer:

Provided that where an exporter or producer fails to provide such records or information, the margin of dumping for such exporter or producer shall be determined on the basis of facts available.]

(7) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

¹¹ *[(8) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.]*

Section 9B. No levy under section 9 or section 9A in certain cases. -

(1) Notwithstanding anything contained in [section 9](#) or [section 9A](#), -

(a) no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization;

(b) the Central Government shall not levy any countervailing duty or anti-dumping duty -

(i) under [section 9](#) or [section 9A](#) by reasons of exemption of such articles from duties or taxes borne by the like article when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes;

(ii) under sub-section (1) of each of these sections, on the import into India of any article from a member country of the World Trade Organization or from a country with whom Government of India has a most favored nation agreement (hereinafter referred as a specified country), unless in accordance with the rules made under sub-section (2) of this section, a determination has been made that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India; and

(iii) under sub-section (2) of each of these sections, on import into India of any article from the specified countries unless in accordance with the rules made under sub-section (2) of this section, a preliminary finding has been made of subsidy or dumping and consequent injury to domestic industry; and a further determination has also been made that a duty is necessary to prevent injury being caused during the investigation:

Provided that nothing contained in sub-clauses (ii) and (iii) of clause (b) shall apply if a countervailing duty or an anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India;

(c) the Central Government may not levy -

(i) any countervailing duty under [section 9](#), at any time, upon receipt of satisfactory voluntary undertakings from the Government of the exporting country or territory agreeing to eliminate or limit the subsidy or take other measures concerning its effect, or the exporter agreeing to revise the price of the article and if the Central Government is satisfied that the injurious effect of the subsidy is eliminated thereby;

(ii) any anti-dumping duty under [section 9A](#), at any time, upon receipt of satisfactory voluntary undertaking from any exporter to revise its prices or to cease exports to the area in question at dumped price and if the Central Government is satisfied that the injurious effect of dumping is eliminated by such action.

(2) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which any investigation may be made for the purposes of this section, the factors to which regard shall be at in any such investigation and for all matters connected with such investigation."

4.14 I note that under the statutory framework of Section 9A of the Customs Tariff Act, 1975, the levy of Anti-Dumping Duty (ADD) is contingent upon the Final Findings and recommendations of the Designated Authority (DA) functioning under the Directorate General of Trade Remedies (DGTR), Ministry of Commerce and Industry. The DA alone is empowered to conduct a detailed investigation into alleged dumping, determine the margin of dumping, assess the injury to domestic industry and recommend the imposition of ADD at specific rates for specific

producer-exporter combinations. The Customs authorities cannot travel beyond their scope or reinterpret them at the assessment or adjudication stage.

4.15 I also note the mandate of Section 9B(1)(b)(iii) of the Customs Tariff Act, 1975, which categorically stipulates that no anti-dumping duty shall be levied on imports from a country unless two specific preconditions are met:

1. A preliminary finding of dumping or subsidy and the consequent injury to the domestic industry; and
2. A further determination that imposition of such duty is necessary to prevent injury during the pendency of investigation.

4.16 This statutory provision reflects the legislative intent that ADD cannot be imposed automatically or on mere suspicion, but only after due inquiry and determination in strict accordance with the rules framed under Section 9B (2). In the present case, the Designated Authority (DGTR), in its Final Findings of 2018 as well as the subsequent Sunset Review of 2023, has clearly determined that exports from M/s PT Ecogreen Oleochemicals, Indonesia, through M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd., attract a NIL rate of ADD. There is no preliminary finding, nor any subsequent determination, justifying levy of ADD on these specific consignments. Hence, imposition of ADD by disregarding such findings would be contrary to Section 9B(1)(b)(iii) and ultra vires to the statutory framework.

4.17 The Hon'ble Bombay High Court in *Mahle Anand Thermal Systems Pvt. Ltd. v. Union of India* [2023 (383) E.L.T. 32 (Bom.)] categorically held that the levy and collection of Anti-Dumping Duty (ADD) in disregard of the statutory framework under Section 9A read with Section 9B(1)(b)(iii) of the Customs Tariff Act, 1975 is impermissible. The Court, while granting relief to the petitioner, declared that the impugned levy was "incorrect and contrary to Section 9A read with 9B(b)(iii)", as the goods in question stood excluded under the Final Findings. Para 12 to 14 of the said judgement is quoted below: -

"12. Of course, in the notification issued being Notification No. 23 of 2017 the description of the goods not included in the goods on which anti-dumping duty is leviable is worded as under :- "(vii) Clad with compatible non-clad Aluminium Foil : Clad with compatible non-clad Aluminium Foil is a corrosion-resistant aluminium sheet formed from aluminium surface layers metallurgically bonded to high-strength aluminium alloy core material for use in engine cooling and air conditioner systems in automotive industry; such as radiator, condenser, evaporator, intercooler, oil cooler and heater."

13. Subsequently, there is a clarification issued by the Directorate General of Anti-Dumping and Allied Duties on 1st February, 2018 which is quoted earlier. Therefore, it is quite clear that clad as well as clad with compatible non-clad or unclad aluminium foil has been excluded from anti-dumping duty. Respondent No. 4 therefore was not justified in insisting on payment of anti-dumping duty for clearance of unclad or non-clad consignment of aluminium foil, more so, when the same product is allowed to be imported from other ports without insisting on payment of levy of anti-dumping duty.

14. In view of the above, we allow the petition in terms of prayer clauses (a1) and (e) and the same read as under: -

"(a1) that this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other writ, order or direction under Article 226 of the Constitution of India declaring that levy and collection of ADD on unclad or non-clad aluminium foils for automobile industry imported from China PR in terms of Notification No.23/2017-Cus. (ADD), dated 16-5 2017, is incorrect and

contrary to Section 9A read with 9B(b)(iii) of the Customs Tariff Act, 1975 and read with paragraph(s) 9(ii)(c), 12, 31, 79 and 136(xlix) of Final Findings dated 10 3-2017.

(e) that this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other writ, order or direction under Article 226 of the Constitution of India ordering and directing the respondents by themselves, their officers, subordinates, servants and agents to forthwith grant refund of Anti-dumping Duty paid by the petitioner under protest on import of unclad/non-clad aluminium foil from China PR in terms of Notification No. 23/2017 Cus.(ADD), dated 16-5-2017 during the period from August 2017 to December 2018;"

4.18 Applying the above legal position to the facts of the present case, I find that the DA in its Final Findings of 2018 clearly determined that exports of goods produced by M/s PT Ecogreen Oleochemicals, Indonesia, through M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd., attract NIL ADD. Further, the Sunset Review of 2023 reaffirmed this position by recording that the NIL rate applies to exports of the said producer with "Country of Export – Any including Indonesia," thereby recognizing that routing or transshipment through Singapore does not disqualify the goods from levy of NIL ADD.

4.19 Therefore, any denial of benefit on the basis of objections relating to exporter-of-record or transshipment would amount to re-interpreting or overriding the DA's binding determinations, which is impermissible under Section 9A, Section 9B, and the ratio laid down by the Hon'ble Bombay High Court. Consequently, I hold that the demand of ADD proposed in the SCN is unsustainable in law.

4.20 I further find that the Hon'ble Gujarat High Court, in Realstrips Pvt. Ltd. v. Union of India [2023 (11) Centax 272 (Guj.)], has laid down the binding principle that the recommendations of the Designated Authority (DA) constitute the jurisdictional facts for any levy, withdrawal, or continuation of Anti-Dumping Duty or Countervailing Duty. In para 7.6.1, the Court categorically held:

"7.6.1 The recommendations of the designated authority would contain the findings on these facts and aspects. They are the jurisdictional facts. They are the foundations for the Central Government to take a decision and to issue the notification. The jurisdictional facts cannot be bypassed."

4.21 The above ratio squarely applies to the present case. It reinforces that the levy, continuation, or withdrawal of duty must strictly follow the statutory procedure and be founded upon DA's findings. Any attempt by Customs authorities to impose or interpret Anti-Dumping Duty beyond the DA's determinations amounts to bypassing jurisdictional facts and is ultra vires the Customs Tariff Act.

4.22 I find that the Department's position appears to be based on a narrow interpretation of the term "exported from Singapore," focusing on the physical movement of goods from Batam to Singapore via feeder vessel rather than the legal and commercial role of the exporter. However, this stance seems inconsistent with the Designated Authority's findings and the intent of Notification No. 28/2018-Customs (ADD) for the following reasons:

4.22.1 In international trade and anti-dumping investigations, the "exporter" is typically the entity responsible for the commercial transaction and export documentation, not necessarily the entity at the port of physical shipment. Here, M/s Ecogreen Oleochemicals (Singapore) Pte Ltd is clearly identified as the exporter in the Certificates of Origin and other documents, and it handles the

commercial export to India. The Designated Authority explicitly recognized this role in its findings.

4.22.2 Furthermore, the definition of transshipment as provided in S.B Sarkar's 'Words and Phrases of Central Excise and Customs' is reproduced below:

“Transship, or Trans-shipment means to transfer from one ship or conveyance to another. Transshipment of imported goods without payment of duty is provided for in Section 54 of the Customs Act, 1962.”

Also, the term transshipment has been defined under Chapter 2, International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention) as follows:

"transshipment" means the Customs procedure under which goods are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one Customs office which is the office of both importation and exportation."

From the above definitions, it is evident that definition of the term transshipment does not by any means exclude the act of export. In the instant case, the goods were shipped from Indonesia to Singapore to their related party, which were subsequently exported to India. This can also be seen from the Bill of Lading issued & signed in Singapore. In the instant case, the export would tantamount to goods being taken outside of Singapore. The fact that the goods are being transshipped has no bearing on the fact that the imported goods are indeed exported from Singapore.

4.22.3 Transshipment does not alter exporter status. Transshipment through Singapore from Batam to the main vessel is a common logistical practice and does not change the identity of the exporter. The Sunset Review Findings vide F. No. 7/01/2022-DGTR explicitly state that the country of export is "Any including Indonesia," indicating that the NIL ADD rate applies regardless of whether the goods were shipped directly from Indonesia or transshipped through another port, such as Singapore. The Department's focus on the port of loading Singapore as evidence of non-export from Singapore ignores this clarification.

4.22.4 Had the exporter itself been based in Indonesia, the movement through Singapore could have been characterised as mere transshipment. However, since the exporter was M/s Ecogreen Oleochemicals (Singapore) Pte Ltd, the shipment cannot be so treated; rather, it represents a valid export from Singapore by the entity expressly recognized in Serial No. 1 of the Notification.

4.22.5 The intent of Serial No. 1 of Notification No. 28/2018-Customs (ADD) specifically covers the producer-exporter combination of M/s PT Ecogreen Oleochemicals and M/s Ecogreen Oleochemicals (Singapore) Pte Ltd. The Designated Authority's investigation considered the entire export chain, including the ex-factory sale and costs incurred by the Singapore entity for example inland freight. Assigning a NIL injury margin to this combination indicates that the arrangement was thoroughly evaluated and deemed non-injurious to the domestic industry. Denying the NIL ADD rate-by alleging/interpreting movement of goods through Singapore as mere transshipment-would effectively nullify Serial No. 1, as it would prevent the very transaction it was designed to cover from receiving the intended benefit.

4.22.6 The Certificates of Origin, Bills of Lading, Invoices, Packing Lists all align with the requirements of Serial No. 1. The Department's contention that the goods were not exported from Singapore lacks support and is not sustainable, as the documentation clearly establishes M/s Ecogreen Oleochemicals (Singapore) Pte Ltd as the exporter, with Singapore as the port of loading for the main vessel.

4.22.7 In anti-dumping cases, the focus is on the commercial and legal roles of the parties involved, not merely the physical movement of goods. The Designated Authority's findings and the Sunset Review explicitly account for the transshipment process and affirm the applicability of the NIL ADD rate. The Department's interpretation appears to contradict these findings, which carry legal weight as they form the basis of the notification.

4.23 Therefore, I find that the importer is correct in claiming the Serial No. 1 of Notification No. 28/2018-Customs (ADD) as it specifically covers the transaction involving goods produced by M/s PT Ecogreen Oleochemicals (Indonesia) and exported by M/s Ecogreen Oleochemicals (Singapore) Pte Ltd. The Department's denial of the NIL ADD rate on the grounds that the goods were transshipped through Singapore and not exported from Singapore is not supported by the Designated Authority's Final Findings or the Sunset Review. The notification and its underlying findings clearly account for the export arrangement, including transshipment, and assign a NIL ADD rate to this specific producer-exporter combination.

4.24 I find that the Department's reliance on Serial No. 6 of the Notification, which prescribes an Anti-Dumping Duty of US\$ 92.23 per MT, is misplaced. A careful reading of the Notification reveals that Serial No. 6 applies only to imports of the subject goods originating from countries other than those subjected to anti-dumping duty. In the present case, the country of origin is Indonesia which has been subjected to anti-dumping duty, and the producer-exporter combination has been clearly covered under Serial No. 1 of the Notification, which prescribes nil rate of ADD. As such, Serial No.6 clearly cannot be applied to the subject imports originated from Indonesia. Thus, invoking Serial No. 6 to impose ADD is legally untenable as it amounts to expanding the scope of the Notification beyond its express terms

4.25 I find that the proposals contained in the Show cause notice are not supported by cogent evidence or sustainable reasoning. The entire case of the Department rests on the assertion that the benefit of Serial No. 1 of Notification No. 28/2018-Cus. (ADD) is not available because no export declaration was filed at Singapore and that the goods were merely transshipped through Singapore. However, the SCN does not cite any provision of law or condition in the Notification which prescribes filing of a shipping bill at Singapore as a prerequisite for claiming the exemption. It is a settled principle that conditions not expressly provided in the Notification cannot be read into by implication.

4.25.1 Further, the SCN overlooks the fact that the Designated Authority, in its Final Findings as well as the Sunset Review, has already examined the export channel of PT Ecogreen Indonesia through Ecogreen Singapore and granted NIL ADD to this producer-exporter combination. The very foundation of the Serial No.1 of the Notification rests on these findings, and the SCN has failed to show how the importer's claim falls outside their scope. In fact, all the documents relied upon—Certificates of Origin, Bills of Lading, commercial invoices, and payment remittances—support the importer's stand that the goods originated in Indonesia and were exported through Ecogreen, Singapore.

4.25.2 Therefore, I find that the SCN is fundamentally flawed in its reasoning, proceeds on presumptions rather than evidence, and fails to establish the statutory grounds.

4.26 In light of the foregoing discussion, including the statutory framework under Sections 9A and 9B of the Customs Tariff Act, 1975, the DGTR's Final Findings, and binding judicial precedents of the Hon'ble Gujarat High Court, Hon'ble Bombay High Court, I conclude that the goods imported by the Noticee were correctly assessed under Serial No. 1 of Notification No. 28/2018-Customs (ADD) attracting NIL rate of Anti-Dumping Duty. The Department's reliance on Serial No. 6 is misplaced and unsustainable, as it amounts to an interpretation contrary to the Final Findings and the express scope of the Notification. Accordingly, I hold the goods imported by the

importer vide Bills of Entries as per Annexure-A of the notice are not liable for levy of Anti-Dumping Duty.

B. Whether or not the differential Anti-Dumping Duty of ₹55,23,854/- and IGST thereon of ₹9,94,294/- (totaling ₹65,18,148/-) is recoverable from the importer M/s. Croda India Company Private Limited under Section 28(4) of the Customs Act, 1962, along with applicable interest under Section 28AA.

4.27 Since the goods were rightly covered under Serial No. 1 and no ADD was leviable, the consequential IGST on ADD also does not arise. As there has been no short-levy or short-payment of duty, the demand proposed under Section 28(4) of the Customs Act, 1962 is unsustainable. Once the very basis of the demand is found to be incorrect, the question of recovery of the alleged differential duty, along with interest under Section 28AA, does not survive.

C. Whether or not the imported goods covered under the Bills of Entry in question are liable to confiscation under Section 111(m) of the Customs Act, 1962.

4.28 In view of the detailed analysis undertaken in the foregoing paragraphs, I hold that the imports made by the noticee were fully covered by Serial No. 1 of Notification No. 28/2018 Customs (ADD) dated 25.05.2018, as the goods were produced by M/s PT Ecogreen Oleochemicals, Indonesia and exported through M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd., a fact duly corroborated by commercial invoices, Certificates of Origin, Bills of Lading and other import documents. I also take note of the Designated Authority's Final Findings as well as the subsequent Sunset Review findings, both of which establish beyond doubt that exports of Saturated Fatty Alcohols produced by M/s PT Ecogreen Oleochemicals, Indonesia and exported by M/s Ecogreen Oleochemicals (Singapore) Pte. Ltd. were expressly covered by the finding of the Designated Authority and were intended to be granted NIL ADD, irrespective of procedural aspects concerning routing or transshipment. Consequently, I find that there was no mis declaration, suppression or misstatement of facts on the part of the noticee. The goods have been correctly assessed at the time of import and are, therefore, not liable to confiscation under Section 111(m) of the Customs Act, 1962. The proposal for confiscation in the Show Cause Notice is, accordingly, held to be unsustainable.

D. Whether or not penalty is imposable on the importer M/s. M/s. Croda India Company Private Limited under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.29 I find that the proposals for penalty in the SCN flow from the allegation that the importer deliberately misdeclared the country of export and wrongly availed the benefit of NIL ADD under Serial No. 1 of Notification No. 28/2018-Cus (ADD), thereby rendering the goods liable to confiscation and the importer liable to penalty under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.29.1 However, as already discussed under Issues A to C, the goods were correctly declared as to their country of origin, exporter, and port of loading, and the benefit of NIL ADD was rightly available to the Noticee under Serial No. 1 of the Notification. No misdeclaration, suppression of facts, or submission of false or forged documents has been established. It is well settled that penalties under Sections 112(a), 114A and 114AA can only be imposed where there is clear evidence of mens rea or deliberate intent to evade duty. In the absence of such evidence, mere interpretational differences regarding the scope of a notification cannot justify imposition of penalty.

4.29.2 In light of these findings, I hold that penalties proposed under Sections 112(a), 114A and 114AA of the Customs Act, 1962 are not sustainable and are therefore liable to be set aside.

E. Whether or not penalties are imposable on the Customs Broker M/s Freight Carriers Pvt. Ltd. under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.30 I find that the Show Cause Notice has proposed penalties on the Customs Broker primarily on the allegation that they failed to exercise due diligence while filing the impugned Bills of Entry and thereby facilitated the alleged misdeclaration by the importer. It is alleged that such failure attracts penal liability under Sections 112(a), 114A and 114AA of the Customs Act, 1962.

4.30.1 On examination of the case records, I note that the role of the Customs Brokers was limited to filing Bills of Entry on the basis of documents provided by the importer. The import documents such as invoices, certificates of origin, packing lists, and Bills of Lading were genuine and issued by the producer/exporter. The Brokers had no independent reason to doubt the correctness of such documents. Further, the importer had correctly declared Indonesia as the country of origin and Ecogreen Singapore as the exporter, which is borne out by the documentary evidence. Thus, there is no material to suggest that the Customs Broker either connived with the importer or were aware of any alleged misdeclaration.

4.30.2 It is a settled position of law that Customs Broker cannot be penalized for bona fide reliance on authentic documents placed before them by the importer, unless it is proved that they had knowledge of falsity or participated in the alleged offence. In the present case, such evidence is completely absent. Consequently, I hold that the Customs Broker cannot be visited with penal consequences under Sections 112(a), 114A or 114AA of the Customs Act, 1962. The proposals for penalty against them are therefore unsustainable and liable to be dropped.

5. In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

- i. I order that the demand for differential Anti-Dumping Duty of **Rs. 55,23,854/- and IGST on not paid Anti-dumping Duty amounting to Rs. 9,94,294/- (total amounting to Rs 65,18,148/-)** under Section 28(4) of the Customs Act, 1962, is not sustainable and is hereby dropped.
- ii. I order that the proposal to levy interest under Section 28AA of the Customs Act, 1962, is dropped, as the principal demand does not survive.
- iii. I order that the proposal to confiscate the goods covered under the Bills of Entry listed in Annexure-A of the SCN under Section 111(m) of the Customs Act, 1962, is not maintainable and is hereby dropped.
- iv. I order that the proposal to impose penalties on M/s Croda India Company Private limited under Sections 112(a), 114A, and/or 114AA of the Customs Act, 1962, is not warranted and is hereby dropped.
- v. I order that the proposal to impose penalties on Customs broker M/s Freight Carriers Pvt. Ltd. under Sections 112(a), 114A, and/or 114AA of the Customs Act, 1962, is not warranted and is hereby dropped.

- vi. I order that the Show Cause Notice No. 1133/2024-25/Commr/NS-I/Gr. II(C-F)/CAC/JNCH dated 25.09.2024 is hereby dropped in its entirety.

This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/ firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

**Digitally signed by
Yashodhan Arvind Wanage
Date: 07-10-2025
17:28:18**

**(यशोधन अरविंद वनगे /Yashodhan Arvind Wanage)
प्रधान आयुक्त सीमा-शुल्क / Pr. Commissioner of Customs
एनएस-I, जेएनसीएच / NS-I, JNCH**

To,

- 1) Croda India Company Private Limited (IEC-0302048499)
Plot No. 1/1, TTC Industrial Area, Koparkhairane,
Thane Belapur Road, Navi Mumbai-400 170.

- 2) M/s Freight Carriers Pvt. Ltd.,
Behramji Mansion, 1st Floor, Sir P M Road,
Fort, Mumbai-400001

Copy to:

1. The Addl. Commissioner of Customs, Group II(C-F), JNCH
2. AC/DC, Chief Commissioner's Office, JNCH
3. AC/DC, Centralized Revenue Recovery Cell, JNCH
4. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
5. Office Copy.