

	सीमाशुल्कआयुक्तकाकार्यालय, एनएस-III OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-III केंद्रीकृतअधिनिर्णयनप्रकोष्ठ, जवाहरलालनेहरूसीमाशुल्कभवन CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400 707 NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707
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File No: S/10-302/2022-23/CC/NS-I/CAC/JNCH
Date :30.09.2025

SCN No: S/26- MISC-03/2016-17 Gr. &1A dated 02.05.2016

DIN	:	20250978NX000000B07C
	आदेशकीतिथि	: 25.09.2025
	Date of Order	
	जारीकिएजानेकीतिथि	: 30.09.2025
	Date of Issue	
आदेशसं.	:	214/2025-26/आयुक्त/एनएस-III/ सीएसी/जेएनसीएच
Order No.	:	214/2025-26 /Commr./NS-III /CAC/JNCH
पारितकर्ता	:	श्रीविजयरिशी
Passed by	:	SH. VIJAY RISI
	:	आयुक्त, सीमाशुल्क (एनएस-3), जेएनसीएच, न्हावाशेवा
	:	Commissioner of Customs (NS-III), JNCH, Nhava Sheva
पक्षकार (पार्टी)/ नोटिसीकानाम	:	मेसर्स सिग्नेट केमिकल कॉर्पोरेशन प्राइवेट लिमिटेड
Name of Party/Noticee	:	M/s. Signet Chemical Corporation Pvt. Ltd.

मूलआदेश

ORDER-IN-ORIGINAL

- इस आदेश की मूल प्रतिका प्रतिलिपि जिस व्यक्तिको जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।

The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

- इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम १९६२ की धारा १२९(ए) (के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच, ३४, पी .डी .मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९को अपील कर सकता है, जो उक्तअधिकरण के सहायकरजिस्ट्रार को संबोधित होगी।

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.

- अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Main points in relation to filing an appeal:-

फार्म	:	फार्मन .सीए३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके
Form	:	खिलाफ अपील की गयी है (इन चार प्रतियों में से कमसे कम एक प्रति प्रमाणित होनी चाहिए)

Form No. CA3 in quadruplicate and four copies of the order

appealed against (at least one of which should be certified copy)	
समय सीमा	: इस आदेश की सूचना की तारीख से ३ महीने के भीतर
Time Limit	Within 3 months from the date of communication of this order.
फीस	: (क) एक हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५ लाख रुपये या उस से कम है।
Fee	(a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less. (ख) पाँच हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५ लाख रुपये से अधिक परंतु ५० लाख रुपये से कम है। (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh (ग) दस हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्तिकी रकम ५० लाख रुपये से अधिक है। (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
भुगतान की रीति	: क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सी ई एस टी ए टी, मुंबई के पक्षमें जारी किया गया हो तथा मुंबई में देय हो।
Mode of Payment	A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.
सामान्य	: विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९९२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए।
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.

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

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.

BRIEF FACTS OF THE CASE

The proceedings of the present case emanate out of Show Cause Notice No. S/26-MISC-03/2016-17 Gr. & 1A dated 02.05.2016 (hereinafter called in short as “SCN”), issued by the Commissioner of Customs, NS-I, JNCH, Mumbai Customs Zone-II to **M/s. Signet Chemical Corporation Pvt. Ltd. (IEC: IEC 0307015416)**. The brief facts of the case are as follows: -

2. M/s. Signet Chemical Corporation Pvt. Ltd. (IEC: 0307015416), having office at A-801, Crescenzo, C/38-39, G-Block, Behind MCA Club, Bandra Kurla Complex, Mumbai- 400051 (hereinafter referred to as the "Noticee" or “Importer”) filed four Bills of Entry during January–February 2016 (as detailed below) for clearance of goods described as “Neutral Pellets” (hereinafter referred to as ‘the subject goods’) under Customs Tariff Heading (CTH) 17029090. Whereas, the Notice proposed reclassification of the said goods under Customs Tariff Heading (CTH) 17019990, demand of differential duty amounting to Rs. 70,29,631/-, confiscation of the imported goods under Section 111(m) of the Customs Act, 1962, and imposition of penalty under Section 112(a)/114A *ibid*.

Sr. No.	Bill of Entry No.& Date	Item Description	CTH as per BoE	Assessable Value (Rs.)	Duty Paid (Rs.)
1	3846167 Dated 08.01.2016	‘PELLETS NEUTRAL MIN.90% 0,850- 1000 MM 18-20 MESH ASTM(PHARMA GRADE)’, Generic Desc.: ‘Sucrose 84.90%, Balance Heavy Metals Residue’	1702	42,39,507	22,69,959
2	3857630 dated 09.01.2016	‘PELLETS NEUTRAL MIN.90% 0,250- 0,300 MM 50-60 MESH ASTM(PHARMA GRADE)’, Generic Desc.: ‘Sucrose 86.80%, Balance Heavy Metals Residue’	1702	66,10,448	35,39,432
3	3925605 dated 16.01.2016	‘PELLETS NEUTRAL MIN.90% 0,850 -1,000 MM 18-20 MESH ASTM(PHARMA GRADE)’, Generic Desc.: ‘Sucrose 84.90%, Balance Heavy Metals Residue’	1702	42,39,502	22,69,957
4	4381076 dated 25.02.2016	‘PELLETS NEUTRAL MIN.90% 0,850- 1,000 MM 18-20 MESH ASTM(PHARMA GRADE)’, ‘PELLETS NEUTRAL MIN.90% 0,300- 0,355 MM 45-50 MESH ASTM(PHARMA GRADE)’, ‘PELLETS NEUTRAL MIN.90% 1,000- 1,180 MM 16-18 MESH ASTM(PHARMA GRADE)’ Generic Desc.: ‘Sucrose 85.90%, Balance Heavy Metals Residue’	1702	43,54,660	23,31,616
			Total	1,94,44,117	1,04,10,964

3. Subsequently, audit scrutiny revealed that the imported goods i.e. "Neutral Pellets", also referred to in trade as “sugar spheres” or “non-pareil seeds,” are in the nature of confectioners’ sugar and are classifiable under CTH 17019990, and not under CTH 17029090 as declared by the Noticee. CTH 1701 covers ‘CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM’, whereas CTH 1702 covers ‘OTHER SUGARS, INCLUDING CHEMICALLY PURE LACTOSE, MALTOSE, GLUCOSE AND

FRUCTOSE, IN SOLID FORM; SUGAR SYRUPS NOT CONTAINING ADDED FLAVOURING OR COLOURING MATTER; ARTIFICIAL HONEY, WHETHER OR NOT MIXED WITH NATURAL HONEY; Caramel'. Icing Sugar/confectioners' sugar/powdered sugar is composed of sucrose with a small amount of anti-caking agent i.e. Corn Starch. Reference was made to CBEC Circular No 883/3/2009-CX dated 26.02.2009, wherein it is clarified that all the product viz. Sugar, Pharmaceutical Sugar and Bura Sugar fall under the same CTH 1701 are product of sugar and different from Raw Sugar/Refined Sugar/White Sugar. As per Customs Tariff Act, 1975 'chemically pure sucrose manufactured from cane sugar or beet sugar is classifiable under customs tariff heading 17019990 (others) and all goods (other than Raw Sugar/Refined Sugar or White Sugar/Raw sugar imported by a bulk consumer) classified under customs tariff heading 1701 attracts BCD @ 60% (Customs Ntn. No. 12/2012 (Sr. No. 75), CVD @ 12.50% along with other applicable cess and duty. Relevant part of the Circular is reproduced as below:

883/3/2009-CX**Sugar cess exemption to sugar manufactured out of cess paid sugar****Circular No. 883/3/2009-CX., dated 26-2-2009****F.No. 267/31/2008-CX-8**

Government of India
Ministry of Finance (Department of Revenue)
Central Board of Excise & Customs, New Delhi

Subject : *Levy of cess on sugar manufactured out of cess paid raw material/input -
Regarding.*

The Sugar Cess Act, 1982 provides that "There shall be levied and collected as a cess, for the purposes of the Sugar Development Fund Act, 1982, a duty of excise on all sugar produced by any sugar factory in India" for the development of sugar industry. References have been received from some field formations that some manufacturers purchase sugar, on which central excise duty and sugar cess is paid by sugar manufacturers. Such manufacturers use the duty paid sugar to manufacture products like Pharmaceutical grade sugar and Bura sugar. All the products, namely sugar, pharmaceutical sugar and Bura sugar fall under the same tariff classification. The manufacturers have represented that both the raw material and final product fall under the same tariff heading, and as cess has been paid on raw material viz., sugar, they are not required to pay sugar cess on products as it amounts to double taxation.

2. The matter has been examined in consultation with the Ministry of Public Distribution and Consumer Affairs. The Ministry of Public Distribution and Consumer Affairs has now **exempted the levy of cess on sugar, collected as a duty of excise, under sub-section (1) of the Section 3 of Sugar Cess Act, 1982, on any sugar "manufactured from such other sugar" on which cess, leviable under sub-section (1) of Section 3 of the said Act has been paid already.** The copy of the Notification S.O. 102(E) published in Gazette of India on 7th January, 2009 is enclosed herewith (Not printed). However, the said exemption is available for clearances made after the date of issue of notification and past cases, if any, are required to be decided based upon the law as in force during relevant time.

3. Trade and field formations may be suitably informed.
4. Hindi version will follow.
5. Receipt of this Circular may kindly be acknowledged.

3.1 Customs tariff heading 1701 & 1702 are reproduced below for reference as follows:

Tariff Item	Description of goods
1701	CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM
	<i>Raw sugar not containing added flavouring or colouring matter:</i>
1701 12 00	<i>Beet sugar</i>
1701 13	<i>Cane sugar specified in Sub-heading Note 2 to this Chapter:</i>
1701 13 10	<i>Cane jaggery</i>

1701 13 20	-Khandsari sugar
1701 13 90	-Other
1701 14	-Other cane sugar:
1701 14 10	-Cane jaggery
1701 14 20	-Khandsari sugar
1701 14 90	-Other
	-Other:
1701 91 00	-Refined sugar containing added flavouring or coloring matter
1701 99	-Other:
1701 99 10	-Sugar cubes
1701 99 90	-Other
1702	OTHER SUGARS, INCLUDING CHEMICALLY PURE LACTOSE, MALTOSE, GLUCOSE AND FRUCTOSE, IN SOLID FORM; SUGAR SYRUPS NOT CONTAINING ADDED FLAVOURING OR COLOURING MATTER; ARTIFICIAL HONEY, WHETHER OR NOT MIXED WITH NATURAL HONEY; CARAMEL
	-Lactose and lactose syrup:
170211	-Containing by weight 99% or more lactose, expressed as anhydrous lactose, calculated on the dry matter:
1702 11 10	-In solid form
1702 11 90	-Other
1702 19	-Other:
1702 19 10	-In solid form
1702 19 90	-Other
1702 20	-Maple sugar and maple syrup:
1702 20 10	-In solid form
1702 20 90	-Other
1702 30	-Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20% by weight of fructose:
1702 30 10	-Glucose, liquid
1702 30 20	-Glucose, solid

	<i>Dextrose:</i>
1702 30 31	<i>In solid form</i>
1702 30 39	<i>Other</i>
1702 40	<i>Glucose and glucose syrup, containing in the dry state at least 20% but less than 50% by weight of fructose, excluding invert sugar:</i>
1702 40 10	<i>Glucose, liquid</i>
1702 40 20	<i>Glucose, solid</i>
	<i>Dextrose:</i>
1702 40 31	<i>In solid form</i>
1702 40 39	<i>Other</i>
1702 50 00	<i>Chemically pure fructose</i>
1702 60	<i>Other fructose and fructose syrup, containing in the dry state more than 50% by weight of fructose, excluding invert sugar:</i>
1702 60 10	<i>In solid form</i>
1702 60 90	<i>Other</i>
1702 90	<i>Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50% by weight of fructose:</i>
1702 90 10	<i>Palmyra sugar</i>
1702 90 20	<i>Chemically pure maltose</i>
1702 90 30	<i>Artificial honey, whether or not mixed with natural honey</i>
1702 90 40	<i>Caramel</i>
1702 90 50	<i>Insulin syrup</i>
1702 90 90	<i>Other</i>

3.2 Customs Notification 12/2012 dated 17.03.2012, Sr. No. 75, is as follows:

Table					
S. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Additional duty rate	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
75.	1701	All goods	60%	-	-

4. During audit, it was observed that M/s Signet Chemical Corporation Pvt. Ltd., Mumbai has imported four consignments (as detailed in above table) of "Neutral Pellets" of different degree of fineness. The imported goods i.e. "Neutral Pellets" were classified under CTH 17029090, which covers *"others including invert sugar and other sugar and sugar syrup blends containing in the dry state 50% by weight of fructose"* and instead of correct CTH 17019990. This mis-classification which appeared to have resulted in short levy & payment of Customs duty amounting to **Rs.70,29,631/- (Rs. Seventy Lakh Twenty-Nine Thousand Six Hundred and Thirty-One only)**.

5. It is also observed that all the impugned Bills of Entry as mentioned in Annexure- A to this notice, were self-assessed and then facilitated by the Risk Management System (RMS) as per the data retrieved from the ICES system. Therefore, proper officer never verified the facts of self-assessment or of the declaration made by the importer, and the goods were cleared under declared CTH. This mis-classification of imported goods under CTH 17029090 led to short levy of duty amounting to **Rs.70,29,631/- (Rs. Seventy Lakh Twenty-Nine Thousand Six Hundred and Thirty-One only)** (as detailed in the Annexure A and mentioned below). The said differential duty is recoverable under section 28 of the Customs Act 1962 along with applicable interest under section 28AA of the Customs Act 1962. Annexure-A, is reproduced, as follows:

Annexure-A

Sr. No.	Bill of Entry No. & Date	Correct classification & BCD standard rate %	Assesable Value (Rs.)	BCD @ 60% of AV (as per Sr. No. 75 of Notification 12/2012)	CVD @ 12.50% of (AV+BCD)	Cess @ 3% of (BCD+CVD)	SAD @ 4% of (AV+BCD+CVD+Cess)	Re-determined Duty (Rs.)	Duty Paid (Rs.)	Differential Duty Payable (Rs.)
1	3846167 Dated 08.01.2016	1701 (standard rate 100%)	42,39,507	25,43,704	8,47,901	1,01,748	3,09,314	38,02,668	22,69,959	15,32,709
2	3857630 dated 09.01.2016	1701 (standard rate 100%)	66,10,448	39,66,269	13,22,090	1,58,651	4,82,298	59,29,307	35,39,432	23,89,875
3	3925605 dated 16.01.2016	1701 (standard rate 100%)	42,39,502	25,43,701	8,47,900	1,01,748	3,09,314	38,02,664	22,69,957	15,32,707
4	4381076 dated 25.02.2016	1701 (standard rate 100%)	43,54,660	26,12,796	8,70,932	1,04,512	3,17,716	39,05,956	23,31,616	15,74,340
		Total	1,94,44,117	1,16,66,470	38,88,823	4,66,659	14,18,643	1,74,40,595	1,04,10,964	70,29,631

6. The Show Cause Notice also alleged that the importer was aware of the facts that goods were not classifiable under CTH 17029090 and do not attract benefit of BCD and CVD as the same benefit is available only for Raw Sugar/refined sugar or white sugar/Raw Sugar imported by a bulk consumer but the importer has deliberately misclassified/mis-declared the imported goods in order to evade legitimate duty of Customs amounting to Rs. 70,29,631/- (Rs. Seventy Lakh Twenty-Nine Thousand Six Hundred and Thirty One only) (As detailed in the Annexure to the SCN). Therefore, the imported goods vide above mentioned Bills of Entry, appeared liable for confiscation u/s 111(m) of the Customs. Act

1962 and the importer appeared liable for penalty under Section 114A/112(a) of Customs Act 1962.

7. Accordingly, in exercise of the powers conferred by Section 124 read with Section 28(4) and Section 28AA of the Customs Act, 1962, Show Cause Notice No. S/26-MISC-03/2016-17 Gr. & 1A dated 02.05.2016 was issued to **M/s. Signet Chemical Corporation Pvt. Ltd., (IEC: 0307015416)** having address at A-801, Crescenzo, C/38-39, G-Block, Behind MCA Club, Bandra Kurla Complex, Mumbai, Maharashtra-400051, whereby the Noticee was called upon to show cause to the Commissioner of Customs, NS-I, JNCH, Mumbai Customs Zone-II having office situated at Jawaharlal Nehru Customs House (JNCH), Taluka- Uran, Distt: Raigad, Nhava Sheva, Maharashtra-400707, within 30 days from the date of receipt of this Notice as to why:-

- i. The imported goods declared as 'Neutral Pellets' should not be classified under "CTH 17019990-Other".
- ii. The differential duty of Rs. 70,29,631/- (Rs. Seventy Lakh Twenty-Nine Thousand Six Hundred and Thirty-One only) (details as per Annexure A) should not be demanded and recovered from them under Section 28 of the Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.
- iii. The goods valued at Rs.1,94,44,117/- (Rs. One Crore Ninety-Four Lakh Forty-Four Thousand One Hundred and Seventeen only) imported vide Bills of Entry Nos. 3846167 dated 08.01.2016, 3857630 dated 09.01.2016, 3925605 dated 16.03.2016 and 4181070 dated 25.02.2016 should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.
- iv. Penalty under Section 112 (a)/114A of the Customs Act should not be imposed on them.

RECORDS OF PERSONAL HEARING & WRITTEN SUBMISSIONS

8. In order to follow principle of natural justice, an opportunity of personal hearing was granted to Noticee on 21.06.2023, 12.07.2024 & 20.01.2025, vide this office letter dated 08.06.2023, 14.06.2024 & 07.01.2025 respectively. However, Noticee did not appear for Personal Hearing and vide letters dated 19.06.2023, 20.06.2024, 14.01.2025 inter alia submitted as follows:

a) Noticee was previously a part of M/s. Signet Chemical Corporation Pvt. Ltd. In 2019, M/s. Signet Chemical Corporation Pvt. Ltd. was de-merged into two legal entities: M/s. Signet Chemical Corporation Pvt. Ltd. and the Noticee. Post the de-merger, the excipient business was vested with the Noticee.

b) That they initially did not receive the Show Cause Notice No. S/26-Misc-03/2016-17 Gr. 1 & IA dated 02.05.2016 and requested a copy of the Show Cause Notice dated 02.05.2016 (along with the Annexure and relied upon documents).

8.1 Further, in reply to RTI application No. CCUM2/R/E/25/00011 dated 29.01.2025, a copy of Show Cause Notice No. S/26-MISC-03/2016-17 Gr. & 1A dated 02.05.2016 was provided to the Noticee vide letter Dated 25.02.2025.

8.2 Subsequently, an opportunity of personal hearing was granted to Noticee on 12.08.2025, 09.09.2025 & 18.09.2025 vide this office letter dated 04.08.2025 29.08.2025 & 08.09.2025 respectively, however, Noticee chose not to avail the same.

DISCUSSION AND FINDINGS

9. I have carefully gone through the Show Cause Notice (SCN), the applicable legal provisions, material on record and facts of the case. Before going into the merits of the case, I would like to discuss whether the case has reached finality for adjudication.

PRINCIPLE OF NATURAL JUSTICE

10. Before going into the merits of the case, I observe that in the instant case, in compliance of the provisions of Section 28(8) the Customs Act, 1962 and in terms of the principle of natural justice, personal hearing opportunity was granted to the Noticee on 21.06.2023, 12.07.2024 & 20.01.2025, however, Noticee did not appear for Personal Hearing.

10.1 Further, a copy of the Show Cause Notice was also provided to the Noticee vide letter dated 25.02.2025, however, Noticee instead of appearing for Personal Hearing filed a Writ Petition on 12.06.2025 before Hon'ble Bombay High Court, vide WP (ST) No. 19679/2025, mainly requested that:

- i. The adjudication of the show cause notice dated 02.05.2016 issued by the respondents is without jurisdiction as there has been an inordinate delay in adjudication and accordingly the same is liable to be dropped;
- ii. The respondents sought to adjudicate the show cause notice dated 02.05.2016 after the expiry of the limitation period and hence the same is time barred;
- iii. That the show cause notice was not served upon the petitioner within the time stipulated under section 28 of the Customs act, 1962. Accordingly, the same is liable to be set aside;
- iv. That the Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other Writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Show Cause Notice F. No. S/26-Misc-03/2016-17 Gr.1&1A dated 02.05.2016 (Exhibit - "A") issued by Respondent No. 2 and after going into the validity and legality thereof to quash and set aside the same;
- v. That pending the admission, hearing and final disposal of the present Petition, the Respondents by themselves, their officers, subordinated, servants and agents be restrained by an interim order and injunction of this Hon'ble Court from taking any steps or proceedings in pursuance of and/or in furtherance of and/or Show Cause Notice F. No. S/26-Misc-03/2016-17 Gr.1&1A dated 02.05.2016 (Exhibit "A") issued by Respondent No. 2;

I now proceed to examine whether the Show Cause Notice was duly served upon the Noticee, and whether the statute prescribed any time limit for adjudication of Show Cause Notices issued prior to the amendment of Section 28(9) of the Customs Act, 1962, as introduced by the Finance Act, 2018.

10.2 I observe that at present, the Writ Petition WP (ST) No. 19679/2025 dated 12.06.2025 filed before Hon'ble Bombay High Court is in **Pre-Admission** stage.

Case Details	
Bench :- Bombay	
CNR No. :-	HCBM010310422025
e-Filing No. :-	AMH20240126800C202500081
Stamp No. :-	WPST/19679/2025
Filing Date :-	12/06/2025
Petitioner :-	Signet Excipients Private Limited -
Respondent :-	Union of India -
Petn.Adv. :-	SRIRAM SRIDHARAN
District :-	Bench :- DIVISION
Status :-	Pre-Admission
Next Date :-	Stage :-
Act :-	
Under Section :-	28

10.3 I also take note of the contention raised by the Noticee regarding non-service of the Show Cause Notice and their reliance on this ground before the Hon'ble Bombay High Court. It is a matter of record that the Noticee inter-alia obtained a copy of the Show Cause Notice through the Right to Information Act and has been duly informed of the proceedings. Also, as per available records, the Show Cause Notice was sent through Speed Post and also displayed on the Notice Board of the Department. In this regard, I refer to section 153 of Customs Act, 1962 regarding '**Modes for service of notice, order, etc.,**' which is reproduced, as follows:

"¹ [Section 153. Modes for service of notice, order, etc.-

(1) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:-

(a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

² [(ca) by making it available on the common portal;]

(d) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or

(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section

(1).

(3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.]”

In view of the above, it is noticed that Show Cause Notice is deemed to be served to the Noticee.

10.4 Further, it is noted that the Show Cause Notice (SCN) was issued in 2016, whereas the de-merger of the Noticee, M/s. Signet Chemical Corporation Pvt. Ltd., resulting in the creation of M/s. Signet Chemical Corporation Pvt. Ltd. and M/s. Signet Excipient Private Limited, took place during 2019–2020. I take judicial notice of the Registrar of Companies’ Certificate of Incorporation of M/s. Signet Excipient Private Limited and the National Company Law Tribunal (NCLT) order bearing Reference No. C.P. (CAA)/3957/MB/2019 dated 22.01.2020, which confirms that M/s. Signet Excipient Private Limited was incorporated solely for the purpose of carrying on the excipient business formerly conducted by M/s. Signet Chemical Corporation Pvt. Ltd. In view of the foregoing, the assertion by M/s. Signet Chemical Corporation Pvt. Ltd. that it did not receive the SCN is manifestly inconsistent and untenable, particularly as M/s. Signet Excipient Private Limited came into existence only after 2019, subsequent to the issuance of the SCN in 2016. Moreover, the SCN was duly addressed and dispatched to M/s. Signet Chemical Corporation Pvt. Ltd., and was contemporaneously published on the departmental Notice Board in 2016, thereby conclusively negating any claim of non-service or non-receipt.

10.5 I also observe that prior to the 2018 amendment; Section 28 (9) did not specify any time limit within which the adjudicating authority was required to conclude adjudication proceedings after the issuance of a Show Cause Notice (SCN). Relevant portion is reproduced as follows:

“(9) The proper officer shall determine the amount of duty or interest under sub-section (8),—

- a. *within six months from the date of notice, **where it is possible to do so**, in respect of cases falling under clause (a) of sub-section (1);*
- b. *within one year from the date of notice, **where it is possible to do so**, in respect of cases falling under sub-section (4).”*

Further Explanation 4 at the end of Section 28 is very clear which reads *“For the removal of doubts, it is hereby declared that notwithstanding anything to the contrary contained in any judgment, decree or order of the Appellate Tribunal or any Court or in any other provision of this Act or the rules or regulations made thereunder, or in any other law for the time being in force, in cases where notice has been issued for non-levy, short-levy, non-payment, short payment or erroneous refund, prior to the 29th day of March, 2018, being the date of commencement of the Finance Act, 2018 (13 of 2018), such notice shall continue to be governed by the provisions of section 28 as it stood immediately before such date.”*

10.5.1 Reliance is also placed upon the judgment of the Hon’ble Supreme Court in *Commissioner of GST & Central Excise, Commissionerate-II & Others v. M/s. Swati Menthol & Allied Chemicals Ltd. & Anr.*, Civil Appeal No. 4320 of 2023 [arising out of SLP (C) No. 20072 of 2021], wherein the Hon’ble Court, noting that the adjudication

proceedings had remained pending for over a decade, remanded the matter to the Commissioner of GST (Adjudicating Authority) with a direction to conclude the proceedings within a period of eight weeks.

10.5.2 I also take note of interim order dated 02.05.2025 passed by Hon'ble Supreme Court of SLP 5392/2025, in the matter of GMR Airport Infrastructure Ltd. In the said order, the Hon'ble Apex Court has directed as under:

“Since we are looking in the larger issues involved in this matter, we may only say that if any matter comes up for hearing before the Tribunal or any other High Court on the subject in question, the hearing may be deferred till we take an appropriate call in the matter.”

10.6 In light of the above facts and legal position, the contention raised by the Noticee regarding non-service or delay in adjudication is devoid of merit and is legally unsustainable. However, the question of limitation raised by the Noticee is already under consideration before the Hon'ble Bombay High Court in their writ petition, and the present adjudication has been made expressly subject to the outcome of the said proceedings.

10.7 I further find that the argument advanced by the Noticee regarding limitation and delay in adjudication does not, in any manner, alter the substantive issue of classification of the imported goods. Therefore, for the limited purpose of determining the correct classification and consequent duty liability, I am bound to examine the matter on merits based on the provisions of the Customs Tariff Act, 1975, the Customs Act, 1962, and the binding judicial precedents available. Classification is a matter of law and technical determination guided by the Tariff, HSN Explanatory Notes, and established interpretative rules. Therefore, the Noticee's contention on limitation cannot displace the legal position with respect to classification, which is required to be determined strictly in accordance with the tariff schedule and judicial guidance.

10.8 Subsequently, Personal hearing opportunities were granted to the Noticee on 12.08.2025, 08.09.2025, and 18.09.2025. However, the Noticee failed to appear on all such occasions. The Noticee has also not filed any written reply to the Show Cause Notice (SCN), despite being afforded multiple opportunities, including on 21.06.2023, 12.07.2024, 20.01.2025, as well as on 04.08.2025, 08.09.2025 & 18.09.2025.

10.9 I observe that the matter before the Hon'ble Court is admittedly at the pre-admission stage and no interim relief or stay has been granted. In these circumstances, the pendency of the writ petition does not preclude this adjudicating authority from proceeding with the adjudication of the Show Cause Notice (SCN). Hence, while the outcome of this order will remain subject to the final decision of the Hon'ble High Court, the adjudication on merits cannot be deferred indefinitely, and it is legally proper to decide the matter based on the available records and evidence.

10.10 Moreover, as per the provisions of Section 28(9) of the Customs Act, 1962, this adjudicating authority is under strict legal obligation to complete the adjudication proceedings within a time bound manner. Having regard to the facts and circumstances of the case, and in particular, the repeated opportunities given to the Noticee, I am satisfied that the principles of natural justice have been duly complied with. Accordingly, the adjudication proceedings shall now proceed on merits, without further reference to the Noticee. This order is passed without prejudice to the final outcome of any writ petition pending before the Hon'ble Bombay High Court, if any. I also refer to the following case

laws on this aspect-

- Sumit Wool Processors Vs. CC, Nhava Sheva [2014 (312) E.L.T. 401 (Tri. - Mumbai)]
- Modipon Ltd. Vs. CCE, Meerut [reported in 2002 (144) ELT 267 (All.)]

FRAMING OF ISSUES

11. Pursuant to a meticulous examination of the Show Cause Notice and a thorough review of the case records, the following pivotal issues have been identified as requisite for determination and adjudication:

- As to whether the imported goods declared as 'Neutral Pellets' merit classification under "CTH 17019990-Other", imported vide Bills of Entry, as detailed in Annexure-A.**
- As to whether the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962**
- As to whether penalty is imposable on the Noticee under Section 112/ 114A of the Customs Act, 1962.**

Now I take up the first question/issue, as to whether the goods declared as 'Neutral Pellets' merit classification under "CTH 17019990-Other", imported vide Bills of Entry, as detailed in Annexure-A.

12. I observe that M/s. Signet Chemical Corporation Pvt. Ltd. had filed 04 Bills of Entry as per Annexure A for clearance of Neutral Pellets (known as 'Sugar Spheres/ nonpareil seed') by classifying under CTH 17029090- 'Others' and declared assessable value of Rs. 1,94,44,117/- (Rs. One Crore Ninety-Four Lakh Forty-Four Thousand One Hundred and Seventeen only) and paid- assessed total Custom Duty of Rs. 1,04,10,964 (Rupees One Crore Four Lakh Ten Thousand Nine Hundred Sixty Four Only), as follows:

Sr. No.	Bill of Entry No.& Date	Item Description	CTH as per BoE	Assessable Value (Rs.)	Duty Paid (Rs.)
1	3846167 Dated 08.01.2016	'PELLETS NEUTRAL MIN.90% 0,850- 1000 MM 18-20 MESH ASTM(PHARMA GRADE)', Generic Desc.: 'Sucrose 84.90%, Balance Heavy Mats Residue'	1702	42,39,507	22,69,959
2	3857630 dated 09.01.2016	'PELLETS NEUTRAL MIN.90% 0,250- 0,300 MM 50-60 MESH ASTM(PHARMA GRADE)', Generic Desc.: 'Sucrose 86.80%, Balance Heavy Mats Residue'	1702	66,10,448	35,39,432
3	3925605 dated	'PELLETS NEUTRAL MIN.90% 0,850 -1,000 MM 18-20 MESH ASTM(PHARMA GRADE)', Generic Desc.:	1702	42,39,502	22,69,957

	16.01.2016	'Sucrose 84.90%, Balance Heavy Metals Residue'			
4	4381076 dated 25.02.2016	'PELLETS NEUTRAL MIN.90% 0,850- 1,000 MM 18-20 MESH ASTM(PHARMA GRADE)'; 'PELLETS NEUTRAL MIN.90% 0,300- 0,355 MM 45-50 MESH ASTM(PHARMA GRADE)'; 'PELLETS NEUTRAL MIN.90% 1,000- 1,180 MM 16-18 MESH ASTM(PHARMA GRADE)' Generic Desc.: 'Sucrose 85.90%, Balance Heavy Metals Residue'	1702	43,54,660	23,31,616
			Total	1,94,44,117	1,04,10,964

Description of goods & supplier details, as per sample Bill of Entry is as follows:

Master Invoice Items Dept comments Exam order Queries iGM Cont eXAm_instr liceNce dUty Grp7_dutyfg Others

view_be

BE No: 8846167 Date: 08/01/2016 CC: N Type: H Inv No: 1

Item 1	PELLETS NEUTRAL MIN.90% 0,850- 1000 MM 18-20 MESH ASTM PHA	Country of Org. DE
Item Desc	RMA GRADE)	RITC 17029090
Generic Desc	SUCROSE 84.9% BALANCE HEAVY METALS RESIDUE	Scheme Code:
Unit price Declared	4.17	Assessed 4.17
Curr EUR	Quantity Unit 13500	RGS RSP SVB Load Decl Assessed RSP Notn RSP Notn Sln
STD QTY	IMS Details	

Customs Declared	(1 of 1)	Excise Declared	Assessed
17029090	Tariff Head	17029090	17029090
	Notification No.		
	Serial No.		
4239507.32	Assval Sec 14(3)(2)	5511359.52	Rs 5511359.52
30 %	Advl. Rate (%) Flag	12.5 %	12.5 %
	Specific Rate		
	Unit Quantity Code		
1271852.2	Duty (Rs.)	688919.9	688919.9
	Edu Cess Notn		
	Edu Cess Sln		
2	Edu Rta	0	0
39215.4	Edu Cess Amt	0	0
19607.7	Shedu Cess	0	0
026/2001	SCD Notn Sln	026/2001	
0	SCD RTA Amt	0	0

Master Invoice Items Dept comments Exam order Queries iGM Cont eXAm_instr liceNce duty Grp7_dutyfg Others									
view_be									
Indian Customs EDI System - Imports V1.5									
18/09/2025 JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707 07:23:27 pm									
VIEW Invoice									
Enter BE No :	3846167	Date :	08/01/2016	CC :	N	Type :	H	No of Inv :	1
Importer :	SIGNET CHEMICAL CORPORATION PVT LTD					AG :	1	First Chk :	N
Inv.Slno/Inv No :	1 / 329734	Date :	27/11/2015	Ex. Rate		Value in INR			
Inv Value :	56295	Curr :	EUR	73.35		4129238.25			
Freight :	320	Curr :	USD	67.45		21584			
Insurance :	1181	Curr :	INR						
Loc Ag.Comm :		Terms of Inv. :	FOB						
Misc. Charges :	375	USD	SVB Load (Val) :						
Load Charges :			SVB Load (Dty) :						
Disc Amount :			HSS Load Rate :						
Cost Not Incl in Inv Val :			HSS Load Amount :						
Extra Duty Dep. (EDD) :		Click to See Details	Val Method : RULE 4						
Ass. Value Rs. :	4239507.32	Total Duty (Inv) Rs. :	2269959.3	Relationship :					
Suppl. Name :	HANNS G. WERNER GMBH + CO.KG			Third Party. :					
& Address :	HAFENSTRASSE 9 * 25436 TORNESCH			Details :					
	GERMANY								

1 2 . 1 The item description in Bills of Entry, for example: 'PELLETS NEUTRAL MIN.90% 0,850-1000 MM 18-20 MESH ASTM(PHARMA GRADE)', having **Generic Desc.:** 'Sucrose 84.90%, Balance Heavy Metals Residue', that the importer has declared the impugned goods being of Pharmaceutical Grade and supplier of the goods are M/s. Hanns G. Werner, Germany. I notice that the imported goods: for example 'PELLETS NEUTRAL MIN.90% 0,850-1000 MM 18-20 MESH ASTM(PHARMA GRADE)', having **Generic Desc.:** 'Sucrose 84.90%, Balance Heavy Metals Residue' are uniform, almost spherical, white seeds composed of sucrose and corn starch. I find that the goods are predominantly

composed of sucrose.

Sucrose (which is a molecule of glucose and one molecule of fructose joined together by Glycosidic Bond) is covered under CTH 1701, which is for '*CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM*', whereas CTH 1702 covers fructose and other sugars: '*OTHER SUGARS, INCLUDING CHEMICALLY PURE LACTOSE, MALTOSE, GLUCOSE AND FRUCTOSE, IN SOLID FORM; SUGAR SYRUPS NOT CONTAINING ADDED FLAVOURING OR COLOURING MATTER; ARTIFICIAL HONEY, WHETHER OR NOT MIXED WITH NATURAL HONEY; CAMEL*'. Going by General Rule of Interpretation 1, the impugned goods 'Neutral Pellets-Sucrose 80%-90%' being made of predominantly sucrose are clearly out of the scope of CTH 1702.

Function of each component (Sucrose, Corn Starch & Water): Further, I observe that the subject goods: The Neutral Pellets (Pharmaceutical grade) are produced by mixing together sugar, corn starch and purified water in different proportions to form a coating suspension. Subsequently the sugar granules (Beads) are produced through a continuous coating process which goes through the steps of drying, sieving and batch mixing. Whereas, Sucrose is used as an inactive ingredient or excipient in various drug forms. Whereas, cornstarch is added to act as a binder and anti caking agent (Binder: Cornstarch helps to bind the powder particles together during pellet formation, improving the mechanical strength and cohesiveness of the pellets. Anti-caking Agent: It prevents the pellets or powders from sticking together or clumping, which is crucial for maintaining good flow properties during processing). Whereas, water helps in Binder activation, Pellet Formation, Improving Pellet Cohesion and Strength etc. **(Binder Activation:** Water acts as a **wetting agent** that activates the binder (like cornstarch, HPMC, or PVP). When the binder gets wet, it becomes sticky or adhesive, helping the powder particles to **bind together and form pellets**. **Pellet Formation (Granulation):** During processes like **wet granulation** or **extrusion-spheronization**, water helps to **moisten the powder blend**, making it easier to agglomerate the particles into uniform spherical pellets. **Improving Pellet Cohesion and Strength:** The presence of water allows for **better inter-particle bonding** once the pellets are dried, leading to mechanically stronger pellets).

Usage: I further observe that the goods 'Neutral Pellets (Pharmaceutical grade)' are primarily used by the Pharmaceutical Industry in the production of sustained or time release dosage forms. *Sucrose is used as an inactive ingredient or excipient in various drug forms. Sugar spheres are used as carriers for active pharmaceutical ingredients (APIs) to create modified-release dosage forms.* Their neutral, spherical, and uniform nature facilitates API coating, resulting in consistent drug loading, improved taste masking, and controlled release profiles for capsules, sachets, and tablets. They also serve as diluents, provide bulk to formulations, and are useful for combining drugs with different release characteristics in a single dosage form. I find that the *goods are predominantly (80 – 91%) composed of sucrose which is giving essential character to it.* The product is basically the spheres of sugar in which starch is added for binding and sucrose gives the goods its essential character.

12.2 The aforementioned facts are further corroborated by the submissions made by the Noticee before the Hon'ble Customs, Excise and Service Tax Appellate Tribunal (CESTAT) concerning the classification of the subject goods—namely, "Neutral Pellets/Sugar Spheres/Non-pareil Seeds"—in the importer's own matter (Customs Appeal Nos. 89829/2018 and 85493/2019). The said appeals were adjudicated by the Hon'ble CESTAT vide final order No. A/85786-85787/2020 dated 25.09.2020. The relevant portion of the judgment is reproduced herein below for reference:

"4. At the outset, learned Sr. Advocate Shri V. Sridharan for the appellants

has submitted that the appellants are engaged in the trading of goods meant for pharmaceutical industry. The imported goods in question are: “Sugar Sucrose” or “Neutral Pellets” or “Non-pareil seeds” which are in the form of tiny spherical balls. These goods are made from maize starch (IP grade), water and sucrose. Explaining the process of manufacture by the overseas supplier, he has submitted that a tiny pearl of sugar crystal is taken as a base and these are continuously coated with a solution containing starch and water, through the panning process. The starch is added to act as a binder and also for the slow release of the API (Active Pharmaceutical Ingredient). Providing the composition of the product, the learned Advocate submitted that it consists of –

- (i) Sucrose (80 – 91%)*
- (ii) Maize starch (8.5% to 20%)*
- (iii) Water (< 1.5%)*

These goods are used in pharmaceutical industry. He has further submitted that similar sugar spheres not conforming to the pharmacopeias are used in confectionary industry and both the types of sugar spheres are manufactured by the supplier. In confectionary, these types of spheres are sprinkled on top of cake/donut icings. In pharmaceutical industry, these are used as a spherical base for coating the API (Active Pharmaceutical Ingredient) on it for administering the API where sustained release or controlled release of the API is needed. He has submitted that the appellants are importing these goods since 2009 from Germany and as the imported goods are composed of sucrose along with other ingredients; they classified the product under Heading 17.02 of the CTA, 1975 declaring the same as Pellet Neutral or Non-Pareil Seeds mentioning the same as pharmaceutical grade.”

12.3 To understand the scheme of classification under heading 1701 and 1702, same are reproduced as follows:

Tariff Item	Description of goods
1701	CANE OR BEET SUGAR AND CHEMICALLY PURE SUCROSE, IN SOLID FORM
	- Raw sugar not containing added flavouring or colouring matter:
1701 12 00	- Beet sugar
1701 13	- Cane sugar specified in Sub-heading Note 2 to this Chapter:
1701 13 10	- Cane jaggery
1701 13 20	- Khandsari sugar
1701 13 90	- Other
1701 14	- Other cane sugar:
1701 14 10	- Cane jaggery
1701 14 20	- Khandsari sugar

1701 14 90	Other
	Other:
1701 91 00	Refined sugar containing added flavouring or coloring matter
1701 99	Other:
1701 99 10	Sugar cubes
1701 99 90	Other
1702	OTHER SUGARS, INCLUDING CHEMICALLY PURE LACTOSE, MALTOSE, GLUCOSE AND FRUCTOSE, IN SOLID FORM; SUGAR SYRUPS NOT CONTAINING ADDED FLAVOURING OR COLOURING MATTER; ARTIFICIAL HONEY, WHETHER OR NOT MIXED WITH NATURAL HONEY; CARAMEL
	Lactose and lactose syrup:
170211	Containing by weight 99% or more lactose, expressed as anhydrous lactose, calculated on the dry matter:
1702 11 10	In solid form
1702 11 90	Other
1702 19	Other:
1702 19 10	In solid form
1702 19 90	Other
1702 20	Maple sugar and maple syrup:
1702 20 10	In solid form
1702 20 90	Other
1702 30	Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20% by weight of fructose:
1702 30 10	Glucose, liquid
1702 30 20	Glucose, solid
	Dextrose:
1702 30 31	In solid form
1702 30 39	Other

1702 40	Glucose and glucose syrup, containing in the dry state at least 20% but less than 50% by weight of fructose, excluding invert sugar:
1702 40 10	Glucose, liquid
1702 40 20	Glucose, solid
	Dextrose:
1702 40 31	In solid form
1702 40 39	Other
1702 50 00	Chemically pure fructose
1702 60	Other fructose and fructose syrup, containing in the dry state more than 50% by weight of fructose, excluding invert sugar:
1702 60 10	In solid form
1702 60 90	Other
1702 90	Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50% by weight of fructose:
1702 90 10	Palmyra sugar
1702 90 20	Chemically pure maltose
1702 90 30	Artificial honey, whether or not mixed with natural honey
1702 90 40	Caramel
1702 90 50	Insulin syrup
1702 90 90	Other

REASONS OF IMPORTED GOODS COVERED UNDER CTH 1701 AND NOT UNDER CTH 1702.

12.4 From above, it can be seen that cane sugar/beet sugar whether containing added substances or not and **chemically pure sucrose** in solid form are covered by heading 1701. I observe that as per HSN subheading note; cane and beet sugar in solid form can only be classified under 1701. The HSN Notes makes it clear that the sucrose obtained from cane or beet sugar falls under Heading 1701 even it if contains some other substances. In their case, the sugar spheres are found to contain 80% -91% Sucrose. Relevant portion of the Notes to CTH 1701 are reproduced below:

*“It should be noted that cane and beet sugar fall in this heading **only** when in the solid form (including powders); such sugar may contain added flavouring or colouring matter.”*

12.5 Further, the **Explanatory Notes to HSN 1701** prescribe as follows:

“The heading also includes chemically pure sucrose in solid form, whatever its origin. Sucrose (other than chemically pure sucrose) obtained from sources other than sugar cane or sugar beet is excluded (heading 1702)”

Therefore, Sucrose (chemically pure or otherwise) obtained from sugar cane or sugar beet is covered under heading 1701. Since the goods are ultimately to be used in Pharma Industry, the ingredients have to be chemically pure. Moreover, even if the sucrose used in the imported goods is not chemically pure, no evidence has been provided by the importer to show that it has been obtained other than sugar cane or sugar beet.

12.6 I further observe that the Heading 1701 also includes not only raw sugar but also sugar preparations. In this regard, I refer to the Board's Circular No. 879/17/08-CX dated 5.9.2008 issued under section 37B of the Central Excise Act, 1944 which is based on the judgment of the Hon'ble Supreme Court in the case of *State of Gujrat Vs. Sakarwala Brothers*. The said Circular has been extensively considered by the Tribunal in the case of *Triveni Udyog Vs. CCE, Jaipur-I - 2017 (358) ELT 950 (Tri-Del.)* in classifying the sugar preparations under Heading 1701, same is reproduced below, as follows:

883/3/2009-CX

Sugar cess exemption to sugar manufactured out of cess paid sugar

Circular No. 883/3/2009-CX., dated 26-2-2009
F.No. 267/31/2008-CX-8

Government of India
Ministry of Finance (Department of Revenue)
Central Board of Excise & Customs, New Delhi

Subject : Levy of cess on sugar manufactured out of cess paid raw material/input - Regarding.

The Sugar Cess Act, 1982 provides that "There shall be levied and collected as a cess, for the purposes of the Sugar Development Fund Act, 1982, a duty of excise on all sugar produced by any sugar factory in India" for the development of sugar industry. References have been received from some field formations that some manufacturers purchase sugar, on which central excise duty and sugar cess is paid by sugar manufacturers. Such manufacturers use the duty paid sugar to manufacture products like Pharmaceutical grade sugar and Bura sugar. All the products, namely sugar, pharmaceutical sugar and Bura sugar fall under the same tariff classification. The manufacturers have represented that both the raw material and final product fall under the same tariff heading, and as cess has been paid on raw material viz., sugar, they are not required to pay sugar cess on products as it amounts to double taxation.

2. The matter has been examined in consultation with the Ministry of Public Distribution and Consumer Affairs. The Ministry of Public Distribution and Consumer Affairs has now **exempted the levy of cess on sugar, collected as a duty of excise, under sub-section (1) of the Section 3 of Sugar Cess Act, 1982, on any sugar "manufactured from such other sugar" on which cess, leviable under sub-section (1) of Section 3 of the said Act has been paid already.** The copy of the Notification S.O. 102(E) published in Gazette of India on 7th January, 2009 is enclosed herewith (Not printed). However, the said exemption is available for clearances made after the date of issue of notification and past cases, if any, are required to be decided based upon the law as in force during relevant time.

3. Trade and field formations may be suitably informed.
4. Hindi version will follow.
5. Receipt of this Circular may kindly be acknowledged.

Therefore, going by General Rule of Interpretation 3 and 1, sucrose, whether in raw or refined form, and whether or not containing additives, including colouring or flavouring agents, and sugar preparations are classifiable under CTH 1701 in

accordance with the terms of the heading and the HSN Explanatory Notes.

12.7 Further, I observe that the heading 1702, covers sugar other than sucrose such as *Chemically Pure Lactose, Maltose, Glucose and Fructose, in solid form; Sugar Syrups not containing added flavouring Or Colouring Matter; Artificial Honey, Whether Or Not Mixed With Natural Honey; Caramel*. I observe that the Noticee has attempted to portray the imported goods as “others including invert sugar and other sugar and sugar syrup blends containing in the dry state 50% by weight of fructose,” falling under CTH 17029090. However, this contention is factually and legally untenable. The very wording of heading 1702 makes it explicit that the products covered therein are sugars other than sucrose in solid form, and specifically include invert sugar, glucose, fructose, maltose, maltodextrins, and sugar syrups or blends with significant fructose content. The imported goods in the present case, being “Neutral Pellets” consisting of sucrose in pellet form, do not contain fructose or any other sugar derivatives that could justify their inclusion under heading 1702. On the contrary, the product description, and analytical records clearly demonstrate that the subject goods are composed of sucrose exceeding 84%, presented in pellet form, and thus going by **General Rule of Interpretation 3**, fall squarely within the ambit of heading 1701, under the Customs Tariff Act, 1975.

12.8 I further observe that the impugned goods i.e. Neutral Pellets are sugar spheres, predominantly composed of Sucrose and Sucrose being used as an inactive ingredient or excipient in various drug forms. As per the Noticee’s own submission regarding the product specification (as per Para 12.2 supra), the imported goods are nothing but mixture containing Sucrose (80 – 91%, Maize starch (8.5% to 20%) & Water (< 1.5%). Application of neutral pellets is in the pharmaceutical industry where such spheres of predominantly sugar (sucrose), have to be coated or perhaps infused with Pharma compounds API (Active Pharmaceutical Ingredient) to turn the neutral spheres into specific pharmaceutical products. In pharmaceutical industry, these are used as a spherical base for coating the API (Active Pharmaceutical Ingredient) on it for administering the API where sustained release or controlled release of the API is needed. As per **General Rule of Interpretation, Rule 3(b)**, mixtures, composite goods consisting of different material shall be classified as per the **component which gives them their essential character**. In the instant case, since **Sucrose is giving the essential character** to the imported goods with starch acting as a binding agent only, **good merit classification of Sucrose**.

12.9 I also find it necessary to emphasize that classification of goods under the Customs Tariff is not a matter of convenience or choice of the importer but is strictly governed by the statutory provisions of the Customs Tariff Act, 1975, the General Rules for the Interpretation of Import Tariff, and the Harmonized System of Nomenclature (HSN) Explanatory Notes, which, though not binding, are of high persuasive value and are consistently relied upon by Indian courts and tribunals. The Hon’ble Supreme Court has repeatedly held that classification must be determined by the description of the goods in the Tariff, their essential character, and trade parlance. In the present matter, the imported “Neutral Pellets,” also known as sugar spheres, consist almost entirely of sucrose and are presented in solid pellet form. Both in terms of chemical composition and trade understanding, they are nothing but sugar in solid form, squarely covered under heading 1701. The attempt of the Noticee to classify the same under heading 1702, which covers sugars other than sucrose, is contrary to both the plain language of the Tariff and the HSN Explanatory Notes.

SUB-HEADING/ TARIFF LINE CLASSIFICATION OF IMPORTED GOODS UNDER CTH 1701

12.10 Therefore, in view of above discussions, I am of the view that the goods are liable to be classified as per the classification of Sucrose; accordingly, I find that the imported goods merit classification under heading 1701.

12.10.1 I further observe that within the scope of Customs Tariff Heading (CTH) 1701, sugars are classified into three distinct groups, as delineated under the First Schedule to the Customs Tariff Act, 1975:

- i. Raw Sugar — falling under sub-headings CTH 1701.1200 to 1701.1490, which covers sugar in its raw, unrefined form, typically meant for further processing or refining;
- ii. Refined Sugar containing added flavouring or colouring matter — generally classified under CTH 1701.9100, covering sugar that has undergone refining and includes any flavouring agents or colour additives;
- iii. Other forms of refined sugar, with or without additives — classified under CTH 1701.9910 to 1701.9990, which includes various refined sugar products, including those with added substances (other than flavour or colour) and presented in different physical forms such as powder, cubes, tablets, or spherical pellets.

12.10.2 Therefore, considering the composition, purity level, and shape of the goods, I am of the view that:

- The impugned goods—Neutral Pellets (Sucrose 80–91%)—being refined pharmaceutical-grade sugar and distinct from raw sugar, do not fall within the scope of CTH 1701.1200 to 1701.1490, which relates exclusively to raw sugars.
- Furthermore, as the goods do not contain any flavouring or colouring substances, they are not classifiable under CTH 1701.9100, which pertains to refined sugar containing added flavouring or colouring matter.
- Additionally, the presence of additives such as corn starch and water, coupled with the goods' spherical form, excludes them from classification under CTH 1701.9910, which generally covers other refined sugars with additives presented in cubical or other non-spherical forms.
- In light of the foregoing, I hold that the goods 'Neutral Pellets' covered under the 04 bills of entry in the instant case are rightly classifiable under tariff item 1701.9990.

Therefore, in accordance with General Rule for the Interpretation of the Import Tariff (GIR) 1, the impugned goods, namely 'Neutral Pellets- Sucrose 80%–90%', being composed predominantly of sucrose, fall outside the scope of CTH 1702, which pertains to other sugars not elsewhere specified. Furthermore, applying General Rule of Interpretation 3(b), which governs the classification of mixtures, the impugned goods—being a combination of sucrose, corn starch, and water—derive their essential character from sucrose. Accordingly, the goods are appropriately classifiable under CTH 1701. Additionally, considering that the goods are refined sugar in spherical form with the presence of additives, they are most specifically and correctly classifiable under Customs Tariff Heading 17019990.

LEGAL PRECEDENT

12.11 I further observe that the Hon'ble CESTAT, Mumbai in its detailed decision vide order no. A/85786-85787/2020 dated 25.09.2020 in Customs Appeal No. 89829 of 2018 & 85493 of 2019, after a thorough examination of the tariff structure, the Explanatory Notes to Chapter 17, and the nature and composition of sugar spheres/neutral pellets, categorically held that such goods are nothing but sucrose in solid form and are appropriately classifiable under CTH 17019990. The Tribunal, in very clear and categorical terms, rejected the argument that these products could fall under heading 1702, in as much as heading 1702 deals with other sugars including invert sugar and sugar blends containing in the dry state 50% by weight of fructose, whereas the subject goods did not contain fructose and were found to be composed almost entirely of sucrose. The Tribunal placed emphasis on the General Rules for the Interpretation of the Tariff and also relied on trade parlance, wherein these sugar spheres are understood and marketed as sugar-based pellets used either in the pharmaceutical or confectionery sector. The ruling of the Hon'ble Tribunal is binding on the Department, unless set aside by a higher judicial forum, and the same squarely applies to the present matter before me. I therefore find that the reliance placed by the Department on the said CESTAT judgment is correct, proper, and fully justified, and it further reinforces the conclusion that the imported goods described as "Neutral Pellets" merit classification under CTH 17019990 and not under CTH 17029090 as declared by the Noticee. Relevant portion of the judgment is reproduced as follows:

"16. Revenue has also produced data relating to contemporaneous imports of other importers who classified similar product under CTH 17019990. Therefore, it can safely be concluded applying the aforesaid tests that the imported product in question common in both the Appeals fall under CTH 17019990. Consequently, demand of duty and interest in Appeal No. 89829/2018 confirmed for the normal period is upheld."

12.12 The said order of the Hon'ble Tribunal has also been endorsed by Apex Court vide its order dated 08.03.2021 while disposing off the Civil Appeals no. 391 of 2021 & 324 of 2021, the relevant text of the order is reproduced as under:

"1. We find no reason to interfere with the impugned final order nos A/85787/2020 in Customs Appeal No 85493 of 2019 and A/85786/2020 on Customs Appeal No 89829 of 2018 dated 25.09.2019 passed by the CESTAT, Regional Bench, Mumbai

2. The Civil Appeals are accordingly dismissed."

DETERMINATION OF DIFFERENTIAL DUTY

12.13 In view of above, I find that the imported goods 'Neutral Pellets' merit classification under CTH 17019990 and accordingly, I determine the differential duty of **Rs. 70,29,631/- (Rs. Seventy Lakh Twenty-Nine Thousand Six Hundred and Thirty-One only)** against the goods imported vide Bills of Entry, as detailed in Annexure-A under Section 28(8) of the Customs Act, 1962 read with Section 28AA thereon, as follows:

ANNEXURE A

Sr. No.	Bill of Entry No. & Date	Correct classification & BCD standard rate %	Assesable Value (Rs.)	BCD @ 60% of AV (as per Sr. No. 75 of Notification 12/2012)	CVD @ 12.50% of (AV+BCD)	Cess @ 3% of (BCD+CVD)	SAD @ 4% of (AV+BCD+CVD+Cess)	Re-determined Duty (Rs.)	Duty Paid (Rs.)	Differential Duty Payable (Rs.)
1	3846167 Dated 08.01.2016	1701 (standard rate 100%)	42,39,507	25,43,704	8,47,901	1,01,748	3,09,314	38,02,668	22,69,959	15,32,709
2	3857630 dated 09.01.2016	1701 (standard rate 100%)	66,10,448	39,66,269	13,22,090	1,58,651	4,82,298	59,29,307	35,39,432	23,89,875
3	3925605 dated 16.01.2016	1701 (standard rate 100%)	42,39,502	25,43,701	8,47,900	1,01,748	3,09,314	38,02,664	22,69,957	15,32,707
4	4381076 dated 25.02.2016	1701 (standard rate 100%)	43,54,660	26,12,796	8,70,932	1,04,512	3,17,716	39,05,956	23,31,616	15,74,340
		Total	1,94,44,117	1,16,66,470	38,88,823	4,66,659	14,18,643	1,74,40,595	1,04,10,964	70,29,631

B. Now I take the next question/issue, as to whether the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962.

13. I, *mutis-mutandis* re-iterate my findings at Para at 12 above. I observe that from the above discussions, that the Noticee has **misclassified the imported goods** i.e. Neutral Pallets- Sucrose, under CTI 1702 instead of CTI 1701. Classification under CTH 17019990 is confirmed by the Hon'ble CESTAT vide order dated 25.09.2020 and upheld by Apex Court Order vide order dated 08.03.2021.

13.1 Therefore, in the present case, it is evident that the goods imported vide the Bills of Entry, as detailed in Annexure-A, do not correspond to classification claimed, resulting in to short payment of legible customs duty to the tune of Rs. 70,29,631/- (Rs. Seventy Lakh Twenty-Nine Thousand Six Hundred and Thirty-One only). By doing so, the importer has contravened the provisions of Section 17(1), Section 46(4), and Section 46(4A) of the Customs Act, 1962, which require a truthful and accurate self-assessment, and submission of correct particulars in the Bill of Entry.

13.2 I find that the SCN proposes confiscation of goods under the provisions of Section 111(m) of the Customs Act, 1962. Provisions of these Sections of the Act are re-produced below:

“SECTION 111. Confiscation of improperly imported goods, etc. — The following goods brought from a place outside India shall be liable to confiscation: —

(m) any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;”

13.3 In the present case, it is evident that the goods imported vide the Bills of Entry, as detailed in Annexure-A, **do not correspond to the classification claimed.** Therefore, on account of the aforesaid mis-statement in the aforementioned Bills of Entry, the impugned goods having a total Assessable Value of Rs. 1,94,44,117/- (Rs. One Crore Ninety-Four Lakh Forty-Four Thousand One Hundred and Seventeen only) imported vide Bills of Entry Nos. 3846167 dated 08.01.2016, 3857630 dated 09.01.2016, 3925605 dated 16.03.2016 and 4181070 stated 25.02 2016, are liable for confiscation under Section 111(m), of the Customs Act, 1962.

Accordingly, I find that acts of omission and commission on part of the Noticee have rendered the goods liable for confiscation under Sections 111(m) of the Customs Act, 1962.

13.4 However, I observe that the goods imported vide bills of entry as detailed above are not available for confiscation. I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in Para 23 of the judgment as below:

"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operates in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorized by this Act...", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing the payment of the redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (i)."

13.5 I further observe that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same have not been challenged by any of the parties in operation. I also observe that any goods improperly imported as provided in any sub-section of Section 111 of the Customs Act, 1962 are liable to confiscation and merely because the importer was not caught at the time of clearance of the imported goods, can't be given differential treatment.

In view of the above, I find that the decision of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), which has been passed after observing the decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc. reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A. 120(SC), is squarely applicable in the present case. Accordingly, I find that the present case also merits the imposition of a Redemption Fine.

C. Now I take the next question/issue, as to whether penalty is imposable on the Noticee under Section 112/ 114A of the Customs Act, 1962.

14. I observe that Penal action under Section 112(a) and/or 114A of the Customs Act, 1962 has been proposed against the Noticee in the Show Cause Notice. The provisions of Section 112 and 114A of the Customs Act, 1962 are reproduced as under: -

"SECTION 112. Penalty for improper importation of goods, etc. — Any person, -
(a) who, in relation to any goods, does or omits to do any act which act or

omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

[(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

SECTION 114A Penalty for short-levy or non-levy of duty in certain cases.-

Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:

[**Provided** that where such duty or interest, as the case may be, as determined under [sub-section (8) of section 28], and the interest payable thereon under section [28AA], is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso :

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section [28AA], and twenty-five per cent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect :

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

14.1 I reiterate my findings from Para 12 above for the question of penalty also as the same are *mutatis mutandis* applicable to this issue also. I further observe that the misclassification of goods by the Noticee cannot be treated as a mere technical lapse or interpretation error. The description of the imported product as “Neutral Pellets” itself made it abundantly clear that the same consisted essentially of sucrose in pellet form. The Noticee, being an established importer engaged in the trade of pharmaceutical and allied raw materials, is reasonably expected to be fully conversant with the tariff structure and the distinction between goods covered under heading 1701 and those under heading 1702. The fact that the Noticee consciously chose to declare the classification under CTH 17029090, despite the absence of fructose content or any other characteristic of heading 1702, establishes that the declaration was not inadvertent but deliberate. The consequence of this misdeclaration was that a significantly lower rate of duty was applied, resulting in substantial revenue loss to the Government to the tune of Rs. 70,29,631/-. Such conduct falls squarely within the ambit of willful misstatement and suppression of material facts with intent to evade payment of duty, thereby attracting the provisions of Section 114A of the Customs Act, 1962.

14.2 I find that with the advent of self-assessment in 2011, it is the responsibility of the importer under Section 46(4) and 46(4A) of Customs Act, 1962 while presenting the Bill of Entry under Section 46(1) that it shall make and subscribe to a declaration as to the truth and correctness of the contents of the Bill of Entry and to correct value, classification, description of the goods, exemption notification and self-assess duty, etc. Although the importer has subscribed that the declaration in the said Bills of Entry is true and correct, I observe that this is not the case.

14.3 In view of the above, I find that importer has wilfully mis-classified the imported goods in the impugned Bills of Entry with the wilful intention to evade applicable Custom Duty, as stated supra. Further, Show Cause Notice was issued to Noticee under Section 28 of the Customs Act, 1962 and the differential duty in the present case is determined under Section 28(8) of the Customs Act, 1962 along with applicable interest under Section 28AA of the act *ibid*. Thus, I observe that all the necessary ingredients to attract penalty under Section 114A of the Customs Act, 1962 have been made out. Therefore, I find that the importer is liable to penalty under Section 114A of the Customs Act, 1962. Further, I find that penalty under Section 112 of the Customs Act, 1962 is not imposable upon the importer by virtue of fifth proviso to Section 114A of the Customs Act, 1962. Therefore, I am of the view that penalty under Section 112(a) of the Customs Act, 1962 cannot be imposed upon the importer.

15. In view of the foregoing discussion and findings, I pass the following order: -

ORDER

- i. I reject the declared classification of goods imported vide 04 Bills of Entry Nos. 3846167 dated 08.01.2016, 3857630 dated 09.01.2016, 3925605 dated 16.03.2016 and 4181070 dated 25.02.2016 under CTH 17029090 and order to **re-classify the same under CTH 17019990** of the First Schedule to the Customs Tariff Act, 1975 with applicable duties;
- ii. I determine the demand of differential duty of **Rs. 70,29,631/- (Rs. Seventy Lakh Twenty-Nine Thousand Six Hundred and Thirty-One only)** in respect of goods imported vide Bills of Entry Nos. 3846167 dated 08.01.2016, 3857630 dated

09.01.2016, 3925605 dated 16.03.2016 and 4181070 stated 25.02 2016, under Section 28(8) of the Customs Act, 1962 along with applicable interest under Section 28AA of the Act *ibid*.

- iii. I order confiscation of goods valued at **Rs.1,94,44,117/-(Rs. One Crore Ninety-Four Lakh Forty-Four Thousand One Hundred and Seventeen only)** imported vide Bills of Entry Nos. 3846167 dated 08.01.2016, 3857630 dated 09.01.2016, 3925605 dated 16.03.2016 and 4181070 stated 25.02 2016, under Sections 111(m) of the Customs Act, 1962 and impose Redemption Fine of **Rs. 50,00,000/- (Rupees Fifty Lakh Only)** under Section 125(1) of the Customs Act, 1962.
- iv. I impose penalty of **Rs. 70,29,631/- (Rs. Seventy Lakh Twenty-Nine Thousand Six Hundred and Thirty-One only) and interest** on the importer under Section 114 A of the Customs Act, 1962. However, the option for payment of reduced penalty under Section 114A is available to importer subject to fulfilment of the conditions prescribed in this Section.

16. This order is passed without prejudice to any other action that may be initiated under the Customs Act, 1962, or any other law for the time being in force, and shall remain subject to the final outcome of the writ petition WP (ST) No. 19679/2025, pending before the Hon'ble Bombay High Court.

**Digitally signed by
Vijay Risi
Date: 25-09-2025
20:28:01
(VIJAY RISI)
COMMISSIONER OF CUSTOMS
NS-III, JNCH**

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