

 सत्यमेव जयते BHARAT SARKAR	सीमाशुल्क आयुक्तकाकार्यालय (एनएस-1) OFFICE OF COMMISSIONER OF CUSTOMS (NS-1) जवाहरलालनेहरूकस्टमहाउस, न्हावा-शेवा JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA ताल-उरण, जिला- रायगढ़, महाराष्ट्र-400 707 TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA-400707	 INDIAN CUSTOMS
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DIN:20250678NX00001101CB

F. No: CUS/SHED/OBJ/171/2025-26/Gr. IIG/JNCH
S/10-Adj-227/2025-26/Gr.IIG/JNCHDate of Order: 10.06.2025
Date of Issue: 10.06.2025

Passed by: Raj Kumar Mishra
Asstt. Commissioner of Customs, Gr.II-G (NS-I), JNCH, NhavaSheva.

Order No. 288(L)/2025-26/AC/Gr.IIG/NS-I/CAC/JNCH
आदेशसंख्या. 288(L)/2024-25/AC/Gr.IIG/NS-I/CAC/JNCH

Name of Importer/Party/Noticee: **M/s. DPKA Universal Consumer Ventures Pvt.Ltd.**
(IEC-AAICD4824A)

मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमा शुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की सं सूचना की तारीख से साठ दिनों के भीतर सीमा शुल्क आयुक्त) अपील(, जवाहर लाल नेहरू सीमा शुल्क भवन, न्हावा शेवा, ता .उरण, जिला - रायगढ़, महाराष्ट्र- 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमा शुल्क (अपील (नियमावली, 1982 के अनुसार फॉर्म सी. ए .1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Taluka: Uran, Dist: Raigad, Maharashtra – 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
- Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. DPKA Universal Consumer Ventures Pvt.Ltd. (IEC-AAICD4824A) (referred to as the 'Importer'), having their office at 3002, 30TH Floor, Beau Monde Tower B, Prabhadevi Road,Prabhadevi-40025 has filed a Bill of Entry having No.9975385 dated 10.05.2025 (here-in-after referred to as the 'said Bill of Entry') through their Customs Broker M/s. DHL Logistics Pvt. Ltd. Details of declared Assessable Value and Duty of the goods are as below-

Table-A

Item Sr. No..	Description	QTY	CTH	Ass. Value (Rs.)	Duty Under CTH 39179900 @ 30.98 (Rs.)	Duty under CTH 96161020 @ 43.96 (Rs)
1	PLASTIC TUBE FOR PACKAGING(KOKUM PLUNGE D25 PUMP C TUBE 30ML)	5000PCS	39173990	3,25,864/-	1,00,953/-	1,43,250/
2	PLASTIC TUBE FOR PACKAGING(KOKUM PLUNGE D40 PUMP TUBE100ML)	5000PCS	39173990	3,91,215/-	1,21,198/	1,71,978/
			TOTAL	7,17,079/	2,22,151/	3,15,228/

As per table "A" Duty will be increased by Rs.93077/-

2. Importer has classified the said goods under CTH 39173990 which attract aggregate duty @30.98 %(BCD @10% & IGST @18%) .Heading 3917 covers "Tubes, Pipes, and Hoses, and fitting therefor (For Example, Joints, Elbows, Flanges) of Plastics"
3. Upon Physical Examination ,the goods are found to have a pump dispenser and appear to be rightly classifiable under CTH 9616 which attract aggregate duty @ 43.96% (BCD @ 20% & IGST @18 %). (Photo enclosed)
4. **Targeter's/Intervenor's Instructions in various Bes also mentions as -**
" The goods having description Lotion Pump, Foam Pump, Mist Sprayer, Trigger Sprayer are wrongly classified under CTH 3926,8424 and shall be correctly classified under CTH 9616....."
6. Importer vide their letter dated 23.05.2025 has informed that the goods includes a pump dispenser for face wash. File has been forwarded to group with comments-"in view of the above, it appears that the importer has failed to rightly classify the goods imported vide BOE No.9975385 dated 10.05.2025 under CTH 9616".
7. In view of the above, as per the examination report and Picture submitted by the importer at the time of personal hearing ,it appears that the importer has mis-declared the goods under CTH 3917 imported vide BOE No.9975385 dated 10.05.2025
8. The relevant provisions of law relating to import and valuation of goods in general, the Foreign Trade Policy and Rules relating to imports, the liability of the goods to

confiscation under the provisions of the Custom Act, 1962 and other laws for the time being in force are summarized as under:

- a. As per **Section 46(4) of the Customs Act, 1962**, 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, relating to the imported goods.
- b. **Section 111(m) of the Customs Act, 1962** any goods which do not correspond in respect of value or in any other particular] [Substituted by Act 36 of 1973, Section 2, for certain words (w.e.f. 1.9.1973).] 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] [Substituted by Act 27 of 1999, Section 108, for " in respect thereof;" (w.e.f. 11.5.1999).];
- c. **Section 112(a) (ii) of the Customs Acts 1962:-** in the case of dutiable goods, other than prohibited goods, to a penalty [not exceeding the duty sought to be evaded on such goods or five thousand rupees,] [Substituted by Act 14 of 2001, Section 107, for certain words (w.e.f. 11.5.2001).] whichever is the greater; dutiable goods, other than prohibited goods, to a penalty [not exceeding the duty sought to be evaded on such goods or five thousand rupees,] [Substituted by Act 14 of 2001, Section 107, for certain words (w.e.f. 11.5.2001).] whichever is the greater;

9 . In view of above, it appears that impugned goods are wrongly classified under CTH 39173990 and appears to be re classifiable under CTH96161020 .Therefore, it appears that the goods imported vide impugned bill of entry are liable for confiscation under Section 111(m) of the Customs Act, 1962 and the importer is liable for penalty under Section 112(a) (ii) of the Customs Act, 1962.

RECORD OF PERSONAL HEARING AND SUBMISSION OF IMPORTER

10. Shri Jasim Shaikh -Sr. Manager and Shri Riyab Shaikh has appeared for Personal Hearing on 04.06.2025 and recorded their statement that their goods are Tubes and rightly classified under HSN 3917 .In their defence they submitted letter dated 23.05.2025 stated that shipment is plastic tube for Packing (82E KOKUM PLUNG FACECCLEANSER) end use as Nourishing Cream Cleanser classified under HS code 39173990. They also stated that they have checked with their supplier and suggested the HS code 39173990 and is correctly classified.

11. Further Importer vide their letter dated 04.06.2025 submitted that, they accepted the classification of the impugned goods under CTH 9616 and requested for waiver of SCN.

DISCUSSION AND FINDINGS

12. I have carefully gone through the fact of the case. I find that M/s. DPKA Universal Consumer Ventures Pvt.Ltd. (IEC-AAICD4824A) have filed a Bill of Entry having No.9975385 dated 10.05.2025 with declared assessable Value as Rs.7,17,078.46/-and duty Rs. 2,22,151/- I find that on the basis of Physical Examination report of docks officer and Targeter's Instruction in various Bill Of Entries, impugned goods wrongly classified under CTH 39173990 should be correctly classified under CTH 96161020. I also find that importer vide letter dated 04.06.2025 accepted the classification of impugned goods under CTH 96161020 inter-alia requests for finalisation of the subject matter without further Show Cause Notice.

13. In view of the above,I hold that the importer has mis declared the goods under CTH 39173990 and impugned goods should be classified under CTH 96161020 and are liable for confiscation under Section 111(m) of the Customs Act, 1962, and for his act of omission and commission the importer is liable for penalty under Section 112(a) (ii) of the Customs Act, 1962.

14. Accordingly, I pass the following order:

ORDER

(i). I order for confiscation of the items imported vide Bill of Entry No.9975385 dated 10.05.2025 having total assessable value Rs.7,17,078.46/- under Section 111(m) of the Customs Act, 1962. However, I give the importer an option to redeem the goods on payment of redemption fine of **Rs.70,000/- (Rupees Seventy Thousand Only)** under provision of Section 125(1) of the Customs Act, 1962.

(ii). I impose a penalty of **Rs.30,000/- (Rupees Thirty Thousand Only)** on M/s. M/s. DPKA Universal Consumer Ventures Pvt. Ltd. (IEC-AAICD4824A) under Section 112 (a) (ii) of the Customs Act, 1962, for their act of omission and commission.

(iii). I rejected the HSN code 39173990 of item (TABLE A) of Bill of Entry No.9975385 dated 10.05.2025 and ordered for re assessment under HSN Code 96161020.

This Order is issued without prejudice to any other action that may be taken against the noticee or persons or imported goods under the provisions of the Customs Act, 1962 or any other law for the time being in force in India.


(Raj Kumar Mishra)

Assistant Commissioner of Customs,
Group-IIG/, JNCH.

To

M/s. DPKA Universal Consumer Ventures Pvt.Ltd. (IEC-AAICD4824A)
3002, 30TH Floor, Beau Monde Tower B,
Prabhadevi Road,Prabhadevi-40025.

Copy to:

1. The Asst./Dy. Commissioner of Customs (Review Cell) (Import), JNCH.
2. The Asst./Dy. Commissioner of Customs (CRRC), JNCH.
3. The Asst./Dy. Commissioner of Customs (CAC), JNCH.
4. The Asst./Dy. Commissioner of Customs ~~Gr-IV~~, NS-~~II~~ JNCH.
5. Office Copy.

*Received original
copy on Behalf of
10/06/24*