

	भारत सरकार/Government of India
	वित्त मंत्रालय/Minsitry of Finance
	आयुक्त सीमाशुल्क का कार्यालय, एनएस-II
	OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
	जवाहरलाल नेहरू सीमाशुल्क भवन
	न्हवा शेवा, तालुका -उरण, जिला -रायगढ़, महाराष्ट्र- 400 707
	JAWAHARLAL NEHRU CUSTOM HOUSE,
	NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-
	400707

F.No. CUS/ASS/MISC/580/2024-CEAC

Date of Order: 27.11.2025

Date of issue : 27.11.2025

DIN NO.: 20251178NT0000728292

Order passed by: **SHRI SACHIN S PAGARE,**
Dy. Commissioner of Customs,
CEAC (NS-II), JNCH, NHAVA SHEVA

Order-in-Original No. 1433/2025-26/DC/CEAC/NS-II/CAC/JNCH

Name of the Party/Noticee: M/s. Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332)

मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
- इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 कीधारा 128 (1) के तहत इस आदेशकी संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त) अपील (जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता .उरण, जिला - रायगढ़, महाराष्ट्र- 400707 को की जा सकती है।अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील (नियमावली, 1982 केअनुसारफॉर्मसी.ए.-1 संलग्नक में की जानी चाहिए।अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगाऔर साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 केअंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeals), Jawaharlal Nehru Custom House, Sheva, Taluka : Uran, Dist. : Raigad, Maharashtra – 400707 under Section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 annexed to the Customs (Appeals) Rules, 1982. The appeal should bear a Court Fee stamp of Rs.2.00 only and should be accompanied by this order or a copy



भारत सरकार/Government of India
वित्त मंत्रालय/Minsitry of Finance
आयुक्त सीमाशुल्क का कार्यालय, एनएस-II
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
जवाहरलाल नेहरू सीमाशुल्क भवन
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400707

F.No. CUS/ASS/MISC/580/2024-CEAC

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Date of issue : 11.2025

DIN NO.:

Order passed by: **SHRI SACHIN S PAGARE,**
Dy. Commissioner of Customs,
CEAC (NS-II), JNCH, NHAVA SHEVA

Order-in-Original No. /2025-26/DC/CEAC/NS-II/CAC/JNCH

Name of the Party/Noticee: M/s. Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332)

मूलआदेश

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thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 2.00 only as prescribed under Schedule 1, Item 6 of the Court Fees Act, 1870.

3. Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

1. M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332), having its registered office at 449/2/P Industrial Estate Masat, Union Territory of Silvassa, Dadra and Nagar Haveli-396230 (hereinafter referred to as the “exporter”) had filed Shipping Bill No. 7755410 dated 13.02.2023 through their Customs Broker M/s International Freight Systems Co. Pvt. Ltd.(License No.11/598) for export of chemicals wherein, one of the constituents of chemical at Sr. No. 3 of the Shipping bill No. 7755410 dated 13.02.2023 was declared as ‘Lubrikote Flux SSF’ (CTH- 38249100; 1000 kgs)’ under claim of Drawback and RoDTEP. The details of the same are as under:

TABLE-I

Sr. No.	Shipping Bill No. & date	Item No.	Description of goods	Declared Quantity (in Kgs)	FOB Value (in Rs.)	Drawback (in Rs.)	RoDTEP (in Rs.)
1.	7755410	1	Lubrikote GR 111	12,000	8,16,984	10,620.79	6,535.87
	Dtd. 13.02.2023	2	Lubrikote Flux SS	1,000	50,251	653.26	402.01
		3	Lubrikote Flux SSF	1,000	1,23,196	1,601.55	985.57
		4	Lubrikote Potassium Aluminium Fluoride (PAF)	1,000	1,00,502	1,306.53	804.02
		5	Lubrikote GR 112	2,400	3,24,848.4	4,223.03	2,598.79
Total:				17,400	14,15,781.40/-	18,405/-	11,326.26/-

2. On the basis of query/objection raised by the Docks examining officer, CPP(X) CFS, the office of SIIB (X) investigated a case of export of SCOMET item- **Sodium hexafluorosilicate** without export authorization by exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332). The exporter was exporting chemicals wherein, one of the constituents of chemical at Sr. No. 3 of the Shipping bill No. 7755410 dated 13.02.2023 was declared as ‘Lubrikote Flux SSF’ (CTH- 38249100; 1000 kgs)’. The export policy of SCOMET items is governed as per conditions indicated in Appendix-3 of Schedule 2 of ITC(HS) classification of Export and Import Items.

EXAMINATION & INVESTIGATION

3. Goods covered under Shipping Bill No. 7755410 dated 13.02.2023 were subjected to 100% examination by the officers of SIIB (X), JNCH under Panchanama dated 29.03.2023 in the presence of Authorised Representative of the exporter and Customs Broker. During the course of examination, it was observed that there were total 05 types of items as tabulated above in **Table-I** in the subject consignment having total FOB value of Rs. 14,15,781.40/- and the export benefits namely Drawback claimed was Rs. 18,405/- and RoDTEP claimed was Rs. 11,326.26/-. Further, it was observed that quantity and description of the goods was found as declared in the subject shipping bill.

4. It was observed that the item at Sr. No. 3 of the subject shipment declared as Lubrikote Flux SSF, of the subject shipment appeared to be restricted as per Schedule 2 of Export Policy under SCOMET list. Therefore, Representative Sealed Sample (RSS) of the subject item was drawn in triplicate under Panchanama dated 29.03.2023 and sent to DYCC, JNCH vide letter dated 04.10.2023 to verify the chemical composition and description of the goods. Further, the goods were seized under Section 110 of the Customs Act, 1962 vide seizure memo dated 10.04.2023 under reasonable belief that the exporter was attempting to export SCOMET items without an export authorization, and therefore the same are liable for confiscation under Section 113 of the Customs Act, 1962.

5. DYCC, JNCH forwarded the test report for the RSS of the goods declared as "Lubrikote Flux SSF" vide its Report Lab No. 918/SIIB(X) dt. 26.10.2023 stating that

*"The sample as received is in the form of white powder. It is composed of **Sodium Silicofluoride.**"*

6. In the meantime, as per Exporter's request vide letter dated 17.04.2023, the goods were allowed to be released provisionally for Back to Town on execution of a bond equivalent to FOB value of the subject goods and on submission of Bank Guarantee amounting to Rs. 1,00,000/- (Rupees One Lakh Only) vide Challan No. HCM- 1206 dtd.19.04.2023.

7. Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) are listed in Appendix-3 to Schedule - 2 of ITC (HS) Classification of Export & Import Items. Appendix-3 contains list of the goods/items which are considered as dual-use items, i.e., goods, technology, chemicals, organisms etc. which potentially have both, civil as well as military applications and are capable of being deployed as weapons of mass destruction. Further, items on the SCOMET List are organized in 09 category (from category 0 to category 8). Category 1 contains Toxic chemical agents and other chemicals.

Export of chemicals (Excluding Software and Technology) listed in 1D is allowed to the countries specified in Table 1 on the basis of a one-time General authorization for export of Chemicals and related equipment (GAEC) issued by DGFT, subject to the following conditions (including those below) and the procedure as prescribed from time to time:

I. The exporter is required to register and obtain General authorization for export of Chemicals and related equipment only once during the validity period. Subsequent export/re-export is subject to post reporting(s) on quarterly basis to relevant Govt. authorities;

II. General authorization for export of Chemicals and related equipments issued for export / re-export of SCOMET items under the above Categories / Sub Categories (excluding software and technology) shall be valid for a period of five years from the date of issue of General authorization for export of Chemicals and related equipments subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter;

The relevant portion of category 1D of Appendix-3 is reproduced as below: -

1D Export of chemicals (including Software and Technology) listed in 1D below is allowed to the countries specified in Table I on the basis of a one time General authorization for export of Chemicals and related equipments (GAE) issued by DGFT, subject to the following conditions including those below and the procedure as prescribed from time to time:

- I. The exporter is required to register and obtain General authorization for export of Chemicals and related equipments only once during the validity period. Subsequent export/re-export is subject to post reporting(s) on quarterly basis to relevant Govt. authorities;
- II. General authorization for export of Chemicals and related equipments issued for export / re-export of SCOMET items under the above Categories / Sub Categories (excluding software and technology) shall be valid for a period of **five years** from the date of issue of General authorization for export of Chemicals and related equipments subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter.

Table I

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States.
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Note : Export of items under 1D Category to the countries other than those specified in Table I and export of 1D category items related Software and Technology to any country shall be allowed only against an export authorisation and in compliance with the conditions and documentation specified under the respective Categories of SCOMET List.

Export of chemicals, related technology and software in this category to other countries shall be allowed only against an export authorisation, and in that case the exporter shall submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery.

Sl.No.	SCOMET Entry	Chemical	CAS Number
1	1D001	2-Chloroethanol	(107-07-3)
2	1D002	3-Hydroxy-1-methylpiperidine	(3554-74-3)
3	1D003	3-Quinuclidone	(3731-38-2)
4	1D004	Ammonium bifluoride	(1341-49-7)
5	1D005	Diethylaminoethanol	(100-37-8)
6	1D006	Diisopropylamine	(108-18-9)
7	1D007	Dimethylamine	(124-40-3)

Appendix 3 – SCOMET List

8	1D008	Dimethylamine hydrochloride	(506-59-2)
9	1D009	Hydrogen fluoride	(7664-39-3)
10	1D010	Methyl benzilate	(76-89-1)
11	1D011	O,O-Diethyl phosphorothioate	(2465-65-8)
12	1D012	O,O-Diethyl phosphorodithioate	(298-06-6)
13	1D013	Pinacolone	(75-97-8)
14	1D014	Phosphorus pentasulphide	(1314-80-3)
15	1D015	Potassium bifluoride	(7789-23-3)
16	1D016	Potassium cyanide	(151-50-8)
17	1D017	Potassium fluoride	(7789-23-3)
18	1D018	Sodium bifluoride	(1333-83-1)
19	1D019	Sodium cyanide	(143-33-9)
20	1D020	Sodium fluoride	(7681-49-4)
21	1D021	Sodium hexafluorosilicate	(16893-85-9)
22	1D022	Sodium sulphide	(1313-82-2)
23	1D023	Triethanolamine hydrochloride	(637-39-8)
24	1D024	Triisopropyl phosphate	(116-17-6)
25	1D025	Diethylamine	(109-89-7)
26	1D026	Methyl dichlorophosphate	(677-24-7)
27	1D027	Ethyl dichlorophosphate	(1498-51-7)
28	1D028	Methyl difluorophosphate	(22382-13-4)
29	1D029	Ethyl difluorophosphate	(460-52-6)
30	1D030	Diethyl chlorophosphite	(589-57-1)
31	1D031	Methyl chlorofluorophosphate	(754-01-8)
32	1D032	Ethyl chlorofluorophosphate	(762-77-6)
33	1D033	N,N-Dimethylformamidine	(44205-42-7)
34	1D034	N,N-Diethylformamidine	(90324-67-7)
35	1D035	N,N-Dipropylformamidine	(48044-20-8)
36	1D036	N,N-Diisopropylformamidine	(857522-08-8)
37	1D037	N,N-Dimethylacetamidine	(2909-14-0)
38	1D038	N,N-Diethylacetamidine	(14277-06-6)
39	1D039	N,N-Dipropylacetamidine	(1339586-99-0)
40	1D040	N,N-Dimethylpropanamidine	(56776-14-8)
41	1D041	N,N-Diethylpropanamidine	(84764-73-8)
42	1D042	N,N-Dipropylpropanamidine	(1341496-89-6)
43	1D043	N,N-Dimethylbutanamidine	(1340437-35-5)
44	1D044	N,N-Diethylbutanamidine	(53510-30-8)
45	1D045	N,N-Dipropylbutanamidine	(1342422-35-8)
46	1D046	N,N-Diisopropylbutanamidine	(1315467-17-4)
47	1D047	N,N-Dimethylisobutanamidine	(321881-25-8)
48	1D048	N,N-Diethylisobutanamidine	(1342789-47-2)
49	1D049	N,N-Dipropylisobutanamidine	(13422700-45-1)

8. It has been noticed that item no. 03 of the instant shipment i.e. Lubrikote Flux SSF is figured at serial no. 21 (SCOMET Entry 1D021) of the list of Chemicals under category 1D of Appendix – 3. The goods were destined to South Africa which is not covered under list of Countries specified in Table-I of Category 1D of Appendix-3. Hence, export of “Lubrikote Flux SSF” is restricted and permitted only against Export license issued by DGFT in this behalf.

8.1 DGFT Notification No.19/2015-20 dated 17/8/2021 para 4.55(iv) states that products which are restricted for export under Schedule-2 of export policy in ITC(HS) shall not be eligible for rebate under RODTEP Scheme.

8.2 Therefore, from the facts mentioned above, it is apparent that the item no. 03 of the instant shipment i.e. Lubrikote Flux SSF is restricted for export to South Africa and could be allowed only against an export licence from DGFT.

SUMMONS & STATEMENT

9. During the course of investigation, statement of Shri Rahul Kishore Ramchandani, Proprietor of M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332) was recorded under section 108 of the Custom Act, 1962 on 13.02.2024 wherein he inter-alia stated that he was one of the directors of the firm M.s Lubrikote Specialities Pvt. Ltd. which specialises in manufacture of chemicals and releasants; that other directors are his brother Shri Rohit Kishor Ramchandani and his mother Mrs. Roma Kishore Ramchandani; that he agrees that the shipping bill no. 7755410 dated 13.02.2023 was filed by M/s Lubrikote Specialities Pvt. Ltd. through Custom Broker M/s International Freight Systems Co. Pvt. Ltd.; that he is giving his signature on checklist, packing list, invoice, SCOMET declaration, MSDS certificate, test report submitted by their firm, acknowledgement of LUT, ISO 14001: 2015 Declaration; that the goods covered under said shipping bills were Lubrikote GR 111, Lubrikote Flux SS, Lubrikote Flux SSF, Lubrikote Potassium Aluminum Fluoride & Lubrikote GR 112; that those are metal treatment products used to clean molten Aluminum; that he agreed with the DYCC test reports dated 30.11.2023 that the subject goods is composed of sodium silicofluoride and put his dated signature; that they are manufacturing company as well as outsource the goods for manufacture; that in respect of Lubrikote Flux SSF he was not sure whether they have manufactured it or outsourced it; that he would confirm it and submit the reply at the earliest; that at the time of export of the goods covered under Shipping bill 7755410 dated 13.02.2023, they were not aware that export of SCOMET items is governed as per conditions indicated in Appendix-3 of Schedule 2 of ITC(HS) Classification of Export and Import items until their consignment was put on hold by Customs; that he agrees that as per Appendix-3, export of Sodium Silicofluoride is restricted and permitted only against Export License issued by DGFT; but at the time of export they were not aware of those terms so they did not apply for the SCOMET license; that they have not made any application to DGFT before the said export as they were not aware that their product is covered under SCOMET list and required Authorization from DGFT for export; that they have applied for the export authorization/ License no 0101008823 issued on 01.06.2023 and valid upto 01.06.2025 of the same product “Sodium Hexafluorosilicate/ Sodium Silico Fluoride”; that he agreed that exporter should be aware about restrictions and prohibitions imposed by DGFT and

should ensure compliance of any restrictions imposed under the Customs Act or any other act; that those goods are being used in metal treatment products used to clean molten Aluminum; that they were unaware that the said goods "Lubrikote SSF" fall under SCOMET category; that they came in contact with the buyer SILCA South Africa (PTY) LTD through trade references; that the firm is manufacturing and trading company involved in foundry suppliers in South Africa for metal treatment; that they have exported "Lubrikote Flux SSF" previously unknowingly of SCOMET License requirement to the same consignee covered under Shipping Bill 8613952 dated 12.02.2021, 3406027 dated 26.07.2021 & 8556306 dated 27.02.2022; that they have returned the RoDTEP received in case of above mentioned three shipping bills vide challan no. HCM 627, HCM 628 dated 11.04.2023; that they have been issued Authorization for SCOMET License and would be more careful in future; that the mistake happened inadvertently; that they are a law abiding firm and have not intentionally violated the provisions of the Act; that they would be cooperating with the department in the investigation and would be available whenever called for.

10. Statement of Shri Pravin D Jundare, authorized representative (G-card holder, Kardex No. J-681) of Customs Broker M/s International Freight Systems Co. Pvt. Ltd.(License No.11/598)was recorded under section 108 of the Custom Act, 1962 on 16.02.2024 wherein he inter-alia stated that he has been associated with the CB firm for last 21 years; that in that capacity he handles export clearance related work of the firm at JNCH; that Shipping Bill No. 7755410 dated 13.02.2023 was filed by them on behalf of M/s Lubrikote Specialities Pvt. Ltd. and the goods under the said shipping bill are chemicals of different compositions; that he was aware that export of SCOMET items is governed as per conditions indicated in Appendix-3 of Schedule 2 of ITC (HS) Classification of Export and Import items; that he agreed that Sodium Silicofluoride is covered under the list of chemicals under Category ID of Appendix-3 and export of which is restricted and allowed only against export license issued by DGFT; that at the time of export they were not having idea of CAS number; that they checked the SCOMET list by product name i.e. "Lubrikote Flux SSF" and could not find any such product and exporter also confirmed by giving Non-SCOMET declaration; that the export firm M/s Lubrikote Specialities Pvt. Ltd. did not have the export license issued by DGFT for export of the subject goods at the time of filing the said shipping bill; that at the time of export of the said goods covered under SB 7755410 dated 13.02.2023, they enquired about the goods whether goods are covered under SCOMET or Non-SCOMET to which they provided the Non- SCOMET declaration; that accordingly, they filed the shipping bill and however, later on, the exporter had approached the DGFT and applied for an Export Authorisation License No 0101008823 issued on 01.06.2023 and valid upto 01.06.2025; that they understand that the CBLR 2018 has put on the CB to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof; but in this case they did not advise their client i.e. M/s Lubrikote Specialities Pvt. Ltd. about the compliance needed in case of export of SCOMET items as they were also unaware about the goods which fall under SCOMET category; that this was a mistake on their behalf; that this was the first incident in which the goods exported by M/s Lubrikote Specialities Pvt. Ltd. was put on hold by Customs; that they have filed on behalf of exporter "Lubrikote Flux SSF" previously unknowingly of

SCOMET License requirement to the same consignee covered under Shipping Bill 8613952 dated 12.02.2021, 3406027 dated 27.07.2021 & 8556306 dated 27.02.2022;

11. PAST EXPORTS

The exporter has filed 04 shipping bill before the current shipping bill and the details of the shipping bills filed from 01.01.2021 onwards wherein the above good (Lubrikote Flux SSF) is exported is as below: -

Table-II

Sr. No.	Shipping bill No. & date	Item Description	RODTEP claimed for this Item	FOB value of said item (in Rs.)
1	8613952 dtd. 12/02/2021	Lubrikote Flux SSF	Rs. 82/-	16,484.45/-
2	3406027 dtd. 27/07/2021	Lubrikote Flux SSF	Rs. 290/-	57,929.99/-
3	8556306 dtd. 27/02/2022	Lubrikote Flux SSF	Rs. 443/-	79,405.82/-
4	4126682 dtd. 12/09/2022	Lubrikote Flux SSF	Rs. 0/-	1,19,624.02/-
Total:			Rs. 815/-	1,53,820.26/-

M/s Lubrikote Specialities Pvt. Ltd. was not having Export Authorisation License hence they paid back undue availed RODTEP benefit with interest and penalty of Rs.1249/- vide challan No. HCM-627, HCM-628 and HCM-673 dated 11.04.2023. Moreover, it has to be mentioned that the export of product declared as “Lubrikote Flux SSF” is restricted and permitted only against Export license issued by DGFT in this behalf. Therefore, impugned goods exported vide above-tabulated (Table-II) 04 shipping bills are also liable for confiscation under Section 113(d) of the Customs Act, 1962.

12. RELEVANT LEGAL PROVISIONS

A. Customs Act, 1962

Section 50: Entry of goods for exportation. -

- (1) The exporter of any goods shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export [in such form and manner as may be prescribed]:
Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner.]
- (2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely: -

- (a) the accuracy and completeness of the information given therein;
- (b) the authenticity and validity of any document supporting it; and
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

SECTION 113(d): any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force, shall be liable to confiscation;

Section 113(ja): any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;

Section 114(i): Any person 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 113, or abets the doing or omission of such an act, shall be liable, 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 three times the value of the goods as declared by the exporter or the value as determined under this Act, whichever is the greater;

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

B. Foreign Trade (Development and Regulation) Act, 1992

Section 11: (1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made there under and the foreign trade policy for the time being in force.

C. Customs Brokers Licensing Regulations, 2018

Regulation 10. Obligations of Customs Broker. —A Customs Broker shall -

- (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage

FINDINGS OF THE INVESTIGATION

13. M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332) having its registered office at 449/2/P Industrial Estate Masat, Union Territory of Silvassa, Dadra and Nagar Haveli-396230 had filed Shipping Bill No. 7755410 dated 13.02.2023 having declared one of the chemicals at Sr. no.03 as 'Lubrikote Flux SSF' for export as discussed in above paras and declared the FOB of Rs. 1,23,196/- for the impugned goods and

involving drawback claim of Rs. 1,601.55/- and RoDTEP claim of Rs. 985.57/-. Goods pertaining to the Shipping Bill No. 7755410 dated 13.02.2023 were subjected to 100% examination by SIIB (X) officers. The product "Lubrikote Flux SSF" is composed of Sodium Silicofluoride which figures at serial No. 21(SCOMET Entry 1D021) of the list of chemicals under Category 1D of Appendix-3. The goods were destined to Durban (Zadur), South Africa which is not included in the countries listed in Table1 of the corresponding SCOMET Entry and export of "Lubrikote Flux SSF" is restricted and permitted only against Export license issued by DGFT in this behalf. No such export authorisation for SCOMET item has been uploaded by the exporter in e-Sanchit. The exporter in his statement dated 13.02.2024 had stated that they were unaware that the said goods "Lubrikote Flux SSF" fall under SCOMET category. However, ignorance of law cannot be an excuse for violation of a restriction imposed on any export goods.

13.1. The export of goods (Lubrikote Flux SSF) under past 04 Shipping bills No.8613952 dated 12.02.2021, 3406027 dated 27.07.2021, 8556306 dated 27.02.2022 & 4126682 dated 12.09.2022 having total FOB value of Rs. 1,53,820/-. The exporter was not having valid Export Authorisation License. The said exporter paid back undue availed RODTEP benefit with interest and penalty Rs.1249/- vide challan No. HCM-627, HCM-628 and HCM-673 on dated 11.04.2023

13.2 The Exporter has violated the provisions of Rule 11 of the *Foreign Trade (Development and Regulation) Act, 1992*, 1993 in as much, as they filed Shipping Bill in respect of goods which required export authorization from DGFT for being exported. However, the goods at item no. 03 of the shipping bill no. 7755410 dated 13.02.2023 did not have proper export authorization from DGFT.

13.3 Section 50 (2) of the Customs Act, 1962 mandates that the exporter who presents a shipping bill under the section shall ensure the compliance with the restriction or prohibition, if any, relating to the goods under this act or under any other law for the time being in force. As the Exporter had not made declaration truthfully in the said Shipping Bill, M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332) has contravened these provisions in as much as they have filled shipping bill without having any export authorization issued by the DGFT. Thus, it appears that the said goods were attempted to be exported in violation of Section 50(2) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rules 11 of Foreign Trade Rules 1993, as exporter had furnished wrong declaration to the Custom Authorities.

13.4 The Custom Broker in this case M/s International Freight Systems Co. Pvt.Ltd.(License No.11/598) had filed the Shipping Bill No. 7755410 dated 13.02.2023 on behalf of the exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332). Regulation 10 (d) of the Customs Brokers Licensing Regulations, 2018 puts an onus on the CB to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. The CB in the instant case has failed to do so thereby violating the provisions of the regulation. Further, regulation 10 (e) mandates the CB to exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage. Here in the instant case, the CB ought to have informed the exporter about the statutory

requirement of having an export authorization from the DGFT for export of Sodium hexafluorosilicate figuring in SCOMET list, thereby violating the said regulation of CBLR, 2018.

14. It is thus cogent and clear that the exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332) had attempted to export Sodium hexafluorosilicate/ sodium silicofluoride (a SCOMET item) under Shipping Bill No. 7755410 dated 13.02.2023 without fulfilling the conditions of restriction imposed by the DGFT, and thereby acted in a manner which rendered the said goods liable for confiscation in terms of the provisions of Section 113 (d) of the Customs Act, 1962.

15. It further appears that the exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332) have rendered themselves liable to penalty in terms of Section 114(i) of the Customs Act, 1962 on account of attempting to export improperly as their omission and commission has rendered the goods liable for confiscation u/s 113 of the Customs Act, 1962.

16. The exporter has attempted to claim RoDTEP benefit to the amount of Rs. 985.57/- (for item at Sr. No. 3 of the current shipping bill No. 7755410 dated 13.02.2023). However, in accordance with DGFT Notification No. 19/2015-20 dated 17.08.2021 products which are restricted for export under Schedule-2 of export policy in ITC (HS) shall not be eligible for rebate under RoDTEP scheme. Moreover, the goods covered under Shipping bill No. 7755410 dated 13.02.2023 were allowed for release provisionally for Back to Town.

17 Based on the above investigation a Show Cause Notice bearing F. No. 356/2025-26/AC/CEAC/NS-II/CAC/JNCH, DIN number 20250678NT000000CAFE dated 30.06.2025 was issued to the Exporter M/s. Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332), having its registered office at 449/2/P Industrial Estate Masat, Union Territory of Silvassa, Dadra and Nagar Haveli-396230, calling upon them to explain in writing to the Asst/Dy. Commissioner of Customs, Centralized Export Assessment Cell, NS-II, JNCH, Nhava-Sheva, Tal.-Uran, Dist-Raigad, Maharashtra 400707 (the Adjudicating Authority of this case), within 30 days of the issue of the said notice as to why :-

- i. the impugned export goods (item no. 03 of the shipping bill No. 7755410 dated 13.02.2023) declared as "Lubrikote Flux SSF" having FOB value of Rs. 1,23,196/- are not liable for confiscation under section 113(d) & 113(ja) of the Customs Act, 1962.
- ii. the submitted Bond to the full value of the goods (FOB value) and bank Guarantee of Rs. 1,00,000/- (One Lakh) vide Challan No. HCM- 1206 dtd.19.04.2023 should not be appropriated towards recoverable dues, applicable fine and penalty.
- iii. the exported goods (Lubrikote Flux SSF) under past 04 Shipping bills No.8613952 dated 12.02.2021, 3406027 dated 27.07.2021, 8556306 dated 27.02.2022 & 4126682 dated 12.09.2022 having total FOB value of Rs. 1,53,820/- should not be held liable for confiscation under Section 113(d) & 113(ja) of Customs Act, 1962.

- iv. Penalty under section 114 (i) of the Customs Act, 1962 should not be imposed upon the exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332).

18. Similarly, the Customs Broker M/s International Freight Systems Co. Pvt. Ltd.(License No.11/598) were also called upon, in the said show cause notice, to explain in writing to the Asst/Dy. Commissioner of Customs, NS-II, JNCH, Nhava-Sheva, Tal.-Uran, Dist-Raigad, Maharashtra 400707 (the Adjudicating Authority of this case), within 30 days of the issue of the said notice as to why :-

- i. Penalty under section 114(i) & 114AA of the Customs Act, 1962 should not be imposed upon Customs Broker M/s International Freight Systems Co. Pvt.Ltd. (License No.11/598).

SUBMISSION/REPLY TO THE SCN:

19. The M/s. Lubrikote Specialities Pvt. Ltd. submitted reply dated 20.08.2025 to the SCN and submitted, inter alia, as under:

*(i) The said item is not 'prohibited' or 'banned' for export but merely requires statutory authorization, which, upon realization, **my clients** promptly obtained from the DGFT. It is submitted that the nature of the violation is procedural, arising out of non-possession of the required export authorization at the time of shipment, and not an attempt to export any goods absolutely prohibited or banned under law. In the facts and circumstances, this distinction warrants a lenient and sympathetic approach, as the export of restricted goods without a prior license does not attract the same degree of severity or penal consequences*

(ii) There is no willful intent to evade export control Order.

(iii) This export reflects legitimate industrial usage.

19A. The CB, M/s. International Freight Systems Co. Pvt. Ltd.(Customs Broker License No:11/598) also submitted reply dated 30.08.2025 to the SCN and submitted, inter alia, as under:

“(i)The referenced Shipping bill Number 7755410 dated 13/02/2023 was filed based solely on the documentation and declarations provided by our Clint, including the Invoice, Packing list, KYC documents, and a Non-SCOMET declarations. At the time of filing, we had no knowledge or indication that any of the items listed were subject to SCOMET restrictions.

(ii) It was only during the course of the Customs examination that we were made aware that one of the five products in the consignment fall under the SCOMET category and it is restricted for export. We would like to emphasize that there was no deliberate or Intentional misdeclaration on the our part, and the filing was done in good faith based on the information provided by the exporter.

(iii) In light of the above, we humbly request that no penalty be imposed under Section 114(i) and Section 114AA of the Customs Act, 1962, We remain fully committed to adhering to all applicable Customs law and regulations and assure you of our continued co-operations in this matter.”

RECORDING OF PERSONAL HEARING

20. The Exporter vide letter dated 07.11.2025 and CB vide letter dated 11.11.2025 voluntarily requested for waiver of PH and requested to decide the said case on merit on the basis of facts of the case. Therefore, no PH was conducted in the present case.

DISCUSSION AND FINDINGS

21. I have carefully gone through the facts of the case and evidence available on records. I find that in the instant case, the Exporter vide their letter dated 07.11.2025 and CB vide letter dated 11.11.2025 requested the department for waiver of PH in the instant case and to decide the case on merits. Accordingly, I accept the request of Exporting firm M/s. Lubrikote Specialities Pvt. Ltd. and the CB M/s International Freight Systems Co. Pvt. Ltd. for waiver of PH and I proceed to adjudicate the case on merits on the basis of evidence available on records.

22. I find that the Exporter M/s Lubrikote Specialities Pvt. Ltd. Had, through their CB M/s International Freight Systems Co. Pvt. Ltd., filed Shipping Bill No. 7755410 dated 13.02.2023 having declared one of the chemicals at Sr. no.03 as 'Lubrikote Flux SSF' for export and declared the FOB of Rs. 1,23,196/- for the impugned goods and involving drawback claim of Rs. 1,601.55/- and RoDTEP claim of Rs. 985.57/-. I note that the said product "Lubrikote Flux SSF" is composed of Sodium Silicofluoride which figures at serial No. 21 (SCOMET Entry 1D021) of the list of chemicals under Category 1D of Appendix-3. Further, I note that the goods were destined to Durban (Zadur), South Africa which is not included in the countries listed in Table1 of the corresponding SCOMET Entry and therefore export of "Lubrikote Flux SSF" in the present case is restricted and can be permitted only against Export license issued by DGFT in this behalf.

23. I also note that Lubrikote Flux SSF, which is covered under SCOMET, was earlier exported by M/s Lubrikote Specialities Pvt. Ltd. under past 04 Shipping bills vide No.8613952 dated 12.02.2021, 3406027 dated 27.07.2021, 8556306 dated 27.02.2022 & 4126682 dated 12.09.2022 having total FOB value of Rs. 1,53,820/- and I also find that the exporter was not having valid Export Authorisation License for these previous shipments as well.

24. Therefore, it is clear that in case of item no. 03 of the shipping bill no. 7755410 dated 13.02.2023 namely "Lubrikote Flux SSF" the exporter attempted to export it without obtaining a valid authorisation from DGFT for export of that item. The exporter has, therefore, violated the provisions of Rule 11 of the *Foreign Trade (Development and Regulation) Act, 1992, 1993* in as much, as they filed Shipping Bill in respect of goods which required export authorization from DGFT for being exported.

25. I find that the Exporter had not made declaration truthfully in the said Shipping Bill, and has contravened the provisions of Section 50 (2) and 50 (3) of the Customs Act, 1962 in as much as they have filled shipping bill without having any export authorization issued by the DGFT. Thus, I hold that the said goods were attempted to be exported in violation of Section 50(2) and 50 (3) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rules 11 of

Foreign Trade Rules 1993, as the exporter had furnished wrong declaration to the Custom Authorities.

26. I also find that the Custom Broker in this case M/s International Freight Systems Co. Pvt. Ltd. (License No.11/598) had filed the Shipping Bill No. 7755410 dated 13.02.2023 on behalf of the exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332). From the evidence on record it is seen that the CB has filed the Shipping Bill inspite of the fact that item number 3 of Shipping Bill was covered under SCOMET and as such required an export authorisation from DGFT. The CB cannot merely claim that because of the non SCOMET declaration given by the exporter they filed the Shipping Bill without an export authorisation from the DGFT. They should have informed the exporter that the subject goods are covered under SCOMET and would require an export authorisation from DGFT. By not insisting on such an export authorisation the CB M/s International Freight Systems Co. Pvt. Ltd. have not only aided and abetted the acts of omission and commission by the exporter, which have rendered the subject goods liable for confiscation, but have themselves committed acts of omission and commission by filing Shipping bill without an export authorisation from the DGFT. Therefore, I hold that the CB M/s International Freight Systems Co. Pvt. Ltd. are liable for penal action under the provisions of Section 114(i) and Section 114AA of the Customs Act, 1962.

27. I find that the exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332) have attempted to export Sodium hexafluorosilicate/ sodium silicofluoride (a SCOMET item) under Shipping Bill No. 7755410 dated 13.02.2023 without fulfilling the conditions of restriction imposed by the DGFT, and thereby acted in a manner which rendered the said goods liable for confiscation in terms of the provisions of Section 113 (d) of the Customs Act, 1962. I also note that goods were already allowed to release provisionally for Back to Town on execution of bond equivalent to FOB value of the subject goods and on submission of Bank Guarantee amounting to Rs. 1,00,000/- (Rupees One Lakh Only) vide Challan No. HCM- 1206 dtd.19.04.2023. Therefore, the Bond furnished by the exporter at the time of provisional release of the goods will now stand in stead of the goods which have been released provisionally on the strength of that Bond.

28. I find that the exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332) by virtue of their acts of omission and commission, which have rendered the subject goods liable to confiscation in terms of Section 113 (d) of the customs Act, 1962, have also rendered themselves liable to penal action in terms of Section 114(i) of the Customs Act, 1962.

29. I find that the exporter has attempted to claim RoDTEP benefit to the amount of Rs. 985.57/- (for item at Sr. No. 3 of the current shipping bill No. 7755410 dated 13.02.2023). However, in accordance with DGFT Notification No. 19/2015-20 dated 17.08.2021 products which are restricted for export under Schedule-2 of export policy in ITC (HS) shall not be eligible for rebate under RoDTEP scheme. Therefore it is evident that the exporter has tried to avail incentives under RoDTEP scheme on goods which had become restricted on account of non-procurement of export authorisation from the GDFT. Therefore, the exporter has contravened the provisions of Section 113 (ja) of the

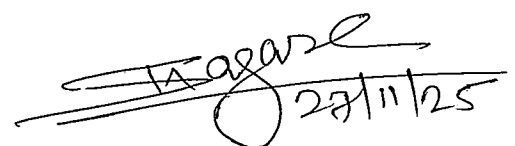
Customs Act, 1962 and have therefore rendered the goods liable for confiscation under the provisions of Section 113 (ja) of the Customs Act, 1962, as well. Moreover, the goods covered under Shipping bill No. 7755410 dated 13.02.2023 were allowed for release provisionally for Back to Town. Therefore their RoDTEP claim of Rs. 985.57/- and drawback claim of Rs. 1,601.55/- are liable for rejection.

30. In view of the above discussions, I pass the following order.

ORDER

- i. I order confiscation of the impugned export goods (item no. 03 of the shipping bill No. 7755410 dated 13.02.2023) declared as "Lubrikote Flux SSF" having FOB value of Rs. 1,23,196/- under section 113(d) & 113(ja) of the Customs Act, 1962. However, as goods were already allowed to be released provisionally for Back to Town, on the strength of Bond, I allow the said goods to be redeemed from confiscation in lieu of payment of redemption fine of Rs.60,000/- (Rs. Sixty thousand only) under section 125 of the Customs Act, 1962.
- ii. I reject RoDTEP claim of Rs. 985.57/- and drawback claim of Rs. 1,601.55/- as goods were already allowed to be released provisionally for Back to Town.
- iii. I hold the previously exported goods (Lubrikote Flux SSF) under past 04 Shipping bills No. 8613952 dated 12.02.2021, 3406027 dated 27.07.2021, 8556306 dated 27.02.2022 & 4126682 dated 12.09.2022 having total FOB value of Rs. 1,53,820/-, liable for confiscation under the provisions of Section 113(d) & 113(ja) of Customs Act, 1962.
- iv. I impose penalty of Rs. 40,000/- (Rs. Forty thousand only) under section 114(i) of the Customs Act, 1962 on the exporter M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332).
- v. The Bond and the bank Guarantee submitted by the exporter at the time of Provisional release, be got enforced and appropriated, in case the exporter fails to pay above imposed fine and penalty.
- vi. I impose penalty of Rs.10,000/- (Rs. Ten thousand only) under section 114(i) & Rs. 10,000/- under Section 114AA of the Customs Act, 1962 on the Customs Broker M/s International Freight Systems Co. Pvt. Ltd. (License No.11/598).

31. This order is issued without prejudice to any other action that may be taken against the Noticee(s) or any other person(s) concerned with the said goods under the Customs Act, 1962 or any other law for the time being in force in India.



(Sachin S Pagare)

Dy. Commissioner of Customs
CEAC, NS-II, JNCH

To

1. M/s Lubrikote Specialities Pvt. Ltd. (IEC: 0310067332),
449/2/P Industrial Estate Masat,
Union Territory of Silvassa, Dadra and Nagar Haveli-396230.

2. The Director,
M/s International Freight Systems Co. Pvt.Ltd. (License No.11/598),
10/102, Span Land Mark, 145 Andheri Kurla road, Andheri East,
Mumbai-400093

Copy to:

1. The Commissioner of Customs, NS-II, JNCH, Nhava Sheva.
2. The Dy. Commissioner of Customs, Review Cell, NS-II, JNCH, Nhava Sheva.
3. The Dy. Commissioner of Customs, CRRC Cell, NS-II, JNCH, Nhava Sheva.
4. The Dy. Commissioner of Customs, CAC, NS-II, JNCH, Nhava Sheva
5. EDI Section, for upload on the JNCH website.
6. The Supdt., CHS, JNCH, Nhava Sheva - for display on Notice Board.
7. Office Copy.