	OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I), सीमाशुल्क आयुक्त का कार्यालय (एनएस -I) **NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE,** न्हावा-शेवा, जवाहरलाल नेहरू कस्टम हाउस, **TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA – 400 707.** ताल-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707

F. No. S/26-Misc-181/2024-25/Gr. II (C-F) Date of order: 23.09.2025
F. No. S/10-Adj- 33/2025-26 Gr II(C-F) Date of issue:23.09.2025
SCN No. 1771/2024-25/AC/GR. II(C-F)/NS-I/CAC/JNCH Dated 07.03.2025

DIN :20250978NW0000222B96

Passes by: Shri Dinesh Kumar, Deputy Commissioner of Customs Gr. II(C-F).
Order No.956/2025-26/AC/Gr. II CF/NS-I/CAC/JNCH

Name of Party/Noticee/Importer: **M/s Mapei construction Products India Private Limited** (IEC-711000158)

मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि:शुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगढ़, महाराष्ट्र -400707को की जा सकती है । अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982के अनुसार फॉर्म सी.ए. 1संलग्नक में की जानी चाहिए । अपील पर न्यायालय फीस केरूप में 1.50रुपये मात्र का स्टांप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी । यदिइस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50रुपये का स्टांप भी लगायाजायेगा जैसा कि न्यायालय फीस अधिनियम 1970की अनुसूची 1, मद 6के अंतर्गत निर्धारित किया गया है ।
3. इस निर्णय या आदेश के विरुद्ध अपील करनेवाला 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

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Sheva, Tal :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.

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

On the basis of the Analytics Report 29/2022-23 dated 25/11/2022 issued by the NCTC, Mumbai, on the issue of "Wrong claims of a lower IGST rate @ 5% on the import of goods covered under CTH 28 vide Sr. No. 166 to 172 of Schedule-I instead of the correct IGST rate @18% under Sr.No.39 of Schedule-III of IGST Levy Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended)" the data pertaining to importers who have imported consignments with description "in organic chemicals (Other than those specified in the Schedule for exempted goods or other rate schedule for goods including Fertilizer grade Phosphoric acid)" through JNCH (INNSA1) was analysed in detail. It has been observed, the importer **M/s Mapei construction Products India Private Limited** (IEC-711000158)having address as A01 & B01, 1% floor, Solus Jain Heights 1st Cross, J.C. Road, Opp Bangalore Stock exchange, Bengaluru Urban, Karnatka 560002has imported consignment as detailed in the Annexure-I and paid IGST @5% on the said consignments.

2. It is noted that applicable IGST rate on the items detailed in annexure-I is 18% as per Sr.No.39 of Schedule-III of IGST Levy Notification No.01/2017- Integrated Tax (Rate) dated 28.06.2017 (as amended). The relevant portion of the said notification is reproduced as under

Schedule-I

S.No.	**Chapter/Heading/ Sub-Heading/Tariff item**	**Description of goods**	**IGST Rate (%)**
166	28	Thorium Oxalate	5
167	28	EnrichedKBF4(enrichedpotassiumFluroborate	5
168	28	Enrichedelementalboron	5
168	28	Nuclearfuel	5
170	280511	Nucleargradesodium	5
170A	2809	Fertilizergradephosphoricacid	5
171	2845	Heavy water and other nuclearfuels	5
172	2853	Compressed Air	5

Schedule-III

S No	**Chapter/Heading/Sub-Heading/Tariff item**	**Description of goods**	**IGST Rate**
39	28	All in organic chemicals (Other than those specified in the Schedule for exempted goods or other rate schedule for goods Including Fertilizergrade Phosphoric acid)	18%

3. From the above tables, it is clear that Sr.No.39 of Schedule-III (III-39)levying IGST rate of 18% specifically covers all inorganic chemicals and excludes the description of goods "Other than those specified in the Schedule for exempted goods or other rate schedule for goods including Fertilizer grade Phosphoric acid".

4. The Importer while filing the Bill of Entry described the items as detailed in Annexure-'T. In the instant case, the Importer has paid lower rate of IGST @5%while there is applicable higher IGST rate @18% for the imported item; and this act by the importer makes it a case of short payment of IGST. It appeared that, the Importer willfully and maliciously opted different rate of IGST with a view to intentionally pay less IGST and to avoid the applicable IGST which is higher.

5. The total assessable value of the BE items so imported is **Rs.14,287.49/-** and it appeared that a differential IGST amounting to **Rs.1,857/-**(as detailed in Annexure-'1') s recoverable from the Importer along with applicable interest and penalty.

BE Bo	BE Date	Item Description	AV (in Rs.)	Diff. IGST (in Rs.)
7320341	20.03.2020	IonixRosso(Raw Material for Mfg. For cement Adhesive)	14,287.49/-	1,857/-

6. In view of the above, Consultative letter bearing No. 121/2024-25 dated 08.05.2024 was issued to the importer to clarify the issue raised by the department and if agreed to the observation/finding of the department, the importer was advised to pay the differential duty along with applicable interest and penalty. However, no reply or submission is given by importer in this regard.

7. Relevant legal provisions for recovery of duty that appeared to be evaded are reproduced here for the sake of brevity which are applicable in this instant case:

7.1 **Section 17(1)**: Assessment of duty, reads as: An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

7.2 **Section 28**: (Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded) reads as:

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-

(a) collusion; or

(b) any willful mis-statement; or

(c) suppression of facts

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

(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

Explanation- For the purposes of this section, "relevant date" means-

(a) In a case where duty is not paid of short-levied or short-paid or interest is not charged. The date on which the proper officer marks an order for the clearance of goods.
(b) In a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment , as the case may be;
(c) In a case where duty or interest has been erroneously refunded, the date of refund;
(d) In any other case, the date of payment of duty or interest.

7.3 **SECTION 28AA**- Interest on delayed payment of duty

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

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

7.4 **SECTION 46**- Entry of goods on importation, subsection 46(4) reads as:

"The importer while presenting a Bill of Entry shall at the foot thereof 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"

7.5 **Section 111**- (Confiscation of improperly imported goods etc.) read as:

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..................;

7.6 **Section 112**- (Penalty for improper importation of goods etc.) reads as:

"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 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 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 percent of the duty sought to be evaded or five thousand rupees, whichever is higher....................."

7.7 **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........

7.8 **114AA**: 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

7.9 **SECTION 117**. Penalties for contravention, etc., not expressly mentioned. - Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one lakh rupees.

8. Whereas, consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in customs clearance. Section 17 of the Customs Act, effective from 08.04.2011 [CBEC's (now CBIC) Circular No 17/2011dated08.04.2011] provides for self-assessment of duty on imported goods by the Importer himself by filing a bill of entry, in the electronic form. Section 46 of the Customs Act, 1962 makes it mandatory for the Importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs. Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service center, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the Importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, inrespect of the imported goods while presenting the bill of entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the Importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

9. Therefore, in view of the above facts, it appeared that the importer has deliberately not paid the duty by willful mis-statement as it was his duty to declare correct applicable rate of duty in the entry made under Section 46 of the Customs Act, 1962, and thereby has attempted to take undue benefit amounting to **Rs.1,857/-**(as detailed in Annexure-'A'). Therefore, the differential duty, so not paid, is liable for recovery from the Importer under Section 28 (4) of the Customs Act, 1962 by invoking extended period of limitation, along with applicable interest at the applicable rate under section 28AA of the Customs Act, 1962 and for their acts of omission/commission.

10. Section 111(o)of Customs Act, 1962provides for confiscation of the goods if any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which condition is not observed unless the non-observance of the condition was sanctioned by the proper officer. Section 111(m) of Customs Act, 1962 provides for confiscation of the goods if 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.

11. It appeared that the Importer has failed to comply with the conditions mentioned above; therefore, it also appeared that the imported goods are liable for confiscation under Section 111(m) and/or 111(0) of the Customs Act, 1962.

12. It further appeared that the Importer for the acts of omission and commissions mentioned above has rendered themselves liable for penal action under section 112(a) and 114A of the Customs Act. 1962.

13. Now, therefore, in exercise of the powers conferred by Section 28(4) of the CustomsAct, 1962, M/s Mapei Construction Products India Private Limited (IEC -711000158)having address as A01 & B01, 1 floor, Solus Jain Heights 1st Cross, J.C. Road, Opp. Bangalore Stock exchange, Bengaluru Urban, Karnatka 560002 was called upon to Show Cause to the Assistant Commissioner of Customs, Group II(C-F), N.S-I, JNCH, Nhava-Sheva, Taluka-Uran, District-Raigad, Maharashtra-400707 vide Show Cause Notice No. 1771/2024-25/AC/GR. II(C-F)/NS-I/CAC/JNCH Dated 07.03.2025 as to why:

I. Differential/short paid Duty amounting to 1,857/-for the subject goods imported vide Bills of Entry as detailed in Annexure-'A' should not be demanded under Section 28(4) of the Custom Act, 1962.

II. In addition to the duty short paid, interest on delayed payment of Custom Duty should not be recovered from the Importer under section 28AA of the Customs Act. 1962.

III. The said subject goods imported vide Bills of Entry as detailed in Annexure-'A' Having assessable value of 14,287.49/-should not be held liable for confiscation under Section111(m) and/or 111(o)of the Customs Act, 1962.

IV. PenaltyshouldnotbeimposedonthemunderSection112a the Customs Act, 1962 for their acts of omission and commission, in rendering the goods liable for confiscation, as stated above.

V. PenaltyshouldnotbeimposedunderSection114AofCustomsAct, 1962for short levy of duty.

DEFENCE SUBMISSIONS & PERSONAL HEARING

14.1 In reply to SCN, the importer has submitted that in compliance with the provisions of the Customs Act, 1962, they have duly made the payment of the differential IGST along with applicable interest. The details of the payment are as follows: -

- They have paid the earlier difference Amount of Rs.2036. vide challan No HCM 1594 dated 21.10.2021
- Now they have paid the interest Rs.487.00 and 15% fine Rs.306.00 vide Challan No: 2752426676 dated 02.04.2025

14.2 As a responsible importer, they remain committed to fulfilling all statutory obligations and ensuring full compliance with customs regulations and requested that the department acknowledges the receipt of this payment and update records accordingly.

14.3 Further, they would appreciate it if Department could confirm that no further action is required on our part concerning this matter and looking forward to receiving confirmation. regarding the closure of this issue at the earliest.

DISCUSSION AND FINDINGS

15. I have carefully gone through the facts and written submission made by the Importer. I find that the Importer had imported goods "IonixRosso (Raw Material for Mfg. For cement Adhesive)" which was leviable to IGST @ 18% under Sl. No. 39 of IGST Schedule-III. However, the importer has wrongly availed the benefit of the lower IGST under Serial No. 166 of Schedule I of the IGST Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 and paid IGST @ 5% only. IGST @ 5% under the claimed IGST schedule is applicable to Thorium Oxalate and the imported goods were not the same. This resulted in short levy of Rs. 1,857/- (Rupees One Thousand Eight Hundred and Fifty Seven only). In response to SCN, the importer has not disputed the demand. The importer has submitted that upon receipt of CL dated 15.04.2021, they have deposited IGST Rs.2,036/- vide HCM 22.10.2021 and now upon receipt of SCN, they have paid interest and Penalty of Rs. 793/- vide Challan No. 2725426676 dated 02.04.2025. Thus, the importer has paid total amounting to Rs.2,829/- in the matter and attached the copies of challans.

16. Considering the fact that the duty difference of Rs. 1857/- demanded under Section 28 (4) along with the applicable interest under Section 28AA and penalty equal to 15% of duty difference has been paid vide challan no. Rs. 2,036/- vide Challan No. HCM-1594 dated 22.10.2021- and Rs. 793/- vide Challan No. 2752426676 dated 02.04.2025 total amounting to Rs. 2,829/- prior to

/within 30 days of issuance of subject dated 07.03.2025, therefore in accordance to Section 28(5) read with section 28(6) of the Customs Act 1962, the proceedings in respect of the said SCN deemed to be concluded without prejudice to section 135,135A & 140. Hence, I hold accordingly:

ORDER

15. I hereby treat the proceedings initiated against the Importer M/s Mapei Construction Products India Private Limited (IEC -711000158) in respect of SCN No. 1771/2024-25/AC/GR. II(C-F)/NS-I/CAC/JNCH Dated 07.03.2025, as concluded in terms of sub-clause(6)(i) of Section 28 of the Customs Act 1962 without prejudice to section 135,135A & 140 of the Customs Act 1962 and appropriate the amount paid of Rs.2,036/- vide challan no. . HCM-1594 dated 21.10.2021 and Rs. 793/- vide Challan No. 2752426676 dated 02.04.2025 toward duty (Rs.1857/-), penalty (Rs.279) & interest (Rs.693/-) respectively.

16. This order is issued without any prejudice to any other action that may be taken against the said goods/notice and /or against any other firm/ person concern under the provision of Custom Act, 1962 and are any other law for the time being in force, in India.

23/9/25

(दिनेश कुमार)

उप आयुक्त, सीमा शुल्क,

मूल्यांकन समूह II (सी-एफ), एनएस-I, जेएनसीएच

To,

M/s Mapei Construction Products India Private Limited (IEC -711000158)
A01 & B01, 1 floor, Solus Jain Heights,
1st Cross, J.C. Road, Opp. Bangalore Stock exchange,
Bengaluru Urban, Karnatka 560002

Copy to: -

1. The Dy./Asstt. Commissioner of Customs, CHS, JNCH
2. The Dy./Asstt. Commissioner of Customs, CRRC, JNCH.
3. The Dy./Asstt. Commissioner of Customs, CRAC, JNCH.
4. The Dy./Asstt. Commissioner of Customs, Audit Commissionerate, JNCH
5. The Dy./Asstt. Commissioner of Customs, CAC, JNCH.
6. The Dy./Asstt. Commissioner of Customs, EDI, JNCH.
7. Office copy