



OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I),
सीमाशुल्कआयुक्तकाकार्यालय (एनएस -I)



NHAVA-SHEVA, JAWAHARLAL NEHRU CUSTOM HOUSE,
न्हावा-शेवा, जवाहरलालनेहरूकस्टमहाउस,
TAL-URAN, DISTRICT- RAIGAD, MAHARASHTRA – 400
707.

ताल-उरण, जिला- रायगढ़, महाराष्ट्र - 400 707

F. No. CUS/APR/MISC/3309/2025-Gr 2 and 2(A-B)

Date of order: 9.03.2026

F. No. S/10-Adj-62/2025-26/II& II(A-B)/JNCH

Date of issue: 9.03.2026

DIN: 20260378NW 0000499563

Passed by: Smt. Likhita V. Umare

Deputy Commissioner of Customs,
Group 2 (A-B), NS-I, JNCH

Order No. 1965^(U)/2025-26/DC/NS-I/CAC/JNCH

Name of Party/Noticee/Importer: M/s. Superform Chemistries
Limited (formerly known as UPL Speciality Chemicals Limited) (IEC
AADCU0994M)

मूलआदेश

- यहप्रतिजिसव्यक्तिकोजारीकीजातीहै, उसकेउपयोगकेलिएनिःशुल्कदीजातीहै।
- इसआदेशकेविरुद्धअपीलसीमाशुल्कअधिनियम1962कीधारा128 (1) केतहतइसआदेशकीसंसूचनाकीतारीखसेसाठदिनोंकेभीतरसीमाशुल्कआयुक्त(अपील), जवाहरलालनेहरूसीमाशुल्कभवन, शेवा, ता. उरण, जिला- रायगढ़, महाराष्ट्र-400707कोकीजासकतीहै। अपीलदोप्रतियोंमेंहोनीचाहिएऔरसीमाशुल्क(अपील) नियमावली, 1982केअनुसारफॉर्मसी.ए. 1संलग्नकमेंकीजानीचाहिए। अपीलपरन्यायालयफीसकेरूपमें1.50रुपयेमात्रकास्टांपलगायाजायेगाऔरसाथमेंयहआदेशयाइसकीएकप्रति लगायीजायेगी। यदिइसआदेशकीप्रतिसंलग्नकीजातीहैतोइसपरन्यायालयफीसकेरूपमें1.50रुपयेकास्टांपभीलगायाजायेगाजै साकिन्यायालयफीसअधिनियम1970कीअनुसूची1, मद6केअंतर्गतनिर्धारितकियागयाहै।
- इसनिर्णययाआदेशकेविरुद्धअपीलकरनेवालाव्यक्तिअपीलअनिर्णीतरहनेतक, शुल्कयाशास्तिकेसंबंधमेंविवादहोनेपरमाँगयेशुल्कके7.5%का, अथवाकेवलशास्तिकेसंबंधमेंविवादहोनेपरशास्तिकाभुगतानकरेगा।

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, 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

1. M/s. Superform Chemistries Limited (formerly known as UPL Speciality Chemicals Limited), holding IEC No. AADCU0994M and located at Uniphos House, Madhu Park, 11th Road, Khar West, Mumbai, applied for the import of a consignment arriving from Norfolk, USA, via the vessel APL Le Havre (Voyage: OINLAE1MA). The import comprised 06 (six) filled gas cylinders containing Perfluoro Methyl Vinyl Ether (PMVE) gas, shipped under Bill of Lading No. NAM8183021 dated 09.01.2026 and Invoice No. 7621817397 dated 15.01.2026. The shipment, originating from the Chemours Fayetteville Plant, was valued at a total of USD 551,040.00. The importer sought to clear the cylinders under the provisions of the Gas Cylinders Rules, 2016, at the Jawaharlal Nehru Custom House (JNCH), Nhava Sheva, citing a PESO Import Licence No. G/HQ/MH/04/6961 (G163412) dated 09.02.2026

2. Upon arrival and subsequent verification of the import documentation, it was observed that the Importer sought clearance of the gas cylinders by producing a PESO Import Licence (Form D) No. G/HQ/MH/04/6961 (G163412) dated 09.02.2026. On technical scrutiny, the Proper Officer noted a significant chronological discrepancy: the Bill of Lading was issued on 09.01.2026, whereas the requisite PESO Licence was only granted by the Petroleum & Explosives Safety Organisation (PESO) on 09.02.2026. Consequently, the goods were shipped from the port of origin prior to the issuance of the mandatory regulatory approval.

3. This act of importing gas cylinders without a valid license in force at the time of shipment constitutes a direct contravention of Rule 29 of the Gas Cylinder Rules, 2016, which explicitly prohibits the import of any gas cylinder except under and in accordance with the conditions of a licence granted under said rules. Furthermore, the lapse signifies a breach of the provisions of the Explosives Act, 1884, and the relevant Foreign Trade Policy regulations.

4. In a written submission dated 27.02.2026, the Importer, through their authorized signatory, Mr. Vincent DMello (Deputy General Manager-Imports), formally acknowledged the statutory lapse. The Importer admitted that the cylinders were imported prior to receiving the mandated PESO approval and stated that this non-compliance was inadvertent and devoid of any mens rea or intention to evade statutory requirements. In

view of their admission, the Importer has requested a waiver of the Show Cause Notice (SCN) under Section 124 of the Customs Act, 1962, and has further waived their right to a Personal Hearing.

5. The matter was placed before the competent authority, where it was observed that while the Importer has now produced a valid license post-facto, the initial import remains a violation of the law. The importer also submitted documentation indicating a value of USD 900 per cylinder, totaling USD 5,400 for six cylinders, as supported by letters from the supplier.

6. Departmental Verification and Identification of Discrepancies

Upon departmental verification, it is identified that a significant statutory discrepancy wherein M/s. Superform Chemistries Limited shipped 06 gas cylinders from the port of loading on 09.01.2026, as evidenced by Bill of Lading No. NAM8183021, which predates the issuance of the mandatory PESO Import Licence (No. G/HQ/MH/04/6961) granted only on 09.02.2026. Technical scrutiny confirmed that this chronological mismatch constitutes a direct violation of Rule 29 of the Gas Cylinder Rules, 2016, which mandates that a valid license must be obtained prior to the actual import of filled cylinders.

7. Subsequent Submissions by the Importer

M/s. Superform Chemistries Limited made several critical submissions to the Customs authorities to facilitate the landing and clearance of their consignment. Initially, the importer submitted a formal request on February 16, 2026, seeking permission for the landing of 06 gas cylinders under Rule 32 of the Gas Cylinder Rules, 2016, identifying the cargo as Perfluoro Methyl Vinyl Ether (PMVE) gas. Along with this request, they provided a comprehensive set of shipping and regulatory documents, including Bill of Lading No. NAM8183021 dated January 9, 2026, Invoice No. 7621817397 dated January 15, 2026, and a PESO Import Licence (Form D) No. G/HQ/MH/04/6961 dated February 9, 2026. However, upon departmental observation of a chronological discrepancy—specifically that the shipment was initiated a full month before the license was granted—the importer provided a subsequent formal submission on February 27, 2026. In this final letter, they explicitly acknowledged the statutory lapse, admitting that the cylinders were imported without obtaining the mandated PESO permission prior to shipment, which constitutes a non-compliance under the Explosives Act, 1884. To expedite the resolution of the case, the importer declared the error as inadvertent and formally requested a waiver of the Show Cause Notice (SCN) and the right to a personal hearing, committing to full statutory compliance in the future.

8. LEGAL PROVISIONS

A. Relevant Provisions of Gas Cylinder Rules, 2016 are produced below:

29. License for import of gas cylinders. -

(1) No person shall import any gas cylinders filled or intended to be filled with any compressed gas except under and in accordance with the conditions of a licence granted under these rules and the relevant provisions of Foreign Trade (Development and Regulations) Act, 1992 (22 of 1992).

31. Production of licence for import.-

Every person desiring to import cylinder filled with any compressed gas or intended to be so filled, valve and LPG regulator shall produce personally or through his agent, before the commissioner of Customs his license for the import of such gas cylinder, valve or LPG regulator, as the case may be.

32. Permission of the Commissioner of Customs.-

(1) No Imported cylinder, valve and LPG regulator shall be landed except with the permission of the Commissioner of Customs.

(2) If the Commissioner of Customs is satisfied that the gas cylinder, valve and LPG regulator can lawfully be imported, the shall permit it to be landed.

(3) Nothing in this rule shall affect the power of the commissioner of customs to detain the gas Cylinder, valve and LPG regulator under any other law for the time being in force

B. The Relevant legal provisions of the Customs Act 1962 are reproduced here for the sake of brevity:-

Relevant provisions of law relating to import of goods in general, the policy and rules relating to the import of impugned goods and liability of the persons concerned to penalty for improper/illegal imports, under the provisions of Customs Act, 1962 and any other laws for the time being in force, are summarized as below: -

(i) Section 17 of the Customs Act, 1962-(1) 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.

(2) The proper officer may verify the entries made under section 46 or section 50 and the self- assessment of goods referred to in sub-section (1)

and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

(3) the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

(ii) Section 46(4A) of the Customs Act, 1962-

The importer who presents a bill of entry 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.*

(iii) Section 111 of the Customs Act, 1962-

Confiscation of improperly imported goods, etc

The following goods brought from a place outside India shall be liable to confiscation:

.....

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54

(iv) Section 112 of the Customs Act, 1962 -

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 1 [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.

(v) Section 125(1) of the Customs Act, 1962-

Whenever confiscation of any goods is authorised by this act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit.

(vi) Section 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.

C. As per rule 32 of Gas Cylinder Rules, 2016 importer was required to obtain landing permission before the landing of the said goods. However in the instant case importer did not obtain landing permission before arrival of goods as per Rule 32 of Gas Cylinder Rules, 2016.

D. In view of the above, it appeared that the imported goods are liable for confiscation under Section 111 (d) of the Customs Act, 1962. Further, for the acts of omission and commission including landing of said goods without obtaining permission from Commissioner of Customs, as per Rule 32 of Gas Cylinder Rules, 2016, the importer appears to be liable for penalty under Section 112 (a) of the Customs Act, 1962.

9. DISCUSSIONS AND FINDINGS

a. I find that the paragraphs detailed in the case history constitute the established facts of the matter, and I therefore refrain from reproducing them here. I have carefully examined the case records and the written submissions made by the importer, M/s. Superform Chemistries Limited. I find that the importer was provided the opportunity to present their case and chose to waive the requirement for a formal Show Cause Notice (SCN) and a Personal Hearing *via* their letter dated 27.02.2026. This waiver was requested to expedite the adjudication process following their admission of the statutory lapse.

b. Upon an exhaustive review of the documentation, I find that the PESO Import Licence submitted by the importer was not valid at the time of the reckoning of import. Specifically, the importer relied upon PESO License No. G/HQ/MH/04/6961 (G163412) dated 09.02.2026. However, the shipment of the 06 gas cylinders was initiated from the port of loading on 09.01.2026, as evidenced by Bill of Lading No. NAM8183021.

c. I find that the license produced by the importer was obtained well after the date of reckoning of import. Regarding the validity of the license at the time of shipment, it is relevant to note the established legal provisions which dictate that the relevant date for determining the validity of an authorization is the date of shipment/dispatch from the supplying country:

I. Date of Reckoning: The date of reckoning of import is decided with reference to the date of shipment (09.01.2026) and not the date of arrival at the Indian port (14.02.2026).

II. Validity: Authorizations must be valid on the date of shipment to be considered compliant with Rule 29 of the Gas Cylinder Rules, 2016.

d. The importer obtained the PESO License on 09.02.2026, which is exactly one month after the date of reckoning of import on 09.01.2026. As this certificate post-dates the date of shipment, the 06 gas cylinders (Serial Nos: 6013, 6019, 6022, 6048, 6050, 6052) cannot be considered to have been imported against a valid PESO license at the time of dispatch.

e. I find that by failing to obtain the required PESO coverage before the date of reckoning of import, the importer has violated the provisions of the Explosives Act, 1884, and the Gas Cylinder Rules, 2016. These acts of omission have rendered the impugned goods liable for confiscation under Section 111(d) of the Customs Act, 1962, and the importer has rendered themselves liable for penalty under Section 112(a) of the same Act.

f. However, as a post-facto certificate from the Petroleum & Explosives Safety Organisation (PESO) has now been produced (dated 09.02.2026) and the importer has demonstrated a willingness to comply with the statutory conditions by acknowledging the

lapse, the goods may be released for home consumption upon payment of an appropriate redemption fine and penalty.

g. Regarding the liability for penal action, I find that the importer failed to discharge their responsibility to ensure that the mandatory import license was in place prior to the shipment of the hazardous cargo. While the importer attributed the discrepancy to an inadvertent lapse, the responsibility for ensuring accurate and timely compliance with licensing requirements under the Customs Act, 1962, rests solely with the importer. Therefore, I hold that the importer has failed to perform their statutory obligations, rendering the goods liable to confiscation and themselves liable for a penalty.

ORDER

10. In view of the above, I pass the following order:

(a) I hereby order for the confiscation of 06 (six) filled gas cylinders (Serial Nos: 6013, 6019, 6022, 6048, 6050, 6052) imported via Bill of Lading No. NAM8183021 dated 09.01.2026, having a declared empty cylinder value of USD 5,400 (USD 900 per cylinder) approximately Rs. 4,97,232 /-, under Section 111(d) of the Customs Act, 1962. This order is based on the unauthorized import of said cylinders without a valid PESO license in force at the time of the reckoning of import. However, I give an option to the importer, M/s. Superform Chemistries Limited, to redeem the said goods on payment of a redemption fine of Rs.50,000/- (Rupees Fifty thousand Only) under Section 125(1) of the Customs Act, 1962.

(b) I impose a penalty of Rs. 25,000/- (Rupees Twenty five thousand Only) under Section 112(a) of the Customs Act, 1962 on the Importer for the aforementioned statutory contraventions.

(c) The importer is also liable to pay applicable duty and charges, if any, in terms of Section 125(2) of the Customs Act, 1962, in addition to the redemption fine and penalty imposed above.

11. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.


9/3/24
(Likhita V. Umare)

Deputy Commissioner of Customs,
Group II (A-B), NS-I, JNCH

To,

M/s. SUPERFORM CHEMISTRIES LIMITED
(formerly known as UPL Speciality Chemicals Limited)
Uniphos House, Madhu Park, C.D. Marg,
11th Road, Khar West,
Mumbai – 400 052, Maharashtra, India.

Copy to:

1. The Deputy/Assistant Commissioner of Customs, CAC, JNCH.
2. The Deputy Commissioner of Customs (Review Cell), JNCH.
3. The Deputy Commissioner of Customs, EDI, JNCH
4. Office Copy.