
 सत्यमेव जयते	<p style="text-align: center;">भारतसरकार/ Government of India वित्तमंत्रालय / Ministry of Finance आयुक्त सीमाशुल्क एन.एस.-II कार्यालय Office of Commissioner of Customs NS-II Jawaharlal Nehru Custom House, Nhava Sheva, Dist- Raigad, Maharashtra – 400 707</p>	
---	--	---

F. No. CUS/LIC/MEIS/19/2025 NS-II**Date of Order: 18-08-2025****SCN NO. 517/2025-26/AC/LIC/NS-II/CAC/JNCH****Date of Issue: 18.08.2025****Order Passed by: : अश्विनी प्रदीप राणे****Ashwini Pradeep Rane****सहायकआयुक्त****Asst. Commissioner of Customs,****License Section (NS-II), JNCH, NHAVA SHEVA****O-IN-O No: 736/2025-26/AC/LIC/NS-II/JNCH****M/s Suyaash Pharmaceuticals (IEC-5297000033).****DIN : 20250878NT000099509F****मूलआदेश**

१. यह प्रति उस व्यक्ति के प्रयोग में लाये जाने के लिए निःशुल्क दी जाती है जिसे यह जारी किया गया है।
२. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128(1) के तहत आदेश की संसूचना की तारीख से साठ दिन के भीतर ऐसे मामले जहां शुल्क या शुल्क और जुर्माना विवादित हैं या जुर्माना जहां सिर्फ जुर्माना ही विवादित है, की 7.5% राशि अदा करने पर सीमाशुल्क आयुक्त अपील (जवाहर लाल नेहरू सीमाशुल्क भवन, न्हावाशेवा, उरण, रायगढ़ के समक्ष की जा सकती है।
३. अपील सीमाशुल्क (अपील) नियम 1982 में प्रदर्शित फॉर्म सी.ए.-I में दो प्रति में की जानी चाहिए। अपील रुपये 1.50 /-के न्यायालय फीस स्टाम्पत था इस आदेश या आदेश की प्रति के साथ संलग्न होनी चाहिए। यदि आदेश की प्रति संलग्न की जाती है तो इसमें भी न्यायालय फीस अधिनियम 1970 की अनुसूची 1 में प्रदर्शित रुपये 1.50/- की न्यायालय फीस स्टाम्प भी होना चाहिए।
४. जो व्यक्ति इस निर्णय या आदेश के विरुद्ध अपील कर रहा है वह अपील लंबित रहते, अपील सीमाशुल्क अधिनियम 1962 की धारा 129E के उपबंधों के अंतर्गत पैरा 2 के अनुसार धनराशि जमा कराएगा तथा अपील के समय उन भुगतान का प्रमाण प्रस्तुत करेगा, जिसके अनुपालन न किए जाने पर सीमाशुल्क अधिनियम 1962 की धारा 128(1) के उपबंधों के अधीन अपील अस्वीकार कर दी जाएगी।

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 shall lie before the Commissioner of Customs (Appeals), Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad under Section 128(1) of the Customs Act, 1962 within Sixty days from the date of communication of this

order and on 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.

3. The appeal should be in duplicate and should be filed in Form CA – 1 appeared in Custom (Appeals) Rule, 1982. The appeal should bear a court fee stamp of Rs. 1.50 paise paid 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 paise only as prescribed under Schedule 1, item 6 of the Court Fees Act, 1970.
4. Any person appealing against this decision or order shall, pending the appeal, deposit the amount as per Para 2 above under Section 129E of the Customs Act, 1962 and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for noncompliance with the provisions of Section 128(1) of the Customs Act, 1962.

Sub: Adjudication of Show Cause Notice No. SCN NO. 517/2025-26/AC/LIC/NS-II/CAC/JNCH dtd. 24.07.2025 issued to M/s Suyaash Pharmaceuticals (IEC–5297000033).

BRIEF FACT OF THE CASE

An Alert Circular No. 07/2021 dated 26.07.2021 was issued by NCTC on the above mentioned subject wherein NCTC has observed that some of the Exporters have availed wrong MEIS benefit @3% of FOB value by mis-classifying the goods under CTH 29420090 instead of correct CTH 2901 to 2941 where MEIS benefit was @2% of FOB value. Accordingly, an Audit was conducted to verify correct CTH of respective goods and found that **M/s Suyaash Pharmaceuticals (IEC–5297000033), having address at 216/6, Village- Khandh, Taluka Chikhli Navsari, Gujarat-396445** (hereinafter referred to as the “Exporter”) was engaged in the export of goods declared as “**Meloxicam**” “**Aceclofenac**” and “**Diclofenac Sodium**” (hereinafter referred to as ‘the said goods’), classifying the goods under CTH 29420090 of the first schedule of the Customs Tariff Act, 1975 which covers “Other organic compounds; other;” and claimed MEIS benefit @ 3% of FOB value.

2. During the post clearance audit, export data of the exporter were scrutinized and it was noticed that the exporter had filed Shipping Bills as mentioned in Annexure-A to this notice and exported the goods “**Meloxicam**” “**Aceclofenac**” and “**Diclofenac Sodium**” classifying the goods under CTH 29420090. However, the said goods appear to be correctly classifiable under CTH 29341000, 29224990 and 29224990 respectively.

For ease of reference, the relevant headings, are reproduced below:

Sr. No.	CTH	Description of the goods as per first Schedule to the Customs Tariff Act, 1975.
1	29420090	Other Organic Compound (Not Classified Elsewhere); Other; Other
2.	29341000	Nucleic Acids And Their Salts; Whether Or Not Chemically Defined; Other Heterocyclic Compounds
3.	29224990	Oxygen-function amino-compounds. -Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof

3 . Classification of the exported goods: For better understanding of the above tariff headings, explanatory notes to the relevant chapter heading are provided as under.

A) Custom Tariff Heading 2942 is reproduced as under:

2942 Other Organic Compound (Not classified elsewhere)

This heading covers separate chemically defined organic compounds not classified elsewhere.

(1) Ketenes*. Like ketones, these are characterized by a carbonyl group ($>C=O$) but it is linked to the neighboring carbon atom by a double bond (e.g., ketene, diphenyl ketene). This heading however excludes diketene which is a lactone of heading 29.32.

(2) Boron trifluoride complexes with acetic acid, diethyl ether or phenol*.

(3) Di thymol di-iodide.

294200 - Other organic compound:

--- Cefadroxil & its salts, Ibuprofen, Diazepam, Nifedipine, Ranitidine, Danes salt of D (-) Phenyl Glycine, D(-) para hydroxyl Dane's Salts:

29420090--- Other

B) Custom Tariff Heading 2922 is reproduced as under:

29.22-Oxygen-function amino-compounds. -Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof:

2922.11 -- Monoethanolamine and its salts

2922.12 -- Diethanolamine and its salts

2922.14 -- Dextropropoxyphene (INN) and its salts

2922.15 -- Triethanolamine

2922.16 -- Diethanolammoninmperfluorooctane sulphonate

2922.17 -- Methyldiethanolamine and ethyldiethanolamine

2922.18 -- 2-(N,N-Diisopropylamino)ethanol

2922.19 -- Other

2922.41 -- Lysine and its esters; salts thereof

2922.42 -- Glutamic acid and its salts

2922.43 -- Anthranilic acid and its salts

2922.44 -- Tilidine (INN) and its salts

2922.49 -- Other

C) Custom Tariff Heading 2934 is reproduced as under:

Nucleic acids and their salts; whether or not chemically defined; other heterocyclic compounds

29341000-Compounds containing an unfused thiazole ring (whether or not hydrogenated) in the structure

Classification of above goods;

- I. **MELOXICAM (29341000):** - Meloxicam is organic compound. it contains a thiazole ring in its structure, but it is a partially hydrogenated thiazole ring. The thiazole ring in meloxicam is partially hydrogenated, meaning that some of the double bonds in the ring have been reduced with hydrogen atoms. Here thiazole ring refers to a five-membered ring structure composed of three carbon atoms, one nitrogen atom, and one sulfur atom. It is a type of heterocyclic compound, meaning it

contains atoms other than carbon in its ring structure. Thiazole is part of a larger family of compounds known as azoles. Chemical formula of meloxicam is $C_{14}H_{13}N_3O_4S_2$. Its IUPAC name is 4-(5-methyl-2-benzothiazine-3-carboxamide-1,1-dioxide). Accordingly, the same appears to be correctly classifiable under CTH 29341000.

- II. **ACECLOFENAC (29224990)**: -Aceclofenac belongs to the class of organic compounds known as phenylacetic acids. It is a derivative of diclofenac. Chemical formula of this item is $C_{16}H_{13}Cl_2NO_4$. In this structure, amide functional group (NH_2) as well as oxygen atoms (O) presents within the molecule. Aceclofenac is classified as an oxygen-functional amino compound due to the presence of these functional groups. It contains an oxygen function within its amino compound ($-NH_2$) structure. This oxygen function is part of the amide linkage in aceclofenac chemical structure. The IUPAC name of Aceclofenac is 2-[(2,6-dichlorophenyl)amino] phenylacetoxyacetic acid. Accordingly, the same appears to be correctly classifiable under CTH 29224990.
- III. **DICLOFENAC SODIUM (29224990)**: - The chemical formula of diclofenac sodium is $C_{14}H_{10}Cl_2NNaO_2$. Diclofenac sodium, which contains an amino group ($-NH_2$) within its chemical structure. Additionally, it includes oxygen-containing functional groups as well. Its formula indicating the presence of carbon (C), hydrogen (H), chlorine (Cl), nitrogen (N), and oxygen (O) atoms, as well as an amino function in the form of an amino group (NH_2). Diclofenac is a monocarboxylic acid consisting of phenylacetic acid having a (2,6-dichlorophenyl) amino group at the 2-position. It is a secondary amino acid compound. Diclofenac sodium contains oxygen in its chemical structure. The chemical structure of diclofenac includes oxygen atom in various functional groups, such as carboxylic acid ($-COOH$) and phenylacetic acid moieties. Accordingly, the same appears to be correctly classifiable under CTH 29224990.

Further, from above it is evident that only those organic compounds which are not specified elsewhere can be classified under heading 2942. In the present case, as per chapter notes as discussed supra, the exported items, i.e. **“Meloxicam” “Aceclofenac” and “Diclofenac Sodium”** would be out of the scope of Tariff Heading 2942 as claimed by the exporter and appears to correctly classifiable under CTH 29341000, 29224990 and 29224990 respectively which attracts MEIS @ 2% instead of 3% as claimed by the exporter

4. EXPORT INCENTIVES UNDER DUTY CREDIT SCRIPS-MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS): -

4.1 In terms of Chapter 3 of the Foreign Trade Policy (FTP) 2015-2020 exporters are issued duty credit scrips under two schemes for exports of Merchandise and Services namely (i) Merchandise Exports from India Scheme (MEIS) & (ii) Service Exports from India Scheme (SEIS) with an objective to provide rewards to the exporter to offset infrastructural inefficiencies and associated costs involved in export of goods/ products, which are produced/ manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

4.2 The Merchandise Exports from India Scheme (MEIS) provides benefits to exports of notified goods with the ITC (HS) code made to the notified markets, listed under Appendix 3B of the Hand book of Procedures (HBoP) in the form of Duty Credit Scrips. Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise]. The basis of calculation of reward would be FOB value of exports realized in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in free foreign

exchange, whichever is less, unless otherwise specified.

4.3 Directorate General of Foreign Trade (DGFT), Ministry of Commerce vide Public Notice No. 61/2015-20 dated 07.03.2017 re-notifies the MEIS Schedule Appendix 3B (Table-2) harmonizing MEIS Schedule with ITC(HS), 2017. The MEIS entitlement as per Public Notice No. 61/2015-20 dated 07.03.2017 as amended, on the products classifiable under relevant HS Codes as per table-2 is as under:

Table-2

Sr No.	ITC (HS) Code 2017 (Eight Digit)	Descriptions of goods as per ITC(HS) 2017	MEIS No.	Sr. MEIS Reward Rate (In %)
1.	29420090	Other	1633	3%
2.	29341000	Other	1539	2%
3.	29224990	Other	1428	2%

5. It appeared that the said exporter had not made correct and truthful declaration of the material facts in their shipping bills by misclassifying their goods and thereby claimed undue MEIS benefits @3%, instead of applicable 2%, amounting to **Rs. 3025/- (Rupees Three Thousand and Twenty-Five Only)** which were utilized for payment of customs duty towards the imports by them. As advised vide C.L. No. 225/2023- 24/JNCH (A1) dt. 03.05.2023.

6. **M/s Suyaash Pharmaceuticals** had contravened the provisions of Section 50(2) of the Customs Act, 1962 by wilfully mis-declaring/misclassifying their export goods and intentionally claimed undue MEIS benefit which resulted in loss of government revenue of **Rs. 3025/- (Rupees Three Thousand and Twenty-Five Only)**. On culmination of the investigation, the subject show cause notice was issued to **M/s Suyaash Pharmaceuticals**, calling upon them to show cause as to why:

(i) The declared classification of the subject goods i.e. **“Meloxicam” “Aceclofenac” and “Diclofenac Sodium”** in the said shipping bills should not be rejected and re-classified under CTH 29341000, 29224990 and 29224990 respectively and the said shipping bills should not be re-assessed.

(ii) The impugned exported goods should not be confiscated under Section 113(i) of Customs Act, 1962.

(iii) MEIS benefits amounting to **Rs. 3025/- (Rupees Three Thousand and Twenty-Five Only)** should not be recovered under Section 28(4) read with Section 28AAA of the

Customs Act, 1962 along with applicable interest under Section 28AA of the Customs Act, 1962.

(iv) Penalty should not be imposed upon them under Sections 114(iii), 114AA & 114AB of the Customs Act, 1962.

7 . **M/s Suyaash Pharmaceuticals**, vide their mail dated 04.08.2025, informed that they had paid a sum of Rs. 5,700/- vide e-Challan No. 2166568446 dated 02.08.2025 towards duty Rs.3,025/- along with interest Rs.2,221/- and Rs. 454/- towards Penalty @ 15% on the duty i.e. within 30 days of issuance of SCN (issued on 24.07.2025) and submitted challan copy as proof of payment.

8. I find that the Noticee had paid a sum of Rs. 5,700/- vide e-Challan No. 2166568446 dated 02.08.2025 towards duty Rs.3,025/- along with interest Rs.2,221/- and Rs. 454/- towards Penalty @ 15% on the duty i.e. within 30 days of issuance of SCN (issued on 24.07.2025).

9 . **M/s Suyaash Pharmaceuticals**, vide their mail dated 04.08.2025, stated that they do not wish to appear for personal hearing and requested for closure of the matter. In this regard, I find that 28(6) of the Customs Act, 1962, reads as under:

Section 28(6): *“Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-*

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) ...

9.1 Further, as per section 28(5) of the Customs Act, 1962, the noticee may pay the duty in full or in part, as may be accepted by him, alongwith interest under section 28AA and penalty equal to 15% of the duty specified in the notice, within 30 days of the receipt of the notice. I find that the Noticee had paid a sum of Rs. 5,700/- vide e-Challan No. 2166568446 dated 02.08.2025 towards duty Rs.3,025/- along with interest Rs.2,221/- and Rs. 454/- towards Penalty @ 15% on the duty i.e. within 30 days of issuance of SCN (issued on 24.07.2025).

9.2 With regard to payment of interest under Section 28AA of the Customs Act, 1962,

sub-Section 2 of Section 28AAA(2), provides that *“Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28AA and the amount of such interest shall be calculated for the period beginning from the date of utilisation of the instrument till the date of recovery of such duty.”*.

I find that the noticee had paid the applicable interest on the duty amount mentioned in SCN.

9.3. I find that the Noticee had paid a sum of Rs. 5,700/- vide e-Challan No. 2166568446 dated 02.08.2025 towards duty Rs.3,025/- along with interest Rs.2,221/- and Rs. 454/- towards Penalty @ 15% on the duty i.e. within 30 days of issuance of SCN (issued on 24.07.2025). Hence, I hold that the proviso of Section 28(6) of the Customs Act, 1962 is squarely applicable in the instant matter and the matter shall be deemed as concluded.

10. I find that the SCN proposes for confiscation of the impugned goods under section 113(i) of the Customs Act, 1962. In this regard, from the facts discussed in the SCN and case records, it is established that the noticee had mis-classified their export goods and availed inadmissible MEIS benefits. Therefore, I hold that the impugned good are liable to confiscation under section 113(i) of the Customs Act, 1962.

11. However, with regard to imposition of redemption fine under section 125 of the Customs Act, 1962, I have gone through Section 125, of the Customs Act which provides for option to pay fine in lieu of confiscation Section 125 of Customs Act reads as-

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, where such owner is not known, 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:

Provided that where the proceedings are deemed to be concluded under proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of goods which are not prohibited or restricted, no such fine shall be imposed.

12. Since the matter is being concluded in terms of sub-section (6) of section 28 of the Customs Act, 1962, I find that the law provides that no fine, in lieu of confiscation of the goods, is imposable under section 125 of the Customs Act, 1962.

13. In view of the above discussion and findings, I pass the following order:

ORDER

- (i) I order conclusion of the proceeding in respect of the subject Show Cause Notice No. 517/2025-26/AC/LIC/NS-II/CAC/JNCH dtd. 24.07.2025 against **M/s Suyaash Pharmaceuticals**, in terms of sub section (6) of section 28 of the Customs Act 1962.
- (ii) I order to appropriate recovery made by way of voluntary payment by **M/s Suyaash Pharmaceuticals** against the duty, interest and penalty.

14. This order is issued without prejudice to any other action that may be initiated against the noticee or any other person under the provisions of the Customs Act, 1962 or any other law for the time being in force in the Republic of India.

(Ashwini P. Rane)

Asst. Commissioner of Customs
NS-II, JNCH, Nhava Sheva.

To,

**M/s Suyaash Pharmaceuticals (IEC-5297000033),
216/6, Village- Khandh, Taluka Chikhli
Navsari, Gujarat-396445**

Copy to :

1. The Addittional Commissioner of Customs, NS-II, JNCH, Zone-II.
2. The Addl. Director General of Foreign Trade, CGO Office, Churchgate, Mumbai-400020.
3. The Asst./Deputy Commissioner of Customs, Audit, JNCH.
4. The Asst./Deputy Commissioner of Customs, CRRC, JNCH.
5. The Asst./Deputy Commissioner of Customs, Review Cell
6. The Dy./Asstt. Commissioner of Customs, EDI, JNCH
7. IRMC-Investigation Report Monitoring Cell, NS-II
8. CHS Section for display on notice board.
9. Office Copy

-