



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंजिल 4th Floor, हड्डों भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad - 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20251071MN000000FC10

क्र	फ़ाइल संख्या FILE NO.	S/49-178/CUS/MUN/JUL/2025-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-361-25-26
ग	पारितकर्ता PASSED BY	Shri AMIT GUPTA Commissioner of Customs (Appeals), Ahmedabad
	दिनांक DATE	16.10.2025
	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original No. MCH/ADC/AKM/80/2025-26 dated 06.06.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	16.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Yogi Intermediates Pvt Ltd., Plot No. 2805, Phase III, GIDC Industrial Estate, Panoli, Dist:- Bharuch, Gujarat-394116



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित व्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी।
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए।
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां, यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the



	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.				
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं				
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :				
	<table border="0"> <tr> <td style="vertical-align: top;">सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td style="vertical-align: top;">Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td style="vertical-align: top;">दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td style="vertical-align: top;">2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	<p>सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-</p> <p>Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -</p> <p>(क) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रुपए.</p> <p>(a) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;</p> <p>(ख) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रुपए</p> <p>(b) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;</p> <p>(ग) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रुपए.</p> <p>where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees</p> <p>इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।</p> <p>(d) An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty alone is in dispute.</p>				
6.	<p>उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.</p> <p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



ORDER-IN-APPEAL

The present appeal has been filed by M/s. Yogi Intermediates Pvt Ltd. ,Plot No. 2805,Phase III, GIDC Industrial Estate, Panoli, Dist:- Bharuch, Gujarat-394116 (hereinafter referred to as the 'appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original No. MCH/ADC/AKM/80/2025-26 dated 06.06.2025 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs, Custom House, Mundra (hereinafter referred to as the 'adjudicating authority').

2. Facts of the case, in brief, are that the appellant had filed Shipping Bill No. 2015467 dated 21.05.2025 for export of goods declared as "N-PROPYL BROMIDE" under CTH 29039990 . During the assessment, it was observed that the item declared as "N-PROPYL BROMIDE" with quantity of 52,000 KGS was found to be a chemical that falls under prohibited/restricted export policy requiring specific authorization.

2.1 Further, the shipment was marked for examination and during the examination carried out on 30.05.2025, the goods found to be as declared are as follows:

Sr. No.	Shipping Bill No. & Date	Description of Goods	FOB Value(Rs.)	Export Policy	Docks Remarks	Examination	Stamp
1	2015467 dtd. 21.05.2025	N-Propyl Bromide	1,26,60,956/-	Prohibited	Visually inspected Container Nos. under the supervision of Supdt. (DE)		Customs (अधिकार), सीमा शुल्क मन्दिर, मुंद्रा

2.2 As per Notification No. 60/2023 dated 13.02.2024 issued by the Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade, regarding the notification of 'Indian Trade Classification (Harmonised System) of Export Items, 2023' [Chapter 01-39 of Schedule 2, Export Policy of ITC (HS), 2023], certain chemicals may be subject to export restriction or require specific authorizations depending on the destination



country.

2.3 Further, as per Trade Notice No. 22/2024-25 dated 14th November 2024 issued by DGFT regarding "Harmonisation of Schedule-II (Export Policy), ITC(HS) 2022", it has been clarified that certain chemical substances under CTH 29039990 are restricted for export

2.4 As per the Foreign Trade Policy and ITC(HS) Classification, N-Propyl Bromide under CTH 29039990 is classified as a restricted item for export. The export of such chemicals requires proper authorization and compliance with applicable regulations.

2.5 From verification of records and applicable trade notices, it is observed that N-Propyl Bromide under CTH 29039990 falls under the category of "Brominated or iodinated derivatives of acyclic hydrocarbons" which are regulated under the Montreal Protocol on substances that deplete the Ozone Layer. Since China is a signatory to the Montreal Protocol, the export of N-Propyl Bromide to China falls under the "Restricted" category and requires specific export authorization/license issued by DGFT as per the policy conditions specified in the notifications. In the present case, the export of N-Propyl Bromide had been made to China without obtaining the required export license from DGFT.

2.6 In view of the above, if goods are restricted or regulated for import or export, they are prohibited goods even if there is no complete prohibition and in the instant case the exported goods are restricted as per export policy and the exporter does not hold a license issued by DGFT; thus, the impugned goods are prohibited goods. Being prohibited goods, they are liable for confiscation under Section 113(d) and (i) of the Customs Act, 1962. Furthermore, for rendering the goods liable for confiscation, the exporter has also rendered themselves liable for penal action under Section 114(i) of the Customs Act, 1962.

2.5 The appellant vide their letter dtd. 30.05.2025 requested to waive issuance of any Show Cause Notice and personal hearing and requested for permission to back to town. The adjudicating authority vide the impugned order, ordered as under:



(i) He ordered for confiscation of the impugned goods (52,000 KGS) N-Propyl Bromide under CTH-29039990 valued at Rs. 1,26,60,956/- attempted to be exported vide Shipping Bill No. 2015467 dated 21.05.2025, under Section 113(d) & 113(i) of the Customs Act, 1962. However, he gave the option to the exporter to redeem the same for Back to Town against payment of a Redemption Fine of Rs. 10,00,000/- under section 125 of the Customs Act, 1962.

(ii) He imposed a penalty of Rs. 5,00,000/- on the appellant under Section 114(i) of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeals wherein they have submitted grounds which are as under:-

3.1 The impugned Order has been passed without dealing with any of the submissions/explanations put forth by the Appellant in its reply dated 29.05.2025 and 30.05.2025. None of the said submissions have been dealt with or addressed by the Respondent. The impugned order is therefore a non-reasoned/non-speaking order and is required to be set aside on this ground alone.

3.2 Even though the Appellant had, vide its letter dated 29.05.2025, specifically referred to the email from the Ozone Secretariat of the UN Environment Programme and Chemexcil, the Respondent did not provide any reasons as to why the stipulations contained in the said emails were not applicable to the present facts or why the said emails could not be followed by the Revenue inspite of the fact that the same categorically stated that the goods sought to be exported by the Appellant were not covered in the Montreal Protocol and therefore were not restricted goods.

3.3 The Respondent has failed to consider the settled law laid down by a host of judgments including but not limited to **Assistant Commr., Comm.Tax Department, Vs. Shukla Brothers, 2011 (22) S.T.R. 105 (S.C)** and **Assistant Comm. Tax Officer Vs. Rijhumal Jivandas, 2010-TIOL-30-SC-CT**, wherein it has been held that not giving reasons amounts to violation of principles of



natural justice and such orders cannot be sustained as having been passed without any application of mind. The abovementioned submissions and emails produced by the Appellant had a direct bearing on the case at hand and go to the root of the issue. Non-consideration or failure to deal with the same is a violation of the basic principles of natural justice and consequently, the impugned order is liable to be set aside on this ground alone.

3.4 The Respondent has failed to appreciate that even though the Appellant had requested the Respondent to waive the personal hearing and the issuance of the show cause notice, he ought to have followed the procedure under Section 124 of the Act.

3.5 That the Respondent ought to have considered the Appellant's submissions dated 29.05.2025 and 30.05.2025 that the stand of the Appellant was that the goods sought to be exported by it was not included in the Montreal Protocol and consequently, it was not required to obtain the licence from DGFT for the export thereof. The Respondent was, however, of a different opinion compared to that of the Appellant. Since there was a fundamental divergence in the stand of the Appellant and the Respondent, the Respondent ought to have followed the procedure laid down under Section 124 of the Act, which was couched in mandatory terms. In other words, the Respondent could not have bypassed the said provision. Having done so, the entirety of the proceedings is in violation of principles of natural justice. Reliance is placed upon the judgment of the Hon'ble Madras High Court in **Salmag Enterprises v. Addl. Commissioner of Customs, 2021 (378) ELT 415 (Mad.)** for the same. Even for this reason, the impugned order is bad in law and ought to be set aside.



3.6 The Respondent has failed to appreciate that the Appellant had neither violated the Montreal Protocol or the Notifications issued by the DGFT from time to time inasmuch as the goods sought to be exported by the Appellant did not require a licence for the export thereof.

3.7 The Respondent has failed to consider the email dated 26.05.2025 of the Programme Officer in the Ozone Secretariat of the UN Environment Programme and the email dated 26.05.2025 of Chemexcil to the effect that the goods sought to be exported by the Appellant were not covered under the Montreal Protocol. As a result, the Respondent ought to have appreciated that the said goods did not require a licence from the DGFT for the export thereof.

3.8 That in any case, if the Respondent was of the view or opinion that the goods in question were restricted for export in terms of the Notifications issued by the DGFT, the onus was upon the Respondent to get a clarification from the DGFT regarding the interpretation of the said Notifications. The Respondent could not have, by himself, interpreted the Notifications issued by the DGFT and it was the DGFT who ought to have interpreted the same after the Respondent would have referred the issue to the DGFT. This having not been done, the proceedings initiated against the Appellant are bad in law and without jurisdiction. Reliance is placed upon the judgment of the Hon'ble Madras High Court in **Salmag Enterprises** (supra) for the same.

3.9 That since the Respondent had not followed the aforementioned procedure of referring the issue to the DGFT, the Appellant was, as a matter of abundant caution, constrained to file an application before the DGFT. The DGFT, vide its decision dated 19.06.2025, have issued the authorization to export the goods freely without any restriction or condition which evidently clarifies that the export product is neither restricted nor prohibited. Had the Respondent followed this procedure, considering that the onus to do the same lied with him, it would have been clear that no licence was required to be obtained from the DGFT for the export of the said goods..

3.10 The Respondent ought to have appreciated that the Appellant was a regular exporter of the said goods, which is evident from the Shipping Bills filed by it from time to time. Such exports were never objected to by the Customs Department at any point in time, which also points to the fact that no licence was ever required to be obtained by the DGFT in terms of Montreal Protocol read with the Notifications issued by it. The said goods were neither prohibited nor restricted goods.



3.11 The Respondent has, in paras 13.1 to 13.7 of the impugned order, erred in holding that since the goods were restricted and were sought to be exported without a licence from DGFT in terms of the notifications issued by it, the same were liable for confiscation under Section 113(d) and Section 113(i) of the Act.

3.12 The Respondent ought to have appreciated that the goods could not have been held liable for confiscation since it was evident from the emails of the Ozone Secretariat of the UN Environment Programme and Chemexcil that the goods

sought to be exported were not covered under the Montreal Protocol and consequently, no licence was required to be obtained from the DGFT for the export thereof. Had the Respondent taken the said emails into consideration, it would have been clear that the goods were not restricted and consequently, were not liable for confiscation under Section 113 of the Act.

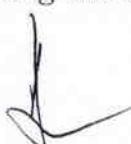
3.13 That the issue as to whether the goods were liable for confiscation or not was a non-issue and was completely inconsequential inasmuch as the authority which monitors the depletion of the ozone layer, i.e. the Ozone Secretariat of the United Nations Environment Programme had himself certified that the goods sought to be exported by the Appellant was not included in the Montreal Protocol.

3.14 This is also evident from the fact that the MoEF & CC has also, vide its Office Memorandum dated 10.06.2025, clearly stated that the goods sought to be exported by the Appellant did not fall under the category of Ozone Depleting Substances or Hydrofluorocarbons and the comments of the Ozone Cell of the MoEF & CC may be treated as nil.

3.15 The Respondent has failed to appreciate that as explained above, the goods sought to be exported were not liable for confiscation under Section 113(d) of the Act, considering that they were not attempted to be exported contrary to a prohibition under the Act or any other law for the time being in force. Further, the goods were also not liable for confiscation under Section 113(i) of the Act, considering that the goods entered for export corresponded in respect of value and also other material particulars with the entry made under Section 50 of the Act. The impugned order is therefore bad in law.

3.16 The Respondent has, in para 13.4 of the impugned order, erred in holding that the Appellant had, in its letter dated 30.05.2025, itself admitted that since they were applying to the DGFT for approval/clarification, the same indicated acknowledgement on the Appellant's part regarding such approval.

3.17 That the Respondent has misread the Appellant's letter dated 30.05.2025 and has not considered the said letter as a whole inasmuch as the Appellant had only stated therein that it was in the process of applying to the DGFT for "appropriate approval / clarification" regarding the subject matter. It is clear




therefrom that the Appellant was only seeking an approval or clarification from the DGFT to the effect that the said goods did not require a licence for the export thereof since they were neither restricted goods nor prohibited goods.

3.18 That the fact that the Appellant stated that they were applying to the DGFT for availing the appropriate approval / classification nowhere shows any admission or acknowledgement on the part of the Appellant to the effect that a licence was required for export of the said goods. The Appellant was only applying to the DGFT to get a clarification that the goods could be exported without a licence.

3.19 That in any case, the said erroneous finding or conclusion arrived at by the Respondent is now a non-issue and no longer relevant inasmuch as the MoEF & CC has, vide its Memorandum dated 10.06.2025, categorically stated that N-Propyl Bromide, *inter alia*, did not fall under the category of either Ozone Depleting Substances or Hydrofluorocarbons (HFCs) and therefore the comments of the Ozone Cell and MoEF & CC were nil. Thus, it implies that the said goods N-Propyl Bromide do not fall under the said Montreal Protocol. For this reason, the impugned order passed by the Respondent is liable to be set aside.

3.20 The Respondent, in para 14 of the impugned order, erred in holding that the Appellant had not followed due diligence in respect of exportation of goods which were restricted and filed the Shipping Bill even after having the knowledge that the same were restricted and filed the Shipping Bill without ensuring and verifying the export authorization issued by the DGFT in respect of the impugned restricted export goods. For this reason, the Respondent erroneously held that penalty was imposable upon the Petitioner under Section 114(i) of the Act for rendering the goods liable for confiscation under Section 113 thereof.

3.21 The Respondent has failed to appreciate that since the goods are not liable for confiscation under Section 113 of the Act as explained in the foregoing paragraphs, the consequential penalty imposed under Section 114(i) of the Act is also not sustainable.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 18.09.2025 following the principles of natural justice wherein Shri Parth Mehta, Advocate, appeared for the hearing in virtual mode on behalf of the appellant. He re-iterated the submission made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order and the defense put forth by the appellant in their appeal.

5.1 On going through the material on record, I find that following issues are to be decided in the present appeal:-

- (i) Whether there is any restriction or prohibition on the export of N-Propyl Bromide or otherwise.
- (ii) Whether the impugned order of adjudicating authority wherein impugned goods are held liable for confiscation under Section 113(d) and 113(i) of the Customs Act, 1962 is legal and proper or otherwise.
- (iii) Whether penalty imposed on the appellant under Section 114(i) of the Customs Act, 1962 vide impugned order is legal and proper or otherwise.

5.2 It is observed that the appellant had declared the impugned goods to be exported under Shipping Bill No. 2015467 dated 21.05.2025 as "N-PROPYL BROMIDE" with quantity of 52,000 KGS having FOB value of Rs. 1,26,60,956/- . The goods were intended for export to China and were examined on 30.05.2025, where they were found to be as declared in the shipping documents.

5.3 The adjudicating authority has observed that N-Propyl Bromide under CTH 29039990 falls under the category of "Brominated or iodinated derivatives of acyclic hydrocarbons" which are regulated under the Montreal Protocol on

substances that deplete the Ozone Layer As per Notification No. 60/2023 dated 13.02.2024 and Trade Notice No. 22/2024-25 dated 14th November 2024 issued by DGFT, the export policy for such chemicals depends on whether the destination country is a signatory to the Montreal Protocol. It is further observed by the adjudicating authority that China is a signatory to the Montreal Protocol, and therefore, the export of N-Propyl Bromide to China falls under the "Restricted" category as per the applicable notifications. Such restricted goods can only be exported under a valid license issued by DGFT in accordance with the policy conditions specified in the notifications.

5.4 The appellant on the other hand claimed vide letter dated 30.05.2025, that the export product, N-PROPYL BROMIDE is not prohibited nor restricted for exports and informed that they are in the process of applying to the DGFT for availing appropriate approval/clarification in the subject matter and post filing the application, DGFT will take time to analyze the application, as has been informed to us by the DGFT office. The adjudicating authority however came to a conclusion that the appellant had attempted to export N-Propyl Bromide to China without obtaining the required export authorization/license from DGFT and accordingly held that since the impugned goods were attempted to be exported without any license issued by DGFT, they deemed to be "prohibited goods and thus held liable for confiscation under Section 113(d) and 113(i) of the Customs Act, 1962.

5.5 The appellant vide their submission dtd. 15.07.2025 received in this office on 17.07.2025 submitted that the DGFT has given clarification to them vide E-Mail dtd. 08.07.2025 in reply to their Email dtd. 19.06.2025 sent to DGFT. The scanned image of the reply dtd. 08.07.2025 from DGFT is as under :-

Tuesday, July 8, 2025 at 12:21:10 PM India Standard Time

Subject: File Iwd: Clarification on the restriction & prohibition of the export product N-Propyl Bromide, Bromobenzene. Application for export of restricted items File no. HQFDXLAPPLY0000306AM26 Authorisation Number 0151025895 Date 19/06/2025

Date: Tuesday, 8 July 2025 at 11:31:30 AM India Standard Time

From: Santosh Tripathi

To: nishithlakhan

CC: Pratibha Kumar, Pratibha Kumar, Mohi Ataque, abhinavcupta

Priority: High

Attachments: 1750680320789000_1435606349.pdf, 1750776935870000_1435606349.pdf, 1.pdf

Sir,

This is in reference to your trail email on the captioned subject.

2. In this regard is it clarified that as per Schedule-II of ITC (HS), 2022 (Export Policy), the ITC HS Code 29039990 – "Others" is under "Restricted" category. Therefore, export of any items falling under ITC HS Code 29039990 – "Others", under restricted category, requires an export authorization from DGFT, irrespective of the description of such items as there may be several items, which may be exported under the said HS code necessitating confirmation from MoEF&CC (Ozone Cell) and Directorate of Plant Protection, Quarantine and Storage (CIB&RC) on the category of the items viz. ODS, HFCs or Insecticides.

3. Therefore consultation has been done with MoEF&CC (Ozone Cell) and Directorate of Plant Protection, Quarantine and Storage (CIB&RC) in the instant case as the item falls under the ITC HS Code 29039990.

4. It has been clarified by MoEF&CC (Ozone Cell) and Directorate of Plant Protection, Quarantine and Storage (CIB&RC), '*N-Propyl Bromide' neither falls under the category of ODSs or HFCs nor under the schedule to the Insecticides Act, 1968; hence there is no restriction on its export based on the product description.'*

5. It is also advised that if the said item is being exported from India in significant quantities, the firm may approach CAPEXIL or Export Promotion (CAP) Division, Department of Commerce to initiate proposal for creating a separate HS code for 'N-Propyl Bromide' to avoid any procedural delays and impact legitimate business operations.

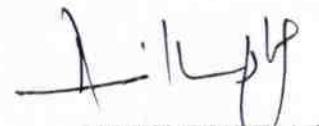
6. This issues with the approval of Competent Authority.

Thanks & Regards

This office had requested the DGFT vide Email dtd. 23.09.2025 to confirm the authenticity of the above Email dtd. 08.07.2025. The DGFT vide their E Mail dtd. 24.09.2025 confirmed the authenticity of their Email dtd. 08.07.2025. Thus I find that it has been made amply clear by DGFT that there is no restriction on the impugned good i.e N-Propyl Bromide for export.

6. In view of the above clarification by DGFT, I set aside the impugned order and allow the appeal of the appellant alongwith consequential relief if any, as per law.




(AMIT GUNTAI)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-178/CUS/MUN/JUL/2025-26

Date: 16.10.2025

By Speed post /E-Mail

To,
M/s. Yogi Intermediates Pvt Ltd.,
Plot No. 2805, Phase III,
GIDC Industrial Estate, Panoli,
Dist:- Bharuch, Gujarat-394116



સત્યાપિત/ATTESTED

અધીકારક/SUPERINTENDENT
સીમા શુલ્ક (અપીલ), અહુમાદાબાદ.
CUSTOMS (APPEALS), AHMEDABAD.

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra .
4. Guard File.