

	<p style="text-align: center;">कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात-370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421 Email ID: group2-mundra@gov.in</p>		
A.	File NO.	:	F.NO.GEN/ADJ/ADC/156/2025-Adjn- O/o Pr Commr-Cus-Mundra
B.	Order-in-Original No.	:	MCH/ADC/ZDC/477/2025-26
C.	Passed by	:	Dipak Zala, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra
D.	Date of order and Date of issue	:	31.12.2025 31.12.2025
E.	SCN F. No. & Date	:	CUS/APR/MISC/9462/2024- Gr 2- O/o PrCommr -Cus-Mundra dated 04.01.2025
F.	Noticee(s)/Party/ Importer	:	M/s. Indian Farmers Fertiliser Cooperative Ltd, Situated at Smo Guj, NP Patel Bhawan, Shiv Ranjini Crossroad, Satellite Ahmedabad, Gujarat-380015
G.	DIN	:	20251271MO000000BB14

- यह अपील आदेश संबंधित को निःशुल्कप्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्रसीए- 1 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

सीमाशुल्क आयुक्त (अपील),
चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड,
नवरंगपुरा, अहमदाबाद-380 009
THE COMMISSIONER OF CUSTOMS (APPEALS), Ahmedabad
4th Floor, HUDCO Building, Ishwar Bhuvan Road,
Navrangpura, Ahmedabad-380 009

- उक्त अपील यह आदेश भेजने की दिनांक से 3 माह के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के उपर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

- (i) उक्त अपील की एक प्रति और

A copy of the appeal, and

- (ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम -1870 केमदसं० -6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपीलज्ञापनकेसाथड्यूटी/ ब्याज/ दण्ड/ जुर्मानाआदिकेभुगतानकाप्रमाणसंलग्नकियाजानाचाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) 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.

BRIEF FACTS OF THE CASE

M/s. INDIAN FARMERS FERTILISER COOPERATIVE LTD, situated at SMO GUJ, NP PATEL BHAWAN, SHIV RANJINI CROSSROAD, SATELLITE AHMEDABAD, GUJARAT-380015 (holder of IEC No. 0588034096) (hereinafter also referred to as “the importer/the Noticee” for the sake of brevity”) presented **Bill of Entry No. 6182730 dated 30.05.2023** through their appointed Customs Broker M/s. Rishi International Logistics at Custom House, Mundra, **for clearance of imported goods declared as “CALCIUM NITRATE GRANULAR (BORONATED) (100 % WATER SOLUBLE FERTILIZER FOR AGRICULTURAL USE ONLY)”** as per the Invoice and Bill of Lading of the said Bill of Entry, classifying the same under Tariff item 31026000 of first schedule of the Customs Tariff Act, 1975.

2. The issue of short levy of duty due to incorrect availing of benefit of Notification No. 50/2017-Cus Sr. No. 225(1)(b) dated 30 June 2017 has been raised in Analytics Report No. 47/2023-24. Water soluble Fertilizers namely ‘Calcium Nitrate and others’ falling under Chapter Tariff Heading (CTH) 31 and listed in Schedule I, Part A of the Fertilizers Control Order, 1985 attract concessional rate of **BCD at 5%** as per Notification No. 50/2017-Cus, Sr. No. 225(I)(b) dated 30.06.2017. Further, Schedule I (Part A) of the Fertilizers Control Order specified quantum (minimum/maximum per cent by weight) of ingredients of ‘Calcium Nitrate’ which included ‘Total Nitrogen (15.5% min)’, ‘Ammonical Nitrogen 1.1% max)’, ‘Nitrate Nitrogen (14.4% min.)’. ‘Water soluble Calcium (18.8% min.) and ‘Water insolubles (1.5% min.) ‘Boron’ has not been mentioned in this ingredient list. However, it has been observed that the benefit of concessional BCD @ 5% have been availed by the Importer on “Nitrobar Calcium Nitrate with Boron”/ “Nitrogen Calcium Compound Fertilizer with Boron”/ “Boronated Calcium Nitrate”/etc. The entry 225(1) (b) of Notification No.50/2017-Cus dated 30.06.2017 is read as under:

Sr. No.	Chapter Heading or subheading or tariff item	Description of goods	Standard rate

225(1)(b)	31	The following Water Soluble Fertilizers included in Schedule 1, Part A of the Fertilizers Control Order, namely: - (b) Calcium nitrate	5%
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THE FERTILISER (CONTROL) ORDER 1985
SCHEDULE I [See Clause 2(h) & (q)] PART-A SPECIFICATIONS OF FERTILISERS

4. Calcium Nitrate

- (i) Total Nitrogen, per cent by weight, minimum, 15.5*
- (ii) Ammonical Nitrogen percent by weight, maximum 1.1*
- (iii) Nitrate Nitrogen as N percent by weight, minimum 14.4.*
- (iv) Water soluble Calcium as per cent by weight, minimum 18.8.*
- (v) Water insolubles percent by weight, maximum 1.5*

3. Under the impugned Bill of Entry, the said importer had imported "CALCIUM NITRATE GRANULAR (BORONATED) (100 % WATER SOLUBLE FERTILIZER FOR AGRICULTURAL USE ONLY)" and availed the benefit of concessional rate of duty under the above said notification which is available only to Calcium Nitrate. The declared description suggests that the impugned imported goods were different from Calcium Nitrate. The imported goods are not confirming to the standard fixed under the fertilizer control order, 1985 and it is a smuggling of the said goods under the Customs Act, 1962. The said imported items were required to meet the maximum/minimum content specification (as per Control Order) of nutrients viz. Nitrogen, Ammonical Nitrogen, Nitrate Nitrogen, Water insoluble etc., in order to be eligible for BCD concession. However, analysis certificate submitted by the importer did not contain any bifurcation of nutrients contents. Thus, it appeared that in the Bill of Entry No. 6182730 dated 30.05.2023, the importer has wrongly availed the exemption under Sr.No.225 (1) (b) of Notification No.50/2017-Cus dated 30.06.2017 for imported goods i.e. "CALCIUM NITRATE GRANULAR (BORONATED) (100 % WATER SOLUBLE FERTILIZER FOR AGRICULTURAL USE ONLY)" which are not Calcium Nitrate and only Calcium Nitrate is covered under the said notification. Therefore, it appeared that in the impugned Bill of Entry, Basic Customs duty was liable to be charged at

the prevailing tariff rate i.e. 7.5% instead of 5% as claimed. The import of fertilizers not conforming to the standard fixed under the Fertilizers Control Order, 1985 is smuggling of the said goods under the Customs Act 1962.

Computation of Differential duty:

4. Benefit of concessional rate of basic customs duty @ 5% is allowed to Calcium Nitrate only vide Sr. No. 225 (1) (b) of Customs Notification No.50/2017, otherwise Customs Tariff Head 31026000 attract Basic Customs Duty @ 7.5%. In the instant case the importer has imported "CALCIUM NITRATE GRANULAR (BORONATED) (100 % WATER SOLUBLE FERTILIZER FOR AGRICULTURAL USE ONLY)" and wrongly availed the benefit of Sr. No. 225 (1) (b) of Notification No.50/2017 Customs which was allowed to Calcium Nitrate only. Therefore, the importer is liable to pay differential Customs duty of **Rs.7,00,420/ (Rupees Seven Lakh Four Hundred Twenty Only)** as per calculation in Table below:

BE No. and Date	Assessable Value	BCD paid @ 5%	SWS paid	IGST paid @ 5%	BCD payable @ 7.5%	SWS payable	IGST payable @ 5%	Diff. BCD payable	Diff. SWS payable	Diff. IGST payable	Total Differential Duty
6182730 dated 30.05.2023	24256960	1212848	121284.8	1279554.64	1819272	181927.2	1312907.96	606424	60642.4	33353.32	700419.72

5. Relevant Legal provisions, in so far as they relate to the facts of the case:-

- A. Customs Notification No. 50/2017-Cus dated- 30.06.2017;
- B. The Customs Tariff.
- C. Section 46 of the Customs Act, 1962 provides for filing of Bill of Entry upon importation of goods, which casts a responsibility on the importer to declare truthfully, all contents in the Bill of Entry. Relevant portion of Section 46 (4) is reproduced below:-

"(i) The importer while presenting a bill of entry shall 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, and such other documents relating to the imported goods as may be prescribed".

D Section 28 (4) of the Customs Act, 1962 provides that “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”.

E Section 28 (AA) of Customs Act, 1962 provides interest on delayed payment of duty-

(1) Where any duty has not been levied or paid or has been short levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-Section (2), or has paid the duty under sub-Section (2B), of Section 28, shall, in addition to the duty, be liable to pay interest at such rate not below ten percent and not exceeding thirty-six per cent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-Section (2), or sub-Section (2B), of Section 28, till the date of payment of such duty:

F Section 114A of the Customs Act, 1962 deals with the penalty by reason of collusion or any wilful mis-statement or suppression of facts. The relevant provision is reproduced below: -

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:

Provided that where such duty or interest, as the case may be, as determined under sub-Section (8) of Section 28, and the interest payable thereon under Section 28AA, is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this Section shall be twenty-five per cent of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

6. The importer/noticee has willfully mis-stated the facts & wrongly availed Customs duty exemption benefit of Sr. No. 225 (1) (b) of Notification no. 50/2017-Cus dated- 30.06.2017 by paying BCD at lower rate i.e. @ 5% instead of correct rate of BCD @ 7.5% as per Customs Tariff.

7. In the light of the documentary evidences, as brought out above and the legal position, it appears that a well thought out conspiracy was hatched by the importer/ noticee to defraud the exchequer by adopting the modus operandi of mis-declaring the description/classification of the goods imported.

8. Whereas, it is apparent that the importer/noticee was in complete knowledge of the correct nature of the goods nevertheless, the importer/auditee claimed undue notification benefit for the said goods in order to clear the goods by wrongly availed Customs duty exemption benefit of Sr. No. 225 (1) (b) of Notification no. 50/2017-Cus dated 30.06.2017 by paying BCD at lower i.e. @ 5% instead of correct rate of BCD @ 7.5%. With the introduction of self-assessment under Section 17, more faith is bestowed on the importer, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As a part of self-assessment, the importer has been entrusted with the responsibility to correctly self-assess the duty. However, in the instance case, the importer intentionally not paid correctly the customs duties on the imported goods.

Therefore, it appears that the importer has willfully violated the provisions of Section 17(1) of the Act in as much as importer has failed to correctly self-assessed the impugned goods and has also willfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act. Therefore, the goods having assessable value of **Rs.2,42,56,960/-** as detailed in above table to this notice, appears to liable for confiscation under Section 111(m) of the Customs Act, 1962.

9. Therefore, it appears that the importer wilfully claimed undue notifications benefit for the impugned goods resulting into short levy of duty. Further, it appears that in respect of the Bills of Entry No. **6182730 dated 30.05.2023** such wrong claim of notifications benefit on the part of the importer has resulted into short levy of duty of **Rs.7,00,420/(Rupees Seven Lakh Four Hundred Twenty Only)**, which is recoverable from the importer under the provisions of Section 28(4) of the Customs Act, 1962 (hereinafter referred to as 'the Act') along with interest as applicable under Section 28AA of the Act. By the said deliberate wrong claim of notification benefit, the importer also appears to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.

10. Therefore, a show cause notice dated 04.01.2025 bearing F. No. CUS/APR/MISC/9462/2024-Gr 2-O/o Pr Commr-Cus-Mundra was issued to M/s. INDIAN FARMERS FERTILISER COOPERATIVE LTD, situated at SMO GUJ, NP PATEL BHAWAN, SHIV RANJINI CROSSROAD, SATELLITE AHMEDABAD, GUJARAT-380015 calling upon to show cause to the Additional Commissioner of Customs, Import Assessment Gr. II, Custom House, Mundra, having office at Room No. 002, PUB Building 5B, Mundra (Kutch) Gujarat 370 421, as to why: -

- i. The goods imported Bill of Entry No. **6182730 dated 30.05.2023**, should not be re-assessed at correct rate of BCD i.e. @ 7.5% and consequently benefit of Sr. No. 225 (1) (b) of Notification no. 50/2017-Cus dated-30.06.2017 should not be denied to the above said goods;
- ii. The goods having assessable value of **Rs.2,42,56,960/-** covered under Bill of Entry No. **6182730 dated 30.05.2023**, should not be held liable for confiscation under Section 111(m) of the Customs Act,1962;
- iii. The differential duty worked out as **Rs. 7,00,420/- (Rupees Seven Lakh Four Hundred Twenty Only)** for Bill of Entry No. **6182730 dated**

30.05.2023 should not be recovered from importer under Section 28 (4) of the Customs Act, 1962 along with the interest thereon as per Section 28AA of the Customs Act, 1962, as applicable;

- iv. Penalty should not be imposed upon them under Section 112(a) and/or 114A of the Customs Act, 1962.

PERSONAL HEARING AND DEFENCE SUBMISSION

11.1. Following the principles of natural justice, opportunities of personal hearings were granted to the importer on 04.08.2025 and 02.09.2025 and 17.09.2025. However, neither the importer nor their any authorised representative appeared on the scheduled dates to record personal hearing. However, in response to the impugned SCN, the importer vide a letter Nil dated submitted defence reply wherein they inter alia submitted that the duty liability @ 7.5% demanded under the SCN has already been duly discharged at the time of filing the Bill of Entry (BOE) as under:

Challan No.	Challan Date	Duty Amount	Interest	Total
2044288198	30-05-2023	26,13,688.00	-	26,13,688.00
2044381259	07-06-2023	7,00,419.00	1,727.00	7,02,146.00
	Total	33,14,107.00	1,727.00	33,15,834.00

11.2. They further submitted that, since there is no outstanding liability, the proceedings initiated by the impugned are not sustainable and liable to be dropped.

DISCUSSIONS AND FINDINGS

12. Upon perusal of the impugned Show Cause Notice (SCN), I find that the SCN alleges that the importer, under the impugned bill of entry, imported goods described as "Calcium Nitrate (Boron) Granular 100% Water Soluble Fertilizer" and availed a concessional Basic Customs Duty (BCD) rate of 5% under Sr. No. 225(1)(b) of Notification No. 50/2017-Cus dated 30.06.2017. The SCN further asserts that the concessional benefit was applicable solely to "Calcium Nitrate" and not to Calcium Nitrate with Boron, which is considered a different product.

Therefore, the impugned SCN proposes that the importer is ineligible for the exemption and is required to pay the BCD at the normal rate of 7.5%. I note that, in response, the importer has submitted that, upon filing the impugned bill of entry, the benefit was reversed, and there is no outstanding liability regarding the differential duty demanded in the SCN. Thus, having gone through the impugned SCN and written submissions of the importer, I find that following main issues are involved in this case, which are required to be decided at the stage of adjudication:

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1. Whether the importer, under the impugned bill of entry, has availed the benefit of exemption under Sr. No. 225(1)(b) of the Notification No. 50/2017-Cus dated 30.06.2017 or otherwise?
2. Whether differential amount of duty demanded under the SCN is required to be recovered under Section 28(4) along with applicable interest under Section 28AA of the Customs Act, 1962 or otherwise?
3. Whether the goods imported under impugned bill of entry are liable for confiscation under Section 111(m) of the Customs Act, 1962 or otherwise.
4. Whether the importer is liable to penalize under Section 114A of the Customs Act, 1962 or otherwise?

13. To address the issues, I examine the impugned Bill of Entry No. 6182730 dated 30.05.2023. I note that as per impugned bill of entry, the importer, imported the goods with description, "Calcium Nitrate Granular (Boronated) (100% Water Soluble Fertilizer for Agricultural Use Only)" classifying under CTH 31026000 in Schedule-I of the Customs Tariff Act, 1975. I also peruse supporting import documents uploaded by the importer through e-Sanchit, which indisputably confirm that the imported goods were indeed Calcium Nitrate Granular (Boronated). Thus, I find that the description in the bill of entry and the documentary evidence are fully consistent and leave no ambiguity regarding the nature of the imported goods.

14. From the impugned bill of entry, I find that the importer had self-assessed a total duty of Rs.26,13,687.40/- on an assessable value of Rs.2,42,56,960/- and paid the same vide Challan No. 2044288198 dated 30.05.2023, as detailed below:

DUTY	RATE	AMOUNT	NOTIFICATION	TOTAL DUTY PAID
BCD	5%	12,12,848	S.NO. 225I (b) of Notification No. 50/2017-Cus.	Rs.26,13,686/- Challan No. 2044288198 dated 30.05.2023
SWS	10% OF BCD	1,21,284.8	-	
IGST	5%	12,79,554.6	I182A of Notification No. 01/2017-IT	
TOTAL DUTY PAYABLE		26,13,687.4		

15. I note that the importer, vide letter dated 05.06.2023 uploaded on e-Sanchit (IRN No. 2023060600019918), informed the department about the ineligible exemption claimed under Notification No. 50/2017-Cus dated 30.06.2017, and requested re-assessment of the Bill of Entry for levy of Basic Customs Duty @ 7.5%. I find that, the Bill of Entry was re-assessed on 06.06.2023 with department comments, "Notification benefit removed. Rate of duty now 7.5%". I find that, after re-assessment of the impugned bill of entry, the importer paid differential duty of Rs.7,00,419/- along with interest of Rs.1,727/- vide Challan No. 2044381259 dated 07.06.2023 and obtained customs clearance for home consumption of the goods.

16. In the light of above, I find that the importer, had voluntarily reversed the exemption benefit prior to the objection raised by the department vide the impugned SCN. I find that the importer had discharged an amount equivalent to the duty proposed in the SCN, and no duty liability survives for recovery. In these circumstances, the proposal for demand of differential duty does not sustain, and the issues raised in the Show Cause Notice are liable to be dropped.

17. In view of above discussions and findings, I pass the following order:

ORDER

- i. I drop the proceedings initiated against M/s. Indian Farmers Fertiliser

Cooperative Ltd, Situated at Smo Guj, NP Patel Bhawan, Shiv Ranjini Crossroad, Satellite Ahmedabad, Gujarat-380015, vide Show Cause Notice dated 04.01.2025 issued from F. No. CUS/APR/MISC/9462/2024-Gr 2-O/o Pr Commr-Cus-Mundra.

18. This order is issued without prejudice to any other action that may be taken against the importer/noticee under the provisions of the Customs Act, 1962 or under any other law for the time being in force.

**Dipak Zala,
Additional Commissioner of Customs,
(Import Assessment)
Customs House, Mundra**

By RPAD/ By Hand Delivery/Email/Speed Post

To,

M/s. INDIAN FARMERS FERTILISER COOPERATIVE LTD,
SITUATED AT SMO GUJ, NP PATEL BHAWAN, SHIV RANJINI
CROSSROAD, SATELLITE AHMEDABAD, GUJARAT-380015

Copy to:

1. The Addl. Commissioner (RRA), Customs House, Mundra
2. The Deputy/Assistant Commissioner (PCA/TRC/EDI), CH, Mundra
3. Guard File