

		<p align="center">OFFICE OF THE COMMISSIONER</p> <p align="center">CUSTOM HOUSE, KANDLA</p> <p align="center">NEAR BALAJI TEMPLE, NEW KANDLA</p> <p align="center">Phone : 02836-271468/469 Fax: 02836-271467</p>
DIN- 20240471ML000000DB8F		
A	File No.	GEN/ADJ/ADC/561/2024-Adjn-O/o Commr-Cus-Kandla
B	Order-in-Original No.	KDL/ADC/DPB/01/2024-25
C	Passed by	Dev Prakash Bamanavat Additional Commissioner of Customs, Custom House, Kandla.
D	Date of Order	02.04.2024
E	Date of Issue	02.04.2024
F	SCN NO. & Date	Waiver of Show Cause notice
G	Noticee / Party / Importer / Exporter	<p>i. M/s. Summit India Water Treatment and Services Ltd Unit-II, Shed No. 188, Sector-I, KASEZ. (IEC No:379700502)</p> <p>ii. M/s M/s. Raj Brothers 1/57-58 Main Bazar ,Mundra Kutch-370421 IEC(3705001418)).</p> <p>iii. M/s Aminu Industrial Trading Plot No. 13, Rajkot Road Bhojpara, Gondal ,Rajkot-360311.IEC(DKXPK7733J).</p>

1. यह मूल आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस मूल आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128A के अंतर्गत प्रपत्र सीए- 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),

7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009”

**“THE COMMISSIONER OF CUSTOMS (APPEALS),
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये 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 be 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 के मद सं-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. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

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

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क 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. Summit India Water Treatment and Services Ltd Unit-II, Shed No. 188, Sector-I, KASEZ (IEC No:379700502), was having valid Letter of Approval (LoA),

issued vide F.No. KAEZ/IA/05/2022-23/2569-72 dated 20.06.2022 by the Development Commissioner, KASEZ (RUD-1) and were engaged in the business of warehousing and trading of import of various goods as approved in their Letter of Approval from their unit in KASEZ.

2. M/s. Summit India Water Treatment and Services Ltd Unit-II (henceforth, referred to as SEZ Unit) had filed 07 Bills of Entry (RUD-2) for Import of Plastic Goodson behalf of their 02Clients (Importers) for warehousing purpose. The details of Bills of Entry, Importers along with IEC & Description of goods etc., are detailed in the Table below:

TABLE-I

Sr. No.	Bill of Entry no.	Date	Goods Description	Qty (Kgs)	Assessable Value(INR)	Name of the DTA Client
1	1011509	27.07.2023	HDPE Regrind	27940	1912038/-	M/s. Raj Brothers 1/57-58 Main Bazar ,Mundra Kutch-370421 IEC(3705001418)
2	1011508	27.07.2023	HDPE Regrind	28530	1952414/-	M/s. Raj Brothers 1/57-58 Main Bazar ,Mundra Kutch-370421IEC(3705001418)
3	1010345	06.07.2023	HDPE Regrind (Non-Hazardous)	24500	1522846/-	M/s. Raj Brothers 1/57-58 Main Bazar ,Mundra Kutch-370421IEC(3705001418)
4	1010712	12.07.2023	HDPE Regrind (Non-Hazardous)	24800	1465866/-	M/s. Raj Brothers 1/57-58 Main Bazar ,Mundra Kutch-370421IEC(3705001418)
5	1010344	06.07.2023	HDPE Regrind (Non-Hazardous)	20600	1214689/-	M/s. Raj Brothers 1/57-58 Main Bazar ,Mundra Kutch-370421IEC(3705001418)
6	1010347	06.07.2023	HDPE Regrind (Non-Hazardous)	27730	1623677/-	M/s. Raj Brothers 1/57-58 Main Bazar ,Mundra Kutch-370421IEC(3705001418)
7	1009341	20.06.2023	HDPEPIPE Regrind	23450	984716/-	M/s. Aminu Industrial Trading Plot No. 13, Rajkot Road Bhojpara, Gondal ,Rajkot-360311.IEC(DKXPK7733J)
Total				177550 Kgs	10676246	

3. The Custom Officers visited the premises of the SEZ unit M/s. Summit India Water Treatment and Services Ltd Unit-II, Shed No. 188, Sector-I, KASEZ on 04.08.2023 for inspecting the goods warehoused at their unit. During the inspection proceedings, inter-alia, it was noticed that goods imported vide Bill of Entries No. 1011509 dated 27.07.2023 declared as “HDPE Regrind” CTH 39019000

stacked in 36 jumbo bags, 1011508 dated 27.07.2023 declared as “HDPE Regrind” CTH 39019000 stacked in 40 jumbo bags, 1009341 dated 20.06.2023 declared as “HDPE PIPE Regrind” CTH 39012000 stacked in 44 jumbo bags, 1010345 dated 06.07.2023 declared as “HDPE Regrind-Non Hazardous ” CTH 39012000 stacked in 509 small bags, 1010712 dated 12.07.2023 declared as “HDPE Regrind Non-Hazardous” CTH 39012000 stacked in 24 jumbo bags & 633 small bags. Further it was informed by Sh. Gajendra H Yadav, the Unit representative that due to non-availability of space, the cargo of two BOEs had been temporarily warehoused in the premises of M/s.Seamos Impex, Shed No.223, Special CIB Type, Sector-III,Phase-I KASEZ. Accordingly officers visited the premises of M/s.Seamos Impex for inspection .During the inspection proceedings, inter alia , it was noticed that goods imported vide 1010344 dated 06.07.2023 declared as “HDPE Regrind Non-Hazardous” CTH 39012000 stacked in 20 jumbo bags & 620 small bags. &1010347 dated 06.07.2023 declared as “HDPE Regrind – Non Hazardous” CTH 39012000 stacked in 234 bags were kept there.

4. From the visual examination of the above mentioned goods, it appeared that the subject goods. i.e. “Plastic regrind” were contaminated with Oil/dust and some extraneous matter. Based on visual inspection it appeared that the subject goods were Plastic Waste and Scrap and import of which was “Restricted” as per DGFT import policy and “Prohibited” in terms of Schedule VI of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, as amended, notified by the MoEFCC.

5. In view of the above, the goods appeared to be transformed into primary form by crushing and grinding the old and used plastic material and thus the subject goods were considered to be “Plastic Waste & Scrap” – which falls under the category of Restricted Import as per Foreign Trade Policy. & Prohibited in terms of Schedule VI of Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016 as amended, notified by the MoEFCC. In furtherance, as the subject goods appeared to be liable for confiscation in terms of Section 111(d) of the Customs Act,1962 under reasonable belief and hence the subject goods under the 07 Bills of Entry as mentioned in the Table-I above were placed under detention vide Inspection **Report-cum-Detention Memo dated 07.08.2023** (RUD-3)for further investigation and the SEZ unit was directed not to deal with, tamper

with or otherwise dispose-off the said goods without a written permission from Authorised Officer of Customs.

6. To ascertain composition, hazardous nature, toxicity and whether put to previous use or not etc., representative samples had been drawn in presence of Unit representative and sent for testing purpose. Reports for the two samples had been received from CIPET Ahmedabad vide Test Report No. 2682 & 2688 both dated 15.09.2023. As per the Test reports the goods were contaminated with dust and prewashing was required before put into use (RUD-4)

7 Statement of Shri Mandeep Singh Saini, Director of M/s. Summit India Water Treatment and Services Ltd Unit-II had been recorded on 27.10.2023 (RUD-5) under Section 108 of Customs Act, 1962, wherein he interalia stated that:

- The Directors of the Unit are he and his mother Smt. Kuldeep Kaur and his wife Smt. Parminder Kaur and all the SEZ related work was looked after by him. His mother and wife had no role in any of the work. However as per application of the Unit, initially there were four partners in unit but later on the constitution of the unit was changed and all old four directors/partners of the unit exited and new partners i.e He and His mother Smt Kuldeep Kaur and His wife Smt Parminder Kaur were made directors of the Unit with effect from 30.04.2022. The same had already been updated in ROC and he submitted the ROC certificate with updated name of directors for record. Further to update the details of the Directors in KASEZ records, the application had already been given to KASEZ authorities and the same was under process and the details of the same will be submitted soon.
- He had observed that the goods imported through the 07 containers and warehoused at the unit and from visual inspection the goods seemed to be contaminated with Soil and few bags of the cargo had very bad smell however the reason was that the subject goods were kept in open area outside the shed and due to heavy rain it got wet that resulted in bad smell. However he had no idea about the goods being pre or post-consumer as he was not expert in these issues.

- He agreed with the Test Report received from CIPET Ahmedabad that the goods were contaminated with dust and it could be said to be unwashed cargo.
- He was aware that as per the provisions of DGFT, the plastic waste and scrap were prohibited; he stated that the subject goods were contaminated with dust but he did not think that they were plastic scrap.

8. The investigation proceedings revealed that the import cargo was Plastic Waste/Scrap (**Restricted Goods**) and the same could not be considered as goods falling under CTH 3901 as declared in Bill of Entry. It appears that the SEZ Unit has mis-declared CTH as 3901 1090 in all their 07 Bills of Entry and Correct CTH for import cargo shall be **3915 9090**.

8.1 Further, ***the goods classifiable under CTH: 3915 were restricted and were permissible for import in SEZ by manufacturing Units operating as Plastic Recycling Unit in SEZ only through valid permission granted under Rule 18 of SEZ Rules, 2006.***

8.2 As per the Letter of Approval granted to SEZ Unit, the Unit was engaged in business of trading and warehousing activities only. The unit is not authorized to warehouse/trade the goods falling under CTH :3915 (RUD-1).

8.3 In view of the above facts and circumstances, it appeared that the SEZ Unit had purposefully and intentionally mis-declared the goods in their Bill of Entry and attempted to import the cargo of Plastic Waste and Scrap in the guise of Plastic Regrind/Recycled Plastic Agglomerates/Plastic Lumps to contravene the provisions of import policy as stipulated by DGFT and mis-declared the Custom Tariff item No. on purpose and intent to circumvent the restrictions/prohibitions imposed through the Import Policy – DGFT & Special Economic Zone Act, 2005.

9. The following are the legal provisions, which are in general applicable in the present case. The list given herein is indicative and not exhaustive, as the context of legal provisions may otherwise require reference of other legal provisions, reference of which are also to be invited, as and when required:

9.1. The SEZ Act, 2005 & SEZ Rules, 2006

- Section 15(9) of the SEZ Act, 2005.
- Rule 18 of the SEZ Rules, 2006.
- Rule 27(10) of the SEZ Rules, 2006.
- Rule 29(1) of the SEZ Rules, 2006.
- Rule 29(2) of the SEZ Rules, 2006.

9.2. The Customs Act, 1962:

- Section 2(22), 2(33), 2(39) Of the Customs Act, 1962.
- Section 11 of the Customs Act, 1962.
- Section 11A(a) of the Customs Act, 1962.
- Section 46 of the Customs Act, 1962
- Section 111 (d), 111(m), 111(o), 111 (f) of the Customs Act, 1962.
- Section 112 of the Customs Act, 1962.
- Section 114AA of the Customs Act, 1962.

9.3 The Foreign Trade (Development and Regulation) Act, 1992.

- Section 11 of FTDR Act, 1992.

9.4 The Foreign Trade (Regulation) Rules, 1993

- Rule 11 of the Foreign Trade (Regulation) Rules, 1993.
- Rule 14 of the Foreign Trade (Regulation) Rules, 1993.

9.5 Public Notice No. 392/92-97 dated 01.01.1997 issued by DGFT

10. In view of the discussions in forgoing paras, it appeared that the attempt to import the above discussed goods by SEZ Unit was in violation of the restrictions imposed under Public Notice No. 392/92-97 dated 01.01.1997 issued by DGFT, appeared to fall under the ambit of "**prohibited goods**" as defined under Section 2(33) of the Customs Act, 1962.

10.1 In terms of Section 11A (a) of the Customs Act, 1962 the act amounted to "**Illegal import**" by them in as much as they attempted to import the goods in contravention of the provisions of the Section 46 of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 11 & 14 of the Foreign Trade (Regulation) Rules, 1993.

10.2 In terms of Section 2(39), the act also amounted to "**smuggling**" of the goods by them in as much as they attempted to import the prohibited goods as discussed above rendering the said goods liable to confiscation under section 111 of the Customs Act, 1962.

10.3 From the above facts it appeared that by adopting the above modus operandi the said importers attempted to import the subject consignment by mis-declaration of the goods. They appeared to have deliberately mis-declared the goods before the Customs Authorities and thereby has contravened the provisions of the Section 46 of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development and Regulation) Act, 1992 and Rule 11 & 14 of the Foreign Trade (Regulation) Rules, 1993, in as much as they had intentionally mis-declared the goods. The mis-declaration of true and correct description by wilful misstatement and suppression of facts by the above said importer is in contravention of the provisions of the Customs Act, 1962 as discussed herein above.

In view of the above, the Investigation Report proposed the following-

11. Therefore, the DTA client/Importer, namely, M/s. Raj Brothers 1/57-58 Main Bazar, Mundra, Kutch-370421 IEC(3705001418) may be called upon to Show Cause to the Additional Commissioner of Customs as to why:

- a. The classification of 154100 kgs of the imported goods declared as "Plastic Regrind" under Customs Tariff Item 3901 of the Customs Tariff Act, 1975, in the Bills of Entry mentioned at Sr No. 1 to 6 of Table-I, should not be rejected and re-classified as "Plastic Waste/Scrap" under Customs Tariff item 3915 9090;
- b. The mis-declared goods mentioned in Bill of Entry no. from Sr no 1 to 6 of Table-I, totally valued at Rs 96,91,530/ (Rupees Ninety Six Lakhs Ninety one Thousand Five Hundred and thirty only) above should not be held liable for confiscation under section 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- c. Penalty under Section 112 of the Customs Act, 1962 should not be imposed on them for reasons discussed above.
- d. Penalty under Section 114AA of the Customs Act, 1962 should not be imposed on them for reasons discussed above

11.1 Therefore, the DTA client/Importer, namely, M/s. Aminu Industrial Trading Plot No. 13, Rajkot Road Bhojpara, Gondal ,Rajkot-360311.IEC (DKXPK7733J) may be called upon to Show Cause to the Additional Commissioner of Customs as to why:

- a. The classification of 23450 kg of the imported goods declared as “HDPE Pipe Regrind” under Customs Tariff Item 39012000 of the Customs Tariff Act, 1975, in the Bills of Entry no. mentioned at Sr No. 7 of Table-I, should not be rejected and re-classified as “Plastic Waste/Scarp” under Customs Tariff item 3915 9090;
- b. The mis-declared goods mentioned in Bill of Entry no. from Sr No 06 of Table-I, totally valued at Rs. 9,84,716/-/ (Rupees Nine Lakhs Eighty Four Thousand Seven Hundred and sixteen only) above should not be held liable for confiscation under section 111(d), 111(m) and 111(o) of the Customs Act, 1962;
- c. Penalty under Section 112 of the Customs Act, 1962 should not be imposed on them for reasons discussed above.
- d. Penalty under Section 114AA of the Customs Act, 1962 should not be imposed on them for reasons discussed above

11.2 The SEZ Unit, namely, M/s. Summit India Water Treatment and Services Ltd Unit-II, Shed No. 188, Sector-I, KASEZ (IEC No:379700502) may be called upon to Show Cause to the Additional Commissioner of Customs as to why:

- a. The classification of 177550 kg of the imported goods declared as “Plastic Regrind” under Customs Tariff Item 3901 of the Customs Tariff Act, 1975, in the Bills of Entry no. mentioned at Sr No. 1 to 7, should not be rejected and re-classified as “Plastic Waste/Scarp” under Customs Tariff item 3915 9090.
- b. The mis-declared goods mentioned in Table-I above should not be held liable for confiscation under section 111(d), 111(f), 111(m) and 111(o) of the Customs Act, 1962;
- c. Penalty under Section 112 / 114AA of the Customs Act, 1962 should not be imposed on them for reasons discussed above

Defence Submission-

12. The SEZ unit i.e. M/s. Summit India water treatment & Services Ltd. Vide letter dated 30.01.2024 submitted the following-

- (i) As per process they had sent samples for testing and they had also got a report stating dust material in their sample.
- (ii) On behalf of the test report the KASEZ officer had considered it as waste/scrap but their cargo was only not washed.
- (iii) As per the report, it also said washing is required only.
- (iv) They have requested for waiver of show cause notice and personal hearing in the matter and requested to adjudicate the matter at the earliest.

13. The DTA clients i.e. M/s. Raj Brothers and M/s. Aminu Industrial Trading vide letters dated 30.01.2024 requested for waiver of show cause notice and personal hearing in the matter.

WAIVER OF SHOW CAUSE NOTICE-

14. The Noticees have requested for waiver of Show Cause notice and personal hearing in the matter.

15. In this regard, I find that as per the first proviso to Section 124 of the Customs Act, 1962, the notice under Section 124(a) and representation under Section 124(b) may, at the request of the person, be considered as oral.

16. In view of the above provisions, I hereby allow the request of all the noticees for waiver of Show Cause notice and personal hearing in the matter.

DISCUSSION AND FINDINGS-

17. I have gone through the Investigation report, all the relied upon documents and defence submission of the noticees.

18. In the instant matter, I find that the issues to be decided before me are the following-

- (i) Whether the imported goods were HDPE Regrind/ HDPE PIPE REGRIND meriting classification under CTH 39019000/ 39012000 as declared in the Bills of Entry filed by the noticees or the goods merit classification under CTH 3915 9090 as Plastic waste/scrap;

(ii) Whether the goods are liable to confiscation under Section 111 of the Customs Act, 1962;

(iv) Whether the SEZ unit and/or DTA client are liable to penalty under Section 112/114AA of the Customs Act, 1962.

19. I find that M/s. Summit India Water Treatment and Services Ltd, Unit-II, Shed No. 188, Sector-I, KASEZ (IEC No:379700502), were having valid Letter of Approval (LoA), issued vide F.No. KAEZ/IA/05/2022-23/2569-72 dated 20.06.2022 by the Development Commissioner, KASEZ (**RUD-1**) to operate as a SEZ Unit and carry out authorized operations of warehousing and trading of import of various goods as approved in their Letter of Approval.


20. I find that M/s. Summit India Water Treatment and Services Ltd Unit-II had filed 07 Bills of Entry (RUD-2) for Import of Plastic Goodson behalf of their 02Clients (Importers) for warehousing purpose. The details of Bills of Entry, Importers along with IEC & Description of goods etc., are detailed in the Table below:

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7	1009341	20.06.2023	HDPEPIPE Regrind	23450	984716/-	M/s. Aminu Industrial Trading Plot No. 13, Rajkot Road Bhojpara, Gondal ,Rajkot-360311.IEC(DKXPK7733J)
	Total			177550 Kgs	10676246	

21. Whether the imported goods were HDPE Regrind/ HDPE PIPE REGRIND meriting classification under CTH 39019000/ 39012000 as declared in the Bills of Entry filed by the noticees or the goods merit classification under CTH 3915 9090 as Plastic waste/scrap-

21.1 Before proceeding further, it is crucial to examine the findings of the Test Reports No. 2682 and 2688 both dated 15.09.2023 of the CIPET, Ahmedabad in order to understand the nature and composition of the imported goods.

9470/2023/SEZ-KANDLA

<p>सिपेट : पेट्रोकेमिकल्स तकनीकी संस्थान (आई.पी.टी.) (पूर्व में केंद्रीय प्लास्टिक्स इंजीनियरिंग एवं तकनीकी संस्थान) रसायन एवं पेट्रो- रसायन विभाग रसायन एवं उर्वरक मंत्रालय, भारत सरकार प्लॉट : नं 630 फेज-4, जी.आई.डी.सी., वटवा, अहमदाबाद - 382445 दूरभाष : (079) 40103900-802 फैक्स : (079) 40083905 ईमेल : cipetahmd@gmail.com, ahmedabad@cipet.gov.in वेबसाइट : www.cipet.gov.in मुख्यालय : सिपेट, गुिंदी, चेन्नै - 600 032</p>		<p>CIPET : INSTITUTE OF PETROCHEMICALS TECHNOLOGY (IPT) (Formerly Central Institute of Plastics Engineering & Technology) Department of Chemicals & Petrochemicals Ministry of Chemicals & Fertilizers, Govt. of India Plot No. 630, Phase-IV, G.I.D.C., Vatva, Ahmedabad-382445 Tels : (079) 40103900-802, 825, Fax : (079) 40083905 Email : cipetahmd@gmail.com, ahmedabad@cipet.gov.in Web : www.cipet.gov.in Head office : CIPET, Guindy, Chennai - 600 032</p>		
<p>श्रृंखला:बी / Series :B</p>	<p>प्लास्टिक परीक्षण केंद्र / PLASTIC TESTING CENTRE</p>			
<p>को जारी / Issued to Office of the Development Commissioner Kandla Special Economic Zone Ministry of Commerce & Industry Gandhidham, KUTCH - 370 230</p>	<p>रिपोर्ट नं / Test Report No : 2688 दिनांक / Dated : 15.09.2023 संदर्भ / Your Ref. No. : KSEZ/CUS/TEST/2023-24/ दिनांक / Dated : 17.08.2023</p>			
<p>मानक के अनुसार टेस्ट रिपोर्ट Test Report as per Standard :</p>	<p>As Per Part C</p>			
<p>PART A ULR No : TC816423000002841P PARTICULARS OF SAMPLE SUBMITTED</p> <p>a) Name of Sample(As stated by the party) : HDPE Regrind b) Grade / variety / type / size / class : NA c) Declared value, if any : NA d) Code No. : NA e) Batch No. and Date of Manufacture : T. M. No: 3872 dated 17.08.2023 B.E No : 1011508 dated : 27.07.2023 f) Quantity : ONE PKT. g) Mode of Packing : CLOTH COVER h) Date of Receipt : 17.08.2023 i) Date of Starting : 18.08.2023 j) Date of Completion : 15.09.2023 k) Sealed or not : SEALED l) Any other information : NA</p>				
<p>PART B SUPPLEMENTARY INFORMATION</p> <p>a) Reference to sampling procedure : Samples Supplied by Customs. b) Supporting documents for the measurement taken and result derived : As per given in Part C c) Deviation from the test method as prescribed in relevant work Instructions , if any : Not Applicable</p>				
<p>Page 1 of 2</p>				

File No. KASEZ-CUSOMisc/82/2023-SEZ-KANDLA (Computer No. 3186608)
85947018023/SEZ-KANDLA

संस्थान (आई.पी.टी.)

(पूर्व में केंद्रीय प्लास्टिक्स इंजीनियरिंग एवं तकनीकी संस्थान)

रसायन एवं पेट्रो-रसायन विभाग

रसायन एवं उर्वरक मंत्रालय, भारत सरकार

प्लॉट : नं 630 फेज - 4, जी.आई.डी.सी., वटवा, अहमदाबाद-382445

दूरभाष : (079) 40103900-902 फैक्स : (079)-40083905

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वेबसाइट : www.cipet.gov.in

मुख्यालय : सिपेट, गिणडी, चेन्नै - 600 032



CIPET : INSTITUTE OF PETROCHEMICALS
TECHNOLOGY (IPT)

(Formerly Central Institute of Plastics Engineering & Technology)

Department of Chemicals & Petrochemicals

Ministry of Chemicals & Fertilizers, Govt. of India

Plot No. 630, Phase IV, G.I.D.C. Vatva, Ahmedabad-382445

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Web : www.cipet.gov.in

Head office : CIPET, Guindy, Chennai - 600 032

प्लास्टिक परीक्षण केंद्र / PLASTIC TESTING CENTRE

T. M. No: 3872 dated 17.08.2023

B.E No : 1011508 dated : 27.07.2023

Test Report No.: 2688

Dated: 15.09.2023

PART C
TEST RESULTS

Sr. No.	Test	Test Method	Unit	Results Obtained
1	Physical Examination :			
	a) Whether the consignment covers as per the Description/Identification	---	---	Mix colour regrind material highly contaminated with dust (Red, orange, yellow etc)
2	Material Analysis			
	a) Identification	Simple Identification by Braun & ASTM D 3418	---	HDPE
	b) Filler Content	ASTM D 5630	%	Nil
	c) Melt Flow Index (190°C, 10 kg)	ASTM D 1238	gm/10min	0.056
	d) Density	ASTM D 792	gm/cc	0.958
	e) Melting Point	ASTM D 3418	°C	136.1

COMMENTS : Based on the above results the Material may be considered as HDPE Regrind Material.

It is a single thermoplastic.

It is highly contaminated with dust powder.

Whether it is post consumer plastic or other wise could not be ascertained the same may be verified at your end.

Prewashing is required before put into use.

Remark : Technical Data Sheet not provided by Customs.

Note : i) Statement of Conformity & Decision Rule (if any) : NA

ii) Opinion & Interpretation : NA

NOTE

- The results related only to the items tested
- The report shall not be reproduced in full/part without written approval of the laboratory
- This Test Report/Certificate is issued only for the samples submitted to CIPET.
- The results stated above related only to the items tested.
- The quality of the subsequent production lot has to be ensured by the purchaser.

Authorised Signatory

Authorised Signatory

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File No. KASEZ-CUSoMisc/82/2023-SEZ-KANDLA (Computer No. 3186608)
859470/2023/SEZ-KANDLA

सिपेट : पेट्रोकेमिकल्स तकनीकी संस्थान (आई.पी.टी.) (पूर्व में केंद्रीय प्लास्टिक इंजिनियरिंग एवं तकनीकी संस्थान) प्रधान कार्यालय : गुन्डी, चेन्नई प्रधान कार्यालय : गुन्डी, चेन्नई पता : प्लॉट नं. 630, फेज-IV, G.I.D.C., वाटवा, अहमदाबाद-382445 दूरभाष : (079) 40103900-902, 925, फैक्स : (079) 40083905 ईमेल : cipetahmd@gmail.com, ahmedabad@cipet.gov.in वेबसाइट : www.cipet.gov.in मुख्यालय : गुन्डी, चेन्नई - 600 032		CIPET : INSTITUTE OF PETROCHEMICALS TECHNOLOGY (IPT) (Formerly Central Institute of Plastics Engineering & Technology) Department of Chemicals & Petrochemicals Ministry of Chemicals & Fertilizers, Govt. of India Plot No. 630, Phase-IV, G.I.D.C., Vatva, Ahmedabad-382445 Tel: (079) 40103900-902, 925, Fax: (079) 40083905 Email: cipetahmd@gmail.com, ahmedabad@cipet.gov.in Web: www.cipet.gov.in Head office: CIPET, Guindy, Chennai - 600 032	
प्लास्टिक परीक्षण केंद्र / PLASTIC TESTING CENTRE		17631	
श्रृंखला नं. / Series : B		परीक्षण रिपोर्ट / TEST REPORT	
को जारी / Issued to : Office of the Development Commissioner Kandla Special Economic Zone Ministry of Commerce & Industry Gandhidham, KUTCH - 370 230		रिपोर्ट नं. / Test Report No : 2682 दिनांक / Dated : 15.09.2023 संदर्भ / Your Ref. No : KSEZ/CUS/TEST/2023-24/ दिनांक / Dated : 17.08.2023	
मानक के अनुसार टेस्ट रिपोर्ट / Test Report as per Standard :		As Per Part C	

ULR No : TC816423000002840P

PART A

PARTICULARS OF SAMPLE SUBMITTED

- | | |
|---|---|
| a) Name of Sample(As stated by the party) | : HDPE Regrind |
| b) Grade / variety / type / size / class | : NA |
| c) Declared value, if any | : NA |
| d) Code No. | : NA |
| e) Batch No. and Date of Manufacture | : T. M. No: 3871 dated 17.08.2023
B.E No: 1011509 dated : 27.07.2023 |
| f) Quantity | : ONE PKT. |
| g) Mode of Packing | : CLOTH COVER |
| h) Date of Receipt | : 17.08.2023 |
| i) Date of Starting | : 18.08.2023 |
| j) Date of Completion | : 15.09.2023 |
| k) Sealed or not | : SEALED |
| l) Any other information | : NA |

PART B

SUPPLEMENTARY INFORMATION

- | | |
|---|--------------------------------|
| a) Reference to sampling procedure | : Samples Supplied by Customs. |
| b) Supporting documents for the measurement taken and result derived | : As per given in Part C |
| c) Deviation from the test method as prescribed in relevant work Instructions, if any | : Not Applicable |

Page 1 of 2

16001-20000/B-May-23/SRP

Head Office : CIPET, Guindy, Chennai - 600 032

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File No. KASEZ-CUSOMisc/82/2023-SEZ-KANDLA (Computer No. 3186608)

1470/2023, कस्टमर कंट्रोल तकनीकी

स्थान (आई.पी.टी.)

एवं केन्द्रीय प्लास्टिक्स इंजीनियरिंग एवं तकनीकी संस्थान)

संस्थान एवं पेट्रो-रसायन विभाग

रसायन एवं उर्वरक मंत्रालय, भारत सरकार

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Head office : CIPET, Guindy, Chennai - 600 032

प्लास्टिक परीक्षण केंद्र / PLASTIC TESTING CENTRE

T. M. No: 3871 dated 17.08.2023

B.E No : 1011509 dated : 27.07.2023

Test Report No.: 2682

Dated: 15.09.2023

PART C
TEST RESULTS

Sr. No.	Test	Test Method	Unit	Results Obtained
1	Physical Examination :			
	a) Whether the consignment covers as per the Description/Identification	----	----	Mix colour regrind material Highly contaminated with dust (Red, orange, yellow etc)
2	Material Analysis			
	a) Identification	Simple Identification by Braun & ASTM D 3418	---	HDPE
	b) Filler Content	ASTM D 5630	%	Nil
	c) Melt Flow Index (190°C, 10 kg)	ASTM D 1238	gm/10min	0.042
	d) Density	ASTM D 792	gm/cc	0.959
	e) Melting Point	ASTM D 3418	°C	137.3

COMMENTS : Based on the above results the Material may be considered as **HDPE Regrind Material**.
It is a **single thermoplastic**.

It is **contamination with dust**.

Whether it is **post consumer plastic** or other wise could not be ascertained the same may be verified at your end.

Prewashing is required before put into use.

Remark : Technical Data Sheet not provided by Customs.

Note : i) Statement of Conformity & Decision Rule (if any) : NA

ii) Opinion & Interpretation : NA

NOTE

- 1 The results related only to the items tested
- 2 The report shall not be reproduced in full/part without written approval of the laboratory
- 3 This Test Report/Certificate is issued only for the samples submitted to CIPET.
- 4 The results stated above related only to the items tested.
- 5 The quality of the subsequent production lot has to be ensured by the purchaser.

Authorised Signatory

Authorised Signatory
2 of 2

Head Office : CIPET, Guindy, Chennai - 600 032

On perusal of the above test reports, I find that the major observations of the CIPET, Ahmedabad are as follows:-

- (i) The material is of “HDPE Regrind Material” as claimed by the noticees.
- (ii) It is single thermoplastic.
- (iii) It is contaminated with dust.
- (iv) The test report could not ascertain whether the material was post-consumer plastic or otherwise.
- (v) Pre-washing is required before put into use.

21.2 In this regard, I find that noticees have submitted in their submission that their goods were HDPE Regrind/HDPE PIPE Regrind and the results of the test report are in their favour only. Further while going through the results of the test report of the CIPET Ahmedabad, I find that the goods are of HDPE Regrind type only. Therefore, the argument of the noticees has substance that their goods are of HDPE Regrind only.

21.3 I further find that the Investigation report has proposed that as the goods appeared to be transformed into primary form by crushing and grinding the old and used plastic material, the subject goods are considered to be “Plastic Waste & Scrap” falling under the category of Restricted Import as per Foreign Trade Policy. & prohibited in terms of Schedule VI of Hazardous and other Wastes (Management and Trans boundary Movement) Rules, 2016 as amended, notified by the MoEFCC.

However, in this regard, it is pertinent to mention that the test reports reproduced above categorically mentions that whether the material was post-consumer plastic or otherwise could not be ascertained.

21.4 I find that the Investigation report relies on the contamination of goods with dust in order to classify the imported goods as Plastic waste/scrap. In this regard, on perusal of the statement dated 27.10.2023 (**RUD-5**) of Shri Mandeep Singh Saini, Director of M/s. Summit India Water Treatment and Services Ltd Unit-II, I find that he has deposed that the subject goods were kept in open area outside the shed and due to heavy rain it got wet that resulted in bad smell.

21.5 In view of the above findings, I hold that the goods imported by the noticees were HDPE Regrind/ HDPE PIPE REGRIND meriting classification under CTH 39019000/ 39012000 and the same has been correctly declared in the Bills of Entry filed by the noticees.

22. In view of the above discussion and findings, I hereby pass the following order-

“I drop the proceedings initiated against the SEZ unit as well as the DTA clients and Order to release the goods detained vide Inspection Report cum Detention Memo dated 07.08.2023”.

23. This order is passed without prejudice to the action that can be taken against the SEZ unit under the provisions of SEZ Act, 2005 or Foreign Trade (D&R) Act 1992 or any other law for the time being in force.

(Dev Prakash Bamanavat)
Additional Commissioner
Customs House, Kandla

F.No. GEN/ADJ/ADC/561/2024-Adjn-O/o Commr-Cus-Kandla

To,

- i. M/s. Summit India Water Treatment and Services Ltd Unit-II, Shed No. 188, Sector-I, KASEZ. (IEC No:379700502)
- ii. M/s. Raj Brothers 1/57-58 Main Bazar,Mundra Kutch-370421 IEC(3705001418).
- iii. M/s Aminu Industrial Trading Plot No. 13, Rajkot Road Bhojpara, Gondal,Rajkot-360311.IEC(DKXPK7733J)

Copy submitted to: -

1. The Development Commissioner, Kandla Special Economic Zone, Gandhidham, Kutch.
2. The Deputy Commissioner, KASEZ, Gandhidham
3. The Superintendent, Review/TRC/EDI, Kandla Customs House, Kandla.
4. Guard File.