सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल **4th Floor,** हडको भवन **HUDCO Bhawan,** ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura,** अहमदाबाद **Ahmedabad – 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - **20260271MN0000444CF2**

क	फ़ाइल संख्या FILE NO.	S/49-348/CUS/MUN/2024-25
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-881-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.02.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/654/DC/LD/Gr.2/2024-25, dated 07.12.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	26.02.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Indian Farmers Fertilisers Co-Operative Ltd., SMO Guj, NP Patel Bhawan, Shivranjini Crossroad, Satellite, Ahmedabad-380015

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 श्रेणियों 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 है.
	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)	बैगेज़ 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 दस्तावेज़ों 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 हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध 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 :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	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-	
	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 -	
(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 हज़ार रुपए.	
(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;	
(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 हज़ार रुपए	
(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 ;	
(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 हज़ार रुपए.	
(c)	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	
(घ)	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 ।	
(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, where penalty alone is in dispute.	
6.	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.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

ORDER-IN-APPEAL

Appeal has been filed by M/s. Indian Farmers Fertilisers Co-Operative Ltd., SMO Guj, NP Patel Bhawan, Shivranjini Crossroad, Satellite, Ahmedabad-380015, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/654/DC/LD/Gr.2/2024-25, dated 07.12.2024 (hereinafter referred to as 'the impugned order') issued by the Deputy Commissioner, Import Assessment, Custom House, Mundra.

2. Facts of the case, in brief, are that the appellant presented following Bills of Entry having details mentioned as under, through their appointed Customs Broker M/s. Rishi International Logistics at Custom House, Mundra, for clearance of imported goods declared as "Nitrogen Calcium Compound Fertilizer (100% Water Soluble Fertilizer for Agricultural Use Only)" classifying the same under Tariff item 31026000 of first schedule of the Customs Tariff Act, 1975.

Sr No.	BE No.	Item Description	Quantity in KGS	Assess Value (In INR)	Duty (in INR) @10.775%
1	2538381/28.01.2021	NITROGEN CALCIUM COMPOUND FERTILIZER (100% WATER SOLUBLE FERT ILIZER FOR AGRICULTURAL USE ONLY)	28000	1,32,57,552/-	14,28,501/-

2.1 During the course of Audit conducted by the Customs Receipts Auditors of office of the Principal Director of Audit (Central), Audit Bhavan, Ahmedabad for the period from October, 2020 to March, 2021, the Senior Audit Officer/CRA vide LAR No. 26/2021-22, observed that the said Bill of Entry was self-assessed by the Appellant wherein benefit provided at Sr.No.225 (1) (b) of Notification No. 50/2017-Cus dated 30.06.2017 of concessional rate of basic Customs duty @ 5% was availed by them.

2.2 Under the impugned Bill of Entry, the Appellant imported "Nitrogen Calcium Compound Fertilizer (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 than Calcium Nitrate. Thus, it appeared that in the subject Bill of Entry, the Appellant had wrongly availed the exemption under Sr.No. 225 (1) (b) of Notification No.50/2017-Cus dated 30.06.2017 for imported goods which are not Calcium Nitrate and only Calcium Nitrate is covered under the said notification. Therefore, it appeared that in the impugned Bills of Entry Basic Customs duty was liable to be charged at the prevailing tariff rate i.e. 7.5% instead of 5% as claimed.

2.3 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 "Nitrogen Calcium Compound Fertilizer (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 appeared liable to pay differential Customs duty of Rs. 3,82,878/-

2.4 Therefore, M/s Indian Farmers Fertiliser Cooperative Ltd were called upon to show cause as to why:-

i. The goods imported vide Bills of Entry as detailed in above table, 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. 1,32,57,552/ covered under Bills of Entry as detailed in above table, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;

iii. The differential duty worked out as short levy amounting to Rs. 3,82,878/- for subject Bills of Entry as detailed in above table, 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 114A of the Customs Act, 1962.



2.5 Consequently, the Adjudicating Authority passed the following order:

i. He ordered to re-assess the Bill of Entry No. 2538381 dated 28.01.2021 at correct rate of BCD i.e. @ 7.5% instead of 5%. He also ordered to deny the benefit of Sr. No. 225 (1) (b) of Notification no. 50/2017-Cus dated-30.06.2017.

ii. He confiscated the said imported goods having assessable value of Rs. 1,32,57,552/- covered under Bills of Entries, supra, under Section 111(m) of the Customs Act, 1962. Since the goods were not available for confiscation, he refrained from imposing a redemption fine on the importer under Section 125 of the Customs Act, 1962.

iii. He ordered to demand and recover the differential duty worked out as short levy amounting to Rs. 3,82,878/- under Section 28(4) of the Customs Act, 1962.

iv. He imposed penalty of Rs. 3,82,878/- under Section 114A of the Customs Act, 1962. However, in case the said importer pays the duty within 30 days of the communication of the order, the amount of penalty payable is 25% of Rs. 3,82,878/- as per provisions of Section 114A of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Deputy Commissioner, Import Assessment, Custom House, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The Appellant argues that the Impugned Order is non-est and perverse because the Deputy Commissioner failed to apply independent mind, merely reproducing allegations from the Show Cause Notice (SCN). A significant portion of the appeal emphasizes that the "right to reason" is an indispensable part of the judicial system, yet the authority failed to provide a "speaking order"

that addresses the Appellant's written submissions. Furthermore, the order allegedly traveled beyond the scope of the SCN by introducing new grounds for denial—specifically the lack of a CRCL lab report—which were never mentioned in the original allegations. Additionally, the Appellant was never provided with the Audit Report upon which the Deputy Commissioner heavily relied, further violating natural justice.

3.2 The Appellant maintains they are legally entitled to a concessional rate of Basic Customs Duty (5%) under Entry 225(1)(b) of Notification No. 50/2017-Cus. While the Department claims the goods do not match the description of "Calcium Nitrate," the Appellant asserts the subject goods are "Calcium Nitrate 100% Water Soluble Fertilizers for Agricultural Use," as confirmed by the Bill of Entry and the Fertilizer Control Order, 1985. To substantiate this, the Appellant provided a Certificate of Analysis from the supplier and a report from the Central Fertilizer Quality Control & Training Institute, both proving the goods meet the necessary specifications for total nitrogen and water-soluble calcium. The Appellant also holds a valid authorization from the Government of Gujarat to sell these specific fertilizers in the domestic market.

3.3 The appeal contests the invocation of the extended five-year limitation period under Section 28(4) of the Customs Act, 1962. The Appellant argues that the Department failed to provide evidence of "collusion," "wilful mis-statement," or "suppression of facts" with a malafide intention to evade duty. Since the goods were correctly described in the Bill of Entry, the Department had all the material information necessary to ascertain the facts at the time of import. Legal precedents are cited to show that a mere difference in opinion regarding an exemption claim does not constitute suppression of facts, and therefore, the demand is barred by limitation.

3.4 The Appellant submits that the goods are not liable for confiscation under Section 111(m) because a bona fide claim for an exemption or classification is a matter of belief and not an intentional mis-declaration. Consequently, because the primary duty demand is contested as unjustified, the ancillary demand for interest under Section 28AA is also legally unsustainable. Finally, the Appellant argues that no penalty can be imposed under Section 114A as there is a complete absence of mens rea. They assert that penalty should not

be imposed for technical or venial breaches where the party acted under a bona fide belief.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 11.12.2025 following the principles of natural justice wherein Ms. Raksha Bhandari, Advocate appeared for the hearing in virtual mode and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Deputy Commissioner, Import Assessment, Custom House, Mundra and the defense put forth by the Appellant in their appeal. The core of the dispute lies in whether the imported "Calcium Nitrate 100% Water Soluble Fertilizer" qualifies for the concessional BCD of 5% provided to "Calcium Nitrate" under the relevant notification.

5.1 Sr. No. 225 of Notification No. 50/2017-Cus prescribes a concessional BCD rate of 5% for "Water Soluble Fertilizers" that satisfy two specific criteria: firstly, they must be included in Schedule 1, Part A of the Fertilizers Control Order (FCO), 1985; and secondly, they must specifically match the descriptions listed in the sub-clauses, where sub-clause (b) explicitly names "Calcium Nitrate." A detailed examination of Schedule 1, Part A of the FCO, 1985 reveals that "Calcium Nitrate" is categorized under entry 1(h) as a "100% water soluble Complex Fertiliser." The FCO mandates specific chemical standards for this product, including a minimum Total Nitrogen content of 15.5% (with specific requirements for Ammoniacal and Nitrate Nitrogen) and a minimum Water Soluble Calcium content of 18.8%.

5.2 The intent of Notification No. 50/2017-Cus is to provide relief to agricultural inputs that conform to these national quality standards. Therefore, any product that chemically aligns with these FCO specifications and is commercially recognized as Calcium Nitrate must be granted the benefit. The inclusion of the term "Nitrogen Calcium Compound Fertilizer" in the Appellant's declaration is merely a descriptive elaboration of the chemical nature of the product—Calcium Nitrate being, in scientific terms, a compound of Nitrogen and

Calcium. Such descriptive overlap cannot be used as a ground to deny the benefit if the underlying chemical identity remains unchanged and meets the statutory definitions provided in the FCO.

5.3 The Adjudicating Authority denied the benefit primarily on the basis of a linguistic variance observed by the Audit, wherein the Appellant utilized the nomenclature "Nitrogen Calcium Compound Fertilizer" in the Bill of Entry. Furthermore, the Adjudicating Authority summarily rejected the Appellant's contentions on the grounds that no Analysis Report from the Central Revenues Control Laboratory (CRCL) or any other specific "government-approved lab" was produced to substantiate the claim that the product conforms to FCO standards. This line of reasoning is fundamentally flawed for several reasons. Firstly, it ignores the primary evidence submitted by the Appellant: a comprehensive Certificate of Analysis (COA) issued by the overseas supplier . Further, a copy of Analysis Report No. 375/20/4556 dated 26.03.2021, issued by the Central Fertilizer Quality Control & Training Institute (CFQC&TI), Faridabad has also been submitted with the appeal . On going through the same, I find that the laboratory conducted a rigorous chemical assessment of the sample drawn from the subject consignment. The report explicitly concludes that the sample "is according to specifications" as per the FCO. A comparative analysis of the FCO contractual specifications against the CFQC&TI laboratory findings demonstrates near-perfect alignment:

- Total Nitrogen: Against the FCO minimum requirement of 15.5%, the actual composition was found to be 15.91%.
- Nitrate Nitrogen: Against the FCO minimum of 14.5%, the analysis yielded 14.94%.
- Water Soluble Calcium: Against the FCO minimum of 18.5%, the analysis showed 19.04%.
- Water Insolubles: Against the maximum permissible limit of 1.5%, the analysis recorded an impressively low 0.09%.

These results are not merely incidental; they provide conclusive scientific proof that the imported substance is, in fact, "Calcium Nitrate" in its purest agricultural form, perfectly matching the standards contemplated under Entry 1(h) of the FCO. The Adjudicating Authority's observation that the goods were "different than Calcium Nitrate" based solely on the audit's textual

interpretation of the Bill of Entry description is completely debunked by this technical data.

5.4 Secondly, the demand for a CRCL report at the adjudication stage, when the goods have long been cleared and consumed, is an impossibility that violates the principle of lex non cogit ad impossibilia (the law does not compel a man to do that which he cannot possibly perform). If the proper officer had a "reason to doubt" the description at the time of import, the statutory course of action under Section 17 and Section 18 of the Customs Act was to draw samples for testing prior to clearance. Having cleared the goods without such an exercise, the department cannot now shift the burden onto the importer to produce a test report for goods that are no longer available. Therefore, the CFQC&TI report, being a contemporary and statutory document relating to the quality of the imported fertilizers, is accepted as the primary technical evidence in this matter.

5.5 When the highest technical authority in the country for fertilizers certifies the product as conforming to Calcium Nitrate specifications, the revenue authorities have no legal or technical basis to claim otherwise .

5.6 A critical legal infirmity in the impugned order is the misplacement of the burden of proof. The Adjudicating Authority proceeded on the assumption that the Appellant must "prove" the identity of the goods to the satisfaction of the Audit, rather than the Revenue proving that the declaration was false. This approach is directly contrary to the settled law of the land. In the landmark case of **Collector of Customs v. S.S. Enterprises, 1994 (74) E.L.T. 794 (S.C.),** the Hon'ble Supreme Court categorically held that when an importer makes a declaration in the Bill of Entry supported by an invoice and other shipping documents, the burden of proving that the declaration is incorrect or that the goods are of a different description rests squarely on the Department. The Apex Court observed:

> *"The burden is on the department to establish that the goods are different than what has been declared in the Bill of Entry. If the department refuses to accept the description evidenced by the invoice and other documents, it is for the department to establish that the goods are not of the description mentioned in the invoice."*

5.7 This principle was further reinforced in **Hindustan Ferodo Ltd. v. Collector of Central Excise, 1997 (89) E.L.T. 16 (S.C.)**, where it was held that the onus of establishing the classification of goods under a particular heading is

upon the Revenue. In the present instance, the Revenue has not produced a single shred of positive evidence—neither a chemical test report, nor technical literature, nor an expert opinion—to demonstrate that the imported goods are not "Calcium Nitrate." A mere audit objection (LAR) is an internal revenue-related observation and does not constitute "evidence" in the eyes of the law. Furthermore, the Revenue's reliance on the absence of a CRCL report is a "negative" argument. Therefore, the Revenue having failed to discharge its burden of proof to disprove the Appellant's declaration, the benefit of the notification cannot be denied based on linguistic technicalities.

5.8 The Adjudicating Authority's insistence on a CRCL report as the only valid evidence is misplaced.Since the department failed to draw samples at the time of import for CRCL testing, they cannot now penalize the importer for the lack of a CRCL report.

5.9 The impugned order held the goods liable for confiscation under Section 111(m) on the ground of mis-statement. I find this finding to be contrary to established law. The Appellant correctly described the goods as "Calcium Nitrate 100% Water Soluble Fertilizer" in the BoE. The addition of the technical term "Nitrogen Calcium Compound" does not change the identity of the product, especially when the end-use and chemical composition remain those of Calcium Nitrate.

5.10 The Hon'ble Supreme Court in **Northern Plastic Ltd. v. Collector of Customs, 1998 (101) E.L.T. 549 (S.C.)** famously held:

> *"Whether the appellant was entitled to the benefit of exemption under the said notification or not was a matter of belief... and not a matter of any 'other particular' with respect to the goods... claiming benefit of exemptions... cannot be said that the declaration made in the Bill of Entry did not correspond with any other particular."*

5.11 This principle was further affirmed in **Commissioner of Customs v. Gaurav Enterprises, 2006 (193) E.L.T. 532 (Bom.), and Lewek Altair Shipping Pvt. Ltd. v. CC, 2019 (366) E.L.T. 318 (Tri-Hyd),** confirmed by the Apex Court. These rulings clearly establish that a difference of opinion regarding the eligibility of a notification is a technical/legal dispute and does not constitute "mis-declaration" or "suppression" to warrant confiscation or penalties.

5.12 In the present case, the Appellant filed the BoE under the self-assessment regime, providing the invoice, COA, and packing list. The

classification and notification benefit were declared openly. The department had the opportunity to verify the goods at the time of clearance. As held in **Pushpam Pharmaceuticals Co. v. CCE, 1995 (78) E.L.T. 401 (S.C.)**, "suppression" means a deliberate non-disclosure with intent to evade. A bona fide claim for an exemption notification, even if later found ineligible, does not amount to suppression. Furthermore, the fact that the dispute arose out of a routine audit confirms that all facts were available on the record. Therefore, the invocation of the extended period is illegal, and the demand is hit by limitation.

5.13 The Adjudicating Authority mechanically followed the Audit Report LAR No. 26/2021-22 and relied on general provisions of self-assessment under Section 17. However, these do not override the evidentiary value of the CFQC&TI report or the legal principles of limitation. The OIO failed to distinguish the Northern Plastic ratio, which is squarely applicable here.

5.14 Based on a holistic appraisal of the technical data and the legal arguments presented, I conclude that the imported "Calcium Nitrate" fully conforms to the specifications mandated under Schedule 1, Part A of the Fertilizer Control Order, 1985. This fact is unequivocally established by the Analysis Report from the Central Fertilizer Quality Control & Training Institute (CFQC&TI), which is the statutory apex body for fertilizer quality in India. The chemical findings of 15.91% Total Nitrogen and 19.04% Water Soluble Calcium fall comfortably within the FCO-prescribed ranges, thereby satisfying the primary condition of Sr. No. 225(1)(b) of Notification No. 50/2017-Cus. Furthermore, I find that the Revenue's case rests solely on an audit-based textual interpretation of the declaration "Nitrogen Calcium Compound Fertilizer," which I hold to be an accurate scientific description of Calcium Nitrate and not a mis-declaration. The Department has failed to discharge the burden of proof by not providing any counter-evidence or technical report to disprove the Appellant's COA and Certificate of analysis report from suuplier. The demand for a CRCL report post-clearance is both procedurally irregular and legally untenable. On the legal front, the ratio of Northern Plastic Ltd. v. Collector of Customs is squarely applicable, as the dispute pertains to the interpretation of a notification, which does not amount to a mis-statement under Section 111(m). Consequently, the demand for differential duty is barred by limitation, and the associated interest and penalties are not sustainable in law.

6. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I set aside the impugned Order-in-Original No.

MCH/654/DC/LD/Gr.2/2024-25 dated 07.12.2024 and allow the appeal filed by M/s. Indian Farmers Fertilisers Co-operative Ltd (IFFCO) with consequential relief, if any.

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-348/CUS/MUN/2024-25 Date:26.02.2026

By Speed post/E-Mail

To,
M/s. Indian Farmers Fertilisers Co-Operative Ltd.,
SMO Guj, NP Patel Bhawan, Shivranjini Crossroad,
Satellite, Ahmedabad-380015

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House ,Mundra.
3. The Deputy Commissioner of Customs, Import Assessment, Custom House, Mundra.
4. Guard File.