

	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421  <b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP &amp; SEZ MUNDRA, KUTCH-GUJARAT</b>  <b>PHONE : 02838-271426/271428</b>  <b>FAX :02838-271425</b></p>	 आज़ादी का अमृत महोत्सव
A File No.	CUS/APR/SCN/490/2025-Gr 2-O/o Pr Commr-Cus-Mundra	
B Order-in-Original No.	MCH/ADC/ZDC/107/2025-26	
C Passed by	<b>Dipak Zala</b> Additional Commissioner of Customs Custom House, Mundra.	
D Date of order	01.07.2025	
E Noticee/Party/Importer/Exporter	M/s. SP Polymer, M/S. Kashyap Shipping Pvt. Ltd., M/s. Imex Clearing and Logistics Pvt. Ltd and Shri Ram Babu,	
F DIN No.	20250771MO00005555ED	

1. यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A 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:

“ सीमा शुल्क आयुक्त (अपील),  
चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद-380 009”  
**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA**  
**Having his office at 4<sup>th</sup> Floor, HUDCO Building, Ishwar Bhuvan Road,**  
**Navrangpura, Ahmedabad-380 009.”**

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/- 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 के मद सं०-6 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. SP Polymers (IEC: 0608006459), A-10, Rooma Industrial Area, General Extension, Rooma, Kanpur, Uttar Pradesh-208024, had filed Bill of entry no. 5433927 dated 05.09.2024, through their Customs Broker: M/s Kashyap Shipping Pvt. Ltd., for import of goods declared as 'Calcium Gluconate (Technical Grade Not for Medicinal Use)' under CTH-29181610.

The details of the Bills of entry are as under:

**Table-A (Live Consignment)**

Sr. No.	Bill of Entry No. and date	Name of Importer	Name of CHA	Declared Description of Goods	Quantity	Container nos.	Assessable Value (in Rs.)
1	5433927 dated 05.09.2024	M/s Polymer, Kanpur, (IEC-0608006459)	SP UP M/s Kashyap Shipping Pvt. Ltd.	Calcium Gluconate (Technical Grade Not For Medicinal Use) (CTH-29181610)	78000 Kgs	i. SKHU9922243 ii. SKHU9621907 iii. SKHU6300879	22,17,130/-

1.1 Whereas, Assistant Drugs Controller (India) vide their letter F. No. 26A/1/2024-Admin/280 dated 30.09.2024 and e-mail dated 01.10.2024 regarding "Submission of digitally signed fabricated documents (Dual Use NOCs) by importers/CHAs of Calcium Gluconate (Technical Grade) from China", informed that the above-mentioned Importer i.e. M/s. SP Polymer, Kanpur, UP (hereinafter referred to as 'the

importer' for brevity) has submitted Bill of Entry no. 5433927 dated 05.09.2024 (Table-'A') to the Office of Assistant Drugs Controller (India) for issuance of NOC for import of Calcium Gluconate from China.

They further informed that on perusal of Dual use NOC (claimed by applicant as issued by CDSCO) submitted with above mentioned Bills of entry were found doubtful with respect to NOC number and Digital Signature of issuing authority. Therefore, they took up the matter with concerned issuing authority (CDSCO) and it was confirmed that the 'Dual Use NOCs' used by the importer were fabricated.

On the basis of above, it is evident that, the importer/CB have submitted fabricated documents to get clearance for import of said material at several occasion which is clearly a contravention of Rule 43 of Drugs and Cosmetics Rule 1945 and Section 132 of Customs Act, 1962.

## 2. **Action taken:** -

2.1 Whereas, acting upon the information shared by the Assistant Drug Controller (India), the consignment imported vide Bill of Entry No.5433927 dated 05.09.2024 by the importer M/s SP Polymer, having address at: A-10, Rooma Industrial Area, General Extension, Rooma, Kanpur, Uttar Pradesh-208024, (IEC: 0608006459) having total declared quantity 78000 Kgs and declared description of goods as 'Calcium Gluconate (Technical Grade Not for Medicinal Use) under HS Code-29181610, were put on hold by SIIB, Customs House, Mundra. The said consignments were examined on 10.10.2024 and during the examination it was found that the said consignments consists of several white PP bags with label "Calcium Gluconate Technical Grade - Not For Medicinal Use".

## 3. **Investigations Conducted:** -

3.1 Whereas, during the course of examination, the actual nature, description, and composition of the goods could not be ascertained visually, therefore representative samples were drawn and forwarded to the CRCL, Kandla, for testing vide Test Memo No. 140 dated 14.10.2024. Further, the CRCL Kandla has given their Test report dated 04.11.2024 for TM no. 140, which details are as under: -

**TM No. 140 (Lab.No.6371-SIIB):** The sample as received is in the form of white powder.

Composition: it is composed of calcium gluconate.

% of moisture content (% by wt.) = 0.84

% Assay = 99.36

3.2 Accordingly, the subject goods of Bills of entryno. 5433927 dated 05.09.2024 by the importer M/s SP Polymer, Kanpur, UP, were seized vide Seizure Memo dated 15.01.2025. Further, the goods were handed over to Senior Operation Executive & authorized representative of Seabird CFS, Mundra vide Supratnama dated 15.01.2025. Further, due to typing error in both Seizure Memo & Supratnama dated 15.01.2025, a corrigendum was issued vide dated 20.01.2025.

## **Summons & Statements**

3.3 Whereas, a Summons dated 10.10.2024 was issued to the CB i.e. M/s Kashyap Shipping, Pvt. Ltd. Gandhidham and accordingly statement of Shri Rajeev Omprakash Kashyap, Owner of the CB firm M/s Kashyap Shipping, Pvt. Ltd, Gandhidham, was recorded on 14.10.2024 under Section 108 of the Customs Act, 1962, wherein he submitted copies of the import documents viz. BE, BL, Invoice, and Packing List etc. In his statement, he inter-alia stated that:

- *they are well aware of the responsibilities provided under the Customs Broker Licensing Regulation, 2018;*
- *they have conducted complete KYC of their customers, i.e. M/s SP Polymer;*
- *they are well aware that during the import of any substance which attracts the definition of "Drugs" as per the drugs and cosmetic Act, 1940 for further processing/conversion to manufacture of other drugs, shall require NOC from concerned authorities;*
- *they are well aware that Dual Use NOC is required as per Rule-43, of Drugs and Cosmetic Act, 1940, for the import of Calcium Gluconate (Technical Grade not for Medicinal Use);*
- *he perused all the Bill of Entries filed by them on behalf of their importers vide import of calcium gluconate took place;*
- *he perused all the invoices vide which calcium gluconate consignments have been imported by above mentioned importers;*
- *he perused all the NOCs which have been submitted by them to the Office of Assistant Drugs Controller (India) along with Bill of Entries and other documents while import of calcium Gluconate;*
- *these NOCs from CDSCO have been provided/arranged by their business forwarders namely M/s. Imex Clearing and Logistics Pvt. Ltd. thorough email on behalf of the importer M/s. SP Polymer;*
- *M/s SP Polymer, Kanpur has authorized M/s. Imex Clearing and Logistics Pvt. Ltd. to provide all the necessary documents along with dual use NOCs to M/s Kashyap Shipping Pvt. Ltd.. He further submitted authorization letter dated 08.03.2024;*
- *on being perused letter F.No. 26A/1/2024-Admin/280 dated 30.09.2024 from the Assistant Drugs Controller (India), and after gone through the said letter and NOCs, he further stated that these 'Dual Use NOCs' are fabricated;*

3.4 Whereas, a summons dated 11.10.2024 was issued to the importer i.e. M/s. SP Polymer, Kanpur UP. Accordingly, statement of Shri Anirudh Gupta, Proprietor of M/s SP Polymer, Kanpur UP, was recorded on 17.10.2024 , under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that:

- *they are regular importer of Calcium Gluconate Technical Grade Not for Medicinal Use;*
- *they import Calcium gluconate from China Based Suppliers only;*
- *he perused Bill of Entry no 5433927 dated 05.09.2024 and other import documents filed by M/s. Kashyap Shipping Pvt. Ltd., Gandhidham, on behalf of M/s. SP Polymer, Kanpur and put his dated signature on the same in token;*
- *he was fully aware that 'Dual Use NOC' is required as per Rule 43 of Drugs and Cosmetic Act, 1940, for the import of Calcium Gluconate (Technical grade not for medicinal use);*
- *While importing Calcium Gluconate technical Grade Not for Medicinal Use, all the*

- dual use NOCs from CDSCO were provided by M/s Imex Clearing and logistics pvt. Ltd. to their clearing agent M/s Kashyap Shipping Pvt. Ltd., Gandhidham;*
- *they (M/s SP Polymer, Kanpur U.P) have authorized Shri Suresh Mishra, owner of M/s Imex Clearing and logistics pvt Ltd., their business forwarders, to provide all the necessary documents along with Dual Use NOCs to M/s Kashyap Shipping Pvt. Ltd., Gandhidham, used in import of Calcium Gluconate;*
  - *on being perused letter F.No. 26A/1/2024-Admin/280 dated 30.09.2024 from the Assistant Drugs Controller (India), and after gone through the said letter and NOCs, he further stated that these 'Dual Use NOCs' are fabricated.*

3.5 Whereas, a summons dated 17.10.2024 was issued to Shri Suresh Mishra, Director of business forwarding firm M/s Imex Clearing and Logistics Pvt. Ltd. Accordingly, statement of Shri Suresh Mishra was recorded on 23.10.2024 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that,

- *he has been engaged in business forwarding and logistics related to import/export business since 2015;*
- *they regularly forward the business related to import of "Calcium Gluconate Technical Grade not for Medicinal use";*
- *on being asked, how they got work of business forwarding/logistics for import of "Calcium Gluconate Technical Grade not for Medicinal use", he stated that after placing order, the importers hand over the work of logistics arrangement and necessary documentation to them with respect to import of "Calcium Gluconate Technical Grade not for Medicinal use";*
- *they have never worked with M/s. Oriental Trade Links, Gandhidham;*
- *he agreed, that all the NOCs from CDSCO were provided by him to M/s Kashyap Shipping Pvt. Ltd.;*
- *on perusal of the facts and evidences that all these Dual Use NOCs are fabricated and arranged by M/s. imex Clearing & Logistics Pvt. Ltd., he agreed and admitted that all these Dual Use NOCs are fabricated; he further stated that these NOCs were arranged by Shri Ram Babu who works for him & arranged all the NOCs on his instructions;*
- *he did not verify the genuineness of these Dual Use NOCs before handing over to his clients;*

3.6 Whereas, a summons dated 19.11.2024 was issued to Shri Ram Babu to tender his statement. Accordingly, statement of Shri Ram Babu was recorded on 17.12.2024 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that;

- *He does not work for any firm, he works freelancing.*
- *He has completed graduation; he is engaged in making of NOC certificates related to import/export business. He also prepares several kinds of documents i.e. Certificate of origin, registration in ICEGATE, NOC for plant quarantine management System, FSSAI Licence and NOC from CDSCO.*
- *On being asked, the process of arranging NOC certificates from CDSCO, he stated that one has to make a login ID on the sugam portal; that after that documents as bill of entry, invoice, packing list, analysis report etc have to be uploaded on the said portal; after that an application number is generated and the application for NOC is submitted in the office of CDSCO; that generally, the complete process takes 10-12 days to get the NOC from CDSCO;*
- *he himself generate login ID/user account on Sugam Portal on behalf of Importers;*
- *Shri Suresh Kumar Mishra Owner of the firm M/s. Imex Clearing & logistics*

handed over the work of arranging/making NOC certificate of CDSCO for import of "Calcium Gluconate Technical Grade";

- On being perused CDSCO NOCs for the subject consignment "Calcium Gluconate Technical Grade not for Medicinal use", he stated that all these NOCs had been arranged/made by him;
- He stated that, for making of user account on Sugam portal on behalf of importer, necessary documents like e-mail address, IEC number, GST number, Adhar Number, PAN card number were provided by Shri Suresh Mishra, owner of M/s Imex Clearing & Logistics;
- He is well aware that, while importing Calcium Gluconate technical Grade Not for Medicinal Use, a dual use NOC is required from CDSCO. He further stated that he has been arranging/forging these type of NOC for the past three years;
- He perused all the NOCs used in the import of Calcium Gluconate technical Grade Not for Medicinal Use in the present case and admitted that these NOCs are fabricated;
- He further stated that he himself fabricated all the Dual Use NOCs with the help of microsoft office on his laptop from his residence;
- He used to take any pf the previous NOCs issued from CDSCO in pdf format and convert in to word file with the help of internet converter websites;
- He further stated that all the dual use NOCs fabricated by him were handed over to Shri Suresh Mishra owner of M/s Imex Clearing & Logistics; that Shri Suresh Mishra used to pay him 3 to 3.5 thousand rupees for one NOC; that all the payments were made in cash only.
- He perused statement of Shri Suresh Mishra owner of M/s Imex Clearing & Logistics and agreed to the content of the statement.

#### 4. **RELEVANT LEGAL PROVISIONS:**

##### **Drugs & Cosmetics Rules 1945**

**Rule 43.** The drugs specified in Schedule D shall be exempt from the provisions of Chapter III of the Act and of the Rules made thereunder to the extent, and subject to the conditions specified in that Schedule.

##### **Schedule D [see Rule 43]**

<b>Sr no.</b>	<b>Class of drugs</b>	<b>Extent and conditions of exemption</b>
<b>1</b>	Substances not intended for medicinal use	All provisions of Chapter III of the Act and rules medicinal use thereunder subject to the condition that if the substance is imported in bulk, the importer shall certify that the substance is imported for nonmedicinal uses, and if imported otherwise than in bulk, each container shall bear a label indicating that the substance is not intended for medicinal use or is of commercial quality. <b><u>Further, permission from licensing authority as defined in clause (b) of rule 21 has to be obtained for import of the substance for non-medicinal use without registration and import license.</u></b>

##### **Rule 21 :**

**(a)...**

**(b) “licensing authority”** means the authority appointed by the Central Government to perform the duties of the licensing authority under these Rules and includes any person to whom the powers of a licensing authority may be delegated under Rule 22;

**Customs Act, 1962**

**Section 2(33) defined the terms "Prohibited Goods":**

“prohibited goods” means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

**Section 46 : Entry of goods on importation :**

(4) 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.

(4A) The importer who presents a BE shall ensure the following :

accuracy and completeness of the information given therein;

the authenticity and validity of any document supporting it; and

compliance with restriction or prohibition, if any, relating to the goods under this act or under any other law for the time being in force.

**Section 111 : Confiscation of improperly imported goods, etc. –**

The following goods brought from a place outside India shall be liable for confiscation:

...

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under Section 77 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54.

...

**Section 112 : Penalty for improper importation of goods, etc.**

Any person,—

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing,

*depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*

*shall be liable,—*

*(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;*

*(ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding the duty sought to be evaded on such goods or five thousand rupees, whichever is the greater;*

*(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty 219 [not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;*

*(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty 220 [not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;*

*(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.*

**114AA. Penalty for use of false and incorrect material.**

*- If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.] [ Substituted by Act 10 of 2000, Section 85, for the first and second proviso (w.e.f. 12.5.2000).]*

**5. Summary of Investigations Conducted:**

5.1 On the basis of Assistant Drugs Controller (India)'s letter F.No. 26A/1/2024-Admin/280 dated 30.09.2024 and e-mail dated 01.10.2024, wherein it was informed that M/s. SP Polymer, Kanpur UP had submitted fabricated Dual Use NOCs issued from CDSCO along with Bill of Entry no. 5433927 dated 05.09.2024 for issuance of NOC for import of Calcium Gluconate from China, the subject consignment was examined on 09.10.2024 and during the examination it was found that the said consignment consists of several white PP bags with label "Calcium Gluconate Technical Grade Not For Medicinal Use". Samples have been drawn and sent to CRCL Kandla. CRCL Kandla in their test report dated 04.11.2024, against TM no. 140 dated 14.10.2024, confirmed that the goods were "Calcium Gluconate".

5.2 Further, as the necessary Dual Use NOCs (No Objection Certificates) from the Central Drugs Standard Control Organization (CDSCO) produced were found to be fabricated, Statements of Importer, Customs Broker, business forwarder and

related persons were recorded as mentioned at para 3.3 to 3.6 above.

5.3 Further, a status report of investigation conducted at the end of Assistant Drugs Controller, Ahmedabad has been sought vide e-mail dated 09.01.2025, in reply of which Assistant Drugs Controller, Ahmedabad vide e-mail dated 31.01.2025 intimated this office that matter was forwarded to the Deputy Drugs Controller (I), CDSCO, North Zone, Ghaziabad for necessary investigation as the alleged importers are situated in the territory of said office. It has been informed vide e-mail dated 06.01.2025 by the DDC (I), CDSCO, North Zone that investigation at the alleged importers has been carried out by that office and reports has been forwarded to the Drugs Controller General (India), New Delhi seeking necessary direction for taking further action in the matter which is awaited.

5.4 Further, as per Rule - 43 of Drugs and Cosmetics Rules 1945, for the import of any substance which attracts the definition of 'Drug' as per the Drugs and Cosmetic Act 1940 and specified in Schedule D shall be exempt from the provisions of Chapter III of the Drugs and Cosmetics Act & of the Rules made thereunder to the extent and subject to the conditions specified in that schedule.

Further, as per Schedule D of Drugs and Cosmetics Rules 1945, for substances (class of drugs) not intended for medicinal use, exemption of all provisions of Chapter III of the Drugs and Cosmetics Act & of the Rules made thereunder is given subject to condition that if the substance is imported in bulk, the importer shall certify that the substance is imported for nonmedicinal uses, and if imported otherwise than in bulk, each container shall bear a label indicating that the substance is not intended for medicinal use or is of commercial quality. Also **Further, permission from licensing authority as defined in clause (b) of rule 21 has to be obtained for import of the substance for non-medicinal use without registration and import license.**

Further, as per para 3 of Chapter 11 Guidance Document for functions and responsibilities of Zonal, Sub Zonal & port offices of CDSCO, is re-produced as under:-

### **“Chapter- 11**

**Guidance Document for grant of permission for Drugs imported in Bulk for Non-Medicinal Use as per Rule 43 of Drugs and Cosmetics Rules 1945.**

...

### **3. Drugs meant for further processing / conversion to other drug**

*For the import of any substance which attracts the definition of –Drug as per the Drugs and Cosmetics Act 1940 for further processing / conversion to manufacture of other drugs, **shall require NOC from Zonal Office for each consignment.***

...

### **Table 3: Sr. no. 97 – Calcium Gluconate**

5.5 Further, in view of the above, as the impugned goods i.e. 'Calcium Gluconate' imported by M/s. SP Polymer, Kanpur, U.P, vide Bill of Entry no. 5433927 dated 05.09.2024, without any valid "Dual Use NOC" from CDSCO Zonal Office, hence the goods are prohibited under the Customs Act, 1962.

## **6. Role played by various firms/persons in the import of "Calcium Gluconate Technical Grade not for Medicinal use" by the way of Fabricated 'Dual Use NOC' of CDSCO**

### **6.1 Role played by M/s. SP Polymer, Kanpur, U.P and Shri Anirudh Gupta, Proprietor of M/s SP Polymer, Kanpur UP:**

As per the statement of Shri Anirudh Gupta, **Proprietor of M/s SP Polymer, it appears that they are involved in the transaction of the forged/fake 'Dual Use NOC'** on the following basis:

Shri Anirudh Gupta admitted in his statement that they were aware of the requirement of the Dual Use NOC as per Rule 43 of Drugs and Cosmetics Act, 1940 for importing of "Calcium Gluconate Technical Grade not for Medicinal use"

M/s. SP Polymer, authorized M/s. Imex Clearing and Logistics Pvt. Ltd., business forwarder, to provide the required documents, including the Dual Use NOC, to their clearing agent M/s. Kashyap Shipping Pvt. Ltd., Gandhidham.

Upon perusal of Letter F.No. 26A/1/2024-Admin/280 dated 30.09.2024 from the Assistant Drugs Controller (India), Shri Alok Saraogi admitted that the Dual Use NOCs provided for the import were fabricated.

M/s. SP Polymer, Kanpur U.P has failed to verify the authenticity of the documents submitted for customs clearance despite having full knowledge of the regulatory requirement.

M/s. SP Polymer knowingly imported Calcium Gluconate Technical Grade (Not for Medicinal Use) without obtaining a valid Dual Use NOC from the Central Drugs Standard Control Organization (CDSCO), as mandated under Rule 43 of the Drugs and Cosmetics Act, 1940.

From the above, it appears that despite knowing the requirement of a genuine Dual Use NOC, M/s. SP Polymer, Kanpur UP, imported the subject goods under Bill of Entry No. 5433927 dated 05.09.2024 without 'Dual Use NOC', which makes goods prohibited for import, thereby rendering the goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

Further, in view of the above, it appears that M/s. SP Polymer, Kanpur UP, failed to verify the authenticity of the documents submitted for customs clearance despite having full knowledge of the regulatory requirement. By these acts of omission and commission M/s SP Polymer have made rendered themselves liable to penal action under Section 112(a)(i) & 114 AA of the Customs Act, 1962.

### **6.2 Role played by M/s. Kashyap Shipping Pvt. Ltd., Customs Broker:**

As per the statement of Shri Rajeev Omprakash Kashyap, Owner of the CB firm M/s Kashyap Shipping, Pvt. Ltd, **it appears that they are involved in the transaction of the forged/fake 'Dual Use NOC'** on the following basis:

The Customs Broker (CB) M/s Kashyap Shipping, Pvt. Ltd, Gandhidham, was well aware of the regulatory requirement that any import of a substance classified as a "drug" under the Drugs and Cosmetics Act, 1940, requires a valid NOC from the concerned authority.

Upon perusal of Letter F. No. 26A/1/2024-Admin/280 dated 30.09.2024 from the Assistant Drugs Controller (India), it was confirmed that the submitted NOCs were fabricated.

Despite knowing the mandatory requirement, they proceeded with customs clearance based on NOCs arranged by M/s. Imex Clearing and Logistics Pvt. Ltd. on behalf of M/s. SP Polymer, Kanpur UP, without verifying their authenticity.

From the above, it appears that despite knowing the requirement of a genuine Dual Use NOC, M/s. Kashyap Shipping Pvt. Ltd., Customs Broker, facilitated imported the subject goods under Bill of Entry No. 5433927 dated 05.09.2024 without genuine 'Dual Use NOC', which makes goods prohibited for import, thereby rendering the goods liable for confiscation under Section 111 (d) of the Customs Act, 1962.

Further, in view of the above, it appears that M/s. Kashyap Shipping Pvt. Ltd., failed to verify the authenticity of the documents submitted for customs clearance despite having full knowledge of the regulatory requirement. By these acts of omission and commission M/s. Kashyap Shipping Pvt. Ltd., have made themselves liable to penal action under Section 112(a)(i) & 114 AA of the Customs Act, 1962.

### **6.3 Role played by M/s. Imex Clearing and Logistics Pvt. Ltd., Business Forwarder: -**

As per the statement of Shri Suresh Mishra, Director of M/s. Imex Clearing and Logistics Pvt. Ltd., it appears that they are involved in the arranging and providing of the fabricated 'Dual Use NOC' on the following basis:

Shri Suresh Mishra admitted that all the Dual Use NOCs used in the import of Calcium Gluconate were fabricated and arranged by M/s. Imex Clearing & Logistics Pvt. Ltd.

Despite knowing that Dual Use NOCs were mandatory, he failed to verify the genuineness of the NOCs before handing them over to his clients, thereby facilitating the clearance of restricted goods based on fabricated NOCs.

Shri Suresh Mishra admitted that the fabricated Dual Use NOCs were arranged by his employee, Shri Ram Babu, on his instructions.

His firm, **M/s. Imex Clearing & Logistics Pvt. Ltd.**, was actively involved in **procuring and supplying fabricated NOCs to M/s. Kashyap Shipping Pvt. Ltd.** for submission to Customs authorities.

From the above, it appears that despite knowing the requirement of a genuine Dual Use NOC, M/s. Imex Clearing and Logistics Pvt. Ltd, facilitated imported the subject goods under Bill of Entry No. 5433927 dated 05.09.2024 without genuine 'Dual Use NOC', which makes goods prohibited for import, thereby rendering the goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

Further, in view of the above, it appears that M/s. Imex Clearing and Logistics Pvt. Ltd, failed to verify the authenticity of the documents provided/arranged by them for customs clearance despite having full knowledge of the regulatory requirement. By these acts of omission and commission M/s. Imex Clearing and Logistics Pvt. Ltd, have made themselves liable to penal action under Section 112(a)(i) & 114

AA of the Customs Act, 1962.

#### **6.4 Roles played by M/s. Ram Babu :-**

As per the statement of Shri Ram Babu, it is evident that he is involved in the arranging/making/providing of the fabricated 'Dual Use NOC' on the following basis:

Shri Ram Babu admitted that he fabricated the Dual Use NOCs required for the import of Calcium Gluconate.

He was well aware that a valid Dual Use NOC is mandatory under Rule 43 of the Drugs and Cosmetics Act, 1940 for importing Calcium Gluconate Technical Grade (Not for Medicinal Use).

Despite knowing the regulatory requirements, he engaged in forging these documents for monetary gain.

These forged documents were submitted to Customs authorities, leading to fraudulent clearance of imported goods.

He received payments of ₹3,000 to ₹3,500 per fabricated NOC from Shri Suresh Mishra of M/s Imex Clearing & Logistics, indicating a deliberate financial motive behind the fraudulent act.

From the above, it appears that despite knowing the requirement of a genuine Dual Use NOC, Shri Ram Babu, facilitated import of the subject goods under Bill of Entry No. 5433927 dated 05.09.2024 without genuine 'Dual Use NOC', which makes goods prohibited for import, thereby rendering the goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

Further, in view of the above, it is clearly evident that Shri Ram Babu fabricated the Dual Use NOCs required for the import of goods 'Calcium Gluconate' and provide these fabricated 'Dual Use NOCs' for customs clearance despite having full knowledge of the regulatory requirement. By these acts of omission and commission, Shri Ram babu, has made rendered himself liable to penal action under Section 112(a)(i) & 114 AA of the Customs Act, 1962.

7. Now therefore, M/s. SP Polymer, Kanpur U.P (IEC:0608006459), is hereby called upon to show cause to the Additional Commissioner of Customs, having office at Room No. 103, PUB Building, 5B, Mundra (Kutch), Gujarat 370 421, as to why:

- (i) the goods i.e. "Calcium Gluconate (Technical Grade Not for Medicinal Use)" should not be held liable for confiscation under Section 111(d) of the Customs Act, 1962;
- (ii) penalty under Section 112(a)(i) of the Customs Act, 1962 should not be imposed upon them for the reasons as discussed in foregoing paras;
- (iii) penalty under section 114AA of the Customs Act, 1962 should not be imposed upon them for the reasons as discussed in foregoing paras;

8 . Now therefore, M/s. Kashyap Shipping Pvt. Ltd., Customs Broker, is hereby called upon to show cause to the Additional Commissioner of Customs, having office

at Room No. 103, PUB Building, 5B, Mundra (Kutch), Gujarat 370421, as to why:

- (i) penalty under Section 112(a)(i) of the Customs Act, 1962 should be imposed upon them for the reasons as discussed in foregoing paras;
- (ii) penalty under section 114AA of the Customs Act, 1962 should not be imposed upon them for the reasons as discussed in foregoing paras;

9. Now therefore, M/s. Imex Clearing and Logistics Pvt. Ltd., Business Forwarder is hereby called upon to show cause to the Additional Commissioner of Customs, having office at Room No. 103, PUB Building, 5B, Mundra (Kutch), Gujarat 370421, as to why:

- (i) penalty under Section 112(a)(i) of the Customs Act, 1962 should not be imposed upon them for the reasons as discussed in foregoing paras;
- (ii) penalty under section 114AA of the Customs Act, 1962 should not be imposed upon them for the reasons as discussed in foregoing paras;

10. Now therefore, Shri Ram Babu, is hereby called upon to show cause to the Additional Commissioner of Customs, having office at Room No. 103, PUB Building, 5B, Mundra (Kutch), Gujarat 370421, as to why:

- (i) penalty under Section 112(a)(i) of the Customs Act, 1962 should not be imposed upon them for the reasons as discussed in foregoing paras;
- (ii) penalty under section 114AA of the Customs Act, 1962 should not be imposed upon them for the reasons as discussed in foregoing paras;

#### **10. DEFENSE SUBMISSION & PERSONAL HEARING**

Adhering to the principles of natural justice, personal hearing was given to all noticees on 02.06.2025 covered under the said SCN. Following authorized representative of all noticees were appeared to attend the PH. details of them are as under:-

1. **Importer M/s. SP Polymer:-** Shri Anirudh Gupta, Proprietor of M/s. SP Polymers attended the PH on 02.06.2025 and He has stated that now they have submitted dual use NOC in respect of cargo imported under BE No. 5433927 dated 05.09.2024 and requested to drop proceeding initiated against the importer in SCN No. CUS/APR/SCN/490/2025-Gr-2 dated 28.03.2025.

Further, M/s. SP Polymers has submitted following points in his written submission:-

- i. Whether the product under import Calcium Gluconate Technical Grade, imported under proper document of title, seized by the Customs Mundra is liable for confiscation or the seizure of the goods itself stands to be vacated on account of post facto issuance of Dual Use NOC by proper authority.
- ii. Whether post facto validation of documents issued by the office of Drug Controller in the realm of CDSCO-Dual Use NOC, addressed to the panic of the issue.

- iii. Whether as per the SCN the summary of investigation conducted and the role played by the co-noticee to the proceeding/ Service Provider Impex Clearing & Logistics Pvt. Ltd./ Business Forwarder, with Mr.s Suresh Misra, as Director and his authorized person Ram Babu, holding ostensible responsibility as a service provider for further engagement of business support services (CHA etc.) are liable for any act or omission under the provisions of the Customs Act for their unbecoming action, when challenge to M/s. Impex Clearing & Logistics Pvt. Ltd through M/s. Suresh Misra already being in the realm of criminal complaint in the jurisdictional Kanpur Court.
- iv. Whether the Answering Noticee on account of engagement of services of a service provider, thus owe any responsibility for processing and filing of documents before the Customs and to be held accountable to be charged under the penal provision of Customs Act, is there any vicarious responsibility of the Answering Noticee, who undisputedly lacks to have any knowledge or reasons to believe nor any established charge of omission or an act rendering the goods under import to be liable to confiscation under Section 111, or abetting the doing on commission of such an act.
- v. Whether the post facto regularization of import of Calcium Gluconate by virtue of CDSCO-Dual Use Certificate, would elevate to the realm of perfection and to qualify for hunky dory for import in question in accordance with law.
- vi. Whether Mr. Suresh Misra of Imex Clearing and Logistics Pvt. Ltd. and Mr. Ram Babu, carrying on individual rival ideology, by making confession under Section 108 of the Customs Act, with no evidence of any domain or control or act or omission or reasons to believe on the part of the Answering Noticee, still as per impugned SCN can the concept be taken too far to impose penalty or invoke penal provision in spite of undaunted efforts by the notice to set everything right in law and taking all reasonable steps before engagement of service of a Service Provider.
- vii. That on reading of defence contention, Adjudicating Authority has to decide on the factual matrix with regard to all efforts and reasonable steps endeavored by the answering noticee running contrary to the intended consequences, whether in view of the summary of investigation and statements recorded under 108 still the answering notice can be held accountable under Section 112(a)(i) read with Section 114AA of Customs Act. The Adjudicating Authority has to decide whether the seizure proceeding initiated by Mundra Customs, do still carry any weight or stands vitiated alongwith rendering otiose to the proceeding for proposed confiscation.

#### ADDITIONAL SUBMISSIONS/ BULLET POINTS

- A. Scanned are the copies of the Aadhar Card of Mr. Suresh Misra, Director of M/s. Imex Clearing & Logistics Pvt. Ltd. and Ram Babu, whose oral testimony recorded under Section 108 of Customs Act, and RUD has to be candidly examined, which would narrow down on the role of both the person,
- B. That in the case of Answering Noticee not only the Aadhar Card of Mr. Suresh Misra, and Ram Babu, has to taken on record.
- C. Taxable invoice has been issued, Mr. Suresh Misra, the director has charged the Answering Noticee for issuance of Dual Use NOC in addition to documentation charges, including the charges towards the CHA.
- D. The material in question had been tested in-house by the Mundra Customs and there was nothing to the contrary, pursuant to the declaration filed in the documents under import.

- E. (i) Seizure of the goods i.e. Calcium Gluconate Technical Grade, is liable to be set aside. (ii) The shipment is still with the Customs and vacating the seizure proceeding, the Dual Use NOC issued by CDSCO may kindly taken on record and the bill of entry to be re-assessed.

2. **Custom Broker M/s. Kashyap Shipping Pvt Ltd.**:- Shri Upendra Goswami, CEO of M/s. Kashyap Shipping Pvt Ltd. attended the personal hearing held on 02.06.2025 on behalf of M/s. Kashyap Shipping Pvt. He reiterated his written submission before the adjudicating authority. He has requested to drop the drop proceeding initiated against CB in the SCN No. CUS/APR/SCN/490/2025-Gr-2 dated 28.03.2025.

Further, **M/s. Kashyap Shipping Pvt Ltd** has submitted that on behalf of importer, they received the import documents alongwith the Dual Use NOC. They have submitted these documents to the ADC, Ahmedabad Office as required and at customs for the clearance. As the clearing agent, they did not apply for the Dual Use NOC: it was received directly from the said importer.

3. **M/s. Imex Clearing and Logistics Pvt. Ltd.**:- Shri Suresh Kumar Mishra, Director of M/s. Imex Clearing and Logistics Pvt. Ltd. appeared for personal hearing through virtual mode held on 02.06.2025 on behalf of M/s. Imex Clearing and Logistics Pvt. Ltd. He has reiterated his written submission before the adjudicating authority. He has requested to drop the drop proceeding initiated against him in the SCN No. CUS/APR/SCN/490/2025-Gr-2 dated 28.03.2025.

Further, **M/s. Imex Clearing and Logistics Pvt. Ltd** has submitted following points in his written submission:-

- i. Submission of requisite documents for import is the primary responsibility of the Importer.
- ii. The importer in question is a well-educated individual with qualifications beyond graduation.
- iii. The importer has been regularly importing Calcium Gluconate and is familiar with procedures involved.
- iv. Import of Calcium Guconate requires a dual NOC-first from CDSCO Ghaziabad, which is then submitted to CDSCO, Ahmedabad for issuance of the online PGA NOC.
- v. Imex Clearing and Logistics Pvt. Ltd. is a freight forwarding agency and not a licensed Custom House Agent (CHA). However, due to their association with CHA, they agreed to facilitate clearance of the goods in question.
- vi. The CDSCO Gaziabad login credentials (User ID and Password) were provided directly by the importer.
- vii. The importer was instructed to obtain the necessary NOC independently but failed to do so.
- viii. As a forwarding agent, they engaged a known freelance professional, Mr. Ram Babu, who has been assisting them for the past 3-4 years with various online tasks such as obtaining NOCs, AD Codes, etc.
- ix. Mr. Ram Babu is not an employee of Imex Clearing and Logistics Pvt. Ltd.
- x. In his statement, Mr. Ram Babu has confirmed that he works on freelance basis and handles similar assignments for various clients across Kanpur, Delhi, Lucknow, Ludhiana, Jalandhar and other cities.

- xi. The Importer was in direct contact with Mr. Ram Babu during the process.
- xii. The NOC was provided to them by Mr. Ram Babu and the same was forwarded to M/s. Kashyap Shipping Pvt. Ltd., Mundra for submission to CDSCO for NOC release.
- xiii. In the past, all consignments were cleared with NOCs obtained without any objections or queries, which led them to believe that the documents were in order and did not necessitate additional verification from their end.

4. **Shri Ram Babu S/o Shri Saty Prakash**, aged 31 years, having address at 251 village Aharan Agra, Utter Pradesh (present address 12/107, Near Geeta Park, Kidwai Nagar, Kanpur, UP-208011) having Aadhar Card No. 531002919554 appeared for personal hearing through virtual mode held on 02.06.2025 behalf of M/s. Imex Clearing and Logistics Pvt. Ltd. He has reiterated his written submission before the adjudicating authority. He has requested to drop the drop proceeding initiated against him in the SCN No. CUS/APR/SCN/490/2025-Gr-2 dated 28.03.2025.

Further, **Shri Ram Babu** has submitted following points in his written submission:-

- He is a self-employed freelancer, engaged in online documentation work for various clients including exporters, importers, CHAs and Brokers. These assignment are provided to him on regular basis.
- M/s. Imex Clearing and Logistics Pvt. Ltd. requested his assistance to help the importer obtain the NOC from CDSCO- Ghaziabad (Northern Zone).
- He duly applied for the NOC with CDSCO Ghaziabad. However, there was a delay in issuance as CDSCO was raising multiple queries, which was extending the processing time.
- M/s. Imex Clearing and Logistics Pvt. Ltd. and the concerned parties were continuously following up and urging me to expedite the NOC issuance due to the accumulating storage charges on the consignment.
- Under pressure, and in an effort to avoid financial loss to the importer due to storage fees, he manipulated the NOC by fabricating a previous NOC document to make it appear as a valid, newly issued one.
- There is no government fee for obtaining a CDSCO NOC, so this act was not done to save costs or for any monetary gain on his part.
- He was being paid Rs. 3000/- per NOC by M/s. Imex Clearing and Logistics Pvt. Ltd. for documentation services.
- The fabrication of the document was done solely by him, without the knowledge or involvement of M/s. Imex Clearing and Logistics Pvt. Ltd. or the importers. They were not informed about the manipulation and it was entirely his own decision and responsibility.
- The intent behind the act was not fraudulent in nature, but rather an ill-advised attempt to facilitate faster clearance and avoid delays.

## 11. DISCUSSION AND FINDINGS

I have carefully gone through the records of the case, Show Cause Notice, the record of personal hearing held on 02.06.2025 and other available records. I find that in the present case principle of natural justice as provided in Section 122A of the Customs Act, 1962 have been complied with and therefore, I proceed to decide the case on the basis of documentary evidences available on record. The points to be decided in the instant case are:

- i. Whether the goods i.e. "Calcium Gluconate (Technical Grade Not for

Medicinal Use)” imported under BE No. 5433927 dated 05.09.2024 should not be held liable for confiscation under Section 111(d) of the Customs Act, 1962 in absence of mandatorily required ADC NOC from Drug Controller, Ahmedabad.

- ii. Whether the penalty under Section 112(a)(i) & 114AA of the Customs Act, 1962 should not be imposed upon them for the reasons as discussed in foregoing paras.

12. I find that importer M/s. SP Polymers had filed Bill of entry no. 5433927 dated 05.09.2024, through their Customs Broker: M/s Kashyap Shipping Pvt. Ltd. for import of goods declared as ‘Calcium Gluconate (Technical Grade Not for Medicinal Use)’ under CTH-29181610 having assessable value of Rs.22,17,130/-. Further, I find that while perusing the documents submitted by the importer to obtain the CDSCO NOC, the Assistant Drug Controller found the Dual Use NOCs (claimed to be issued by CDSCO) accompanying the aforementioned Bills of Entry to be doubtful with respect to NOC number and Digital Signature of issuing authority. Therefore, they took up the matter with concerned issuing authority (CDSCO) and it was confirmed that the ‘Dual Use NOCs’ used by the importer were fabricated.

Based on the above, it is evident that fabricated documents were used by the noticee to obtain Dual Use NOCs from CDSCO for clearance of imported goods under Bill of Entry No. 5433927 dated 05.09.2024 which is clearly a contravention of Rule 43 of Drugs and Cosmetics Rule 1945 and Section 132 of Customs Act, 1962.

13. Further, I find that on the basis of information shared by the Assistant Drug Controller (India), the consignment imported vide Bill of Entry No. 5433927 dated 05.09.2024 by the importer M/s SP Polymer, having total declared quantity 78000 Kgs and declared description of goods as ‘Calcium Gluconate (Technical Grade Not for Medicinal Use) under HS Code-29181610, were put on hold by SIIB, Customs House, Mundra. The said consignments were examined on 10.10.2024 and during the examination it was found that the said consignments consists of several white PP bags with label “Calcium Gluconate Technical Grade - Not For Medicinal Use”. Further, the CRCL Kandla has given their Test report dated 04.11.2024 for TM no. 140, which details are as under: -

**TM No. 140 (Lab.No.6371-SIIB):** The sample as received is in the form of white powder.

Composition: it is composed of calcium gluconate.

% of moisture content (% by wt.) = 0.84

% Assay = 99.36

14. I also find that the Assistant Drug Controller, CDSCO, Ahmedabad vide their letter F. No. 26A/1/2025/Admn/208 dated 26.05.2025 has submitted NOC for release of the consignment which is reproduced as under:-

*“post import verifications has been carried out by the team of CDSCO, North Zone and report were submitted to Directorate. The Directorate has reviewed the matter and conveyed to CDSCO North Zone that all the firms may be warned to not repeat the same in future, failure of which leads to*

*administrative and penal action as deemed fit in Drugs and Cosmetics Act and Rules thereunder and to process pending Dual Use NOC applications of the subject firms. Accordingly these firms have obtained original Dual Use NOC for pending consignments. They further stated that their office has no objection for release of consignment mentioned below under Dual Use/Not for Medicinal Use Category.*

S. No.	Bill of Entry No./ Date	Details of Original Dual Use NOC
1.	5433927/ 05.09.2025	NOC/NZ/2025/000680 dated 25.03.2025

15. As per Rule 43 of the Drugs & Cosmetics Rules, 1945, an ADC NOC is mandatory for clearing the declared goods under the aforementioned Bill of Entry. The CDSCO, as the authorized agency, has issued a Dual Use NOC after scrutinizing the importer's documents, with a warning against future non-compliance. Since the importer holds a valid Dual Use NOC prior to clearance, the goods are not liable for confiscation and may be cleared for home consumption upon payment of applicable duties. Consequently, I conclude that the goods imported under Bills of Entry No. 5433927 dated 05.09.2024, are no longer prohibited and are not liable for confiscation under Section 111(d) of the Customs Act, 1962.

In view of above, the goods are no longer liable for confiscation under Section 111(d) of the Customs Act, 1962 as the importer is having a valid dual use NOC. As the confiscation is no longer tenable, the importer cannot be held liable for penalty under Section 112(a)(i) of the Customs Act, 1962.

16. On perusal of the Dual Use NOC issued by the Assistant Drug Controller (India) pertaining to Bills of Entry No. BE No. 5433927 dated 05.09.2024, the Directorate of CDSCO North Zone warned all firms not to repeat such instances in the future, failure of which leads to administrative and penal action as deemed fit in Drugs and Cosmetics Act and Rules thereunder and to process pending Dual Use NOC applications of the subject firms. Accordingly these firms have obtained original Dual Use NOC for pending consignments. I take note that **Shri Ram Babu S/o Shri Saty Prakash**, aged 31 years, having address at 251 village Aharan Agra, Utter Pradesh (present address 12/107, Near Geeta Park, Kidwai Nagar, Kanpur, UP-208011 has mislead the agency by way of produce fabricated documents for obtaining Dual Use NOC from Assistant Drug Controller for clearance of imported goods covered under Bills of entry no. BE No. 5433927 dated 05.09.2024.

Further, I find that Shri Ram Babu has admitted in his written submission as discussed above at para 10(4) supra that he manipulated the NOC by fabricating a previous NOC document in under pressure, and to avoid financial loss to the importer due to storage fees. Importer also urging to expedite the NOC issuance due to the accumulating storage charges on the consignment. He further stated that the fabrication of the document was done solely by him, without the knowledge or involvement of M/s. Imex Clearing and Logistics Pvt. Ltd. or the importers. They were not informed about the manipulation and it was entirely his own decision and responsibility. Thus,

**Shri Ram Babu** has violated the provision of rule 43 of the Drugs & Cosmetics Rules, 1945 as well as the provision of section 46 of Customs Act, 1962 to obtain Dual Use NOC from CDSCO on the basis of fabricated documents in respect of said bill of entry for clearance of goods. Therefore, Shri Ram Babu is liable to penal action under section 14AA of Customs Act, 1962 as proposed in the Show Cause Notice.

17. On going through the submissions in the aforementioned noticees, I find that the importer M/s. SP Polymers along with M/s. Imex Clearing and Logistics Pvt. Ltd. and M/s. Kashyap Shipping Pvt Ltd, were not directly involved in obtaining the Dual Use NOC from CDSCO. Shri Ram Babu has admitted in his written submission that he alone arranged the fabricated NOC without the knowledge of the aforementioned parties who were not privy to his actions. Based on this, I conclude that M/s. SP Polymers alongwith M/s. Imex Clearing and Logistics Pvt. Ltd., and M/s. Kashyap Shipping Pvt Ltd are not liable for penal action under Section 114AA of the Customs Act, 1962, as proposed in the Show Cause Notice.

18. In view of the above, I pass following order:-

**ORDER:**

- i. I allow the importer to clear the goods imported vide BE No. 5433927 dated 05.09.2024 for home consumption.
- ii. I held that the imported goods are not liable for confiscation under Section 111(d) of the Customs Act, 1962 as the NOC dated 25.03.2025 has been issued to importer.
- iii. As the goods is not liable for confiscation, I don't impose penalty under section 112 a (i) of the Customs Act, 1962.
- iv. I don't impose penalty on three notices (1) Importer M/s. SP Polymers (2) M/s. Imex Clearing and Logistics Pvt. Ltd. and (3) M/s. Kashyap Shipping under Section 114AA of the Customs Act, 1962.
- v. I imposed penalty of Rs. 50,000/- (Rupees Fifty Thousand Only) **Shri Ram Babu S/o Shri Saty Prakash**, aged 31 years, having address at 251 village Aharan Agra, Utter Pradesh (present address 12/107, Near Geeta Park, Kidwai Nagar, Kanpur, UP-208011) having Aadhar Card No. 531002919554 under section 114AA of the Customs Act, 1962.

19. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.

20. The Show Cause Notice No. CUS/APR/SCN/490/2025-GR-2 O/O Pr. Commr-Cus-Mundra dated 28.03.2025 stands disposed in above terms.

Zala Dipakbhai Chimanbhai

Additional Commissioner

Custom House, Mundra

DIN:

Date:02-07-2025

F.No. **CUS/APR/SCN/490/2025-Gr 2-O/o Pr Commr-Cus-Mundra**

To:-

1. M/s. SP Polymer, Kanpur, U.P (IEC: 0608006459),  
A-10, Rooma Industrial Area, General Extension,  
Rooma, Kanpur, Uttar Pradesh-208024.
  
2. M/s. Kashyap Shipping Pvt. Ltd., Customs Broker,  
Rishabh Corner, Office No. 214-215, Second Floor,  
Plot No. 93, Sector-8, Near KDBA, Gandhidham, Kutch-370201.
  
3. M/s. Imex Clearing and Logistics Pvt. Ltd., Business Forwarder,  
Shop No. 16<sup>th</sup>, Harmony Arcade, 17/1 Telegraph Road,  
The Mall, Kanpur-208001.
  
4. Shri Ram Babu S/o Shri Saty Prakash, aged 31 years, having address at 251  
village Aharan Agra, Uttar Pradesh (present address 12/107, Near Geeta Park,  
Kidwai Nagar, Kanpur, UP-208011

Copy to :- for information and necessary action, if any.

The Addl. Commissioner (SIIB), Customs House, Mundra.

The Addl. Commissioner (RRA), Customs House, Mundra.

The Deputy Commissioner (Gr-II) Customs House, Mundra.

Guard File