O/C

प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
सीमा शुल्क भवन, आल इंडीया रेडियो के पास, नवरंगपुरा ,अहमदाबाद 380009
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**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, AHMEDABAD**
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**निबन्धित पावती डाक द्वारा / By SPEED POST A.D.**

**फा. सं./ F. No.: VIII/10-11/Commr/O&A/DRI/2014**
**DIN-** 20260771MN0000C5806F

आदेश की तारीख/Date of Order : 30.07.2026
जारी करने की तारीख/Date of Issue : 30.07.2026

द्वारा पारित :- **मनीष कुलहरी, आयुक्त**
**Passed by :- Manish Kulhery, Commissioner**

RECEIVED
CUSTOMS (HQ), A'BAD.
DATE : 30/7/26
SIGN. :
NAME :

मूल आदेश संख्या :

**Order-In-Original No: AHM-CUSTM-000-COMMR-06-2026-27 dtd.30.07.2026** in the case of M/s. Vidres India Ceramics Private Limited, situated at 306, Sarthik Square, Nr. Pizza Hut, S.G. Road, Ahmedabad.

1 जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।

1. This copy is granted free of charge for private use of the person(s) to whom it is sent.

2. इस आदेश से असंतुष्ट कोई भी व्यक्ति इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार, सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, दुसरी मंज़िल, बहुमाली भवन, गिरिधर नगर पुल के बाजु मे, गिरिधर नगर, असारवा, अहमदाबाद-380 004 को सम्बोधित होनी चाहिए।

2. Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Asarwa, Ahmedabad – 380004.

3. उक्त अपील प्रारुप सं. सी.ए.3 में दाखिल की जानी चाहिए। उसपर सीमा शुल्क (अपील) नियमावली, 1982 के नियम 3 के उप नियम (2) में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियों में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी

उतनी ही प्रतियाँ संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। अपील से सम्बंधित सभी दस्तावेज भी चार प्रतियोँ में अग्रेषित किए जाने चाहिए।

3. The Appeal should be filed in Form No. C.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Customs (Appeals) Rules, 1982. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.

4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं, चार प्रतियों में दाखिल की जाएगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलगन की जाएंगी (उनमें से कम से कम एक प्रमाणित प्रति होगी)

4. The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)

5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।

5. The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.

6. केंद्रिय सीमा शुल्क अधिनियम,1962 की धारा 129 ऐ के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।

6. The prescribed fee under the provisions of Section 129A of the Customs Act,1962 shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

7. इस आदेश के विरूद्ध सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण में शुल्क के 7.5% जहां शुल्क अथवा शुल्क एवं जुरमाना का विवाद है अथवा जुरमाना जहां शीर्फ जुरमाना के बारेमे विवाद है उसका भुकतान करके अपील की जा शकती है।

7. An appeal against this order shall lie before the Tribunal 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".

8. न्यायालय शुल्क अधिनियम, 1870 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर उपयुक्त न्यायालय शुल्क टिकट लगा होना चाहिए।

8. The copy of this order attached therein should bear an appropriate court fee stamp as prescribed under the Court Fees Act, 1870.

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Sub: Show Cause Notice No. DRI/AZU/GRU-60/2013 (Vidres India) dated 10.04.2014 and corrigendum dated 04.03.2015 & 22.08.2016 issued by the Additional Director General, DRI, Ahmedabad to M/s. Vidres India Ceramics Private Limited, situated at 306, Sarthik Square, Nr. Pizza Hut, S.G. Road, Ahmedabad.

**Brief facts of the case:**

Intelligence gathered by DRI, Gandhidham indicated that some importers were importing Printing Ink, which is used in Digital Inkjet Printing Machines for printing on Ceramic Tiles (hereinafter also referred to as "Inkjet Ink" / "Imported Goods"). The Inkjet Ink is appropriately classifiable under Customs Tariff Heading 3215. It further indicated that, with the intention to evade payment of the appropriate amount of customs duty, such importers used to mis-declare its description as Ceramic Colour, Ceramic Pigment, raw material for ceramic tile plant, Colour, Pigment, or similar wordings in the Bills of Entry and wrongly classified the same under Customs Tariff Item 32071030 / 32071090, etc. The effective rate of Basic Customs Duty on goods covered under Customs Tariff Heading 3207 was 7.5% ad valorem, as per Sr. No. 208 of Notification No. 12/2012-Cus. dated 17.03.2012. Some of the importers were also claiming a higher exemption and paying Basic Customs Duty at the effective rate of 5% ad valorem under Sr. No. 210 of Notification No. 12/2012-Cus. dated 17.03.2012 by classifying the imported goods under Tariff Item 32071040. The exemption under Sr. No. 210 of Notification No. 12/2012-Cus. dated 17.03.2012 is specifically admissible to "Ceramic Colours" falling under CTH 32071040.

**2.** It appears that M/s. Vidres India Ceramics Private Limited ("M/s. Vidres" or "the importer"), situated at 306, Sarthik Square, Nr. Pizza Hut, S.G. Road, Ahmedabad, had cleared various such consignments by following the above-mentioned modus operandi. Therefore, an investigation was initiated in respect of such imports made by them. Upon scrutiny of the import documents, it appeared that they were declaring the description of the goods (Ceramic Ink) in the Bills of Entry as "*Pigment*" and classifying the same under CTH 32071090, while paying Basic Customs Duty ("BCD") at the effective rate of 7.5% by claiming exemption under Sr. No. 208 of Notification No. 12/2012-Cus. dated 17.03.2012. It appears that the said importer was clearing the imported goods through ICD Sabarmati, Ahmedabad; Air Cargo Complex (ACC), Ahmedabad; ACC, Mumbai; and Customs House, Nhava Sheva. All the imports were sourced from M/s. Vidres S.A., Carretera Onda Km. 3.4, Apartado Correos 141, Castellon, Spain.

**3.** Shri Vishal Ghanshyam Trivedi, Director in M/s. Vidres India Ceramics Private Limited, in his statement dated 06.09.2013 recorded under Section 108 of the Customs Act, 1962, interalia, stated that the Ceramic Colours arrive in the form of powders and are mixed with mediums e.g. PEG (Polyethylene Glycol) to form paste; that the said paste is then used in screen printing / printing machine for printing on tiles; that the pigment is a liquid and roto it is a ready to use material obtained by mixing very finely crushed (divided) "Ceramic colour" with a medium / chemical; that the said pigment is directly put into Ink Tank of Digital Printing Machine, from where it passes to the Ink head of the Digital Printing Machine and using inkjet technology the prints are obtained on Ceramic tiles; that they classified Pigment under CTH 32071090 and Ceramic Colour under CTH 32071040, as suggested to them by the suppliers; that, regarding the non-declaration of the subject goods as "Ink", he stated that, in the case of their product, namely ceramic tiles, after printing, the tiles are fired in a kiln and, upon firing, the medium evaporates, leaving only the pigment on the ceramic tiles; that normal Ink would not be able to sustain high temperature of kiln firing if the printed material were put in the kiln; that the European suppliers called the said item (pigment) as "Inkjet Ink" and Ceramic Tile manufacturers also called the said item as "Ink" or "Ceramic Ink"; that they had declared the said item as "Pigment" in all invoices, and the product codes were either numerical viz, 101, 102 etc, or are numeric prefixed with "CIK"; that the first type of ink is used in Printing Machines with XAAR and Toshiba print heads, while second type of ink is used in Printing Machines with Durst print heads; that the said products were manufactured by Esmalglass Itaca and supplied to them by Vidres S.A, Spain, which had purchased these items from Esmal-glass-itaca, Spain; that the Manufacturer Esmalglass-itaca, calls the said product as Pigmented Ink (HCR Inkjet). Upon referring the website of manufacturer Esmalgass-itaca wherein the product was described as HCR Inkjet Inks (Pigmented Ink), and having asked about the variation in the description, he replied that they were not aware that the supplier, Vidres S. A., had issued the invoices describing the product as "Pigment".

**3.1** Shri Sunil Hasmukhbhai Modi of M/s Sunder Balan, CHA, Ahmedabad, in his statement dated 12.12.2013, stated that M/s Vidres had suggested the CTH of item Pigment as 32071090 and had also provided copy of previous Bill of Entry filed by them at Custom House, Nhava Sheva. On being shown the definitions of Pigment and Ink in the "Harmonised Commodity description and Coding System", he stated that the item cleared by them and declared as "Pigment" in the import documents was covered under the definition of Printing Ink falling under CTH 3215; that, being a CHA, it was their responsibility to declare the correct CTH; that they had not called for any literature from M/s Vidres India Ceramics Private Limited, Ahmedabad.

**3.2** Shri Rajiv Desai of M/s. Dawn India, (CHA), in his statement dated 02.01.2014, stated that M/s Vidres had suggested the CTH of Pigment as 32071090. On being shown the definitions of Pigment and Ink in the "Harmonised Commodity Description and Coding System", he stated that the item cleared by them and declared as "Pigment" in the import documents was covered under the definition of Printing Ink under CTH 3215; that they had not called for any literature from M/s. Vidres India Ceramics Private Limited, Ahmedabad; and that, being a CHA, it was their responsibility to declare the correct CTH.

**4.** From the statement of Shri Vishal Ghanshyam Trivedi, it appeared that the supplier, M/s. Vidres S. A. did not manufacture impugned imported goods, but that they were manufactured by Esmalglass Itaca and supplied to M/s. Vidres S. A, Spain, which, in turn, exported the said goods. It also appeared that the subject goods were used in Ceramic Digital Printing Machines for printing on Ceramic Tiles; that the said goods were known as **"Inkjet Inks"** to Europe based Suppliers / Manufactures and as ***"Ink / Ceramic Ink"*** to Ceramic Tile manufacturers. In other words, both the manufacturers as well as the end users called the subject product as "Ink". It appeared that only in the invoices issued by M/s. Vidres S. A. to M/s. Vidres India Ceramics Private Limited, Ahmedabad, the subject goods were described as "Pigment" instead of "Ink".

It further appeared that the original manufacturer of the subject goods i.e. M/s. Esmalglass-Itaca, Spain, also directly exported the goods in India to its sole distributor (for Saurashtra Region) to M/s Krishna Colour Chem, Morbi. The said goods, having codes pre-fixed with "CIK", were declared as "Ceramic Pigmented Ink" in the import invoices, Bills of Lading and Country of

Origin Certificates issued to M/s Krishna Colour Chem, Morbi. During the investigation, it appeared that the representative samples of the said goods imported by M/s Krishna Colour Chem, Morbi were drawn by the officers of DRI vide Panchanama dated 01.08.2013 and were tested by the Customs Laboratory, Custom House, Kandla vide Test Memo No. 09/2013-14 dated 05.09.2013 to ascertain whether the product was a pigment or an Ink. The Custom Laboratory, Custom House, Kandla, in respect of the import goods, opined, *"The sample is in the form of brownish colour liquid. It is a preparation containing inorganic oxide (Pigment) in solvent."*. It appeared that the composition of the Imported Goods, as opined by the Customs Laboratory, CH Kandla, matched the basic composition of Printing Inks as explained in the Explanatory Notes to Harmonized Commodity Description and Coding System under Chapter Sub Heading 3215 and indicated that the imported goods were similar in composition to Inks. However, in order to remove any uncertainty, the second set of the same samples was sent to the Central Revenues Control Laboratory (CRCL for short), New Delhi, vide Test Memo No. 21/2013-14 dated 26.11.2013. Vide C. No. 35-CRCL/2013/CL-625 (DRI) dated 02.12.2013, issued on 27.12.2013, the CRCL, New Delhi, opined, in respect of the imported goods, that *"the sample is in the form of brown coloured viscous liquid. It is a preparation based on Inorganic colouring matter, glycolic bodies, pthalates & organic solvent. Nonvolatile residue = 62.4%, Ash content = 14.8 %. Above analytical finding reveals that such compositions find mentioned to be used as Printing Ink. Literal evidence reveals that such ink can be used in the Inkjet Printers on surface having clay coating."*

It appears that the opinion of the CRCL, New Delhi, confirmed that the subject imported goods were Printing Ink capable of being used in Inkjet Printers for printing on Ceramic Surfaces. Therefore it appeared that the ***(1) subject goods were used in Ceramic Digital Printing Machines for printing on Ceramic Tiles, (2) The subject goods were known as "Inkjet Inks" to Europe based Suppliers / Manufactures and as "Ink / Ceramic Ink" to the End Users i.e. Ceramic Tile manufacturers, (3) The subject goods had been declared as "Ceramic Pigmented Ink" in the import invoices issued by the manufacturer Esmalglass Itaca to M/s Krishna Colour Chem, Morbi; and (4) the CRCL, New Delhi after testing the samples of the subject goods, confirmed them to be Printing Ink meant for use in Inkjet Printing Machines having clay coating.*** Accordingly, it appeared that the subject goods imported by M/s. Vidres India Ceramics Private Limited, Ahmedabad, and declared in the import documents as "Pigment" were, in fact, "Inks", and more precisely, "Printing Inks".

**4.1** The manufacturer of the subject imported goods was Esmal-glass-Itaca, Spain. To ascertain further details, the website of M/s Esmalglass-Itaca, Spain was also browsed. The website mentions Pigment and Inks as different and distinct final products. It was, therefore, evident that Pigment and Inks were not the same products for the manufacturer of imported goods, Esmalglass-Itaca, Spain. The Inks are described in a 19-Page catalogue available under "digital solutions" (at the web page http://www.esmalglass-itaca.com/en/products-and-solutions/digital-solutions), under the sub category "Inkjet Inks HCR (High Chromatic Range)", at Page No. 7. It states "Esmalglass-Itaca increases performance of the Pigmented Inks with the new Esmalglass-Itaca HCR Inkjet Inks, which have 3 new colours, Yellow, Blue and Beige, much more intense, increasing the color range, printing quality and getting more uniform tones and gradations. The complete set consists of 6 colors: yellow, beige, pink, blue, brown, and black, providing a complete color range that perfectly reproduces any material type. The pink Ink, with a high intensity, pigmented and without gold, compared to the golden magneta inks, significantly reduces the production costs without affecting the chromatic range." At the same page of catalogue, reference Nos/ Code Nos of the Inks are also mentioned vertically on the right-hand side of the page. These are the same type of reference Nos / Codes Nos, beginning with the alphabetical prefixes "CIK" followed by numerical codes, as found in the invoices relating to the goods imported by M/s. Vidres India Ceramics Private Limited, Ahmedabad. It clearly emerged that the subject product imported by M/s. Vidres India Ceramics Private Limited, Ahmedabad, was actually Ink.

**4.2** The subject goods imported by M/s. Vidres India Ciramics Private Limited, Ahmedabad, were suspension solutions. The test results of the Customs laboratory, Kandla, confirmed that the subject imported goods were a preparation containing inorganic oxide (Pigment) in solvent. The CRCL, New Delhi, further confirmed that the goods were a preparation based on Inorganic colouring matter, glycolic bodies, pthalates & organic solvent. The composition of the subject goods, as revealed by chemical testing, rules out the possibility of the goods being Pigment, since the pigments are (1) dry mixtures and (2) formed by heat treatment of metal oxides. The pigments classifiable under CTH 3207 did not contain any solvent or medium. On the other hand, the composition revealed by the chemical test matched with the composition of Printing Inks defined under CTH 3215 of the Harmonized Commodity Description and Coding System (HCDCS). The subject goods contain glycolic bodies, pthalates & organic solvent in addition to Pigments. Even this single fact, that the subject goods were composed of Pigment plus certain other constituents (glycolic bodies, pthalates & organic solvent), indicates that the subject goods are distinct products manufactured using Pigments but are definitely different from Pigments. It therefore implies that the subject imported goods differed from the Pigments of CTH 3207 and were similar in composition to that of Printing Inks of CTH 3215.

**4.3** It further appears that M/s Vidres was aware of the correct description and use of the Inkjet Inks being imported by them from M/s. Vidres S. A., Spain, which were manufactured by M/s Esmalglass-Itaca, Spain. The importer, with intent to evade payment of applicable customs duties, mis-declared the description of the imported goods as "Pigment" in the Bills of Entry and classified the goods under CTH 32071090, where BCD@7.5% was chargeable. Further, the importer approved the checklists of the Bills of Entry wherein the goods were mis-declared and mis-classified. Shri Vishal G. Trivedi in his statement admitted that the subject goods imported by them from M/s. Vidres S. A., Spain, and manufactured by M/s Esmalglass-Itaca, Spain, were known as "Ink". It appears that he was also aware of the difference between "Ink" and "Pigment (Ceramic Colour)" and their respective uses.

**4.4** Therefore, it appears that M/s Vidres resorted to willful mis-declaration with an ulterior motive of evading payment of the applicable duty on "Inkjet Ink". It further appears that they had been importing the said goods for quite some time, but they neither ask the suppliers to mention the goods correctly in the import documents nor instructed CHAs to declare the same correctly in the Bills of Entry. It appears that they had suggested the CHAs to mis-classify the goods under CTH 3207 instead of 3215. The said act appears to be a willful mis-declaration on their part. Hence, it appears that Section 28(4) of Customs Act, 1962, invoking extended period for demand of duty, is applicable in the instant case. Accordingly, the differential Customs duty aggregating to **Rs. 88,92,267/-** leviable on the Inkjet Ink imported and cleared under different Bills of Entry mentioned in Column No. 02 of Annexure A to the SCN and not paid by M/s Vidres was required to be demanded and recovered from them under the provisions of Section 28 (4) of the Customs Act 1962, along with applicable interest under the provisions of Section 28 AA.

It appears that the product "Inkjet Ink" was imported by M/s. Vidres through four different locations i.e. (1) Ahmedabad Airport (2) ICD, Sabarmati, Ahmedabad (3) Sahar Airport, Mumbai and (4) Customs House, Nhava Sheva and that the same was sourced from M/s. Vidres S. A., Spain and manufactured by M/s Esmalglass-Itaca, Spain. It further appears that manufacturers and suppliers referred to the product as "Inkjet Inks / Pigmented Inks", while the end users knew it as "Ceramic inks / inks"; that M/s. Vidres India Ciramics Private Limited, Ahmedabad was aware of the same, as admitted by Shri Vishal Ghanshyam Trivedi in his statement; that despite being fully aware of the correct name, description and use of the imported product, it was mis-declared as "Pigment" in the Bills of Entry. Therefore, it appears that this act of mis-declaration of the subject imported product i.e. Inks, rendered **183,285 Kgs** of "Inks" **valued at Rs. 29,64,72,134/-** liable for confiscation under the provisions of Section 111 (m) of the Customs Act, 1962, although the said goods were no longer available for confiscation.

**4.5** It further appears that the subject imported goods, namely "Inkjet Inks", were being declared as "Pigment" in the Bills of Entry and other import documents and mis-classified under CTH 32071090 by paying effective BCD @ 7.5%. The said mis-classification of the subject goods under CTH 3207 was suggested to the CHAs by the Importer, M/s. Vidres. Therefore, it appears that M/s. Vidres had wilfully mis-stated the description of the goods in the Invoices, Bills of Lading, Bill of Entry etc.; that the willful mis-declaration of goods in the Bills of Entry by M/s. Vidres rendered the goods liable to confiscation under Section 111(m) of the Customs Act, 1962, and M/s. Vidres liable to penalty under Section 112 (a) of the Customs Act, 1962.

**4.6** It further appears that the above-mentioned act of mis-declaration was done with the intention to evade payment of appropriate customs duty. As mentioned above, it appears that the aggregate duty amount attempted to be evaded by M/s. Vidres comes to **Rs 88,92,267/-**. For the said acts of omissions and commissions, M/s. Vidres appeared to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962; that they are also liable to penalty under Section 114 AA of Customs Act, 1962 for knowingly / intentionally giving false declaration in the Bill of Entry relating to the nature and description of the imported goods.

**4.7** Shri Vishal G. Trivedi was working as Director of M/s. Vidres and was looking after the work relating to purchase and import of the impugned goods from M/s. Vidres S. A., Spain. It appears that he was the main person involved in the process of negotiating with the suppliers and also in approving mis-statement of description of imported goods as "Ceramic Pigment" and their mis-classification under CTH 32071090 in the Bills of Entry filed for seeking clearance from Customs. These acts on the part of Shri Vishal G. Trivedi appear to have rendered the subject imported goods i.e. "Inkjet Inks" liable to confiscation under the provisions of Section 111 (m) of the Customs Act, 1962, and, therefore, Shri Vishal G. Trivedi was also liable to penalty under Section 112(a) of the Customs Act, 1962; that he was also liable to penalty under Section 114 AA of the Customs Act, 1962, for knowingly / intentionally making a false declaration in the Bills of Entry relating to the nature and description of the imported goods.

**5.** M/s. Sunder Balan, Ahmedabad (CHA) appears to have arranged clearance of Inkjet Ink imported by M/s. Vidres at Air Cargo Complex, Ahmedabad and ICD, Sabarmati Ahmedabad. Shri Sunil H Modi, F Card Holder of M/s. Sunder Balan, appears to have been looking after the clearance of imported goods of M/s. Vidres and had stated in his statement that the product declared as "Pigment" in the Bills of Entry is covered by the definition of Printing Ink given in the "Harmonised Commodity Description and Coding System" and, hence, the same ought to have been classified under CTH 3215; that they had not called for any literature / catalogue from the importer. M/s. Sunder Balan, Ahmedabad, appeared to have mis-declared the said goods as "Pigment" in the Bills of Entry and mis-classified the said goods under CTH 32071090, where BCD was chargeable at a lower rate.

**5.1** It appeared from the statement of Shri Sunil H Modi that they failed to discharge their duty and became a party to the evasion of customs duty. A CHA is duty bound to exercise due diligence to ascertain the correctness of any information with reference to the work related to the clearance of cargo from Customs. Instead of doing so, it appears that they abetted in the act of mis-declaring and mis-classifying the impugned goods. Further, they also failed to advise their client, M/s. Vidres, to comply with the provisions of the Act and also failed to bring the matter of non-compliance of mis-declaration and mis-classification of the imported goods by the Importer, to the notice of the Assistant/Deputy Commissioner of Custom in terms of Regulation 13 (d) of Custom House Agents Licencing Regulation, 2004 (*now Regulation 11 (d) of Customs Brokers Licencing Regulations, 2013).*

**5.2** The above discussed acts of commission and omission on the part of M/s. Sunder Balan, Ahmedabad, appear to have rendered the impugned goods i.e. "Inkjet Inks" liable to confiscation under the provisions of Section 111(m) of the Customs Act, 1962, and M/s. Sunder Balan, Ahmedabad rendered themselves liable to penalty under Section 112(a) of the Customs Act, 1962 and, and is also liable for action under the Customs House Agents Licensing Regulations, 2004, read with the Customs Brokers Licencing Regulations, 2013.

**6.** Similarly, it appears that M/s. Dawn India, Mumbai (CHA), had arranged the clearance of "Inkjet Ink" imported by M/s. Vidres at Air Cargo Complex, Mumbai, and at Customs House, Nhava Sheva. Shri Rajiv Desai, F Card Holder and partner of M/s. Dawn India, Mumbai, had stated in his statement that the product declared as "Pigment" in the Bills of Entry filed by them on behalf of M/s. Vidres is covered by the definition of Printing Ink given in the "Harmonised Commodity Description and Coding System" and should have been classified under CTH 3215. It further appears that they had not called for any literature/catalogue from the importer. M/s. Dawn India, Mumbai appears to have mis-declared the said goods as "Pigment" in the Bills of Entry and mis-classified the said goods under CTH 32071090, where BCD was chargeable at a lower rate.

It further appears that M/s. Dawn India, Mumbai failed to discharge their duty and became party to the evasion of customs duty. A CHA (now Customs Broker) is duty bound to exercise due diligence to ascertain the correctness of information with regard to the work related to clearance of cargo from Customs, and instead of doing so, they appear to have abetted in the act of mis-declaring and mis-classifying the impugned goods as "Pigment" in the Bills of Entry. Further, they also failed to advise their client, M/s. Vidres to comply with the provisions of the Act and they failed to bring the matter of non-compliance of mis-declaration and mis-classification of the imported goods by the Importer to the notice of the Assistant/Deputy Commissioner of Customs in terms of Regulation 13 (d) of Custom House Agents Licencing Regulation, 2004 (*now Regulation 11 (d) of Customs Brokers Licencing Regulations, 2013).*

**6.1** The above discussed acts of commission and omission on the part of M/s. Dawn India, Mumbai, appear to have rendered the impugned goods liable to confiscation under the provisions of Section 111(m) of the Customs Act, 1962 and M/s. Dawn India, Mumbai appears to have rendered themselves liable to penalty under Section 112(a) of the Customs Act, 1962. They have also rendered themselves liable for action under Customs House Agents Licensing Regulations, 2004 read with Customs Brokers Licencing Regulations, 2013.

**7.** Accordingly, a show cause notice bearing No. F.No. DRI/AZU/GRU-60/2013 (Vidres India) dated 10.04.2014 was issued to M/s. Vidres India Ceramics Private Limited, Ahmedabad by the Additional Director General, Directorate of Revenue Intelligence, Ahmedabad directing them to show cause to the -

**(1)** Commissioner of Customs, Ahmedabad as to why:

(a) The classification of the "Ceramic Printing Ink" imported under Bills of Entry listed in Coloumn No. 02 of Annexure A-1 & Annexure A-2 under CTH 32071090 should not be rejected and the goods be classified under CTH 32151190 and the Bills of Entry be assessed accordingly.

(b) The differential amount of customs duty aggregating to Rs. 75,60,294/- as detailed in Annexure A-1 & A-2 to the SCN leviable on the "Ceramic Printing Ink" covered under Bills of Entry as listed in Coloumn No. 02 of Annexure A-1 & A-2, should not be demanded and recovered from them under Section 28 (4) of the Customs Act, 1962, along with applicable interest under Section 28 AA (erstwhile Section 28 AB) of the Customs Act, 1962.

(c) 1,56,785 Kgs of Ceramic Printing Ink imported under Bills of Entry as listed in Coloumn No. 02 of Annexure A-1 & A-2 to the SCN should not be held liable to confiscation as per provisions of Section 111 (m) of Customs Act, 1962.

(d) Penalty should not be imposed on them under Section 112 (a) / 114A of the Customs Act, 1962, for the reasons discussed above.

(e) Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962, for the reasons discussed above

**7(2)** Additional Commissioner of Customs (Import), Air Cargo Complex, Sahar, Andheri (E), Mumbai as to why:

(a) The classification of the "Ceramic Printing Ink" imported under Bills of Entry listed in Column No. 02 of Annexure A-3 under CTH 32071090 should not be rejected and the goods be classified under CTH 32151190 and the Bills of Entry be assessed accordingly.

(b) The differential amount of customs duty aggregating to **Rs. 8,01,851/-** as detailed in Annexure A-3 to the SCN leviable on the "Ceramic Printing Ink" covered under Bills of Entry as listed in column No. 02 of Annexure A-3, should not be demanded and recovered from them under Section 28 (4) of the Customs Act, 1962, along with applicable interest under Section 28 AA (erstwhile Section 28 AB) of the Customs Act, 1962.

(c) **16,000 Kgs** of Ceramic Printing Ink imported under Bills of Entry as listed in **Column No. 02 of Annexure A-3** should not be held liable to confiscation as per provisions of Section 111 (m) of Customs Act, 1962.

(d) Penalty should not be imposed on them under Section 112 (a) / 114A of the Customs Act, 1962, for the reasons discussed above.

(e) Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962, for the reasons discussed above

**7(3)** Additional Commissioner of Customs (Import) JNCH, Nhava Sheva, Raigad, Maharashtra as to why:

(a) The classification of the "Ceramic Printing Ink" imported under Bill of Entry listed in Column No. 02 of Annexure A-4 under CTH 32071090 should not be rejected and the goods be classified under CTH 32151190 and the Bill of Entry be assessed accordingly.

(b) The differential amount of customs duty aggregating **Rs. 5,30,122/- as detailed in Annexure A-4 to the SCN** leviable on the "Ceramic Printing Ink" covered under Bill of Entry as listed in column No. 02 of Annexure A-4, should not be demanded and recovered from them under Section 28 (4) of the Customs Act, 1962, along with applicable interest under Section 28 AA (erstwhile Section 28 AB) of the Customs Act, 1962.

(c) **10,500 Kgs** of Ceramic Printing Ink imported under Bill of Entry as listed in Column No. 02 of Annexure A-4 should not be held liable to confiscation as per provisions of Section 111 (m) of Customs Act, 1962.

(d) Penalty should not be imposed on them under Section 112 (a) / 114A of the Customs Act, 1962, for the reasons discussed above.

(e) Penalty should not be imposed on them under Section 114AA of the Customs Act, 1962, for the reasons discussed above

**7(4).** Further, **Shri Vishal Ghanshyam Trivedi, Director** of M/s. Vidres India Ceramics Private Limited, Ahmedabad, was also called upon to show cause to the (1) Commissioner of Customs, Ahmedabad, (2) Additional Commissioner of Customs (Import) Air Cargo Complex, Sahar, Andheri (E), Mumbai and (3) Additional Commissioner of Customs (Import) JNCH, Nhava Sheva, Distt-Raigad, Maharashtra as to why Penalty should not be imposed on him under Section 112(a) and 114AA of the Customs Act, 1962.

**7(5). M/s. Sunder Balan** (Customs Broker), Ahmedabad was called upon to show cause to the Commissioner of Customs, Ahmedabad as to why Penalty should not be imposed on them under Section 112(a) of the Customs Act, 1962, for the reasons discussed above.

**7(6). M/s. Dawn India** (Customs Broker), Mumbai was called upon to show cause to the (1) Additional Commissioner of Customs (Import) Air Cargo Complex, Sahar, Andheri(E), Mumbai and (2) Additional Commissioner of Customs (Import) JNCH, Nhava Sheva, Tal-Uran, Distt- Raigad, Maharashtra as to why Penalty should not be imposed on them under Section 112(a) of the Customs Act, 1962, for the reasons discussed above.

**8.** The Director (Customs), Central Board of Excise & Customs, New Delhi vide Order F.No.437/98/2014-Cus.IV dated 25.08.2014 authorised the Commissioner, Customs, Ahmedabad to act as a Common Adjudicating Authority in the instant case.

**9.** A corrigendum to the said Show Cause Notice was issued on 04.03.2015 for rectifying certain minor typographical errors.

**10.** Another Corrigendum dated 22.08.2016 was also issued from F.No. DRI/AU/GRU-60/2013 (Vidres India)/1828. Vide the aforesaid corrigendum, para 5 of the SCN has been renumbered as para 5.1 and a new para 5.2 has been added, which incorporates recovery of certain data/documents stored in a hard disc and also the statement of Shri Bhavesh K Maniar, partner of M/s Krishna Colour Chem, Morbi.

**TRANSFER TO CALL BOOK**

**11.** I note that the Importer has filed the SCA No. 17436/2016 before the Hon'ble High Court of Gujarat against the said corrigendum dated 22.08.2016 by contending that by issuing the corrigendum, "the basis of the Show Cause Notice has got materially changed" and the Hon'ble High Court stayed the proceedings based on the corrigendum. Accordingly, the case was transferred in the Callbook.

**SPECIAL CIVIL APPLICATION NO. 17436 OF 2016 IN HON'BLE HIGH COURT OF GUJARAT**

**12.** The Hon'ble High Court vide order dated 22.06.2026 has disposed of the SCA in favor of the importer. The final order is reproduced hereunder for the sake of brevity:

> "*19. On the overall analysis of facts and the statutory scheme governing the issue raised before us, we are of the opinion that the action of the respondent-department in issuing the impugned Corrigendum was uncalled for. Hence, the writ petition succeeds.* ***The respondents are directed to pass final orders on the proceedings initiated vide show cause notice dated 10.04.2014 ignoring the impugned Corrigendum, dated 22.08.2016 (Annexure-F), within a period of 06 (six) weeks from the date of receipt of this order****. RULE is made absolute. No order as to costs.*"

11

**WITHDRAWL OF SCN FROM CALL BOOK**

**13**. In pursuance of the Hon'ble High Court order dated 22.06.2026, the case was withdrawn from Call book on 03.07.2026 for adjudication.

**DEFENCE REPLY:**

**14. REPLY SUBMITTED BY M/S VIDRES INDIA CERAMICS PVT. LTD., AND SHRI VISHAL GHANSHYAM TRIVEDI, DIRECTOR OF M/S VIDRES INDIA CERAMICS PVT LTD:**

**14.1** M/s. Vidres India Ceramics Pvt. Ltd. and Shri Vishal Ghanshyam Trivedi, Director of the company, vide common reply dated 10.12.2014 and further written submissions dated 11.07.2016, denied the allegations made in the Show Cause Notice. They submitted that the imported goods were correctly declared as "Pigments" classifiable under CTH 32071090 and there was neither any misclassification nor any mis-declaration, suppression of facts or wilful misstatement on their part. They contended that they had been importing identical goods from M/s. Vidres S.A., Spain for several years and that similar products imported by various other importers had also been classified under CTH 3207.

**14.2** That all the Bills of Entry were assessed finally by the competent Customs officers after examination of the Bills of Entry, invoices, packing lists, Bills of Lading/Airway Bills and other import documents. Therefore, the proposal to reopen the concluded assessments under Section 28 of the Customs Act by invoking the extended period of limitation is without jurisdiction and legally unsustainable.

**14.3** That the proposal to classify the goods in question as "Printing Ink" was fundamentally erroneous, as the goods were admittedly used in the ceramic industry and were not pastes obtained by mixing black or coloured pigments with a vehicle; that in common trade parlance the goods were known as "pigments", "ceramic colours", "ceramic pigments", or "raw materials for ceramic tile plants", and not as "printing ink" or "ink"; that the HSN Explanatory Notes under Headings 3207 and 3215 clearly show that the goods in question were appropriately classifiable under CTH 32071090 as pigments; that the clarifications furnished by their Director during the recording of his statement on 06.09.2013, when examined in the light of the HSN Explanatory Notes under Headings 3207 and 3215, clearly supported the classification adopted by them in the Bills of Entry, leaving no doubt regarding the correctness of the declared classification.

**14.4** That the test report of the Customs Laboratory, Kandla, confirms that the sample was a "preparation containing inorganic oxide (pigment) in solvent". The said report itself established that the goods contained inorganic oxide preparations, thereby supporting classification under Heading 3207. They submitted that the laboratory had neither opined that the goods were printing ink nor answered the specific query whether the products were obtained by mixing finely divided pigments with a vehicle.

**14.5** That the explanation made by their Director on 06.09.2013 was correct. It was clarified by him that Ceramic colours are in form of powders and they are mixed with medium like Polyethylene Glycol to form paste which means that the goods imported by them were not in form of a paste; that it was also clarified by him that ceramic tiles were fired in kiln after printing, and that normal ink cannot withstand high temperature of kiln. This clarification shows that explanatory notes under heading 3207 about firing at high temperature after application is satisfied in case of the goods imported by them.

**14.6** That explanatory notes of Heading 3207 specifically cover prepared pigments, prepared colours and similar preparations used in the ceramic industry, glass industry and for colouring or finishing metal articles. They emphasized that the imported goods satisfied all the essential characteristics of Heading 3207 as they were preparations containing inorganic oxides intended for ceramic applications. On the other hand, heading 3215 covers printing inks which are pastes obtained by mixing finely divided black or coloured pigments with a vehicle for ordinary printing purposes. It is further explained that the vehicle consists of either natural resins or synthetic polymers, dispersed in oils or dissolved in solvents, and contains a small quantity of additives to impart desired functional properties. Shri R Dashrathan during the cross-examination has deposed that solvent was the vehicle in the product, but it was neither natural resin nor synthetic polymer, but it was a chemical. Accordingly, the imported goods did not satisfy the description of printing ink under Heading 3215.

**14.7** That the DRI authorities on their own had sent samples of the goods to the Customs Laboratory, Kandla and their report was that the goods were a preparation containing inorganic oxide (pigment) in solvent. The Laboratory could not ascertain whether the goods were ink or pigment; that the query of DRI whether the product was obtained by mixing a finely divided black or coloured pigment with a vehicle was not replied by the Customs Laboratory, Kandla. Since this report did not help the cause of DRI, they had consulted CRCL, New Delhi. Same queries were sent to CRCL, New Delhi, but no answer was sought on the precise query whether the goods in question were mixture formed by heat treatment of oxides or salts with or without fluxes or other substances, and whether they were fired at high temperature after application. The CRCL report merely described the product as a preparation based on inorganic colouring matter and thereafter referred to literature indicating that such compositions could be used in inkjet printers on clay-coated surfaces. When the said Chemical Examiner Gr.II has reported that actual use of the product might be ascertained, what prompted him to write further with reference to literal evidence and use of the product in inkjet printer is baffling, and this approach of the Chemical Examiner Gr.II of CRCL New Delhi raises serious doubts.

**14.8** The noticees strongly objected to the reliance placed upon the CRCL report on the ground that no representative samples of their imported consignments had ever been drawn or tested. They submitted that the reports relied upon in the Show Cause Notice pertained to samples allegedly drawn from M/s. Krishna Colourchem and there was no evidence whatsoever to establish that the products imported by M/s. Krishna Colourchem and those imported by M/s. Vidres were identical. There is no confirmation or any communication from the Spanish manufacturer to support the aforesaid claim of the DRI that the goods imported by both the parties were of the same type. In the absence of such evidence, the laboratory reports of another importer could not legally be relied upon against them. They further argued that question that arises about the reliability and genuineness of the report of CRCL, New Delhi because the said report is not only self-contradicting but also not answering the question whether the goods tested and analysed were prepared pigments or similar preparation as explained at Notes under Heading 3207 of HSN or not. They also sought cross-examination of the Chemical Examiners and the DRI officers responsible for referring the samples for testing.

**14.9** That the essential distinction between Heading 3207 and Heading 3215 lay in the composition, intended use and method of application of the products. The goods of heading 3207 are used in the ceramic industry, glass industry or for colouring or finishing metal articles whereas printing ink are not products meant to be used in such specific industries like ceramic, glass or metal articles; and thus, the essential distinction is the industry wherein the goods are used, or meant to be used. The second distinction is the essential elements used in the products because oxides are the main element used for prepared pigments and similar preparations, whereas black or coloured pigments are the main element used for producing printing inks. Oxides to which heat treatment is given are neither used nor usable for production of printing inks whereas prepared pigments and similar preparations are mixtures formed by the heat treatment of oxides. The third distinction is the method of using i.e. application of the product, because prepared pigments and similar preparations of heading 3207 are fired at high temperatures after application, whereas no such firing at high temperatures is involved when print inks are used for printing, writing or drawing.

**14.10** They further questioned the reliability of the laboratory reports by contending that the testing methodology adopted by the Chemical Examiner had not been disclosed and proper sampling procedures prescribed under departmental instructions had not been followed. They also pointed out that during cross-examination, the Chemical Examiner admitted that this was the first such sample examined by him and could not explain the methodology adopted for determining various parameters such as organic oxide, solvent and ash content. Opinion of the Chemical Examiner in these circumstances cannot be relied upon for any purpose whatsoever, notwithstanding the fact that the goods tested and analysed by him were not in the ones imported by M/s Vidres. It was further stated that the goods in question are known and described as 'pigments' in the market.

**14.11** That the burden of proving classification squarely rested upon the Department. In support of their arguments, they had relied and cited the decisions in the cases of Aravali Forgings Ltd.- 1994 (70) ELT 693 Indrol Lubricants and Specialities Ltd. – 1996 (83) ELT 432. The Revenue had failed to establish either that Heading 3207 was inapplicable or that the imported goods positively satisfied the requirements of Heading 3215.

**14.12** The noticees also challenged the invocation of the extended period of limitation under Section 28(4) of the Customs Act. They submitted that all Bills of Entry had been filed along with complete import documents and all material facts had been fully disclosed before the assessing officers. If the Department had any doubt regarding classification, it was open to the assessing officers to draw samples and get the goods tested at the time of assessment. Failure to do so could not subsequently be attributed to suppression or wilful misstatement on the part of the importer. They further submitted that mis-classification, mis-declaration, suppression of facts, mis-statement, etc. cannot be made against an assessee unless there was evidence to establish that the assessee deliberately supplied wrong information to the Revenue officers when called for or the assessee withheld information from the officers though called for. In support of their argument, they had relied and cited certain case laws viz., Padmini Products Chemphar Drugs & Liniments – 1989 (43) ELT 195 (SC) and 1989 (40) ELT 276 (SC), Continental Foundation – 2007 (216) ELT 177 (SC), Jaiprakash Industries Ltd. – 2002 (146) ELT 481 (SC).

**14.13** That the proposal for confiscation of the goods was not legally sustainable since all the consignments had already been finally assessed, duty had been paid and the goods had been cleared for home consumption. As the goods had neither been seized nor provisionally released, confiscation after clearance was not permissible in law. In support of this contention, reliance was placed upon the decisions in Manjula Showa Ltd. 2008(227) ELT 330 and Shiva Kripa Ispat Pvt. Ltd. 2009 (235) ELT 623 (LB).

**14.14** As regards the proposal for imposition of penalties, the noticees contended that there was neither any deliberate violation of law nor any intention to evade payment of duty. Relying upon the judgment of the Hon'ble Supreme Court in *Hindustan Steel Ltd.*, they submitted that penalty cannot be imposed merely because it is legally permissible and that penal action requires proof of contumacious or dishonest conduct. It was further argued that Shri Vishal Ghanshyam Trivedi had acted only in his capacity as Director of the company and had not dealt with the imported goods in his personal capacity. Reliance was placed upon the decision in Z.U. Alvi V/s CCE, Bhopal reported in 2000 (36) RLT 721 to contend that no personal penalty was imposable upon him.

**14.15** On the basis of the above submissions, the noticees requested that all the allegations relating to misclassification, demand of differential duty, confiscation of goods and imposition of penalties be dropped in the interest of justice.

**REPLY OF M/S SUNDER BALAN, AHMEDABAD, CHA**

**15.1** M/s. Sunder Balan, Customs Broker, vide letter dated 10.05.2014, denied all the allegations made in the Show Cause Notice and submitted that the essential ingredients for imposition of penalty under Section 112(a) of the Customs Act, 1962 were not attracted in their case. They contended that they had neither committed any act nor omitted to perform any duty which rendered the imported goods liable to confiscation, nor had they abetted any alleged evasion of customs duty.

**15.2** That there was no mis-declaration or misclassification of the imported goods, as the Bills of Entry had been filed along with all requisite import documents and the goods had been examined and assessed by the competent Customs officers. The classification of the goods under CTH 3207 and the corresponding assessment of duty had been duly approved by the assessing officers after verification of the import documents and the description of the goods. They further pointed out that similar goods imported through Nhava Sheva Customs House had also been assessed under CTH 3207 and it was only subsequently that the DRI took the view that the goods were classifiable under CTH 3215 as "printing ink".

**15.3** That the allegation that the importer was aware of the actual nature, description and end-use of the goods, while continuing to describe them as "pigments" to avail undue benefit, did not establish any role or involvement on the part of the Customs Broker. They contended that they had merely filed the Bills of Entry based on the documents furnished by the importer and had not become a party to any alleged mis-declaration or evasion of customs duty.

**15.4** That they had discharged all their obligations as a Customs Broker by verifying the genuineness of the importer and the authenticity of the documents furnished by the importer. The description declared in the Bills of Entry was identical to that appearing in the import documents. Since all relevant documents were placed before the assessing officers and there was no allegation of any forged or fabricated document, no negligence or omission could be attributed to them. They further contended that there was no requirement for them to call for technical literature or catalogues, particularly when identical goods had already been assessed by Customs under CTH 3207.

**15.5** With regard to the statement dated 12.12.2013 of Shri Sunil Modi, they submitted that the same had no evidentiary value in determining the classification of the imported goods. They argued that classification of goods is purely a question of law requiring interpretation of the Customs Tariff and HSN Explanatory Notes, which falls within the exclusive domain of the assessing authorities and cannot be decided on the basis of statements or admissions of any individual, including an employee of a Customs Broker. In support of their claim, they had cited and relied on the following judgements:

(i) Commissioner V/s Ishaan Research Lab Pvt. Ltd. 2008(230) ELT 7 (SC)
(ii) Shahnaz Ayurvedics 2004 (173) ELT 337 (All.)
(iii) Haryana Roadways Engg. Corpn. Ltd. 2001(131) ELT 662
(iv) Wipro Ltd. 2005 (179) ELT 211

**15.6** That penalty under Section 112(a) could be imposed upon a Customs Broker only where it is established that the broker had knowingly filed false declarations or had consciously assisted or abetted the importer in evasion of duty. In the present case, no evidence had been produced to establish any knowledge, mala fide intention or deliberate involvement on their part. In support of this contention, they relied upon the decision of the Hon'ble Gujarat High Court in Vaz Forwarding Ltd. 2001 (266) ELT 39 and several other judicial pronouncements.

**15.7** That they had acted bona fide and strictly in accordance with the obligations cast upon them under the Customs House Agents Licensing Regulations. There was no violation of Regulation 13(d), as they had no knowledge of any alleged mis-declaration or misclassification and had faithfully filed the Bills of Entry based on the documents furnished by the importer. Therefore, it was submitted that the present one is not a case where they have done anything or they have omitted to do anything or they have abetted any such doing or omission which would render the goods in question liable for confiscation and hence proposal to impose penalty on them is unsustainable and deserves to be vacated in the interest of justice.

**Reply of M/s Dawn India, Mumbai (CHA)**

**16.1** M/s Dawn India, Mumbai, through their Advocate Shri Anil L. Balani, vide letter dated 05.11.2014 & 10.11.2014, denied the allegations in the Show

Cause Notice and submitted that they had acted bona fide in the normal course of business as a Customs Broker. They contended that there was no evidence of deliberate mis-classification or any intention to assist the importer in evasion of Customs duty. They had received only their normal clearing charges, no extra consideration was paid to them, no person examined under Section 108 had implicated them, and all documents received from the importer were duly filed before Customs without suppression or concealment.

**16.2** That the importer had specifically instructed them to classify the goods under CTH 3207 as "Pigments" and they merely acted on such instructions. It was argued that the proper officer was competent to reject the declared classification, examine the goods, obtain test reports and determine the correct classification. Since the Bills of Entry were assessed by Customs after scrutiny, the Customs Broker could not subsequently be faulted for the classification accepted by the Department.

**16.3** It was further contended that the dispute involved interpretation of the Customs Tariff and was not a simple issue. The Department itself had undertaken detailed investigation before proposing classification under CTH 3215, which showed the complexity of the matter. As a Customs Broker, they relied upon the invoices and documents supplied by the importer describing the goods as "Pigments" and had no reason to believe that they were classifiable as printing ink.

**16.4** The issue involved is purely interpretation and there is complete absence of malafide. In the case of Northern Plastics Ltd. 1998 (101) ELT 549 (SC) the Hon'ble Supreme Court has held that – *"Declaration was in the nature of a claim made on the basis of the belief entertained by the appellant and therefore, cannot be said to be mis-declaration as contemplated by Section 111(m) of the Customs Act."*.

**16.5** Referring to the statement of Shri Rajiv Desai dated 02.01.2014, they submitted that the distinction between "Pigment" and "Ink" came to their knowledge only during investigation when they were shown the Explanatory Notes and contradictory invoices. They further submitted that the checklists were always approved by the importer before filing the Bills of Entry and that M/s Vidres was an SVB-registered importer whose imports had been regularly accepted by the Department.

**16.6** They further argued that Heading 3207 specifically covers ceramic colours whereas Heading 3215 does not specifically mention ceramic inks; that the alternative classification under Heading 3215 was brought to their notice only during investigation; that the importer had himself provided the classification and no statement recorded during investigation attributed any role to the Customs Broker in the alleged misclassification. There was no intent on their part to aid or assist the importer in mis declaring or misclassifying the goods.

**16.7** Accordingly, they contended that they had committed no act rendering the goods liable to confiscation under Section 111(m) and, therefore, no penalty under Section 112(a) was imposable. In support of their defence, they had relied and cited the following judgements:

(i) Hindustan Cargo Ltd. – 2007 (220) ELT 349 (Tri.)
(ii) Liberty Marine Syndicate Pvt Ltd. – 210 (259) ELT 550 (Tri)
(iii) Irma Impex – 2010 (252) ELT 253 (Tri)

(iv) Cargo & Travel Services (P) Ltd. – 2010 (252) ELT 82 (Tri.)
(v) H.S. Cox & Co. Pvt. Ltd. -2009 (246) ELT 621 (Tri)
(vi) International Exim Agency – 2009 (242) ELT 267 (Tri)
(vii) Premier Instruments & Controls Ltd. – 2008 (227) ELT 139 (Tri.)
(viii) C Natvarlal & Co. Final Order No. A/5/2013-WZB/CSTB/C-I dated 20.12.2012 passed by the CESTAT, Mumbai in Appeal No. C/1029/12-Mum.

**16.8** That M/s Vidres was a reputed importer, had cooperated with the investigation and agreed to pay the differential duty. In such circumstances, proceeding against the Customs Broker was unwarranted. They therefore prayed for dropping of the proceedings and grant of a personal hearing.

**16.9** Vide further letter dated 01.12.2014, M/s Dawn India reiterated that the Customs Laboratory at Kandla had not certified the goods as printing ink and the Show Cause Notice did not allege any conspiracy between them and the importer. They submitted that Regulation 11(d) of the Customs Brokers Licensing Regulations, 2013 does not cast any obligation upon a Customs Broker to determine the correct tariff classification, which is the responsibility of the importer and the assessing officers. They also contended that the opinion expressed by Shri Rajiv Desai during investigation regarding classification had no legal value, as he was not the competent authority to decide classification. Since the importer was a manufacturer of ceramic tiles requiring pigments, there was no reason for them to suspect the correctness of the description or classification declared by the importer. They accordingly requested that the proceedings against them be dropped and no penalty be imposed.

**CROSS EXAMINATION & PERSONAL HEARING**

**17.1.** On behalf of M/s Vidres, Shri Vishal Ghanshyam Trivedi and M/s Sunder Balan; Shri Kuntal Parikh Advocate along with Shri Sunder Balan appeared on 11.12.2014 and sought the cross-examination of the Chemical Examiner who had furnished the technical opinion.

**17.2.** In respect of M/s Dawn India, Shri Anil Balani, Advocate, and Shri Rajiv Desai, Partner of M/s Dawn India, appeared for personal hearings held on 10.11.2014 and 02.12.2015. They submitted that written submissions had already been furnished vide letters dated 05.11.2014, 10.11.2014, and 01.12.2014 and the same may be taken on record.

**17.3.** The cross-examination of Shri R. Dashrathan, Joint Director, Customs Laboratory, Kandla, was conducted by Shri Paresh Dave, Advocate, on 10.12.2015. Subsequently, Shri Paresh Dave submitted that the samples sent for testing had been drawn from the premises of M/s Krishna Colour Chem and not from M/s Vidres.

**17.4.** Shri Paresh Dave, Advocate, and Shri Sunder Balan attended the personal hearing held on 11.07.2016. Shri Dave furnished written submissions dated 11.07.2016 and reiterated the contents thereof. With regard to the allegations against Shri Sunder Balan, they reiterated the written submissions made vide letter dated 10.05.2014.

**DISCUSSION AND FINDINGS:**

**18.** I have carefully gone through the Show Cause Notice, the written submissions filed by all the noticees, the records of personal hearings, the cross-examination proceedings, the order of the Hon'ble High Court of Gujarat, the documentary evidence placed on record and the applicable statutory provisions.

**19.** From the facts of the case and submissions of the Noticees, I find issues for consideration before me in the present SCN are as under:

(i) Whether classification of the goods i.e. "Ceramic Printing Ink" imported under Customs Tariff Item No. 32071090 vide various Bills of Entry as detailed in Annexure-A1 to A-4 to the SCN should be rejected and correctly classified under Customs Tariff Item No. 32151190 and the Bills of Entry should be re-assessed accordingly?

(ii) Whether the "Ceramic Printing Ink" (1,83,285 Kgs) having assessable value of **Rs. 29,64,72,134/-, (Rupees Twenty-Nine Crore, Sixty-Four Lakh, Seventy-Two Thousand, One Hundred and Thirty-Four only)** imported under various Bill s of Entry as detailed in Annexure-A1 to A4 to the Show Cause Notice are liable to confiscation?

(iii) Whether the differential Customs Duty of **Rs. 88,92,267/- (Rupees Eighty-Eight Lakh, Ninety-Two Thousand, Two Hundred and Sixty-Seven only)** on 'Ceramic Printing Ink' imported vide various Bills of Entry as detailed in Annexure-A1 to A-4 to the SCN is liable to be demanded and recovered under Section 28(4) of the Customs Act, 1962, along with applicable interest in terms of Section 28AA (erstwhile Section 28 AB) of the Customs Act, 1962?

(iv) Whether the Importer is liable for penalty under Section 112(a)/114A & 114AA of the Customs Act, 1962?

(v) Whether Shri Vishal Ghanshyam Trivedi, Director of M/s. Vidres India Ceramics Private Limited, Ahmedabad is liable for penalty under Section 112(a) and Section 114AA of the Customs Act, 1962?

(vi) Whether M/s. Sunder Balan (Customs Broker), Ahmedabad is liable for penalty under Section 112(a) of the Customs Act, 1962?

(vii) Whether M/s. Dawn India (Customs Broker), Mumbai is liable for penalty under Section 112(a) of the Customs Act, 1962?

**19.1** I find that Duty liability with interest, confiscation of goods and penal liabilities would be relevant only if the main point stated at Sr. No. 19(i) supra is decided in line with the classification proposed in the Show Cause Notice. Thus, the main point is being taken up firstly for examination.

**20. Whether classification of the goods i.e. "Ceramic Printing Ink" imported under Customs Tariff Item No. 32071090 vide various Bills of Entry as detailed in Annexure-A1 to A-4 to the SCN should be rejected and correctly classified under Customs Tariff Item No. 32151190 and the Bills of Entry should be re-assessed accordingly?**

**20.1** I find that the crux of the present case is the dispute regarding the classification of the goods imported by M/s Vidres India Ceramics Pvt. Ltd. The Show Cause Notice alleges that the goods imported by the noticee, which are classifiable as "Printing Ink" under CTH 32151190, were mis-declared as "Ceramic Pigment" classified under CTH 32071090, with the intention of availing the concessional rate of Customs duty under Notification No. 12/2012-Cus. dated 17.03.2012. I further find that the impugned goods were imported through ICD, Sabarmati, Ahmedabad, Air Cargo Complex, Ahmedabad/ Mumbai and Jawaharlal Nehru Port (Nhava Sheva).

**20.2.** I find that the present Show Cause Notice substantially relies upon the same investigation, same manufacturer's literature, same technical reports and the same classification issue which already stood concluded in the case of M/s Krishna Colour Chem. The present case arose pursuant to the DRI investigation conducted against other importer i.e. M/s Krishna Colour Chem, Morbi, who was importing similar goods from the same manufacturer. I note that during the investigation in that case, representative samples of the imported goods were drawn under a Panchanama dated 01.08.2013 and tested by the Customs Laboratory, Custom House, Kandla, vide Test Memo No. 09/2013-14 dated 05.09.2013. The Custom Laboratory, Custom House, Kandla opined that *"The sample is in the form of brownish colour liquid. It is a preparation containing inorganic oxide (Pigment) in solvent."*. Since the said report did not conclusively determine the classification of the goods, a second set of samples was forwarded to the Central Revenues Control Laboratory (CRCL for short), New Delhi, vide Test Memo No. 21/2013-14 dated

26.11.2013. Vide C. No. 35-CRCL/2013/CL-625 (DRI) dated 02.12.2013, issued on 27.12.2013, the CRCL, New Delhi, opined, in respect of the imported goods, that "*the sample is in the form of brown coloured viscous liquid. It is a preparation based on Inorganic colouring matter, glycolic bodies, pthalates & organic solvent. Non-volatile residue = 62.4%, Ash content = 14.8 %. Above analytical finding reveals that such compositions find mentioned to be used as Printing Ink. Literal evidence reveals that such ink can be used in the Inkjet Printers on surface having clay coating.*"

Based on the aforesaid test reports, the manufacturer's literature, statements recorded under Section 108 and other evidence gathered during investigation, the DRI reached on a conclusion that the imported goods were digital printing inks classifiable under Heading 3215 and accordingly Show Cause Notices were issued to M/s Krishna Colour Chem as well as the present noticee.

**20.3.** I note that during the adjudication proceedings in the case of M/s Krishna Colour Chem, the importer relied upon the decision of Juridical Body of Harmonised System of Nomenclature of the World Customs Organization, which clarify the imported goods under CTH 3207.10. In view of the significance of the said clarification, the matter was referred by the Chief Commissioner of Customs, Ahmedabad, to the Joint Secretary (Customs), CBEC, New Delhi from F No VIII/48-10/Tech/CCO/2017 on 03.02.2017, for obtaining the Board's clarification regarding the appropriate classification of the imported goods.

**20.4.** The Joint Secretary (Customs), CBEC, vide communication No. 528/14/2017-STO(TU) dated 10.04.2017, forwarded the decision taken by the Harmonized System Committee in its 58th Session. The Board clarified that the classification dispute of ceramic ink for inkjet technology was decided during the 58th session of the HS committee, it was decided that the product would merit classification under sub-heading 3207 10.

**20.5.** I further note that, in view of the aforesaid clarification issued by the CBEC, the Show Cause Notices issued to M/s Krishna Colour Chem were adjudicated and consequently, the Adjudicating Authority dropped the entire proceedings initiated against M/s Krishna Colour Chem and other noticees vide OIO No. AHM/CUSTM-000-COM-004-17-18 dated 28.09.2017.

**20.6.** I also find that, being aggrieved by the assessment orders passed by the Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad, classifying the similar imported goods under CTH 32151190, M/s Krishna Colour Chem preferred various appeals before the CESTAT, Ahmedabad. The

Tribunal, vide Final Order No. A/11936-12000/2023, decided the matter in favour of the importer and held as follows:

> *"3.1 We therefore are persuaded to go by WCO ruling in the instant case to hold that the Pigments for ceramic industry etc, capable of industrial use even on an ink jet processor will be considered as pigment only even if some solution is added to it and shall be classifiable under Tariff Heading 3207.*
>
> *3.2 We are therefore inclined to accept the appeal and hold accordingly that the impugned product is correctly classifiable under tariff item 3207, as was initially classified by the party.*
>
> *4. Appeal is allowed."*

**20.7** The present proceedings arise from the same investigation which culminated in the adjudication of M/s Krishna Colour Chem. The allegations, technical literature, reliance on the laboratory reports, manufacturer's catalogue and the proposed classification under Heading 3215 are substantially identical. Therefore, judicial discipline requires that, in absence of any distinguishing facts, the same view should ordinarily be followed.

**21.** I further find that the aforesaid order of the Hon'ble CESTAT, Ahmedabad has been accepted by the Department and has attained finality. No material has been placed on record to show that the said order has either been stayed or reversed by any superior judicial forum. Consequently, the issue regarding the classification of ceramic inks used in inkjet technology stands concluded in terms of the decision of the Harmonized System Committee, as accepted by the Board and affirmed by the Hon'ble Tribunal. I also note that the Final Order passed by the Hon'ble CESTAT, Ahmedabad has admittedly been accepted by the Department and no contrary judicial pronouncement of any superior forum has been brought on record. Judicial discipline requires that the same view be followed in the present proceedings involving identical goods, identical manufacturer, identical end-use and substantially identical evidence.

**22.** In view of the foregoing facts, I find that the classification of the impugned goods is no longer *res integra*. The Harmonized System Committee, in its 58th Session, specifically held that ceramic inks for inkjet technology are classifiable under Heading 3207.10. This view has been accepted by the Board, and, accordingly, the Show Cause Notices issued to M/s Krishna Colour Chem were dropped by the adjudicating authority. The said view was subsequently affirmed by the Hon'ble CESTAT, Ahmedabad, and the Department has accepted the Tribunal's decision. I also note that the order dated 22.06.2026 of the Hon'ble High Court of Gujarat is also accepted by the Department. In these circumstances, judicial discipline requires that the same classification be adopted in the present case, particularly when the goods involved are identical in nature and use, and the present case is based on the investigation conducted against M/s Krishna Colour Chem. I, therefore, hold that the goods imported by the importer are classifiable under CTH 3207.10.

**23.** Since I have already held that the imported goods are correctly classifiable under Heading 3207.10, I do not consider it necessary to examine the rival contentions regarding the evidentiary value of the laboratory reports, cross-examination of witnesses or the individual submissions on limitation and penalties.

**24.** Consequently, the allegation of misclassification and the consequential proposals for recovery of differential duty, confiscation of the goods, and imposition of penalties do not survive. Once the very basis of the allegation regarding mis-classification fails, the consequential allegations of wilful suppression, mis-declaration, short-payment of duty, confiscation under Section 111(m) and penalties under Sections 112(a), 114A and 114AA automatically fail. Accordingly, I hold that the Show Cause Notice dated 10.04.2014, as amended by the Corrigendum dated 04.03.2015, issued to all the noticees, is liable to be dropped.

**25.** Accordingly, I pass the following order:

**<u>ORDER</u>**

(i) I drop the proceedings initiated against M/s Vidres India Ceramics Pvt. Ltd., Shri Vishal Ghanshyam Trivedi, M/s Sunder Balan and M/s Dawn India in the show cause notices No. DRI/AZU/GRU-60/2013 (Vidres India) dated 10.04.2014 and corrigendum dated 04.03.2015.

(ii) Consequently, the proposals regarding rejection of classification, reassessment of Bills of Entry, demand of differential duty, recovery of interest, confiscation of imported goods, penalties under Sections 112(a), 114A and 114AA, are dropped.

(iii) The Show Cause Notice dated 10.04.2014 read with Corrigendum dated 04.03.2015 stands disposed of accordingly.

30/7/26

O/C

**(Manish Kulhary)**
Commissioner,
Customs, Ahmedabad

F. No. VIII/10-11/Commr/O&A/DRI/2014 Date: 30.07.2026

**DIN:** 20260771MN0000C5806F
**BY SPEED POST A.D.**

To,

1. M/s. Vidres India Ceramics Private Limited, (IEC No. 0806007265), 306, Sarthik Square, Nr. Pizza Hut, S. G. Road, Ahmedabad, Gujarat-380054

2. Shri Vishal Ghanshyam Trivedi, Director of M/s. Vidres India Ceramics Private Limited, 306, Sarthik Square, Nr. Pizza Hut, S. G. Road, Ahmedabad, Gujarat-380054

3. M/s. Sunder Balan, 605, Suyojan, Milan Park Society, Nr. President Hotel,Off. C.G. Road, Chhatralaya Marg, Navaragpura, Ahmedabad

4. M/s. Dawn India, 411, Apeejay House, 130 Bombay Samachar Marg, Mumbai- 400023

**Copy to:**

(1) The Chief Commissioner of Customs, Gujarat Customs Zone, Ahmedabad.
(2) The Additional Director, Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, Unit No. 15, Magnet Corporate Park, Off. Sola Over Bridge, Thaltej, Ahmedabad – 380054.
(3) The Additional Commissioner (Imports), Air Cargo Complex, Sahar, Andheri (E), Mumbai.
(4) The Additional Commissioner of Customs (Import) JNCH, Nhava Sheva, Tal-Uran, Distt- Raigad, Maharashtra- 400707.
(5) The Additional Commissioner, Customs, TRC, HQ, Ahmedabad.
(6) The Deputy/Assistant Commissioner of Customs, ICD Khodiyar and ACC, Ahmedabad
(7) The Superintendent of Customs (Systems) in PDF format for uploading on the website of Customs Commissionerate, Ahmedabad.
(8) The RRA, HQ, Ahmedabad Customs.
(9) Guard File.