

F. No.: GEN/ADJ/COMM/455/2023-Adjn-O/o Pr Commr-Cus-Mundra

 <p>कार्यालय: प्रधान आयुक्त सीमा शुल्क, मुन्द्रा, सीमा शुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421 PHONE:02838-271426/271423 FAX:02838-271425 Email: adj-mundra@gov.in</p>	 <p>आजादी का अमृत महोत्सव</p>
A. File No.	: F.No.: GEN/ADJ/COMM/455/2023-Adjn-O/o Pr Commr-Cus-Mundra
B. Order-in-Original No.	: MUN-CUSTM-OOO-COM-35-25-26
C. Passed by	: Nitin Saini, Commissioner of Customs, Customs House, AP & SEZ, Mundra.
D. Date of order and Date of issue:	: 11.11.2025 12.11.2025
E. SCN No. & Date	: SCN F.No. GEN/ADJ/COMM/755/2023-Adjn-Pr Commr-Cus-Mundra, dated 13.11.2024.
F. Noticee(s) / Party / Importer	: M/s Positive Chemicals Pvt.Ltd.(IEC 241200334), 501, Time Square-2, Ayodhya Chowk, 150 Feet Ring Road, Rajkot(Gujarat)-360006.
G. DIN	: DIN- 20251171MO0000999A77

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 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-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 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमा शुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद-380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, Bahumali Bhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

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

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

4. उक्त अपील के साथ -/ 1000 रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो 5000/- रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए, जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्ड पीठ बैंचआहरितट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा।

Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five

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lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ झूटि/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये। Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.
7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

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

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.

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BRIEF FACTS OF THE CASE:-

M/s Positive Chemicals Private Limited, 501, Time Square-2, Ayodhya Chowk, 150 Feet Ring Road, Rajkot (Gujarat)-360006, holding IEC 2412006334 (hereinafter also referred to as "the importer/the Noticee" for the sake of brevity") presented 29 Bills of Entry as per details mentioned in Annexure-A enclosed, through their appointed Customs Broker M/s. Act Inraport Limited at Custom House, Mundra and Shree Parvathy Shipping, for clearance of imported goods declared as "CALCIUM NITRATE GRANULAR/ 100% WATER SOLUBLE FERTILIZER (DOUBLE SALTS & MIX OF CALCIUM & AMMONIUM NITRATE)", "CALCIUM NITRATE/CALCIUM NITRATE GRANULAR 100% WATER SOLUBLE" as per the Invoice and Bill of Ladings of the respective Bills of Entry, classifying the same under Tariff item 31026000 of first schedule of the Customs Tariff Act, 1975.

2. During the course of Audit conducted by the Customs Receipts Auditors of office of the Principal Director of Audit (Central), Audit Bhavan, Ahmedabad, the Senior Audit Officer/CRA vide LAR No. 26/2021-22, LAR No. 16/2021-22, LAR No. 7/2021-22 and LAR-22/2021-22, observed that the Bills of Entry mentioned in Annexure-A were assessed wherein benefit provided at Sr.No.225 (I) (b) of Notification No.50/2017-Cus dated 30.06.2017 of concessional rate of basic Customs duty @ 5% was availed by the importer. The entry No. 225(1) (b) of Notification No. 50/2017-Cus dated 30.06.2017, reads as under:-

Sr. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate
225	31	The following Water Soluble Fertilizers included in Schedule 1, Part A of the Fertilizers Control Order, namely:- (b) Calcium nitrate	5%

3. Under the impugned Bills of Entry, the importer imported "CALCIUM NITRATE GRANULAR 100% WATER SOLUBLE FERTILIZER (DOUBLE SALTS & MIX OF CALCIUM & AMMONIUM NITRATE)", and availed the benefit of concessional rate of duty under the above said notification which is available only to Calcium Nitrate. The declared description suggests that the impugned imported goods were different than Calcium Nitrate. Thus, it appeared that in the subject Bills of Entry, 34 No.'s, the importer have wrongly availed the exemption under Sr.No.225 (1) (b) of Notification No.50/2017-Cus dated 30.06.2017 for imported goods i.e. 'CALCIUM NITRATE GRANULAR 100% WATER SOLUBLE FERTILIZER' which are not Calcium Nitrate and only Calcium Nitrate is covered under the said notification. Therefore, it appeared that in the impugned Bills of Entry Basic Customs duty was liable to be charged at the prevailing tariff rate i.e. 7.5%.

Computation of Differential duty:

4. Sr. No. 225 (1) (b) of Notification No.50/2017-Customs allows to clear concessional rate of duty @ 5% on Calcium Nitrate. Otherwise Customs Tariff Head 31026000 will attract Duty @ 7.5%. In the instant case the importer has imported the goods of description cited above and wrongly availed the benefit of Sr. No. 225 (1) (b) of Notification No.50/2017-Customs which was not allowed for instead of correct rate of BCD @ 7.5%. Therefore, the importer is liable to pay Differential Customs duty of Rs.52,87,962/- (*Rupees Fifty Two Lac Eighty Seven Thousand Nine Hundred and Sixty Two Only*) as per calculation indicated in Annexure-A attached with this notice.

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

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case:-

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

“(i) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed”.
- D. Section 28 (4) of the Customs Act, 1962 provides that “Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,-
 - (a) collusion; or
 - (b) any willful mis-statement; or
 - (c) suppression of facts,
 by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice”.
- E. Section 28 (AA) of Customs Act, 1962 provides interest on delayed payment of duty-

(1) Where any duty has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-Section (2), or has paid the duty under sub-Section (2B), of Section 28, shall, in addition to the duty, be liable to pay interest at such rate not below ten percent and not exceeding thirty-six per cent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-Section (2), or sub-Section (2B), of Section 28, till the date of payment of such duty:
- F. Section 114A of the Customs Act, 1962 deals with the penalty by reason of collusion or any willful mis-statement or suppression of facts. The relevant provision is reproduced below:-

114A - Penalty for short-levy or non-levy of duty in certain cases - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-Section (8) of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined: Provided that where such duty or interest, as the case may be, as determined under sub-

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

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

6. In order to sensitize the People of Trade (read Importer/Exporter) about its benefit and consequences of mis-use; Government of India has also issued 'Customs Manual on Self-Assessment 2011'. The publication of the 'Customs Manual on Self-Assessment 2011' was required as because prior to enactment of the provision of 'Self-Assessment', mis-classification or wrong-availment of duty exemption etc., in normal course of import, was not considered as mis-declaration or mis-statement. Under para-1.3 of Chapter-1 of the above manual, Importers/Exporters who are unable to do the Self-Assessment because of any complexity, lack of clarity, lack of information etc. may exercise the following options: **(a)** Seek assistance from Help Desk located in each Custom Houses, or **(b)** Refer to information on CBEC/ICEGATE web portal (www.cbic.gov.in), or **(c)** Apply in writing to the Deputy/Assistant Commissioner in charge of Appraising Group to allow provisional assessment, or **(d)** An importer may seek Advance Ruling from the Authority on Advance Ruling, if qualifying conditions are satisfied. Para 3 (a) of Chapter 1 of the above Manual further stipulates that the Importer/Exporter is responsible for Self-Assessment of duty on imported/exported goods and for filing all declarations and related documents and confirming these are true, correct and complete. Under para-2.1 of Chapter-1 of the above manual, Self-Assessment can result in assured facilitation for compliant importers. However, delinquent and habitually non-compliant importers/ exporters could face penal action on account of wrong Self-Assessment made with intent to evade duty or avoid compliance of conditions of notifications, Foreign Trade Policy or any other provision under the Customs Act, 1962 or the Allied Acts.

7. For details, all the above-referred Provisions, Act, Rules, Regulation, Foreign Trade Policy etc. may be viewed at www.cbic.gov.in.

8. Thus, with the introduction of self-assessment by amendments to Section 17, since 08.04.2011, it is the added and enhanced responsibility of the importer more specifically the RMS facilitated Bill of Entry, to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

- a. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make entry for the imported goods by presenting a bill of entry electronically to the proper officer.
- b. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962), the bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either

through ICEGATE or by way of data entry through the service centre, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the bill of entry.

c. Further in the present case and in light of Section 46(4a) of the Customs Acts, it is the responsibility of the importer to ensure the accuracy and completeness of the information declared in the Bills of Entry, however in the present case the auditee has mis-declared the Inco-terms in the Bills of Entry, value of goods, currency etc.

d. Further, as per **Section 46 (4a)** of the customs Act 1962, the importer who presents the bill of entry shall ensure the following:-

1. The accuracy and completeness of the information given therein;
2. The authenticity and validity of any document supporting it, and
3. Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for time being in force.

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

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

11. Whereas, it is apparent that the importer/noticee was in complete knowledge of the correct nature of the goods nevertheless, the importer claimed undue notification benefit for the said goods in order to clear the goods by wrongly availed Customs duty exemption benefit of Sr. No. 225 (1) (b) of Notification no. 50/2017-Cus dated 30.06.2017 by paying BCD at lower i.e. @ 5% instead of correct rate of BCD @ 7.5%. With the introduction of self-assessment under Section 17, more faith is bestowed on the importers, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As a part of self-assessment by the importer, has been entrusted with the responsibility to correctly self-assess the duty. However, in the instance case, the importer seems to have intentionally and wilfully violated the provisions of Section 17(1) of the Act in as much as importer has failed to correctly self-assessed the impugned goods and has also wilfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act.

12. Therefore, it appears that the importer wilfully claimed undue notifications benefit for the impugned goods resulting into short levy of duty. For such act/omissions, the importer also appears to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962. Further, it appears that in respect of the Bills of Entry mentioned in the **Annexure-A**, such wrong claim of notifications benefit on the part of the importer has resulted into short levy of duty of Rs.52,87,962/- (Rupees Fifty Two Lac Eighty Seven Thousand Nine Hundred and Sixty Two Only) for 29 Bills of Entry **(as detailed in Annexure-A to this**

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notice), which is recoverable from the importer under the provisions of Section 28(4) of the Customs Act, 1962 (hereinafter referred to as 'the Act') along with interest as applicable under Section 28AA of the Act. By the said deliberate wrong claim of notification benefit, the importer also appear to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.

13. Vide Circular No.1053/02/2017-CX dated 10.03.2017, with respect to issuance of quantified demand at the time of issue of SCN, the CBIC has clarified that-

"2.8 Quantification of duty demanded: It is desirable that the demand is quantified in the SCN, however, due to some genuine grounds, it is not possible to quantify the short levy at the time of issuance of SCN, SCN would not be considered as invalid. It would still be desirable that the principles and manner of computing the amount due from the noticee are clearly laid down in this part of the SCN. In the case of Gwalior Rayon Mfg (Wvg) Co, Vs, UOI, 1982(010) ELT 0844 (MP), the Madhya Pradesh High Court at Jabalpur affirms the same position that merely because necessary particulars have not been stated in the show cause notice, it could not be a valid ground for quashing the notice, because it is open to the petitioner to seek further particulars, if any, that may be necessary for it to show cause if the same deficient",

14. From the foregoing discussions, it appears that,

- a. The importer has wilfully mis-stated the facts & wrongly availed Customs duty exemption benefit of Sr. No. 225 (1) (b) of Notification no. 50/2017-Cus dated- 30.06.2017 by paying BCD at lower rate i.e. @ 5% instead of correct rate of BCD @ 7.5%.
- b. Thus, the short levy of duty amount to Rs. 52,87,962/- (Rupees Fifty Two Lac Eighty Seven Thousand Nine Hundred and Sixty Two Only) for 29 Bills of Entry (as detailed in Annexure-A to this notice) filed by the importer is required to be recovered from the importer in terms of Section 28(4) of the Customs Act, 1962.
- c. Interest (rate as applicable) on the short levy of duty of Rs.52,87,962/- (Rupees Fifty Two Lac Eighty Seven Thousand Nine Hundred and Sixty Two Only) worked out as short levy of customs duties, in case of the 29 Bills of Entry (as detailed in Annexure-A to this notice) is required to be recovered from the importer/ noticee in terms of Section 28AA of the Customs Act, 1962.
- d. For willful mis-statement and suppression of facts by M/s Positive Chemicals Pvt. Ltd., the importer with an intent to evade customs duty amounting to Rs.52,87,962/- (Rupees Fifty Two Lac Eighty Seven Thousand Nine Hundred and Sixty Two Only) extended period upto 5 years is applicable.
- e. Importer is also liable for penalty under Section 114A of the Customs Act, 1962 for collusion and willful mis-statement and suppression of facts by him and active involvement in wrongful availment of Notification, for which they are not entitled for.

15. Now, therefore, **M/s Positive Chemicals Private Limited (IEC 2412006334)**, 501, Time Square-2, Ayodhya Chowk, 150 Feet Ring Road, Rajkot (Gujarat)-360006 are hereby called upon to show cause to the Pr. Commissioner of Customs, Custom House, Mundra, having office at Room No. 102, PUB Building, 5B, Mundra (Kutch) Gujarat 370 421, as to why:-

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- (i) The goods imported vide 29 Bills of Entry (as detailed in Annexure-A to this notice) of this show cause notice, should not be re-assessed at correct rate of BCD i.e. @ 7.5% and consequently benefit of Sr. No. 225 (1) (b) of Notification no. 50/2017-Cus dated- 30.06.2017 should not be denied to the above said goods.
- (ii) The differential duty worked out as short levy amounting to Rs.52,87,962/- (Rupees Fifty Two Lac Eighty Seven Thousand Nine Hundred and Sixty Two Only) for 29 Bills of Entry (as detailed in Annexure-A to this notice) should not be demanded and recovered from importer under Section 28 (4) of the Customs Act, 1962 along with the interest thereon as per Section 28AA of the Customs Act, 1962, as applicable.
- (iii) Penalty should not be imposed upon them under Section 114A of the Customs Act, 1962.

WRITTEN SUBMISSION/DEFENSE REPLY:-

16. The Importer (i.e. Noticee) vide their letter dated 28.10.2025 & 06.11.2025 has submitted their defense reply wherein they interalia stated that;

16.1 They imported “**Calcium Nitrate Granular/ 100% water soluble fertilizer (Double Salt & Mix of Calcium & Ammonium Nitrate)**” in below listed BOE; that they have cleared all below listed (27) BE under the CTH No. 31026000 of the first schedule of the Custom Tariff Act, 1975 and the said BOEs were assessed, on the basis of concessional rate of basic Customs duty @ 5% on Assessable value, as per Sr. No. 225(I)(b) of Notification No. 50/2017 dated 30.06.2017.

LIST OF BEs:-

SR NO	BOE NO	BOE DATE
1	5799964	23/11/2019
2	5936726	04/12/2019
3	6642641	27/01/2020
4	6725622	03/02/2020
5	7399674	06/04/2020
6	7565794	01/05/2020
7	8101891	07/07/2020
8	8101978	07/07/2020
9	8224058	20/07/2020
10	8619233	28/08/2020
11	8921315	23/09/2020
12	9170629	14/10/2020
13	9409035	02/11/2020
14	9457508	05/11/2020
15	9943936	14/12/2020
16	9944205	14/12/2020
17	2250891	06/01/2021
18	2251137	06/01/2021
19	2251301	06/01/2021
20	2290900	09/01/2021

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21	2973768	02/03/2021
22	4960296	06/08/2021
23	4966106	07/08/2021
24	5313950	04/09/2021
25	7264989	28/01/2022
26	9811190	01/08/2022
27	5212142	24/03/2023

16.2 They further submitted that;

1. Calcium Nitrate Granular - 100% Water Soluble Fertilizer (also known as Double Salts & Mixture of Calcium & Ammonium Nitrate) which they have imported has included in schedule I, Part A of the Fertilizers Control order; that they were attaching Shippers Certificate of Analysis (COA) which clearly showing that their imported cargo was covered under Fertilizer Control order (FCO) 1985; that the specifications of their cargo completely matched and follows FCO regulations. (As per product mentioned in customs exemption notification no. 50/2017 dated 30.06.2017);
2. For the clarification point of view, the product name "Calcium Nitrate Granular 100% Water Soluble Fertilizer OR Double Salts & Mixture of Calcium & Ammonium Nitrate" are the trade name of Calcium Nitrate in Fertilizer Industry; that the Cargo which they imported as named above was nothing but Calcium Nitrate only;
3. Calcium Nitrate is trade name only. But, actual product contains Calcium nitrate mixed with Ammonium Nitrate (Double Salts & Mixture of Calcium & Ammonium Nitrate);
4. CBIC vide letter F.No.528/79/2016-STO dated on 2nd September, 2016 has clarified that their product "Calcium Nitrate Granular 100% Water Soluble Fertilizer Double Salts & Mixture of Calcium & Ammonium Nitrate" is Calcium Nitrate only In this circular, department has clarified that Calcium Nitrate is trade name (mostly in Fertilizer Industry) where actual product is mixture of Calcium Nitrate and Ammonium Nitrate. So they need to be clear about the product declaration in customs or BOE, which was the reason they were declaring different name of the same product in BOE which weree as per F.No.528/79/2016-STO dated 2nd September 2016.

16.3 Further ,vide letter dated 06.11.2025 they have submitted payment /Challan details in respect of following 02 No of BOEs where they have imported Boronated calcium Nitrate Granular/100% water soluble fertilizer (Double Salt & Mix. Of Calcium& Ammonium Nitrate and have paid the differential amount of duty along with interest and penalty.

SR NO	BOE NO	BOE DATE
1	6842902	11/02/2020
2	2973768	02/03/2021

16.4 In support of their defense reply, they have submitted the copies of BEs, Certificate of Analysis and challans and prayed to quash the impugned subjected

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Demand cum Show Cause Notice.

RECORD OF PERSONAL HEARING.

17. The Personal Hearing dated 28.10.2025 was attended by Shri Bhargav Patel, Director of M/s Positive Chemicals Pvt. Ltd. at 12.00 PM via Virtual Mode. He reiterated the facts as per their defense submission and requested for judicious decision in this matter.

DISCUSSIONS AND FINDINGS:-

18. After having carefully gone through the Show Cause Notice, relied upon documents, submissions made by the Noticee's and the records available before me, I now proceed to decide the case. The main issues involved in the case which are required to be decided in the present adjudication are as under: -

1. Whether the goods imported under 29 Bills of Entry as per the Annexure A to the notice be re-assessed at the correct rate of BCD i.e. 7.5% ?
2. Whether the imported goods under dispute are correctly covered under the description "Calcium Nitrate" as specified at Sr. No. 225(I)(b) of Notification No. 50/2017-Cus.?
3. If not, whether the benefit of concessional rate of duty @5% under the said Notification is admissible?
4. Whether the short levy of customs duty of ₹52,87,962/- is recoverable under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA?
5. Whether penalty under Section 114A of the Customs Act, 1962 is imposable?

19. I find that the noticee has paid the duty, interest and penalty @15% in respect of one Bill of Entry viz. BE No. 6842902 dated 11.02.2020 vide Challan No. 1347 dated 16.10.2024 under Section 28(5) of the Customs Act, 1962 within 30 days of Show Cause notice dated 13.11.2024 and requested conclusion of proceedings under Section 28(6) of the Customs Act, 1962.

20. In this regard, it is pertinent to note that as per the provisions of Section 28(5) of the Customs Act, 1962, the importer may pay the amount of duty, as specified in notice issued under Section 28(4), in full or in part, as may be accepted by him, and the interest payable thereon and penalty equal to the 15% of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing. Further, the provisions of Section 28(6) of the Customs Act, 1962 mandates that the proper office is required to determine the amount of duty or interest and on

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determination, if the proper officer is of the opinion that (i) the duty, interest and penalty has been paid in full, then the proceedings in respect of such person or other persons to whom the notice is served under 28(4), shall be deemed to be conclusive as to the matters stated therein. Thus, I proceed to determine the amount of duty or interest as provided under Section 28(6).

DETERMINATION OF DUTY OR INTEREST UNDER SECTION 28(6) OF THE CUSTOMS ACT, 1962-

21. I find that the noticee has imported the goods viz.(i) *Calcium Ammonium Nitrate (Calcium Nitrate Granular 100% Water Soluble Fertiliser) (Double Salt of Calcium Nitrate)* ,(ii) *Calcium Nitrate (Calcium Nitrate Granular 100% Water Soluble Fertiliser) (Double Salt of Calcium Nitrate)* and (iii) *Boronated Calcium Nitrate Fortified Fertiliser (Double Salt and Mixture of Calcium Nitrate & Ammonium Nitrate) of Calcium Nitrate (Nitrogen Calcium Compound Fertiliser)* vide following 29 Bills of Entries-

TABLE-I

Sr. No.	BE NO AND DT	Item Description	Assess Value(Item)	Duty(Item)	Duty payable @13.663%	Differential duty payable
1	5799964 23-11-2019	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	4399362	474031	601085	127054
2	5936726 04-12-2019	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	2233145	240621	305115	64493
3	6642641 27-01-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM &	2174753	234330	297137	62807

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		AMMONIUM NITRATE				
4	6725622 03-02-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	4153394	447528	567478	119950
5	7399674 06-04-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	2468758	266009	337306	71298
6	7565794 01-05-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	3012987	324649	411664	87015
7	8101891 07-07-2020	CALCIUM NITRATE GRANULAR (100 % WATER SOLUBLE FERTILIZER)DOU - BLE SALT & MIX OF CALCIUM NITRATE & AMMONIUM NITRATE	2762631	297674	377458	79785
8	8101978 07-07-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	2086317	224801	285053	60253
9	8224058	CALCIUM NITRATE GRANULAR (100 % WATER SOLUBLE	2090681	225271	285650	60379

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	20-07-2020	FERTILIZER)DOUBLE SALT & MIX OF CALCIUM NITRATE & AMMONIUM NITRATE				
10	8619233 28-08-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE - FERTILIZER)(DOUBLE SALTS AND MIXTURE OF CALCIUM NITRATE & A	2073023	223368	283237	59869
11	8921315 23-09-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE - FERTILIZER)(DOUBLE SALTS AND MIXTURE OF CALCIUM NITRATE & A	1553906	167433	212310	44877
12	9170629 14-10-2020	CALCIUM AMMONIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE FERTILIZER)(DOUBLE SALTS & MIXTURE OF CALCIUM & AM	2124203	228883	290230	61347
13	9409035 02-11-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE - FERTILIZER)(DOUBLE SALTS AND MIXTURE OF CALCIUM NITRATE & A	1611194	173606	220137	46531
14	9457508 05-11-2020	CALCIUM AMMONIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE FERTILIZER)(DOUBLE SALTS & MIXTURE OF CALCIUM & AM	2106675	226994	287835	60841
15	9943936 14-12-2020	CALCIUM AMMONIUM NITRATE(CALCIUM NITRATE GRANULAR-100 %	2801989	301914	382836	80921

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		WATE - R SOLUBLE FERTILIZER)(DOUBLE SALTS & MIXTURE OF CALCIUM & AM				
16	9944205 14-12-2020	CALCIUM AMMONIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATE - R SOLUBLE FERTILIZER)(DOUBLE SALTS & MIXTURE OF CALCIUM & AM	3922783	422680	535970	113290
17	2250891 06-01-2021	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE - FERTILIZER)(DOUBLE SALTS AND MIXTURE OF CALCIUM NITRATE & A	1194518	128709	163207	34498
18	2251137 06-01-2021	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE - FERTILIZER)(DOUBLE SALTS AND MIXTURE OF CALCIUM NITRATE & A	2986294	321773	408017	86244
19	2251301 06-01-2021	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE - FERTILIZER)(DOUBLE SALTS AND MIXTURE OF CALCIUM NITRATE & A	2986294	321773	408017	86244
20	2290900 09-01-2021	CALCIUM AMMONIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATE - R SOLUBLE FERTILIZER)(DOUBLE SALTS & MIXTURE OF CALCIUM & AM	5973525	643647	816163	172515
21	2973768 02-03-2021	CALCIUM NITRATE GRANULAR 100 % WATER SOLUBLE FERTILIZER (DOU - BLE SALTS AND MIXTURE OF	22653583	2440924	3095159	654236

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		CALCIUM NITRATE & AMMONIUM NITRATE)				
22	4960296 06-08-2021	CALCIUM NITRATE 100% WATER SOLUBLE FERTILIZER (CALCIUM NITRA - TE GRANULAR OR CALCIUM AMMONIUM NITRATE OR DOUBLE SALT AND M	3447090	371424	470976	99552
23	4966106 07-08-2021	CALCIUM NITRATE 100% WATER SOLUBLE FERTILIZER (CALCIUM NITRA - TE GRANULAR OR CALCIUM AMMONIUM NITRATE OR DOUBLE SALT AND M	4258268	458828	581807	122979
24	5313950 04-09-2021	CALCIUM NITRATE 100% WATER SOLUBLE FERTILIZER (CALCIUM NITRA - TE GRANULAR OR CALCIUM AMMONIUM NITRATE OR DOUBLE SALT AND M	3435843	370212	469439	99227
25	7264989 28-01-2022	CALCIUM NITRATE 100% WATER SOLUBLE FERTILIZER (CALCIUM NITRA - TE GRANULAR OR NITROGEN CALCIUM COMPOUND FERTILIZER)	10572120	1139146	1444469	305323
26	9811190 01-08-2022	CALCIUM NITRATE GRANULAR 100% WATER SOLUBLE FERTILIZER (REST - DETAILS AS PER INV,PL)	44570869	4802511	6089718	1287207
27	5212142 24-03-2023.	CALCIUM NITRATE GRANULAR 100% WATER SOLUBLE FERTILIZER (REST - DETAILS AS PER INV)	28039500	3021256	3831037	809781

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28	6842902 11.02.2020	BORONATED CALCIUM NITRATE(CALCIUM AMMONIUM NITRATE WITH BORO -N) (100 % WATER SOLUBLE)DOUBLE SALTS & MIXTURE OF CALCIUM & AMMO NITRA	2303703	248224	314755	66531
29	2973768 02-03-2021	BORONATED CALCIUM NITRATE(CALCIUM AMMONIUM NITRATE WITH BORO -N) (100 % WATER SOLUBLE)DOUBLE SALTS & MIXTURE OF CALCIUM & AMMO NITRA	9103777	980932	1243849	262917
			183101181	19729152	25017114	5287962

22. On scrutiny of the aforementioned 29 Bills of Entry (BEs), it is observed that the 11 BEs listed at Sr. Nos. 12 to 21 and Sr. No. 29 in the table above have already been adjudicated by the Additional Commissioner of Customs, Mundra, vide Order-in-Original No. MCH/ADC/ZDC/196/2025-26 dated 20.08.2025. Hence, the said Bills of Entry cannot be proceeded with in the present case. Therefore, the demand of differential duty in respect of those 11 Bills of Entry under Section 28(4) of the Customs Act, 1962 is not sustainable under the instant proceedings.

23. Now, I proceed to examine the eligibility of concessional rate of duty @ 5% vide Notification No. 50/2017-Cus dated 30.06.2017 in respect of 18 BEs, as detailed below:-

TABLE-II

Sr. No.	BE NO AND DT	Item Description	Assess Value(Item)	Duty(Item)	Duty payable @13.663%	Differential duty payable
1	5799964 23-11-2019	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM &	4399362	474031	601085	127054

F. No.: GEN/ADJ/COMM/455/2023-Adjn-O/o Pr Commr-Cus-Mundra

		AMMONIUM NITRATE				
2	5936726 04-12-2019	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	2233145	240621	305115	64493
3	6642641 27-01-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	2174753	234330	297137	62807
4	6725622 03-02-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	4153394	447528	567478	119950
5	7399674 06-04-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	2468758	266009	337306	71298
6	7565794 01-05-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBL - E FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	3012987	324649	411664	87015

F. No.: GEN/ADJ/COMM/455/2023-Adjn-O/o Pr Commr-Cus-Mundra

7	8101891 07-07-2020	CALCIUM NITRATE GRANULAR (100 % WATER SOLUBLE FERTILIZER)DOUBLE SALT & MIX OF CALCIUM NITRATE & AMMONIUM NITRATE	2762631	297674	377458	79785
8	8101978 07-07-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR)(100 % WATER SOLUBLE - FERTILIZER)DOUBLE SALT & MIX OF CALCIUM & AMMONIUM NITRATE	2086317	224801	285053	60253
9	8224058 20-07-2020	CALCIUM NITRATE GRANULAR (100 % WATER SOLUBLE FERTILIZER)DOUBLE SALT & MIX OF CALCIUM NITRATE & AMMONIUM NITRATE	2090681	225271	285650	60379
10	8619233 28-08-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE - FERTILIZER)(DOUBLE SALTS AND MIXTURE OF CALCIUM NITRATE & A	2073023	223368	283237	59869
11	8921315 23-09-2020	CALCIUM NITRATE(CALCIUM NITRATE GRANULAR-100 % WATER SOLUBLE - FERTILIZER)(DOUBLE SALTS AND MIXTURE OF CALCIUM NITRATE & A	1553906	167433	212310	44877
12	4960296 06-08-2021	CALCIUM NITRATE 100% WATER SOLUBLE FERTILIZER (CALCIUM NITRA - TE GRANULAR OR CALCIUM AMMONIUM NITRATE OR DOUBLE SALT AND M	3447090	371424	470976	99552

F. No.: GEN/ADJ/COMM/455/2023-Adjn-O/o Pr Commr-Cus-Mundra

13	4966106 07-08-2021	CALCIUM NITRATE 100% WATER SOLUBLE FERTILIZER (CALCIUM NITRA - TE GRANULAR OR CALCIUM AMMONIUM NITRATE OR DOUBLE SALT AND M)	4258268	458828	581807	122979
14	5313950 04-09-2021	CALCIUM NITRATE 100% WATER SOLUBLE FERTILIZER (CALCIUM NITRA - TE GRANULAR OR CALCIUM AMMONIUM NITRATE OR DOUBLE SALT AND M)	3435843	370212	469439	99227
15	7264989 28-01-2022	CALCIUM NITRATE 100% WATER SOLUBLE FERTILIZER (CALCIUM NITRA - TE GRANULAR OR NITROGEN CALCIUM COMPOUND FERTILIZER)	10572120	1139146	1444469	305323
16	9811190 01-08-2022	CALCIUM NITRATE GRANULAR 100% WATER SOLUBLE FERTILIZER (REST - DETAILS AS PER INV,PL)	44570869	4802511	6089718	1287207
17	5212142 24-03-2023.	CALCIUM NITRATE GRANULAR 100% WATER SOLUBLE FERTILIZER (REST - DETAILS AS PER INV)	28039500	3021256	3831037	809781
		TOTAL of 17 BEs	123332646	13289093	16850939	3561847
18	6842902 11.02.2020	BORONATED CALCIUM NITRATE(CALCIUM AMMONIUM NITRATE WITH BORO -N) (100 % WATE R SOLUBLE)DOUBLE SALTS & MIXTURE OF	2303703	248224	314755	66531

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		CALCIUM & AMMO NITRA				
		GROSS TOTAL of 18 BEs	125636349	13537317	17165694	3628378

24. On scrutiny of the aforementioned 17 BEs, mentioned at Sr.No. 1 to 17 of Table-II above (BE No. 6842902 dated 11.02.2020 is excluded), I find that the Show Cause Notices proposes that the goods imported under impugned BEs i.e. *Calcium Ammonium Nitrate (Calcium Nitrate Granular 100% Water Soluble Fertiliser) (Double Salt of Calcium Nitrate)* and *Calcium Nitrate (Calcium Nitrate Granular 100% Water Soluble Fertiliser) (Double Salt of Calcium Nitrate)* are not eligible for the benefit of Concessional rate of duty i.e. BCD 5% in terms of Notification No. 50/20107-Cus dated 30.06.2017.

24.1 Before proceeding further, the relevant entry i.e. Sr. No. 225(I)(b) of the Notification No. 50/2017-Cus dated 30.06.2017 is reproduced herein for ease of reference:-

225.	31	<p>I. The following Water Soluble Fertilizers included in Schedule 1, part A of the Fertilizers Control Order, namely:-</p> <table> <tr><td>(a) Potassium nitrate (13:0:45)</td><td>5%</td><td>-</td><td>-</td></tr> <tr><td>(b) Calcium nitrate</td><td>5%</td><td>-</td><td>-</td></tr> <tr><td>(c) Mono ammonium phosphate</td><td>5%</td><td>-</td><td>-</td></tr> <tr><td>(d) Mono potassium phosphate (0:52:34)</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(e) 13:40:13 NPK fertilizers</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(f) 18:18:18 NPK fertilizers</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(g) NPK 13:05:26</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(h) 20:20:20 NPK fertilizers</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(i) 6:12:36 NPK fertilizers</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(j) Potassium magnesium sulphate</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(k) 19:19:19 NPK fertilizers</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(l) NPK 12:30:15</td><td>2.5%</td><td>-</td><td>-</td></tr> <tr><td>(m) NPK 12:32:14</td><td>2.5%</td><td>-</td><td>-</td></tr> </table> <p>II. The following Liquid fertilizers included in schedule 1 part A of the Fertilizers Control Order, namely:-</p> <table> <tr><td>(a) Super phosphoric acid (70% P₂O₅)</td><td>5%</td><td>-</td><td>-</td></tr> <tr><td>(b) Ammonium poly phosphate (10-34-0) (Liquid)</td><td>5%</td><td>-</td><td>-</td></tr> <tr><td>(c) Zincated phosphate (Suspension)</td><td>5%</td><td>-</td><td>-</td></tr> </table>	(a) Potassium nitrate (13:0:45)	5%	-	-	(b) Calcium nitrate	5%	-	-	(c) Mono ammonium phosphate	5%	-	-	(d) Mono potassium phosphate (0:52:34)	2.5%	-	-	(e) 13:40:13 NPK fertilizers	2.5%	-	-	(f) 18:18:18 NPK fertilizers	2.5%	-	-	(g) NPK 13:05:26	2.5%	-	-	(h) 20:20:20 NPK fertilizers	2.5%	-	-	(i) 6:12:36 NPK fertilizers	2.5%	-	-	(j) Potassium magnesium sulphate	2.5%	-	-	(k) 19:19:19 NPK fertilizers	2.5%	-	-	(l) NPK 12:30:15	2.5%	-	-	(m) NPK 12:32:14	2.5%	-	-	(a) Super phosphoric acid (70% P ₂ O ₅)	5%	-	-	(b) Ammonium poly phosphate (10-34-0) (Liquid)	5%	-	-	(c) Zincated phosphate (Suspension)	5%	-	-		
(a) Potassium nitrate (13:0:45)	5%	-	-																																																																	
(b) Calcium nitrate	5%	-	-																																																																	
(c) Mono ammonium phosphate	5%	-	-																																																																	
(d) Mono potassium phosphate (0:52:34)	2.5%	-	-																																																																	
(e) 13:40:13 NPK fertilizers	2.5%	-	-																																																																	
(f) 18:18:18 NPK fertilizers	2.5%	-	-																																																																	
(g) NPK 13:05:26	2.5%	-	-																																																																	
(h) 20:20:20 NPK fertilizers	2.5%	-	-																																																																	
(i) 6:12:36 NPK fertilizers	2.5%	-	-																																																																	
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(k) 19:19:19 NPK fertilizers	2.5%	-	-																																																																	
(l) NPK 12:30:15	2.5%	-	-																																																																	
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(a) Super phosphoric acid (70% P ₂ O ₅)	5%	-	-																																																																	
(b) Ammonium poly phosphate (10-34-0) (Liquid)	5%	-	-																																																																	
(c) Zincated phosphate (Suspension)	5%	-	-																																																																	

24.2 On perusal of the said entry, I find that it allows concessional rate of duty of 5% in respect of water soluble fertilizer “Calcium Nitrate” included in Schedule 1, Part A of the Fertilizers Control Order. Therefore, it becomes imperative to examine the constituents of “Calcium Nitrate” provided in Fertilizer control order, 1985. It

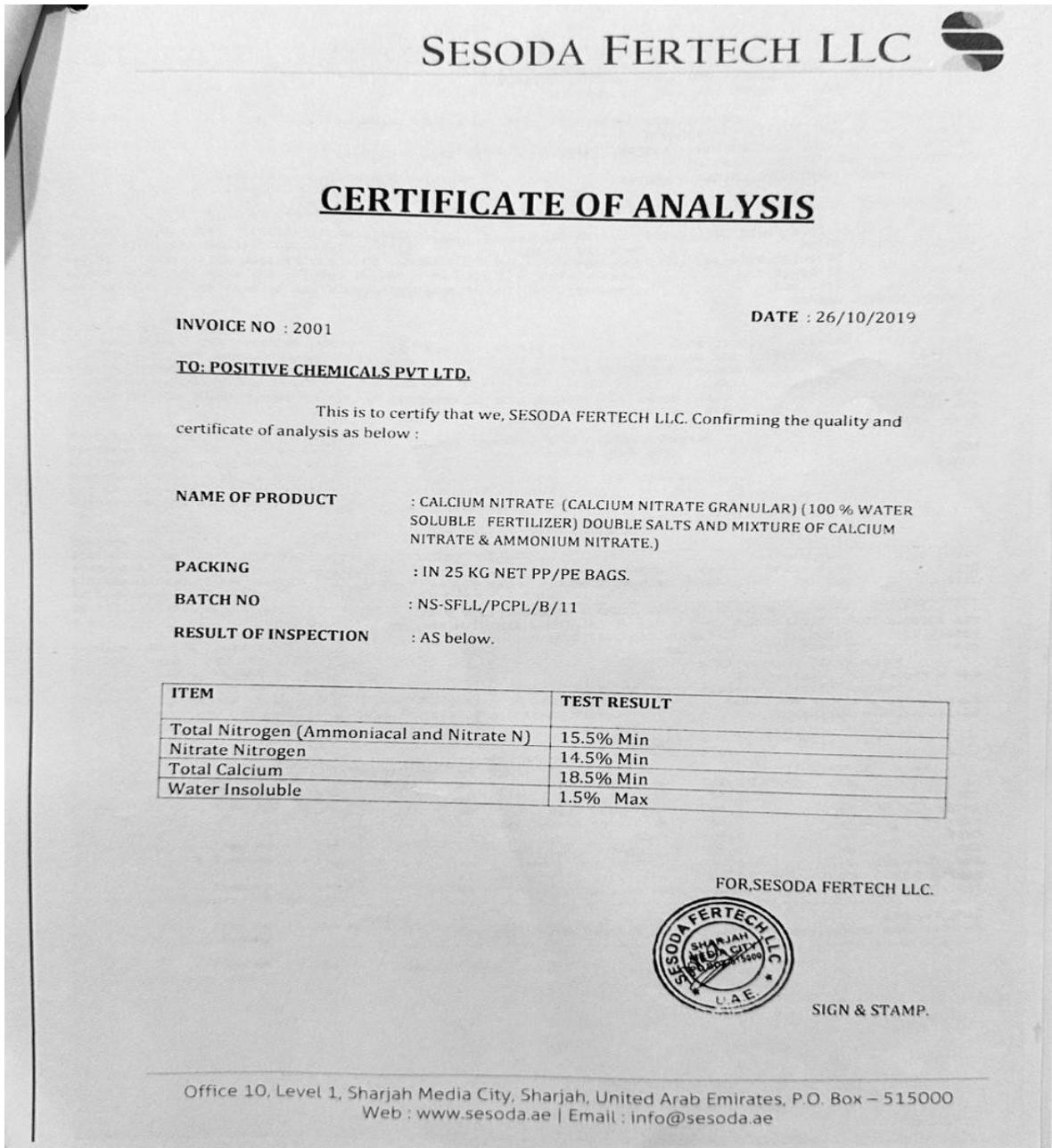
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is observed that Sr.No. 1(i) of Part-A of the Schedule-I of the Fertiliser Control Order, 1985 specifies the Calcium Nitrate as under:-

3. Calcium Nitrate

(i) Total nitrogen (Ammoniacal and Nitrate form) per cent by weight,	15.5
Minimum	
(ii) Nitrate nitrogen as N per cent by weight, minimum	14.5
(iii) Water soluble calcium (as Ca) per cent by weight, minimum	18.5
(iv) Matter insoluble in water per cent by weight, maximum	1.5

24.3 Further, I find that the noticee has submitted Certificate of Analysis in respect of the said goods. The copy of one such Certificate of Analysis report is placed below for ready reference:-



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24.4 On comparison of the constituents provided in Certificate of Analysis of the imported goods in respect of 17 BEs, with the composition of the “Calcium Nitrate” mentioned in Part-A (Specification of Fertilizers) of Schedule –I of the Fertiliser Control Order,1985, I find that the composition of subject goods conforms to that prescribed for “Calcium Nitrate” mentioned in Part-A (Specification of Fertilizers) of Schedule –I of the Fertiliser Control Order,1985, Further, the Notification No 50/2017-Cus dated 30.06.2017 also provides that the water soluble fertilizers included in Schedule 1 Part A of the Fertiliser Control Order,1985 are eligible for the benefit for the concessional rate duty. As such, the goods imported vide aforesaid 17 BEs (S.No 1 to 17 of Table -II above) are eligible for the benefit of lower BCD @5%. Thus, the demand of differential duty in respect of the said Bills of Entry is determined to be nil.

25. As regarding the remaining one Bill of Entry No. 6842902 dated 11.02.2020, I find that the noticee had imported ‘Boronated Calcium Nitrate-Fortified Fertiliser (Double Salts and Mixture of Calcium Nitrate & Ammonium Nitrate) and claimed the benefit of same S.No. 225(I)(b) of the Notification No. 50/2017-Cus dated 30.06.2017 which grants concession to ‘Calcium Nitrate’. The details are as under:-

TABLE-III

Sr. No.	BE NO & Date	Item Description	Assess Value (Item)	Duty(Item)	Duty payable @13.663%	Differential duty payable
1	6842902 11-02-2020	BORONATED CALCIUM NITRATE(CALCIUM AMMONIUM NITRATE WITH BORO - N)(100 % WATER SOLUBLE)DOUBLE SALT & MIX OF CAL & AMMO NITRA	2303703	248224	314755	66531
TOTAL						66531

But on going through Schedule –I (Part-A) of the Fertilizers Controls Order, I find that “Calcium Nitrate doesn’t contain any “Boron” as an ingredient. The only ingredients for “Calcium Nitrate” are Nitrogen (Ammoniacal and Nitrate form), Nitrate nitrogen, Water soluble calcium (as Ca), Matter insoluble in water. Thus, the benefit of concessional BCD @5% on “Calcium Nitrate with Boron” is not available on the imported goods and the demand of differential duty of Rs. 66,531/- is sustainable under Section 28(4) of the Customs Act, 1962 alongwith interest under Section 28AA of the Customs Act, 1962.

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26. Therefore, overall the demand of differential duty in respect of 11 Bills of Entry (Sr. Nos. 12 to 21 and 29 of Table-I) is determined to be nil as these Bills of Entry have already been adjudicated by the Additional Commissioner of Customs, Mundra, vide Order-in-Original No. MCH/ADC/ZDC/196/2025-26 dated 20.08.2025, and the demand of differential duty in respect of 17 Bills of Entry (Sr. Nos. 1 to 17 of Table-II) is also determined to be nil.

27. Therefore, in terms of Section 28(6) of the Customs Act, 1962, I determine the amount of duty, interest and penalty, payable by the importer in the instant case, as given below:-

BE No and date	Duty	Interest@15%	Penalty@15%
6842902 dated 11.02.2020	66531	46839	9980

28. I observe that the noticee has discharged the duty, interest, and penalty amounts, as detailed above, through Challan No. 1347 dated 16.10.2024. Accordingly, in terms of Section 28(6)(i) of the Customs Act, 1962, I hold that the proceedings initiated against M/s. Positive Chemicals vide Show Cause Notice dated 13.11.2024 are fit for conclusion with respect to the matters covered therein.

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

I order to conclude the proceedings, initiated against M/s. Positive Chemicals Pvt. Ltd vide SCN F.No. GEN/ADJ/COMM/755/2023-Adjn-O/o Pr Commr-Cus-Mundra dated 13.11.2024, under the provisions of Section 28(6)(i) of the Customs Act, 1962 in terms of para 26 to 28.

30. This order is issued without prejudice to any action that can be taken against the importer under this Act or any other law for the time being in force.

(Nitin Saini)
Commissioner of Customs,
Custom House, Mundra.

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To, (The Noticee)

M/s Positive Chemicals Private Limited (IEC 2412006334),
501, Time Square-2,
Ayodhya Chowk, 150 Feet Ring Road,
Rajkot (Gujarat)-360006.

Copy to

- 1) The Chief Commissioner, Gujarat Custom Zone, Ahmedabad
- 2) The Deputy/ Assistant Commissioner (PCA), Custom House, Mundra
- 3) The Deputy/ Assistant Commissioner (EDI), Custom House, Mundra
- 4) Guard File.