

 <p>सीमा शुल्क एवं केंद्रीय उत्तम सेवा संस्थान GOVERNMENT OF INDIA देशसेवार्थ करसंचय</p>	<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, एमपी और एसईजेड, मुंद्रा, कच्छ-गुजरात -370421</p> <p>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH-GUJARAT</p> <p>EMAIL: group1-mundra@gov.in</p>	 <p>आजादी का अमृत महोत्सव</p>
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A	File No.	CUS/APR/MISC/7936/2025-Gr 1
B	Order-in-Original No.	MCH/ADC/ZDC/381/2025-26
C	Passed by	<p>Dipak Zala Additional Commissioner of Customs, Custom House, Mundra.</p>
D	Date of order	17.11.2025
E	Noticee/Party/ Importer/ Exporter	M/s Saarth Industries situated at 706, Anushri Accolade LL, Opp. Shail Petrol Pump, Science City Road, Sola, Ahmedabad-380060
F	DIN No.	20251171MO00009429F7

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

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

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

“ सीमा शुल्क आयुक्त (अपील),

चौथी मंजिल, हुड़को बिल्डिंग, ईश्वर भुवन रोड, नवरांगपुरा, अहमदाबाद-380 009 ”

“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA

**Having his office at 4th Floor, HUDCO Building, Ishwar Bhuvan Road,
Navrangpura, Ahmedabad-380 009.”**

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

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

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

- i. उक्त अपील की एक प्रति और
A copy of the appeal, and
- ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं°-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए ।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ऊँटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये ।

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

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए ।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

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

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

—

M/s Saarth Industries situated at 706, Anushri Accolade LL, Opp. Shail Petrol Pump, Science City Road, Sola, Ahmedabad-380060 ('Importer' for the sake of brevity) have filed Bill of Entry No. 2359543 dated 29.05.2025 for import of purportedly said to be Carbon Additive (HS Code: 27011100) through Customs Broker- M/s Ashapura Logistic Solution (ABLFA2403KCH002) at Mundra Port.

2. Based on the intelligence, the consignment covered under Bill of entry no. 2359543 dated 29.05.2025 was put on hold for SIIB examination. Before initiation of examination, representative of CHA produced the import documents i.e., Copy of bill of entry, Bill of lading, commercial invoice and packing list. The weighment slip and scanning report of the above said container has been provided by the representative of MICT CFS Mundra. As per scanning report, the scanning is clean in respect of Containers bearing No. 1) MSKU5143740 2) MRKU8593225 3) TTNU1026625.

2.1. The examination of above said bill of entry is carried out on 11.06.2025 in the presence of Shri Ashish S Mishra, G-card (CHH/G/189/16) holder of CHA and Shri Ritendra Sinh Zala, Sr. Executive of MICT CFS, Mundra. During the examination, it is found that the goods/cargo covered under Bill of entry no. 2359543 dated 29.05.2025 was stuffed in 3 Container bearing No. 1) MSKU5143740 2) MRKU8593225 3) TTNU1026625 which was sealed with seal No. CN0878280, CN0878278 and CN0878279. The container number and respective seal number are cross checked with the import documents submitted by the CHA and found in order. The goods declared in Bill of entry are "Carbon Additive" with CTH-27011100. The total quantity of the consignment declared in the Bill of entry are 3360 packages having Gross weight of 84,120 Kg.

2.2. The seal of containers is cut in the presence of above-mentioned persons and the goods are de-stuffed and examined. It is found that the goods are packed in whitish color PP Bags. The size of these PP Bags appears same. Thereafter, with the help of labour and surveyor, all the PP Bags are segregated and quantified. The quantity of PP bags in each container is 1120 bags. The total quantity of bags in all the three containers is 3360 PP Bags, which is same as declared by the importer in the Bill of Entry. Thereafter, some randomly selected bags are weighed and the weight of these bags appear to be in the range of 25.00 to 25.17 Kgs. On opening of randomly selected PP bags, the goods appear to be as "Carbon Additive". Further, on perusal of weighment slip, it is noticed that the total gross weight of goods, i.e. 84,160 is approx. same as declared by the importer. The details are as under:

Sr No.	Bill of entry no. & date	Container no.	Quantity found (in no. of PP bags)	Gross Weight as per weighment slip provided by the representative of CFS (in Kgs)
1	2359543	MSKU5143740	1120	28110
2	dated	MRKU8593225	1120	27950
3	29.05.2025	TTNU1026625	1120	28100
Total			3360	84160

3. Testing

3.1. Further, during examination, in order to ascertain the nature, description and composition of the imported goods and whether the goods are hazardous in nature, samples have been drawn and sent for lab testing to CRCL Kandla vide Test Memo No. 40 dated 12.06.2025. The test report dated 18.06.2025 has been received back from CRCL Kandla vide Lab No. 2012-SIIB/13.06.2025 [RUD-1], as detailed below:-

TABLE-1

Test Report	
Nature:	<i>The Sample as received is in the form of black coloured shiny small lumps of irregular shape and sizes and coarse powder.</i>
Composition:	<i>It is petroleum coke (partially calcined) having following constants: Total Moisture = 0.08% by weight; Inherent Moisture (ADB) = 0.08% by weight; Ash Content (ADB) = 0.22% by weight; Volatile matter (ADB) = 3.45% by weight; Fixed Carbon (ADB) = 96.25% by weight;</i>
Note/ comments:	<i>Hazardous nature of the sample could not be ascertained.</i>
	<i>Sealed remnant sample returned herewith.</i>

3.2. The importer has not agreed with the test report of CRCL Kandla and requested for re-testing. The request of the importer has been considered by the competent authority and remnant samples were sent for re-testing to CRCL New Delhi, who has submitted the test result under CLR No. 72 dated 28.07.2025 issued under letter F. No. 26-CUS/C-49/2025-26 dated 10.09.2025 [RUD-2] as mentioned below:-

*“The sample is in the form of **black coloured shiny coarse powder.** It is mainly composed of carbon and very small amount of inorganic matter.*

- *Moisture Content (% by mass) : 0.06*
- *Volatile matter on dry basis (% by mass) : 0.64*

- *Ash Content on dry basis (% by mass) : 0.55*
- *Fixed Carbon on dry basis (% by mass) : 98.81*
- *Non-graphitic Carbon (% by mass) : 1.13*
- *Fluoride Content mg/kg (ppm) = Not detected*
- *Cyanide Content, mg/kg (ppm) = Not detected*

*On the basis of XRD analysis and as per IS 1305 : 1984 RA : 2022 the sample u/r has the characteristics of **Synthetic Graphite**.*

*The concentration of Fluoride and Cyanide Content are under limit as per Hazardous and Other Waste (Management and Transboundary Movement) Rules 2016, schedule II. Hence, the **sample u/r is non-hazardous in nature**.*

Sealed remnant samples returned separately”

4. ANALYSIS OF THE TEST REPORTS:

4.1 The importer has declared the description of the imported goods as Carbon Additive (HS Code: 27011100), whereas, as per the test report of CRCL Kandla, the goods are Petroleum Coke. The importer has not agreed with the test result and requested for re-testing. The remnant samples were sent for re-testing to CRCL New Delhi. As per the test report of CRCL New Delhi, the imported goods are having the characteristics of Synthetic Graphite which is classifiable under CTH 3801 1000 and which is a freely importable commodity. Synthetic Graphite is also known by the name of Artificial Graphite.

4.2. Thus, the importer has not mentioned the true and exact description of the goods. They have declared the imported goods as Carbon Additive CTH 27011100, whereas, as per CRCL Delhi test report, the imported goods are found as Synthetic or Artificial Graphite CTH 3801 1000.

4.3. From the above, it appears that vide BE No. 2359543 dated 29.05.2025, the importer has attempted to import **Synthetic or Artificial Graphite CTH 3801 1000** in the guise of **Carbon Additive CTH 27011100**. The importer has not mentioned the true and exact description of the goods in the said BE.

5. LEGAL PROVISIONAS:

CUSTOMS ACT, 1962

5.1 As per **Section 2 (33)** of the Customs Act, 1962 '**prohibited goods**' means *any goods the import or export of which is subject to any prohibition under*

this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

5.2 As per Section 2 (39), '**smuggling**', in relation to any goods, means *any act or omission which will render such goods liable to confiscation under section 111 or section 113;*

5.3 Section 17(4) – Customs Act, 1962 (As amended by the Finance Act, 2011)

"Where it is found on verification, examination or testing of the goods or otherwise, that the self-assessment is not done correctly, the proper officer may re-assess the duty leviable on such goods."

5.4. **SECTION 46** of the Act, prescribes that 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.

5.5 Further, **Section 111** of the Act, prescribes the Confiscation of improperly imported goods, etc. as under

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

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

5.6 **Further, Section 112** of the Act provides the penal provisions for improper importation of goods, etc. which read as under:

Any person, -

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

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

shall be liable, -

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

(ii) **in the case of dutiable goods, other than prohibited goods**, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty 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 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 penalty so determined;]

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

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

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

5.7 **SECTION 124** prescribes the mandatory issuance of show cause notice before confiscation of goods, which read as under:

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person –

- a. *is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;*
- b. *is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and*

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.

6. STATEMENT OF THE IMPORTER

6.1. In order to importer for the alleged mis-declaration, a summons dated 23.09.2025 has been issued to the importer under Section 108 of the Customs Act, 1962 to record statement on 30.09.2025 [RUD-3]. Shri Patel Yogeshkumar Rameshbhai Partner of M/s Sarth Industries has appeared to record statement wherein he has inter-alia stated that: -

- i. He looks after all the day to day work of the company and responsible for all the matters related to sales and purchase.
- ii. M/s Sarth Industries had been established in December 2024 and deals with the trading of foundry material in the state of Gujarat. The firm is registered under GST with registration no. 24AFDFS3104D2ZL having address of Principal Place of business is 706, Anushri Accolade LL, Opp. Shail Petrol Pump, Science City Road, Sola, Ahmedabad-380060.
- iii. On perusal of the Lab test reports 2012-SIIB/13-06-2025 dated 18.06.2025 of CRCL Kandla and re-test report F. No. 26-CUS/C-49/2025-26 dated 10.09.2025 of CRCL New Delhi, he has put his dated signature on the reports as a token of seeing the same. He has submitted that the samples were initially sent to CRCL Kandla. They were not in agreement with the test result and requested for re-testing. Accordingly, the remnant samples were sent for testing to CRCL Delhi who has done the re-testing and issued re-test report F. No. 26-CUS/C-49/2025-26 dated 10.09.2025.
- iv. He is in agreement with the result of the test report of CRCL Delhi that

“sample u/r has the characteristics of Synthetic Graphite”.

- v. On being asked about the discrepancy in the description of goods mentioned in the said BE and description found as per test report; he has submitted that the firm had ordered for the ‘Carbon Additive’ from their overseas supplier. In support, he has submitted the agreement dated 31.03.2025 made with overseas supplier M/s. SQA Carbon Co. Limited, RM1204, Building- B. Henghua Da Gu NanRD, HE XI, Distt. Tianjin, China. The overseas supplier had sent them Certificate of Analysis dated 28.04.2025 according to which the description of the goods is Carbon Additive only and the content of Fixed Carbon is 98.26 PCT. Thus, the firm has not done any mis-declaration intentionally. The BE had been filed as per the documents provided by the supplier as per the purchase agreement. He has also submitted that they have also made full payment for the present consignment. So, there is no malafide intention.
- vi. Additionally, as per his understanding, the applicable duty on ‘Carbon Additive –CTH 27011100’ is BCD 2.5%, SWS 10% and IGST 5%. Whereas, the applicable duty on ‘Synthetic Graphite-CTH 3801 1000’ is BCD 2.5%, SWS 10% and IGST 18%. Thus, there is no difference between the BCD/SWS between CTH 27011100 and 3801 1000. The only difference is the rate of IGST. The firm is duly registered under GST, they have no issue in paying GST at higher rate as after payment they can avail the Input Tax Credit. So, there is no benefit which they have tried to obtain by mis-classifying the imported goods under CTH 27011100. So, the mistake is not intentional.
- vii. He has also submitted that the firm is ready to comply as per customs procedure and don’t want any SCN/PH in the present matter. It is requested to release the cargo at the earliest.

7. **Valuation**

7.1. With regard to the valuation of Synthetic or Artificial Graphite, the NIDB (National Import Database) data has been examined. It is observed that the prevailing import value of Synthetic or Artificial Graphite imported from China ranges from Rs. 38.63 per kg to Rs. 50.73 per kg. The importer has declared the value of the goods under the said Bill of Entry (BE) as Rs. 46.05 per kg. Accordingly, the declared price falls within the acceptable range as per NIDB data and, therefore, appears to be reasonable and acceptable.

8. **OUTCOME OF THE INVESTIGATION:**

8.1 After introduction of self-assessment vide Finance Act, 2011, the onus lies on the importer for making true and correct declaration in all aspects in the Bills of Entry and to pay the correct amount of Duty. In terms of Section 46 (4) of the Customs Act, 1962, the importers are required to make a declaration as to the truth of the contents of the Bills of Entry submitted for assessment of Customs duty.

8.2 From the outcome of the investigation as discussed in para supra, it appears that the imported goods covered under BE No. 2359543 dated 29.05.2025 (1) MSKU5143740, 2) MRKU8593225 and 3) TTNU1026625 and declared as Carbon Additive (CTH-27011100) is found mis declared and misclassified in as much as per the test reports. The actual description of the goods found Synthetic or Artificial Graphite CTH 3801 1000.

8.3. The partner of the firm Shri Patel Yogeshkumar Rameshbhai during the statement recorded on 30.09.2025 has agreed that with the test result of CRCL New Delhi that the imported goods are Synthetic or Artificial Graphite classifiable under CTH 3801 1000. During the statement, he has also requested for waiver of the SCN/PH. The importer by way of mis declaring renders imported goods having declared value of **Rs. 38,68,301/-** liable to be confiscated under Section 111 (m) of the Customs Act, 1962. Further, the said acts of omission and commission on the part of the M/s Saarth Industries have rendered themselves liable for penalty under the provisions of Section 112(a) (ii) of the Customs Act, 1962.

9. In view of the above, it appears that: -

- i. The declared description of 'Carbon Additive' and declared classification under CTH-27011100 of the goods imported vide BE No. 2359543 dated 29.05.2025 is liable to be rejected. The actual description of the imported goods is Synthetic or Artificial Graphite classifiable under CTH 3801 1000.
- ii. Accordingly, the self assessment done by the importer is liable to be rejected and BE is required to be re-assessed under provisions of Section 17(4) of the Customs Act, 1962.
- iii. The Imported goods having total declared value of **Rs. 38,68,301/-** under above said BE is liable to be confiscated under Section 111 (m) of Customs Act, 1962.
- iv. Penalty under Section 112 (a) (ii) of the Customs Act, 1962 is imposable upon the importer.

WRITTEN SUBMISSION AND PERSONAL HEARING

10. Importer M/s. Saarth Industries, during statement dt. 30.09.2025 recorded under Section 108 of the Customs Act, 1962 requested that the firm is ready to comply as per customs procedure and don't want any SCN/PH in the present matter.

DISCUSSION AND FINDINGS

11. I have carefully gone through the case records. The importer in his statement dt. 30.09.2025 under Section 108 of the Customs Act, 1962, has requested for waiver of the Show Cause Notice and Personal Hearing in the matter. Thus, I find that principles of natural justice as provided in Section 122A of the Customs Act 1962 has been complied with and therefore, I proceed

to decide the case on the basis of the documentary evidence available on records. I find that the following main issues are involved in the subject case, which is required to be decided:

- i. Whether the declared description of 'Carbon Additive' and declared classification under CTH-27011100 of the goods imported vide BE No. 2359543 dated 29.05.2025 be rejected and the description of the same is allowed to be Synthetic or Artificial Graphite classifiable under CTH 3801 1000.
- ii. Whether the self assessment done by the importer be rejected and BE to be re-assessed under provisions of Section 17(4) of the Customs Act, 1962.
- iii. Whether the Imported goods having total declared value of **Rs. 38,68,301/-** under above said BE be confiscated under Section 111 (m) of Customs Act, 1962.
- iv. Whether the penalty under Section 112 (a) (ii) of the Customs Act, 1962 is imposable upon the importer.

12. I find that M/s Saarth Industries filed Bill of Entry No. 2359543 dated 29.05.2025 for the import of goods i.e Carbon Additive (HS Code: 27011100) through Customs Broker- M/s Ashapura Logistic Solution (ABLFA2403KCH002) at Mundra Port.

13. I find that based on the intelligence, the consignment covered under Bill of entry no. 2359543 dated 29.05.2025 was put on hold for SIIB examination. The examination was carried out on 11.06.2025 and during examination, it was found that the goods/cargo covered under Bill of entry no. 2359543 dated 29.05.2025 were stuffed in 3 Container bearing No. 1) MSKU5143740 2) MRKU8593225 3) TTNU1026625. The goods declared in Bill of entry are "Carbon Additive" with CTH-27011100. The total quantity of the consignment declared in the Bill of entry are 3360 packages having Gross weight of 84,120 Kg.

13.1. During examination, it was found that the goods were packed in whitish color PP Bags. The size of these PP Bags appears same. The quantity of PP bags in each container was 1120 bags. The total quantity of bags in all the three containers was 3360 PP Bags, which was same as declared by the importer in the Bill of Entry. Thereafter, some randomly selected bags were weighed and the weight of these bags appear to be in the range of 25.00 to 25.17 Kgs. On opening of randomly selected PP bags, the goods appear to be as "Carbon Additive". Further, on perusal of weighment slip, it is noticed that the total gross weight of goods, i.e. 84,160 is approx. same as declared by the importer. The details are as under:

Sr No.	Bill of entry no. & date	Container no.	Quantity found (in no. of PP bags)	Gross Weight as per weighment slip provided by the representative of CFS (in Kgs)
1	2359543	MSKU5143740	1120	28110
2	dated	MRKU8593225	1120	27950

3	29.05.2025	TTNU1026625	1120	28100
Total			3360	84160

14. Testing

14.1. I further find that, during examination, in order to ascertain the nature, description and composition of the imported goods and whether the goods were hazardous in nature, samples were drawn and sent for lab testing to CRCL Kandla vide Test Memo No. 40 dated 12.06.2025. The test report dated 18.06.2025 received from CRCL Kandla vide Lab No. 2012-SIIB/13.06.2025, as detailed below:-

TABLE-1

Test Report	
<i>Nature:</i>	<i>The Sample as received is in the form of black coloured shiny small lumps of irregular shape and sizes and coarse powder.</i>
<i>Composition:</i>	<i>It is petroleum coke (partially calcined) having following constants: Total Moisture = 0.08% by weight; Inherent Moisture (ADB) = 0.08% by weight; Ash Content (ADB) = 0.22% by weight; Volatile matter (ADB) = 3.45% by weight; Fixed Carbon (ADB) = 96.25% by weight;</i>
<i>Note/ comments:</i>	<i>Hazardous nature of the sample could not be ascertained. Sealed remnant sample returned herewith.</i>

14.2. I find that the importer did not agree with the test report of CRCL Kandla and requested for re-testing. The request of the importer has been considered by the competent authority and remnant samples were sent for re-testing to CRCL New Delhi, who submitted the test result under CLR No. 72 dated 28.07.2025 issued under letter F. No. 26-CUS/C-49/2025-26 dated 10.09.2025 as mentioned below:-

*“The sample is in the form of **black coloured shiny coarse powder.** It is mainly composed of carbon and very small amount of inorganic matter.*

- *Moisture Content (% by mass) : 0.06*
- *Volatile matter on dry basis (% by mass) : 0.64*
- *Ash Content on dry basis (% by mass) : 0.55*
- *Fixed Carbon on dry basis (% by mass) : 98.81*
- *Non-graphitic Carbon (% by mass) : 1.13*
- *Fluoride Content mg/kg (ppm) = Not detected*
- *Cyanide Content, mg/kg (ppm) = Not detected*

*On the basis of XRD analysis and as per IS 1305 : 1984 RA : 2022 the sample u/r has the characteristics of **Synthetic Graphite**.*

*The concentration of Fluoride and Cyanide Content are under limit as per Hazardous and Other Waste (Management and Transboundary Movement) Rules 2016, schedule II. Hence, the **sample u/r is non-hazardous in nature**.*

Sealed remnant samples returned separately”

15. ANALYSIS OF THE TEST REPORTS:

15.1 I find that the importer has declared the description of the imported goods as Carbon Additive (HS Code: 27011100), whereas, as per the test report of CRCL Kandla, the goods are Petroleum Coke. The importer did not agree with the test result and requested for re-testing. The remnant samples were sent for re-testing to CRCL New Delhi. As per the test report of CRCL New Delhi, the imported goods having the characteristics of Synthetic Graphite which were classifiable under CTH 3801 1000 and was a freely importable commodity. Synthetic Graphite is also known by the name of Artificial Graphite.

15.2. From above, I find that the importer has not mentioned the true and exact description of the goods. They have declared the imported goods as Carbon Additive under CTI 27011100, whereas, as per CRCL Delhi test report, the imported goods were found as Synthetic or Artificial Graphite CTI 3801 1000. Importer appeared for statement under Section 108 of the Customs Act, 1962 agreed with the result of the test report of CRCL Delhi that “sample u/r has the characteristics of Synthetic Graphite”. The importer has not mentioned the true and exact description of the goods in the said BE. The importer has attempted to import **Synthetic or Artificial Graphite CTH 3801 1000** in the guise of **Carbon Additive CTH 27011100**.

16. Valuation

16.1. With regard to the valuation of Synthetic or Artificial Graphite, I find that the NIDB (National Import Database) data was examined by SIIB section and it was observed that the prevailing import value of Synthetic or Artificial Graphite imported from China ranges from Rs. 38.63 per kg to Rs. 50.73 per kg. The importer has declared the value of the goods under the said Bill of Entry (BE) as Rs. 46.05 per kg. Accordingly, the declared price falls within the acceptable range as per NIDB data and, therefore, appears to be reasonable and

acceptable.

17. Further, with the introduction of self-assessment under Section 17(1) of Customs Act, 1962, the onus lies on the importer to correctly self-assess the bill of entry with correct amount of leviable duties. Further, the importer while filing the impugned Bill of Entry has subscribed to a declaration regarding correctness of the contents of Bill of Entry under Section 46(4) of the Act, *ibid*. Further, Section 46 (4A) of the Act, casts an obligation on the importer to ensure accuracy of the declaration and authenticity of the documents supporting such declaration. However, by not correctly self-assessing the applicable duties, the importer received undue monetary benefit and they failed to declare and assess the correct duty payable on the goods with an intention to evade payment of correct duty on the goods imported. By failing to declare dutiable goods correctly in the Bill of Entry, the importer's actions indicate an intent to evade payment of the correct duties on the imported goods. This deliberate omission raises reasonable grounds to believe that the importer wilfully and intentionally concealed dutiable goods, thereby causing a loss to government revenue.

18. From above, I find that the importer by way of mis declaring the description and HS code, renders the imported goods having declared value of **Rs. 38,68,301/-** liable for confiscation under Section 111 (m) of the Customs Act, 1962.

18.1 Whereas, Section 125(1) of the Customs Act, 1962 provides that:

"Whenever confiscation of any goods is authorised by the Customs Act, 1962, the officer adjudging may, in the case of any goods, the importation or exportation whereof is prohibited under the Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such redemption fine as the said officer thinks fit".

18.2 I find that the said provision makes it mandatory to grant an option to the owner of confiscated goods to pay fine in lieu of confiscation in case the goods are not prohibited. Considering the facts that goods are freely importable, therefore, I find it appropriate to grant an option to pay redemption fine in lieu of confiscation on the subject to clearance of goods for home consumption.

19. Further, the said acts of omission and commission on the part of the M/s Saarth Industries have rendered themselves liable for penalty under the

provisions of Section 112(a) (ii) of the Customs Act, 1962. For the calculation of penalty under Section 112(a)(ii), duty calculation is produced below:

Goods	Assessable Value	Declared		Applicable		Differential Duty	
		CTI	Duty rate	CTI	Duty rate	Duty rate	Amount (in Rs.)
Carbon Additive (found to be Artificial Graphite	Rs. 38,68,301/-	27011100	2.5%+ 0.25%+ 5% =	38011000	2.5%+ 0.25%+ 18% =	13.357% 7.888%	5,16,689/- 21.245%

20. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

- i. I reject the declared description of 'Carbon Additive' and declared classification under CTI 27011100 of the goods imported vide BE No. 2359543 dated 29.05.2025 and allow the description of the same to be Synthetic or Artificial Graphite under CTI 3801 1000.
- ii. I reject the self assessment done by the importer and allow the BE to be re-assessed under provisions of Section 17(4) of the Customs Act, 1962.
- iii. I order to confiscate the Imported goods having total declared value of **Rs. 38,68,301/-**, under above said BE, under Section 111 (m) of Customs Act, 1962. However, I give an option to the importer to redeem the said confiscated goods for home consumption on payment of redemption fine of **Rs. 3,80,000/-** (Rupees Three Lakh Eighty Thousand Only) under Section 125 of the Customs Act, 1962.
- iv. I impose penalty of **Rs. 50,000/-** (Rupees Fifty Thousand Only) on M/s Saarth Industries under Section 112 (a) (ii) of the Customs Act, 1962.

21. This order is issued without prejudice to any other action which may be required to be taken against any person as per the provision of the Customs Act, 1962 or any other law for the time being in force.

Additional Commissioner (Import)
Custom House, Mundra

F.No. CUS/APR/MISC/7936/2025-Gr 1

To,

M/s Saarth Industries,
706, Anushri Accolade LL,
Opp. Shail Petrol Pump,
Science City Road, Sola,
Ahmedabad-380060

Copy to:

1. The Deputy Commissioner (SIIB), Customs House, Mundra.
2. The Deputy Commissioner (RRA), Customs House, Mundra.
3. The Deputy Commissioner (TRC), Customs House, Mundra.
4. The Deputy Commissioner (EDI), Customs House, Mundra.
5. Guard file.