



प्रधानआयुक्तकाकार्यालय, सीमाशुल्क, अहमदाबाद  
सीमाशुल्कभवन, आलइंडीयारेडीअंकिबाजुमे, नवरंगपुरा, अहमदाबाद 380009  
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**निबन्धितपावतीडाकद्वारा / By SPEED POST A.D.**

फा. सं./ GEN/ADJ/COMM/125/2024-TECH

आदेशकीतारीख/Date of Order : 17.7.2025  
जारीकरनेकीतारीख/Date of Issue : 17.7.2025

द्वारापारित :-

**शिव कुमार शर्मा, प्रधान आयुक्त**

**Passed by :-**

**Shiv Kumar Sharma, Principal Commissioner**

मूलआदेशसंख्या : **Order-In-Original No: AHM-CUSTM-000-PR.COM-17-2025-26**

**Dated 17.7.2025** in the case of M/s. Mccoy Drugs P Ltd and others,

- जिसव्यक्ति(यों) कोयहप्रतिभेजीजातीहै, उसेव्यक्तिगतप्रयोगकेलिएनिःशुल्कप्रदानकीजातीहै।
- This copy is granted free of charge for private use of the person(s) to whom it is sent.
- इस आदेशसे असंतुष्ट कोई भी व्यक्ति इस आदेशकी प्राप्तिसे तीन माहके भीतर सीमाशुल्क, उत्पादशुल्क एवं सेवाकर अपीलीयन्यायाधिकरण, अहमदाबाद पीठको इस आदेशके विरुद्ध अपील कर सकता है। अपील सहायकरजिस्ट्रार, सीमाशुल्क, उत्पादशुल्क एवं सेवाकर अपीलीयन्यायाधिकरण, दुसरी मंज़िल, बहुमालीभवन, गिरिधरनगर पुलके बाजुमे, गिरिधरनगर, असारवा, अहमदाबाद-380 004 को सम्बोधित होनी चाहिए।
- 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.
- उक्तअपीलप्रारूपसं. सी.ए.3 मेंदाखिलकीजानीचाहिए।उसपरसीमाशुल्क (अपील) नियमावली, 1982 के नियम 3 के उपनियम (2) मेंविनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्तअपीलको चार प्रतियोंमें दाखिल किया जाए तथा जिस आदेशके विरुद्ध अपील की गई हो, उसकीभीउतनीहीप्रतियाँसंलग्नकीजाएँ (उनमेंसेकमसेकमएकप्रतिप्रमाणितहोनीचाहिए)।अपीलसेसम्बंधितसभीदस्तावेजभीचारप्रतियोंमेंअप्रेषितकिएजानेचाहिए।
- 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.

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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 संलग्न 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. केंद्रीय सीमा शुल्क अधिनियम, 1962 की धारा 129 ऐसे 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 विरुद्ध 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 शीर्ष जुरमाना के बारे में विवाद है उसका भुक्तान करके अपील की जा सकती 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: Disposal of Show Cause Notice No. Show cause Notice File No. VIII/10-13/Cus/SCN/Tech/2022 dated 23.5.2023 in case of M/s Mccoy Drugs P Ltd 146 B/147, Sursez Diamond Park, Sachin, Dist. Surat and 5 Others, issued by Commissioner of Customs, Ahmedabad.



**BRIEF FACTS OF THE CASE**

**M/s. Mc Coy Drugs Pvt. Ltd. (herein after referred to as “Mc Coy” or “the Importer” or “the noticee” for the sake of brevity)**, having their registered office located at 146 B/147, Sursez Diamond Park, Sachin, Dist. Surat – 394230, was established in 2004. They obtained IEC No. 3705000764 from DGFT Ahmedabad in 2005 and started manufacturing API Drugs (Active Pharmaceutical Ingredient Drugs) namely (i) Metronidazole and (ii) Trimethoprim (TMP). Subsequently, from 2015-16, they also started manufacturing two more API Drugs namely (iii) Clindamycin Phosphate and (iv) Folic Acid. Later, from 2017-18, they also started import of Ascorbic Acid (“Vitamin C”).

2. Intelligence developed by the Directorate of Revenue Intelligence, Mumbai Zonal Unit (**herein after referred to as ‘DRI, MZU’**) indicated that Mc Coy had imported “Vitamin C” from China to their SEZ Unit, without payment of Anti-Dumping Duty (ADD) in terms of Notification No. 38/2015-Cus (ADD) dated 06.08.2015 and diverted the same to Domestic Tariff Area (**herein after referred to as ‘DTA’**), without any processing or manufacturing. The intelligence indicated that the goods had been mis-declared as being of Indian Origin in the Home Consumption Bills of Entry (B/E), and that the said firm had simply used SEZ Unit as a façade to evade the Anti-Dumping Duty payable on import of “Vitamin C” in all Forms / Grade in terms of the said Notification dated 06.08.2015.

3. A search was carried out at the Office-cum-Factory premises of Mc Coy at 146 B/147, Sursez Diamond Park, Sachin, Dist. Surat – 394230 on 11.02.2020 by the officers of DRI, MZU. During the search, documents were taken over under Panchanama dated 11.02.2020 (**RUD-1**) for the purpose of further investigation. It was also noticed during the search that most of the machines installed in the premises had not been used for a long period of time, and **that none of the machines were found to be connected to the power supply**. On being enquired about the condition of the machines installed there, Shri Dhaval Surajbhai Patel, General Manager (Production) of Mc Coy, informed that those machines had not been used for the last two - three years and **apart from packing-repacking, no manufacturing activity was being done in the premises**.

4. During the course of the inquiry, statements of following persons were recorded under the provisions of Section 108 of the Customs Act, 1962.

- (i) Shri Dhaval Surajbhai Patel, General Manager (Production) of M/s. Mc Coy Drugs Pvt. Ltd.,
- (ii) Shri Rinaam Nalinkumar Shah, Managing Director of M/s. Mc Coy Drugs Pvt. Ltd.,
- (iii) Shri Mehul Satishbhai Choksi, Director of M/s. Mc Coy Drugs Pvt. Ltd.,
- (iv) Shri Rahul Satishbhai Choksi, Director of M/s. Shreem Bio Sciences Pvt. Ltd.; and
- (v) Shri Samir Kirthikant Vora, Proprietor of M/s. Samir Pharma and Partner of M/s. Ace Pharma

4.1 In his Statement dated 12.02.2020 (**RUD-2**), Shri Dhaval Surajbhai Patel, General Manager (Production) of Mc Coy, *inter-alia*, stated:-

- a) that he was working with Mc Coy as General Manager (Production) from 2016 and was responsible for production of API from the imported raw material.
- b) that Mc Coy had imported “Vitamin C”, also known as Ascorbic Acid and 5R-1S-1,2-Dihydroxyethyl-3,4-Dihydroxyfuran-2(5H)-One, from China without payment of Duty.



c) that "Vitamin C" imported had been sold by them in the Local Market and had never been exported.

**d) that there was no change in the chemical composition in the "Vitamin C" imported by Mc Coy and the "Vitamin C" sold in the Local Market. The "Vitamin C" imported was packed in cartons and the same was sold 'as such' to the Local Market.**

**e) that they had prepared the Batch Cards for production of "Vitamin C", showing the said product to be micronized. However, they had not micronized the said product.**

f) that the contents of the Panchanama dated 11.02.2020, drawn at the factory premises of Mc Coy, were correct and most of the machinery installed in the factory were not in working condition.

g) that it was a mistake on his part that he had not processed the imported "Vitamin C" and had prepared the Batch Cards wrongly. The Batch Cards had been prepared as per the directions of Shri Rinaam Nalinkumar Shah, Director of Mc Coy.

4.2 In his Statement dated 12.02.2020 **(RUD-3)**, Shri Mehul Satishbhai Choksi, Director of Mc Coy, *inter-alia*, stated:-

a) that he held 25% of the Shares in Mc Coy and was controlling the Finances of McCoy.

b) that Shri Rinaam Nalinkumar Shah was the active Director of Mc Coy and controlled the overall activities of the Company.

c) that the factory was not functioning for the last three years due to difficulty in sale of goods and working capital.

d) that not processing of the imported "Vitamin C", wrong preparation of the Batch Cards and sale of imported "Vitamin C" in the same condition / packing to the Local Market, was a mistake on the part of his Company.

e) that his brother, Shri Rahul Satishbhai Choksi is the Director in M/s. Shreem Bio Sciences Pvt. Ltd. and the said firm functioned from his office address.

4.3 In his Statement dated 12.02.2020 **(RUD-4)**, Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy, *inter-alia*, stated:-

a) that they had started importing Ascorbic Acid in 2017-18 and in the Bills of Entry, they used to declare it as 5R-1S-1,2-Dihydroxyethyl-3,4-Dihydroxyfuran-2(5H)-One, which is a chemical name of Ascorbic Acid. This item was imported from Ningbo Hi-Tech Biochemical Co. Ltd., Ningbo, China.

b) that since 2017, they had imported four consignments of Ascorbic Acid, having a total quantity of approximately 60.50 MT.

c) that in the Bills of Entry of all four consignments, the goods were declared as 5R-1S-1,2-Dihydroxyethyl-3,4-Dihydroxyfuran-2(5H)-One. However, the goods were Ascorbic Acid ("Vitamin C") and only the chemical name of Ascorbic Acid had been declared in all the four Bills of Entry.

d) that the entire lot of "Vitamin C" had been cleared to DTA and sold to various Indian buyers.

e) that Shri Mehul Satishbhai Choksi was Director, Legal matters in Mc Coy.

f) that the Vitamin C imported by Mc Coy had been sold to related Company M/s. Shreem Bio Sciences Pvt. Ltd. and Shri Mehul Satishbhai Choksi's brother was a Director in the said Company.

g) that he was ready to pay the entire liability of Anti-Dumping Duty on sale of Ascorbic Acid ("Vitamin C") into DTA.

4.4 In his further Statement dated 18.09.2020 **(RUD - 5)**, Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy, *inter-alia*, stated -:



- a) that Batch Cards showing the goods to be micronized, were wrongly prepared as per directions given by him.
- b) that the machines for micronisation were not functioning and they had also wrongly declared before the Food and Drug Authority that the imported "Vitamin C" had been micronized.
- c) that Into-Bond Bills of Entry were filed by Mc Coy wherein the description of the goods was declared as "5R-1S-1,2-Dihydroxyethyl-3,4-Dihydroxyfuran-2(5H)-One", and Ex-Bond Bills of Entry had been filed in the name of Shreem Bio-Sciences Pvt. Ltd. wherein description of the goods was declared as "Ascorbic Acid".
- d) that M/s. Shreem Bio Sciences Pvt. Ltd. is owned by Shri Rahul Satishbhai Choksi (brother of Shri Mehul Satishbhai Choksi, one of Directors of Mc Coy) and has been established for filing Ex-Bond Bills of Entry in respect of Ascorbic Acid imported by Mc Coy; that apart from this, no business transactions were done by M/s. Shreem Bio Sciences Pvt. Ltd.; that the said Ascorbic Acid was further sold to M/s. Innovax Healthcare; that M/s Innovax Healthcare mostly sold the said Ascorbic Acid to M/s Samir Pharma and M/s Ace Pharma.
- e) that the purpose of showing sale of Ascorbic Acid to M/s. Shreem Bio Sciences Pvt. Ltd. and from M/s. Shreem Bio Sciences Pvt. Ltd. to M/s Innovax Healthcare was to get the payments immediately without waiting for payment from M/s Samir Pharma; that M/s Innovax Healthcare used to pay immediately whereas M/s Samir Pharma used to pay in 90 days.

4.5. Statement of Shri Samir Kirthikant Vora, Proprietor of M/s. Samir Pharma and Partner of M/s. Ace Pharma, was recorded under Section 108 of the Customs Act, 1962 on 21.09.2020 (**RUD – 6**), wherein he, *inter-alia*, stated as under:

- a) that he knew Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy, since last 3 years.
- b) that he was purchasing Ascorbic Acid from M/s. Innovax Healthcare and was not aware as to from where M/s. Innovax Healthcare was purchasing the said material;
- c) that he used to contact Shri Rinaam Nalinkumar Shah to purchase Ascorbic Acid from M/s. Innovax Healthcare.

4.6 In his Statement dated 30.09.2020 (**RUD-7**), Shri Rahul Satishbhai Choksi, Director of M/s. Shreem Bio Sciences Pvt. Ltd., *inter-alia*, stated:-

- a) that he and his wife Mrs. Chaitali Rahul Choksi, were the Directors of the said Company;
- b) that there was no activity of M/s. Shreem Bio Sciences Pvt. Ltd. except for the business with Mc Coy and there is no employee working in the Company.
- c) that Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy (brother-in-law of Shri Mehul Satishbhai Choksi) had approached him with **the proposal to file Ex-Bond Bills of Entry in respect of Ascorbic Acid imported by Mc Coy (i.e. Bill of Entry for SEZ to DTA) and for that his Company would get commission @ Rs. 15 to 20 per kg.**
- d) that he agreed to the said proposal and all the documentary works such as filing of Ex-Bond Bills of Entry and further sale, etc. were taken care of by the employees of Mc Coy only.
- e) that the Bills of Entry and invoices of M/s. Shreem Bio Sciences Pvt. Ltd., were signed by him or the Authorized Signatory of his Company.
- f) that he was not aware that in the Into-Bond Bills of Entry filed by Mc Coy, the description of the goods were declared as "5R-1S-1,2-Dihydroxyethyl Dihydroxyfuran-2(5H)-One" and he had merely signed the Ex-Bond Bills of Entry filed in the name of Shreem Bio-Sciences Pvt. Ltd., wherein the description of the goods was declared as "Ascorbic Acid".

g) that he did not have details / records of Ex-Bond Bills of Entry and sale invoices of M/s. Shreem Bio Sciences Pvt. Ltd. and the said documents were available with Shri Rinaam Nalinkumar Shah. He was also not aware of the firm Innovax Healthcare.

5. During the course of investigation, Mc Coy voluntarily deposited the following amounts towards their Anti-Dumping Duty liability and interest thereon: -

Table – I

Sr. No.	DD No. & Date	Amount (Rs.)	Challan No. & Date	Treasury, where pay order was deposited
1	510319 dtd. 11.02.2020	30,000/-	No. Nil 25.02.2020	The Deputy Commissioner of Customs, SEZ Sachin, Surat.
	510320 dtd. 12.02.2020	20,00,000/-		
	510324 dtd. 15.02.2020	50,00,000/-		
	510325 dtd. 11.02.2020	25,00,000/-		
	510331 dtd. 11.02.2020	29,70,000/-		
2	510363 dtd. 24.02.2020	17,00,000/-	No. Nil dtd. 04.03.2020	
	510346 dtd. 29.02.2020	12,05,000/-		
	510347 dtd. 29.02.2020	3,50,000/-		
3	510516 dtd. 17.09.2020	5,00,000/-	No. Nil dtd. 23.09.2020	
4	510525 dtd. 23.09.2020	11,50,000/-	No. B- 1958 dtd. 30.09.2020	
5	510526 dtd. 23.09.2020	3,50,000/-	No. Nil dtd. 05.10.2020	
6	703822 dtd. 19.02.2021	20,00,000/-	No. Nil dtd. 24.02.2021	
	<b>Total</b>	<b>1,97,55,000/-</b>		

6. Scrutiny of the documents:

6.1 The scrutiny of the documents pertaining to Vitamin C / Ascorbic Acid imported by Mc Coy and the documents pertaining to DTA clearance of the said goods, indicates the relevant details as under :-

Table – II

S r. N o.	Into – Bond B/E No. & date for import into SEZ	Descriptio n of goods in B/E	Qty. in Kgs.	Ex-Bond B/E No. & date for clearance to DTA	Description of goods in B/E	Qty. in Kgs.
1	1002422 / 19.07.2018	5R-1S-1,2 Dihydroxye thyl -3,4- Dihydroxyf	500	2002746 / 23.08.2018	Ascorbic Acid	499



2	1000584 / 14.02.2019	uran-2(5H)- One  Country of Origin China	20,000	2000768 / 13.03.2019	(Micronized- Manufactur ed Goods)  Country of Origin India	1,000
				2000795 / 15.03.2019		2,000
				2000953 / 27.03.2019		17,000
3	1001799 / 17.05.2019		20,000	2001687 / 30.05.2019	6,000	
				2001704 / 31.05.2019	9,000	
				2001781 / 07.06.2019	4,975	
4	1002361 / 28.06.2019		20,000	2002154 / 15.07.2019	5,000	
				2002200 / 22.07.2019	5,000	
				2002227 / 29.07.2019	9,700	
		<b>Total</b>	<b>60,500</b>			<b>60,174</b>

The Ex-Bond clearance of goods was made by Mc Coy to M/s. Shreem Bio Sciences Pvt. Ltd.

6.2. From the details above, it appeared that Mc Coy, *inter-alia*, imported 60.50 MTs of Ascorbic Acid (“Vitamin C”) from China. In terms of Notification No. 38/2015-(Cus.) (ADD) dated 06.08.2015, Anti-Dumping Duty @ US\$ 3.74 per kg. is payable on all forms / grades of “Vitamin C” falling under Chapter Tariff Heading No. 2936 2700 when imported from China. Mc Coy had imported the said products by filing Into-Bond Bills of Entry at Surat SEZ and had declared the product by its chemical name ‘5R-1S-1, 2 Dihydroxyethyl Dihydroxyfuran-2(5H)-One’. Subsequently, Mc Coy filed Ex-Bond Bills of Entry for DTA clearance on behalf of M/s. Shreem Bio Sciences Pvt. Ltd., describing the said goods as **“Ascorbic Acid micronized / manufactured in India”**. On the basis of the said Ex-Bond Bills of Entry, the goods imported by Mc Coy had been cleared into the DTA. However, as revealed during investigation by DRI, MZU, the imported goods had actually been cleared in DTA ‘as it is’, without any processing / manufacturing, and without payment of Anti-Dumping Duty payable. The declaration of description of the goods by its chemical name at the time of filing Into-Bond Bills of Entry and mis-declaration of goods as Vitamin C/ Ascorbic Acid **of Indian origin** in the Bills of Entry filed for clearance of the same goods to the DTA, appeared to have been done deliberately to evade the payment of Anti-Dumping Duty on the Ascorbic Acid / Vitamin C, which had originated in China. By mis-declaring the goods, differential duty totally amounting to Rs. 1,86,64,963/-, including Anti-Dumping Duty of Rs.1,58,17,765/-, as shown under, appeared to have been evaded.

Table – III

Sr. No.	Ex-Bond B/E No. & date	Qty. in Kgs.	Ex. Rate	ADD (INR)	IGST @ 18%	Total Differential Duty
1	2002746 / 23.08.2018	499	73.65	1,37,450	24,741	1,62,191
2	2000768 / 13.03.2019	1,000	71.00	2,65,540	47,797	3,13,337

	2000795 / 15.03.2019	2,000	71.00	5,31,080	95,594	6,26,674
	2000953 / 27.03.2019	17,000	70.00	44,50,600	8,01,108	52,51,708
3	2001687 / 30.05.2019	6,000	71.15	15,96,606	2,87,389	18,83,995
	2001704 / 31.05.2019	9,000	71.15	23,94,909	4,31,084	28,25,993
	2001781 / 07.06.2019	4,975	70.30	13,08,037	2,35,447	15,43,484
4	2002154 / 15.07.2019	5,000	69.75	13,04,325	2,34,779	15,39,104
	2002200 / 22.07.2019	5,000	69.65	13,02,455	2,34,442	15,36,897
	2002227 /29.07.2019	9,700	69.65	25,26,763	4,54,817	29,81,580
		<b>60,174</b>		<b>1,58,17,765</b>	<b>28,47,198</b>	<b>1,86,64,963</b>

(Details shown in Annexure-A to this Show Cause Notice)

6.3 Investigations revealed that in the Into-Bond Bills of Entry filed by Mc Coy for import of the goods to SEZ, the goods had been declared as **‘5R-1S-1,2 Dihydroxyethyl-3, 4-Dihydroxyfuran-2(5H)-One’**, whereas in the Ex-Bond Bills of Entry filed for Home Consumption (SEZ to DTA) by Mc Coy, the goods had been declared as **‘Ascorbic Acid’**. It appeared that the Bills of Entry for Home Consumption (SEZ to DTA Unit) were filed before SEZ, Surat by employees of Mc Coy on behalf of M/s. Shreem Bio Sciences Pvt. Ltd. and the goods were cleared without payment of Anti-Dumping Duty payable, by falsely showing that the Ascorbic Acid had been manufactured in the SEZ from the goods imported. From the facts gathered during investigation, it appeared that no manufacturing process had been carried out by Mc Coy in the SEZ, and to cover up the wrong doing, Batch Cards had been prepared by them fraudulently, as per the directions of Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy. It appeared that the said Batch Cards falsely showed the goods to be processed/ micronized, which was not true.

6.4 Further, it also appeared that Mc Coy had imported **60.50 MTs** of Ascorbic Acid (“Vitamin C”) from China, whereas the Bills of Entry filed for Ex-Bond / DTA clearance covered **60.174 MT** of the imported goods. It appeared that no Ex-Bond Bills of Entry had been filed for the balance quantity of **0.326 MT** of Ascorbic Acid (Vitamin C), which is the difference between the quantity imported into the SEZ and the quantity cleared from the SEZ vide the Ex-Bond Bills of Entry. During the search conducted by the officers of DRI, MZU on 11.02.2020, no stock of “Vitamin C” had been noticed at the premises of Mc Coy, and according to the Statement of **Shri Dhaval Surajbhai Patel** recorded on 12.02.2020, the “Vitamin C” imported by Mc Coy was always sold in the Local Market and was never exported. Accordingly, it appeared that the balance quantity of 0.326 MT of Ascorbic Acid (“Vitamin C”), as shown under, had been improperly removed from the premises of Mc Coy.

Table – IV

Sr. No.	Into – Bond B/E No., date and Quantity		Ex-Bond B/E No., date and Quantity		Diff. Qty.	Assbl. Value (INR)	Duty incl. ADD (INR)
1	1002422 / 19.07.2018	500 Kgs	2002746 / 23.08.2018	499 Kgs	01 Kgs	622	497



2	1001799 / 17.05.2019	20,000 Kgs	2001687 / 30.05.2019 & 2001704 / 31.05.2019	15,000 Kgs	-	-	-
			2001781 / 07.06.2019	4,975 Kgs	25 Kgs	7375	9801
3	1002361 / 28.06.2019	20,000 Kgs	2002154 / 15.07.2019 &2002200 / 22.07.2019	10,000 Kgs	-	-	-
			2002227 / 29.07.2019	9,700 Kgs	300Kgs	88500	116759
		<b>60,500 Kgs</b>		<b>60,174 Kgs</b>	<b>326 Kgs</b>	<b>96497</b>	<b>127058</b>

(Details shown in Annexure-B to this Show Cause Notice)

**7. Summary of Investigation: -**

- (a) In terms of Notification No. 38/2015–Cus (ADD) dated 06.08.2015, Anti-Dumping Duty is leviable on all forms / grades of “Vitamin C” (CTH 2936 2700) @ US \$ 3.74 per kg., when imported from China.
- (b) Mc Coy, a unit located in SEZ, Surat, *inter-alia*, imported 60.50 MT of Ascorbic Acid (Vitamin C) from China. The said firm filed four Into-Bond Bills of Entry at the SEZ for importing Ascorbic Acid. The imported goods were not declared as Vitamin C / Ascorbic Acid in the Bills of Entry but had been deliberately declared as 5R-1S-1, 2 Dihydroxyethyl Dihydroxyfuran-2(5H)-One, the chemical name of Vitamin C / Ascorbic Acid.
- (c) In order to circumvent the Anti-Dumping Duty payable on Ascorbic Acid (Vitamin C) in terms of the said Notification dated 06.08.2015, Batch Cards were prepared by Shri Dhaval Surajbhai Patel, General Manager (Production) of Mc Coy to show that the goods imported by Mc Coy had been micronized / processed. These Batch Cards had been prepared on the directions of Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy, despite the fact that no processing / micronisation had been carried out on the Ascorbic Acid (“Vitamin C”) imported by Mc Coy.
- (d) Thereafter, the said goods were shown to have been sold to DTA unit M/s. Shreem Bio Sciences Pvt. Ltd which was a related unit / party. Shri Rahul Satishbhai Choksi, the Director of M/s. Shreem Bio Sciences Pvt. Ltd., is the brother of Shri Mehul Satishbhai Choksi, who is a Director in Mc Coy. It appeared that M/s. Shreem Bio Sciences Pvt. Ltd. had been set up on paper solely for the purpose of filing Ex-Bond Bills of Entry for DTA clearance of the “Vitamin C” (Ascorbic Acid) imported by Mc Coy in Sursez (Surat SEZ, Sachin). There was no employee working in M/s. Shreem Bio Sciences Pvt. Ltd. and its entire documentation, including filing of Ex-Bond Bills of Entry and sale in Domestic Market, was done by employees of Mc Coy. Thus, M/s. Shreem Bio Sciences Pvt. Ltd. was a dummy DTA unit of Mc Coy.
- (e) It appeared that Ex-Bond Bills of Entry were filed for the clearance of goods imported by Mc Coy to the said dummy DTA unit by wrongly claiming the goods to have been manufactured in India. The goods were then cleared from SEZ to the said dummy DTA unit *viz.* M/s. Shreem Bio Sciences Pvt. Ltd., without payment of Anti-Dumping Duty payable on the same. The goods cleared into DTA had been subsequently sold in the local market, mostly to M/s. Samir Pharma and M/s. Ace Pharma, through M/s. Innovax Healthcare.



(f) The Batch Cards had been prepared by Shri Dhaval Surajbhai Patel, as per the directions of Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy, even when no processing / manufacturing / micronisation had been carried out on the goods imported by Mc Coy. All the machinery installed in the premises of Mc Coy had been non-operational for a long time and none of the machines were connected to power supply. The investigation revealed that the goods had been cleared into DTA 'as it is', without any processing. The mis-declaration in the description of goods in the Ex-Bond Bills of Entry appeared to have been done deliberately to evade the Anti-Dumping Duty payable on the goods in terms of the said Notification dated 06.08.2015, as well as the incremental IGST of 18% on the Anti-Dumping Duty. It also appears that the balance quantity of 0.326 MT of Ascorbic Acid (Vitamin C) having assessable value of Rs. 96,497/- had been improperly removed from the premises of Mc Coy.

(g) During the course of the investigation, an **amount of Rs. 1,97,55,000/- was voluntarily deposited by Mc Coy** towards their Duty liability and the interest, thereon.

**8.** The relevant provisions of SEZ Act, 2005 and SEZ Rules, 2006 that specify the terms and conditions for availing exemptions of Customs Duty / Taxes by a SEZ Unit on Import / Procurement of the Goods, including Inputs, Capital Goods, Semi-finished Goods, Consumables etc., for use in the authorized operations, are reproduced below for ready reference.

**A. Rule 22 (2) of SEZ Rules, 2006**

*(2) Every Unit and Developer shall maintain proper accounts, financial yearwise, either in register form in hard copy or time stamped digital form, which should clearly indicate in value terms the goods imported or procured from Domestic Tariff Area, consumption or utilization of goods, production of goods, including by-products, waste or scrap or remnants, disposal of goods manufactured or produced, by way of exports, sales or supplies in the domestic tariff area or transfer to Special Economic Zone or Export Oriented Unit or Electronic Hardware Technology Park or Software Technology Park Units or Bio-technology Park Unit, as the case may be, and balance in stock:*

*Provided that Unit and Developer shall maintain such records for a period of seven years from the end of relevant financial year:*

*Provided further that the Unit engaged in both trading and manufacturing activities shall maintain separate records for trading and manufacturing activities.*

**B. Rule 25 of the SEZ Rules, 2006**

The relevant provisions pertaining to refund of an amount equal to the benefits of exemptions availed in the event of failure to utilize them for authorised operations are mentioned below:

**Rule 25.** *Where an entrepreneur or Developer does not utilize the goods or services on which exemptions, drawbacks, cess and concessions have been availed for the authorized operations or unable to duly account for the same, the entrepreneur or the Developer, as the case may be, shall refund an amount equal to the benefits of exemptions, drawback, cess and concessions availed without prejudice to any other action under the relevant provisions of the Customs Act, 1962, the Customs Tariff Act, 1975, the Central Excise Act, 1944, the Central Excise Tariff Act, 1985, the Central Goods and Services Tax Act, 2017 (12 of 2017), Integrated Goods and Services Tax Act, 2017 (13 of 2017), State Goods and Services Tax Acts, Union Territory Goods and Services Tax Act, 2017 (14 of 2017) and the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) and the enactments specified in the First Schedule to the Act, as the case may be:*



*Provided that if there is a failure to achieve positive net foreign exchange earning, or stipulated Value addition, such entrepreneur shall be liable for penal action under the provisions of Foreign Trade (Development and Regulation) Act, 1992 and the rules made there under."*

**C. Section-26 of SEZ Act, 2005**

As per Section 26 of the SEZ Act, 2005, the entrepreneur shall be entitled to exemption from any Duty of Customs under the Customs Act, 1962 or the Customs Tariff Act, 1975, or any other law for the time being in force, on goods imported into a Unit to carry on the Authorized Operations by the Entrepreneur. The relevant extract of the same is reproduced as under:-

*"SECTION 26. Exemptions, drawbacks and concessions to every Developer and entrepreneur*

*1. Subject to the provisions of sub-section (2), every Developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions, namely:-*

*(a) exemption from any duty of customs, under the Customs Act, 1962 (52 of 1962) or the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force, on goods imported into, or services provided in, a Special Economic Zone or a Unit, to carry on the authorized operations by the Developer or entrepreneur;*

*(b).....*

*(c) exemption from any duty of excise, under the Central Excise Act, 1944 (1 of 1944) or the Central Excise Tariff Act, 1985 (5 of 1986) or any other law for the time being in force, on goods brought from Domestic Tariff Area to a Special Economic Zone or Unit, to carry on the authorised operations by the Developer or entrepreneur;*

*(d) to (g) .....*

*2. The Central Government may prescribe, the manner in which, and, the terms and conditions subject to which, the exemptions, concessions, drawback or other benefits shall be granted to the Developer or entrepreneur under sub-section (1)."*

**D. Section 30 of the Special Economic Zones Act, 2005**

The provisions regarding applicability of Customs duty and Customs Act on goods cleared from SEZ to DTA are mentioned below :

*SECTION 30. Domestic clearance by Units.—Subject to the conditions specified in the rules made by the Central Government in this behalf,—*

*(a) any goods removed from a Special Economic Zone to the Domestic Tariff Area shall be chargeable to duties of customs including anti-dumping, countervailing and safeguard duties under the Customs Tariff Act, 1975 (51 of 1975), where applicable, as leviable on such goods when imported; and*

*(b) the rate of duty and tariff valuation, if any, applicable to goods removed from a Special Economic Zone shall be at the rate and tariff valuation in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of duty.*

**E. Rule 47 (4) & 47 (5) of the SEZ Rules, 2006 states as under :**

*(4) Valuation and assessment of the goods cleared into Domestic Tariff Area shall be made in accordance with Customs Act and rules made thereunder*

*(5) Refund, Demand, Adjudication, Review and Appeal with regard to matters relating to authorized operations under Special Economic Zones Act, 2005, transactions, and goods and services related thereto, shall be made by the*



*Jurisdictional Customs and Central Excise Authorities in accordance with the relevant provisions contained in the Customs Act, 1962, the Central Excise Act, 1944 and the Finance Act, 1994 and the rules made thereunder or the notifications issued thereunder.*

### **8.1 Relevant Provisions of the Customs Act, 1962**

- A. Demand of Duty: In terms of Section 28(4) of the Customs Act, 1962 –  
*(4) 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 wilful 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.*
- B. In terms of Subsection 26 of section 2 of the Customs Act, 1962, **“importer”**, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer.
- C. Further, Subsection 3(A) of Section 2 of the Customs Act, 1962 defines **“beneficial owner”** as any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.
- D. Interest : In terms of Section 28AA of the Customs Act, 1962 –  
*(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the Duty under that section.*  
*(2) Interest, at such rate not below ten per cent. and not exceeding thirty-six per cent per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of Section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such Duty.*  
*(3) .....*
- E. Confiscation: In terms of Section 111(m) of the Customs Act, 1962 - *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 trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-Section (1) of Section 54 shall be liable to confiscation.*
- F. In terms of Section 111(j) of the Customs Act, 1962 – *any dutiable or prohibited goods removed or attempted to be removed from a Customs area or a Warehouse without*



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*the permission of the proper officer or contrary to the terms of such permission, shall be liable to confiscation.*

G. Penalty : In terms of Section 112(a) of the Customs Act, 1962 – *Any person, 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 (of the Customs Act, 1962), or abets the doing or omission of such an act shall be liable to penalty.*

H. Penalty : In terms of Section 112(b) of the Customs Act, 1962 – *any person 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 (of the Customs Act, 1962) 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.*

I. Penalty : In terms of Section 114A of the Customs Act, 1962 – *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 wilful 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.*

J. Penalty : In terms of Section 114AA of the Customs Act, 1962 – *If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.*

## 9. Liability under the provisions of the Customs Act, 1962

9.1. It appeared that M/s. Mc Coy have evaded the Anti-Dumping Duty payable on the imported Ascorbic Acid of Chinese origin, as well as the incremental IGST @ 18% on the said Anti-Dumping Duty, by using the name of M/s. Shreem Bio Sciences Pvt. Ltd., incorrectly describing the goods in the Ex-Bond Bills of Entry and clearing them to a 'related' party viz. M/s. Shreem Bio Sciences Pvt. Ltd. In the instant case, the Bills of Entry for clearance of the goods to DTA were filed in the name of M/s. Shreem Bio Sciences Pvt. Ltd. which appeared to exist only on paper, has no employees and whose Director, Shri Rahul Satishbhai Choksi is the brother of one of the Directors of Mc Coy. The imported goods appeared to be mis-declared by Mc Coy as having been manufactured in India and this *modus operandi* of misuse of SEZ scheme provisions has led to evasion of a total differential duty of **Rs. 1,86,64,963/-** including the Anti-Dumping Duty of **Rs. 1,58,17,765/-** and the incremental IGST of **Rs. 28,47,198/-**. Further, 0.326 MT of Ascorbic Acid (Vitamin C) having assessable value of **Rs. 96,497/-** had been improperly removed from the premises of Mc Coy and this has led to evasion of the total differential duty of **Rs. 1,27,058/-**. It is apparent that conspiracy to clear the imported goods without payment of ADD was the brainchild of Mc Coy and that, it was at the behest of Mc Coy that the Ex-bond Bills of Entry had been filed in the name of DTA unit M/s. Shreem Bio Science Pvt. Ltd. It is apparent that Mc Coy was the 'beneficial owner' of the goods and thus liable to pay Anti-Dumping Duty and incremental IGST as mentioned above.

9.2 It appeared that at the time of filing the Into-Bond Bills of Entry, Mc Coy had intentionally described Ascorbic Acid by its chemical name. Thereafter, false Batch Cards appear to have been prepared to show that the goods have been micronized. At the time of DTA clearance, Mc Coy ensured that the goods had been declared as Ascorbic Acid manufactured in India or, as being of Indian-origin, in the Ex-Bond Bills of Entry and cleared without payment of Anti-Dumping Duty. Subsequent to the clearance to DTA, the goods were sold to other firms by Shri Rinaam Nalinkumar Shah, MD, Mc Coy, as confirmed in the Statement of the buyer viz. Shri Samir Kirthikant Vora, who was the Proprietor of M/s. Samir Pharma and Partner of M/s. Ace Pharma. It appeared that the idea to clear the imported goods without payment of the Anti-Dumping Duty was the handiwork of Mc Coy and that it was at the behest of Mc Coy that the Ex-Bond Bills of Entry were filed in the name of the DTA unit, M/s. Shreem Bio Sciences Pvt. Ltd. It appeared that Mc Coy was the ultimate beneficiary of the conspiracy to evade the Anti-Dumping Duty and had complete control over the goods even after the same had been cleared to the DTA. The Ascorbic Acid which had been manufactured in China, had been declared as being of Indian-origin in the Ex-Bond Bills of Entry filed for DTA clearance, and therefore, the description of the imported goods was altered so as to make it appear as being different from the declaration made in the Bills of Entry. The said goods, therefore, appeared liable to confiscation in terms of Section 111(m) of the Customs Act, 1962 as their description, as well as Country of Origin, has been mis-declared as being of Indian-Origin in the Home Consumption Bills of Entry (B/E). The balance quantity of 0.326 MT of Ascorbic Acid (Vitamin C) having assessable value of Rs. 96,497/- appeared to be improperly removed from the premises of Mc Coy and therefore, appeared to be liable to confiscation in terms of Section 111(j) of the Customs Act, 1962. The acts of omission and commission on the part of Mc Coy have made it liable to penalty in terms of Section 112(a) & Section 112(b) *ibid*. Further, the duty appeared to have been evaded by suppression of facts relating to the Chinese-Origin of the goods and wilful mis-statement about the goods as being of Indian-origin, by fabricating the Batch Cards. For these reasons the duty appears liable to be demanded from Mc Coy in terms of Section 28(4) of the Customs Act, 1962 along with interest under the provisions of Section 28AA, *ibid*. For the same reasons, Mc Coy also appeared liable to penalty under Section 114A and Section 114AA of the Customs Act, 1962.



9.3 Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy controlled the overall activities of Mc Coy. He, along with Shri Dhaval Surajbhai Patel, General Manager (Production), Mc Coy appeared to have been instrumental in the fraudulent preparation of Batch Cards. The Batch Cards had admittedly been prepared by Shri Dhaval Surajbhai Patel as per the directions of Shri Rinaam Nalinkumar Shah. Hence, Shri Rinaam Shah and Shri Dhaval Surajbhai Patel knowingly or intentionally played instrumental role in preparation of fraudulent batch cards for production of "Vitamin C", showing the said product to be micronized. However, they had not micronized the said product and submitted fraudulent batch cards for Customs clearance. From the facts that emerged during the investigation, it appeared that, it was Shri Rinaam Nalinkumar Shah, who had approached the related DTA unit, M/s. Shreem Bio Sciences Pvt. Ltd., for filing Ex-Bond Bills of Entry in relation to the Ascorbic Acid imported by Mc Coy. The employees of Mc Coy had acted on the instructions of Shri Rinaam Nalinkumar Shah and filed Ex-Bond Bills of Entry in the name of M/s. Shreem Bio Sciences Pvt. Ltd. The local sale of Vitamin C/ Ascorbic Acid cleared from the SEZ also appeared to have been controlled by Shri Rinaam Nalinkumar Shah, who appeared to be the mastermind behind the fraud. The acts of omission and commission on the part of Shri Rinaam Nalinkumar Shah and Shri Dhaval Surajbhai Patel, therefore, appeared to have rendered the said goods liable to confiscation in terms of Section 111(m) and Section 111(j) of the Customs Act, 1962 and accordingly, they appeared liable for penalty in terms of Section 112 (a) and Section 112 (b), *ibid.* The Batch Cards have been prepared by Shri Dhaval Surajbhai Patel as per directions of Shri Rinaam Nalinkumar Shah, which were later submitted for customs clearance. Shri Rinaam Nalinkumar Shah and Shri Dhaval Surajbhai Patel have intentionally made declaration, which was incorrect, and thus, they appear liable for penalty under Section 114AA of the Customs Act, 1962.

9.4 M/s. Shreem Bio Sciences Pvt. Ltd. is a unit located in the DTA. Further, the Director of the said unit, Shri Rahul Satishbhai Choksi, and the Director of Mc Coy, Shri Mehul Satishbhai Choksi, are brothers. As mentioned earlier, the said DTA unit had been approached by Shri Rinaam Nalinkumar Shah for filing the Ex-Bond Bills of Entry for the Ascorbic Acid imported in the SEZ by Mc Coy. Subsequently, it appeared that Bills of Entry had been filed in the name of the said unit on a commission basis. The said unit had no employees and all work relating to the filing of Bills of Entry had been handled by the employees of Mc Coy. It, therefore, appeared that the said unit is a dummy unit and an accomplice of Mc Coy in this fraud, and was used to file the Ex-Bond Bills of Entry at the behest of Mc Coy. It appeared that in the said Bills of Entry, the origin of the Ascorbic Acid had been mis-declared as India, and consequently the same had been cleared without the payment of Anti-Dumping Duty. Hence, Shri Rahul Satishbhai Choksi, Director of M/s. Shreem Bio Science Pvt. Ltd. knowingly and intentionally played instrumental role in submission of fraudulent documents for purpose of Customs clearance. Due to the acts of commission and omission, which appeared to have rendered the said goods liable for confiscation, it appeared that M/s. Shreem Bio Sciences Pvt. Ltd. and its Director Shri Rahul Satishbhai Choksi have rendered themselves liable to penalty under Section 112 (a) and Section 112(b) of the Customs Act, 1962. For the same reasons, Shri Rahul Satishbhai Choksi, Director, M/s. Shreem Bio Science Pvt. Ltd. also appeared liable to penalty under Section 114AA of the Customs Act, 1962.

9.5 As mentioned earlier, Shri Mehul Satishbhai Choksi, Director, Mc Coy, and Shri Rahul Satishbhai Choksi, Director, M/s. Shreem Bio Sciences Pvt. Ltd. are brothers. The Vitamin C / Ascorbic Acid imported into the SEZ by Mc Coy appeared to have been fraudulently cleared to DTA by Mc Coy, without payment of leviable Anti-Dumping Duty and the incremental IGST thereon, by using the name of M/s. Shreem Bio



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Sciences Pvt. Ltd. As part of this well planned fraud, the Ascorbic Acid had been imported into the SEZ by Mc Coy, under its chemical name 5R-1S-1,2-Dihydroxyethyl-3,4-Dihydroxyfuran-2(5H)-One. Being a Director of Mc Coy, it appears that Shri Mehul Satishbhai Choksi was fully aware of the manner in which the goods had been imported into Mc Coy, the activities within the SEZ Unit and the subsequent clearance of the goods in connivance with his brother's unit in DTA. Hence, Shri Mehul Satishbhai Choksi knowingly or intentionally, fraudulently cleared Vitamin C / Ascorbic Acid to DTA, without the payment of leviable ADD and incremental IGST thereon, by using the name of M/s. Shreem Bio Science Pvt. Ltd. In view of the acts of commission and omission on his part, it appears that Shri Mehul Satishbhai Choksi has also rendered himself liable to penalty under Section 112 (a) and Section 112 (b) of the Customs Act, 1962. For the same reasons, Shri Mehul Satishbhai Choksi, Director, Mc Coy also appeared liable to penalty under Section 114AA of the Customs Act, 1962.

**10.** Therefore, **Mc Coy Drugs Pvt. Ltd.**, were called upon to show cause to the Commissioner of Customs, Ahmedabad having his office at 1<sup>st</sup> Floor, Custom House, Near All India Radio, Navrangpura, Ahmedabad-380009 as to why:-

(i) The goods covered under Bills of Entry, as detailed in **Annexure -A** and **Annexure-B** to this Notice, should not be held as Ascorbic Acid / Vitamin C originating from China and not manufactured in India.

(ii) The said goods should not be held liable to levy of Anti Dumping Duty (ADD) in terms of Notification No. 38/2015-Cus (ADD) dated 06.08.2015.

(iii) The said goods valued at **Rs. 1,79,14,565/- (Rupees One Crore Seventy Nine Lakh Fourteen Thousand Five Hundred Sixty Five only)** as detailed in **Annexure-A** attached to this Show Cause Notice, should not be held liable to confiscation in terms of Section 111(m) of the Customs Act, 1962;

(iv) Differential Duty amounting to **Rs. 1,86,64,963/- (Rupees One Crore Eighty Six Lakh Sixty Four Thousand Nine Hundred Sixty Three only)** (including the Anti-Dumping Duty (ADD) of Rs. 1,58,17,765/- and the incremental IGST of Rs. 28,47,198/-) in relation to the said goods, as mentioned in Table III above and as per **Annexure-A** Worksheet titled as "*Anti-Dumping Worksheet on the Ascorbic Acid / Vitamin C imported by M/s. Mc Coy Drugs Pvt. Ltd.*" attached to this Show Cause Notice should not be demanded and recovered from them in terms of the provisions of Section 28(4) of the Customs Act, 1962, read with Section 30 of the SEZ Act, 2005 and Rule 25 of the SEZ Rules, 2006 along with the applicable interest under Section 28AA of the Customs Act, 1962.

(v) The balance quantity of **0.326 MT** of Ascorbic Acid (Vitamin C) improperly removed from the premises of Mc Coy, having assessable value of **Rs. 96,497/- (Rs. Ninety Six Thousand Four Hundred Ninety Seven Only)** as mentioned in Table IV above and as per **Annexure-B** attached to this Show Cause Notice, should not be held liable to confiscation in terms of Section 111(j) of the Customs Act, 1962 and differential Duty amounting to **Rs. 1,27,058/- (Rs. One Lakh Twenty Seven Thousand Fifty Eight Only)**, including Customs Duty, Anti Dumping Duty (ADD) of Rs. 84,996/- and the incremental IGST applicable to the aforesaid goods, as mentioned in Annexure-B attached to this Show Cause Notice, should not be demanded from them in terms of the provisions of Section 28(4) of the Customs Act, 1962, read with Section 30 of the SEZ Act, 2005 and Rule 25 of the SEZ Rules, 2006 along with applicable interest under Section 28AA of the Customs Act, 1962.

(vi) The amount of **Rs. 1,97,55,000/- (Rupees One Crore Ninety Seven Lakh Fifty Five Thousand Only)**, deposited during the course of investigation, should not be



appropriated towards the said Differential Duty totally amounting to **Rs. 1,87,92,021/-**, the interest thereon and the penalty liable to be imposed during the course of the adjudication proceedings.

(vii) Penalty should not be imposed on them in terms of Section 114 A and 114AA of the Customs Act, 1962 and / or Section 112(a) and Section 112(b) of the Customs Act, 1962.

**10.1** Further, **M/s. Shreem Bio Sciences Pvt. Ltd. (hereinafter referred to as the "co-noticee No.1")**, were called upon to show cause to the Commissioner of Customs, Ahmedabad having his office at 1<sup>st</sup> Floor, Custom House, Near All India Radio, Navrangpura, Ahmedabad-380009 ,with reference to the goods specified in Annexure A to the Notice as to why penalty should not be imposed on them in terms of Section 112 (a) and 112(b) of the Customs Act, 1962.

**10.2** Further, **Shri Rinaam Nalinkumar Shah, Managing Director of Mc Coy Drugs Pvt. Ltd. (hereinafter referred to as the "co-noticee No.2")**, was called upon to show cause to the Commissioner of Customs, Ahmedabad having his office at 1<sup>st</sup> Floor, Custom House, Near All India Radio, Navrangpura, Ahmedabad-380009 ,with reference to the goods specified in Annexure A and Annexure B to the Notice as to why penalty should not be imposed on him in terms of Section 112 (a), Section 112(b) and Section 114AA of the Customs Act, 1962.

**10.3** Further, **Shri Dhaval Surajbhai Patel, General Manager of Mc Coy Drugs Pvt. Ltd.,(hereinafter referred to as the "co-noticee No.3")** was called upon to show cause to the Commissioner of Customs, Ahmedabad having his office at 1<sup>st</sup> Floor, Custom House, Near All India Radio, Navrangpura, Ahmedabad-380009, with reference to the goods specified in Annexure A and Annexure B to the Notice, as to why penalty should not be imposed on him in terms of Section 112 (a), Section 112(b) and Section 114AA of the Customs Act, 1962.

**10.4** Further, **Shri Rahul Satishbhai Choksi, Director of M/s. Shreem Bio Sciences Pvt. Ltd., (hereinafter referred to as the "co-noticee No.4")**was called upon to show cause to the Commissioner of Customs, Ahmedabad having his office at 1<sup>st</sup> Floor, Custom House, Near All India Radio, Navrangpura, Ahmedabad-380009, with reference to the goods specified in Annexure A and Annexure B to the Notice, as to why penalty should not be imposed on him in terms of Section 112 (a), Section 112(b) and Section 114AA of the Customs Act, 1962.

**10.5** Further, **Shri Mehul Satishbhai Choksi, Director of Mc Coy Drugs Pvt. Ltd (hereinafter referred to as the "noticee No.5")** was called upon to show cause to the Commissioner of Customs, Ahmedabad having his office at 1<sup>st</sup> Floor, Custom House, Near All India Radio, Navrangpura, Ahmedabad-380009, with reference to the goods specified in Annexure A and Annexure B to the Notice, as to why penalty should not be imposed on him in terms of Section 112 (a), Section 112(b) and Section 114AA of the Customs Act, 1962.

## **DEFENCE REPLY**

11. The noticee did not file reply to the show cause notice; but the noticee and co-noticees had filed an application before the Customs, Central Excise and Service Tax Settlement Commission, Additional Bench, Mumbai vide application Nos.F.No.08/Cus/AP/2024-SC-MB and SA(C) 16,17,19,20,21 and 22/2024 on 02.04.2024 and 23.04.2024 accepting the full liability of duty demanded in the show cause notice as under:



Name and address of applicant	<b>Mc Coy Drugs Pvt. Ltd.</b> 146 B/147, Sursez Diamond Park, Sachin, Dist. Surat – 394230 (Gujarat).
Name and address of co-applicants	<b>1. Shri Rinaam Nalinkumar Shah</b> Managing Director of Mc Coy Drugs Pvt. Ltd., 146 B/147, Sursez Diamond Park, Sachin, Dist. Surat – 394230 (Gujarat).  <b>2.Shri Mehul Satishbhai Choksi</b> Director of Mc Coy Drugs Pvt. Ltd., 146 B/147, Sursez Diamond Park, Sachin, Dist. Surat – 394230 (Gujarat). <b>3. Shri Dhaval Surajbhai Patel.</b> General Manager of Mc Coy Drugs Pvt. Ltd. B 201, Silver City Apartment, Althan, Surat, Gujarat  <b>4. M/s. Shreem Bio Sciences Pvt. Ltd.,</b> 401, Swastik House, Kargil Chowk, Piplod, Surat- 395007, <b>5. Shri Rahul Satishbhai Choksi</b> Director of M/s. Shreem Bio Sciences Pvt. Ltd., 401, Swastik House, Kargil Chowk, Piplod, Surat- 395007,

12. The application was decided by the Settlement Commission vide Final Order No.23/Final Order/Cus/AP/2024 dated 01.07.2024. The observations and order of the Settlement Commission is reproduced as under:

*“6. The Bench has carefully examined the contents of the Applications and their Annexures. The Bench has carefully examined the Show Cause Notice impugned in the Applications along with all Annexures thereof.*

*The Bench has carefully examined the various submissions made by the Applicants before this Commission, from time to time, in relation to their Applications.*

*All such documents and submissions and their contents are part of the record and hence nor reiterated.*

*The submissions made during personal hearing have been carefully considered by the Bench,*

*The Bench has considered the Reports submitted by Revenue.*

7. According to the SCN, the Applicant is an SEZ Unit which had brought Vitamin C/Absorbic Acid imported/originating from China on which ADD was leviable @ USD 3.74/kg in terms of Nof No.38/2015-Cus(ADD) dated 6.4.2015.

*The impugned goods imported into the SEZ under 4 Bills of Entry without payment of ADD, were brought as such without being subject to any processing or manufacturing activity into the Domestic Tariff Area (DTA) by filing 10 Ex-Bond Bills of Entry under the guise of a declaration that such goods were manufactured in the SEZ in India, so as to evade the payment of ADD and other duties of Customs.*

8. *Such evasion of duty, by misdeclaration, was done by the Applicant and its Officers in collusion with the DTA buyer and the Officers of the later, by fabricating and causing to make misdeclarations on invoices and fabrication of various supporting documents.*

*No manufacturing or processing activity was conducted at all by the Applicant on the impugned goods in the SEZ.*



The investigation revealed that, the entire import into the SEZ was misdeclared ab initio and with the sole intent of evading ADD and other duties of Customs by showing sale of manufactured goods to Co-Applicant 4 which is a related concern of the Applicant.

9. The investigation and SCN relies upon unretracted inculpatory statements, recorded under Section 108 of the Customs Act, 1962, of the Officers of the Applicant and the Co-Applicants, which are detailed at paragraph 4.1 to 4.6 of the SCN.

All such statements corroborate each other and are also corroborated by other documentary, electronic and forensic evidence.

The latter is detailed at paragraph 6.1 to 6.4 of the SCN.

10. Based on the said evidence, duties of Customs on the impugned goods is proposed to be demanded and the differential duty payable is calculated.

11. The provisions of law, as invoked in the SCN, as made applicable to the facts of the case are detailed at paragraph 8 of the SCN.

So also, the results of investigation are summarized at paragraph 7 of the SCN and the modus operandi adopted and role played by the Applicant and each of the Co-Applicants, in relation to such false declaration of description; evasion of duty and rendering the impugned goods liable to confiscation, is summarized at paragraph 9.1 to 9.5 of the SCN.

**12. The applicant and Co-Applicants have neither refuted nor contested any of the evidence as relied upon in the SCN, nor have they denied the allegations made against them based upon such evidence.**

**13. Consequently, the Bench finds that, the impugned goods were misdeclared in relation to material particulars, in the entries made under the provisions of the Customs Act, 1962; ADD is leviable on the impugned goods as proposed in the SCN; the impugned goods are liable to confiscation under the provisions of Section 111(m)(ibid) and section 111(j)(ibid), as applicable; the duty as demanded in the SCN is payable and the Applicant and Co-Applicants are liable to penalty under the provisions of law as proposed in the SCN with respect to each of them. The Bench finds that, as the impugned goods were neither seized nor are they available for confiscation, no fine can be imposed in lieu of confiscation.**

#### **ORDER**

The Bench finds that the Applicant and Co-Applicants have made true and full disclosure of their liabilities and has cooperated in the proceedings. The Bench therefore settles the case of Applicant and Co-Applicants under section 127C (5) of the Customs Act, 1962 on the following terms and conditions:

(i) Duty: The Bench settles the duty liability at Rs.1,87,92,021/- (Rupees One Crore Eighty Seven Lakh Ninety Two Thousand Three Hundred and Twenty One only). The applicant shall pay such duty;

(ii) Interest: The Bench directs that, the Applicant shall pay interest, under the provisions of law as invoked in the SCN, on the above settled duty liability;

(iii) Penalty:

(a) The Bench imposes penalty of Rs.20,00,000/- (Rupees Twentieth Lakh Only) on the Applicant;

(b) The Bench imposes penalty of Rs.1,00,000/- (Rupees One Lakh Only) on Co-Applicant 1;

(c) The Bench imposes penalty of Rs.1,00,000/- (Rupees One Lakh Only) on Co-Applicant 2;

(d) The Bench imposes penalty of Rs.10,000/- (Rupees Ten Thousand Only) on Co-Applicant 3;

(e) The Bench imposes penalty of Rs.10,00,000/- (Rupees Ten Lakhs Only) on Co-Applicant 4;

(f) The Bench imposes penalty of Rs.1,00,000/- (Rupees One Lakh Only) on Co-Applicant 5;



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*The Bench orders that, all amounts paid/deposited by the Applicant during investigation and subsequently in relation to this case, shall stand appropriated towards the above said amounts ordered to be paid.*

*The Bench orders that, all Bank Guarantees and Securities, submitted by the Applicant during investigation and subsequently in relation to this case, shall stand appropriated towards the above said amounts ordered to be paid.*

*The Bench grants immunity to the Applicant and Co-Applicants from penalty under the Customs Act, 1962 in excess of the above amounts so far as proceedings under the impugned Show Cause Notice against them are concerned.*

*The concerned jurisdictional Commissioner is directed to verify the amount deposited by the Applicant and Co-Applicants from the original challans within 30 days of the receipt of this Order.*

*(iv) Prosecution: Subject to verification of duty, interest and penalty deposited by the Applicant and Co-Applicants within 30 days of the receipt of this Order, the Bench grants immunity to the Applicant and Co-Applicants from prosecution under the Customs Act, 1962 so far as proceedings under the impugned Show Cause Notice against them are concerned.*

*This Order made and immunities granted are subject to the provisions of the Customs Act, 1962, as applicable to these proceedings and section 127C and section 127H of the said Act in particular.*

*This Order shall be void and immunities withdrawn if the Bench finds, at any point of time, that the Applicant or Co-Applicants had concealed any particular, material to the Settlement or had given false evidence or had obtained this order by fraud or misrepresentation of facts.*

13. As per the above Order dated 1.7.2024, the duty was settled at Rs. 1,87,92,021/- . Interest as applicable was ordered to be paid. Penalties were imposed as below:

Sr. No.	Name of the Noticee/Applicant	Amount of Penalty (Rs.)
1	M/s. Mc Coy Drugs Pvt. Ltd.	2000000/- (Twenty Lakh Only)
2	M/s. Shreem Biosciences Pvt. Ltd.	1000000/- (Ten lakh Only)
3	M/s. Dhaval Surajbhai Patel	10000/- (Ten Thousand Only)
4	Mr. Rinaam Nalinkumar Shah	100000/- (One lakh Only)
5	Mr. Mehul Satishbhai Choksi	100000/- (One lakh Only)
6	Mr. Rahul Satishbhai Choksi	100000/- (One lakh Only)

14 M/s Mccoy Drugs P Ltd and other applicants, had made payment of duty, interest and penalty as submitted by applicant and verified by Specified Officer, Surat SEZ (letter attached) as under:

Sr.No.	DD No.& Date mentioned in challan	Amount in Rs.	Challan No.& date	Payment Head
1	510319 dtd. 11.02.2020	30000	Nil date- 25.02.2020	Duty
	510331 dtd. 11.02.2020	2970000		
	510320 dtd. 12.02.2020	2000000		
	510324 dtd. 15.02.2020	5000000		
	510325 dtd. 17.02.2020	2500000		
2	510363 dtd. 24.02.2020	1700000	Nil date- 04.03.2020	Duty
	510346 dtd. 29.02.2020	1205000		Duty
	510347 dtd. 29.02.2020	350000		Duty
3	510516 dtd. 17.09.2020	500000	Nil dated 23.09.2020	Duty
4	510525 dtd. 23.09.2020	1150000	Nil dated 30.09.2020	Duty
5	510526 dtd. 23.09.2020	350000	Nil dated 05.10.2020	Duty



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6	703822 dtd. 19.02.2021	2000000	Nil dated 24.02.2021	Penalty shown in challan. (Payment is towards duty and interest)
7	045347 dtd. 27.03.2024	1535000	1570/23-24 dated 27.03.2024	Interest
8	045831 dtd. 27.02.2025 Penalty of Mccoy	1000000	1356/24-25 dated 27.02.2025	Penalty of Mccoy
9	045835 dtd. 28.02.2025	1000000	1358/24-25 dated 28.02.2025	Penalty of Mccoy
10	046970 dtd. 20.02.2025	1000000	1349/24-25 dated 20.02.2025	Penalty of Shreem Bio Sciences P Ltd
11		10000	593/24-25 dated 31.07.2024	Penalty of Dhaval Patel
12		100000	595/24-25 dated 31.07.2024	Penalty of Mehul Choksi
13		100000	596/24-25 dated 31.07.2024	Penalty of Rahul S Choksi
14		100000	597/24-25 dated 31.07.2024	Penalty of Rinaam Shah

15. From the above details of payments of duty, interest and penalty made by the noticee and co-noticees, it appears that the noticee and co-noticee No.1 {(Applicant M/s Mccoy Drugs P Ltd and Co-Applicant No.4 (M/s Shreem Biosciences P Ltd))before Settlement Commission) had made payment of penalty after a period of 8 months i.e. 27.2.2025,28.2. 2025 and 20.2.2025 respectively.

16. Paragraph 13 of the order of Settlement Commissioner states that the concerned jurisdictional Commissioner was directed to verify the amount deposited by the Applicant and Co-Applicants from the original challans within 30 days of the receipt of the Order. Since the Applicant and Co-Applicant No.4 before Settlement Commission had not made the payment of penalty within 30 days, the Settlement Commission was informed vide this office letter F.No. GEN/TECH/Misc/125/2024-TECH dated 01-04-2025 about the delay in making payment and vide letter dated 03.04.2025, the office of Settlement Commissioner had invited attention to provisions of Section 127C(9) and 127H (2)of the Customs Act, 1962 and requested to take action in accordance with the provisions of Section 127C(9),127H(2) and 127K of the Customs Act, 1962.

17 As per Section 127C(9) of Customs Act, 1962, where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the applicant within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142.

18. As per Section 127H(2) ibid, an immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (5) of section 127C within the time specified in such order, or fails to comply with any other condition subject to which the immunity was



granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

19. Since the noticee and co-noticee No.1 had failed to pay the amount of penalty specified in the order of the settlement passed under sub-section (5) of section 127C within 30 days, as per the provisions contained in Section 127H(2), it is deemed to be considered no immunity is granted to them and I am obligated to take appropriate action in accordance with the provisions of Customs Act. As regarding the other noticees are concerned, since they have complied with the order of Settlement Commission I am of the considered view that the immunity granted to them by the order of Settlement Commissioner shall be available.

20. The show cause notice was transferred to call book pending the decision of Settlement Commission in view of Circular No. 1028/16/2016-CX, dated 26-4-2016. After receipt of the Final Order of Settlement Commission and in view of default in following the order by the noticee and co-noticee No.1, the show cause notice was taken up for decision in respect of the proceedings initiated against the noticee and co-noticee No.1.

21. A personal hearing was held on 20.06.2025 and the noticees submitted a written submission. In the written submission, the noticee conceded that, the penalties of Rs 20 Lakh and Rs 10 Lakh imposed on the Main Applicant M/s McCoy Drugs and the Co-Applicant No 4 M/s Shreem Biosciences, respectively, were paid but paid after lapse of the period of 30 days specified in the said Final Settlement Order.

21.1 The noticees submitted that perusal of the language of Section 127H(2) and the entire scheme of Section 127 when read holistically appears to indicate that the provisions of Section 127H(2) shall be applicable in case no amount settled in the Order of the Settlement Commission has been paid at all by the Applicant(s)/Co-Applicant (s). They submitted that in case of part payment, as in this case, provisions of Section 127C(9) and Section 127K shall take over for recovery of the balance payable. Recovery of the amount and withdrawal of the immunity cannot go together. In case of recourse to Section 127H(2) in such cases of part payment, the provisions of Section 127C(9) and Section 127K enacted by the Parliament shall be rendered redundant.

21.2 The noticees further submitted that the immunity granted was required to be withdrawn by an express specific Order from the Hon'ble Settlement Commission Mumbai Bench in this regard which has not been done so far even after the delay in payment of the penalties was pointed out by the Revenue [Ahmedabad Customs] and was reported to the Hon'ble Settlement Commission Mumbai Bench. The noticees relied upon the following case laws in this regard.

- (i) Somabhai Shankarbhai Patel Vs Union of India -2015 (324) E.L.T. 541 (Guj.)
- (ii) M/s Mahendra Petrochemicals Ltd Vs Union of India -2008 (222) E.L.T. 508 (Guj.)

21.3 The noticees submitted that they had requested the Settlement Commission for grant of extension of time for payment of the two penalties vide two separate Applications on account of extreme financial distress since the companies went defunct since when the case was booked by the DRI Mumbai Zonal Unit in February 2020 but no Order was passed by the Settlement Commission granting the extension of time for payment of the penalties. Further the Settlement Commission also did not exercise its power of withdrawal of immunity under Section 127H(2) of the Act due to the said delay in payment of the penalties beyond 30 days.



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21.4 The noticees submitted that both the main Applicant M/s McCoy Drugs and the Co-Applicant No 4 M/s Shreem Biosciences are corporate entities (legal persons) presently defunct since February 2020 when the case was booked by the DRI (and are not individual living persons) and criminal prosecution against them under Section 135 of the Customs Act, 1962 will merely be a paper exercise and will be of no consequence and will be utter wastage of already limited financial and manpower resources available to the department inasmuch as these legal persons cannot be awarded the sentence of imprisonment.

21.5 The noticees further submitted that Section 127C(9) provides that where any duty, interest, fine and penalty payable in pursuance of the Settlement Order made under Section 127C (5) is not paid by the applicant within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142. In this case, the penalties have already been paid though belatedly and therefore the question of recovery does not arise.

21.6 The noticees contended that Section 127K provides that any sum specified in an order of settlement passed under sub-section (5) of section 127C may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered as sums due to the Central Government in accordance with the provisions of section 142, by the proper officer having jurisdiction over the applicant. Again in this case, since the penalties have already been paid though belatedly, the question of recovery or imposition of penalty for the default does not arise.

21.7 The noticees further submitted that considering the entire scheme of Section 127, all the three options mentioned in Section 127C(9), 127H(2) and 127K cannot be exercised simultaneously and together. It appears that where major part of the amount settled remains unpaid after expiry of the period stated therein, as is the case in this matter, provisions of Section 127C(9) shall be attracted and only interest for the period of late payment of the penalties can be recovered. In the peculiar facts and circumstances of this case, it therefore appears that recovery of interest [Section 127C(9)] on the late payment of the penalties and/or may be imposition of suitable nominal penalties [Section 127K] under Section 117 for the late payment of the penalties, rather than taking away the immunities granted, will suffice and will meet ends of justice which approach has the sanction of the jurisdictional Gujarat High Court in the case of M/s Mahendra Petrochemicals Ltd Vs Union of India supra where facts were similar.

21.8 The noticees submitted that in view of the above peculiar facts and circumstances of this case, if the immunity from prosecution and penalties is withdrawn, irreparable damage & injury and grave loss will be caused to the Applicant for the minor infraction of late payment of the two penalties of total Rs 30 Lakh. They contended that even if one assumes that the delay in payment of the two penalties has resulted in some prejudice to the Revenue, such prejudice can be redressed suitably and adequately by ordering payment of further interest on the total amount of Rs 30 Lakh of the two penalties for the period of the delay as provided in Section 127C(9) itself.

### **DISCUSSION AND FINDINGS:**

22. I have carefully gone through the facts of the case and the submissions of the noticees. On recapitulating I find that a show cause notice was issued to the noticee who is an SEZ Unit which had brought Vitamin C/Absorbic Acid imported/originating



from China on which ADD was leviable @ USD 3.74/kg in terms of Nof No.38/2015-Cus (ADD) dated 6.4.2015. The impugned goods imported into the SEZ under 4 Bills of Entry without payment of ADD, were brought as such without being subject to any processing or manufacturing activity into the Domestic Tariff Area (DTA) by filing 10 Ex-Bond Bills of Entry under the guise of a declaration that such goods were manufactured in the SEZ in India, so as to evade the payment of ADD and other duties of Customs. Such evasion of duty, by misdeclaration, was done by the noticee in collusion with the DTA buyer by fabricating and causing to make misdeclarations on invoices and fabrication of various supporting documents. No manufacturing or processing activity was conducted at all by the Applicant on the impugned goods in the SEZ. The investigation revealed that, the entire import into the SEZ was misdeclared with the sole intent of evading ADD and other duties of Customs by showing sale of manufactured goods to co-noticee No.1, a related concern of the noticee. Accordingly, the present show cause notice was issued demanding differential duty of Customs along with interest and to impose penalty on the noticee and co-noticees. I find that only the noticee (M/s Mccoy Drugs P Ltd ) and co noticee No. 1(M/s Shreem Bio Sciences P Ltd) have delayed the payments ordered by the Settlement Commission, hence I proceed to decide the notice in respect of Noticee and co noticee 1 only. I find that co-noticees No. 2 to 5 have complied with the Order of the Settlement Commission and the proceedings against Co noticees no. 2 to 5 shall deemed to be concluded.

23. I find that the noticee and the co-noticees have neither refuted nor contested any of the charges levelled against them based upon evidences as relied upon in the show cause notice. On the contrary they have accepted the duty liability as demanded in the show cause notice before the Settlement Commission. Hon'ble Settlement Commission also held in its Final Order that the impugned goods were mis-declared in relation to material particulars, in the entries made under the provisions of the Customs Act, 1962; ADD is leviable on the impugned goods as proposed in the SCN; the impugned goods are liable to confiscation under the provisions of Section 111(m)(ibid) and section 111(j)(ibid), as applicable; the duty as demanded in the SCN is payable and the Applicant and Co-Applicants are liable to penalty under the provisions of law as proposed in the SCN with respect to each of them. **The Bench also held that as the impugned goods were neither seized nor are they available for confiscation, no fine can be imposed in lieu of confiscation.** However, Hon'ble Settlement Commission had settled the case by its Final Order dated 01.07.2014 by confirming the duty of customs demanded and ordered to pay interest also. Besides, the Settlement Commission had imposed penalty on the noticee and co-noticees.

24. In the order of Settlement Commissioner, the concerned jurisdictional Commissioner was directed to verify the amount deposited by the Applicant and Co-Applicants from the original challans within 30 days of the receipt of the Order. However, on verification it was found that the noticee and co-noticee No.1, the Applicant and Co-Applicant No.4 before Settlement Commission, had not made the payment of penalty within 30 days. Accordingly the Settlement Commission was informed vide this office letter F.No. GEN/TECH/Misc/125/2024-TECH dated 01-04-2025 about the delay in making payment and vide letter dated 03.04.2025, the office of Settlement Commissioner had invited attention to provisions of Section 127C(9) and 127H (2)of the Customs Act, 1962 and requested to take action in accordance with the provisions of Section 127C(9),127H(2) and 127K of the Customs Act, 1962.

25. On the other hand, the noticees submitted that in case of part payment, provisions of Section 127C(9) and Section 127K shall take over for recovery of the balance payable and recovery of the amount and withdrawal of the immunity cannot go together. The noticees further submitted that the immunity granted was required to be withdrawn by an express specific Order from the Hon'ble Settlement Commission Mumbai Bench

which has not been done so far. The noticees relied upon the following case laws in this regard.

- (j) Somabhai Shankarbhai Patel Vs Union of India -2015 (324) E.L.T. 541 (Guj.)
- (iii) M/s Mahendra Petrochemicals Ltd Vs Union of India -2008 (222) E.L.T. 508 (Guj.)

They have also contended that the Settlement Commission also did not exercise its power of withdrawal of immunity under Section 127H(2) of the Act due to the said delay in payment of the penalties beyond 30 days.

26. The noticees submitted that both the main Applicant M/s McCoy Drugs and the Co-Applicant No 4 M/s Shreem Biosciences are corporate entities (legal persons) presently defunct since February 2020 when the case was booked by the DRI (and are not individual living persons) and criminal prosecution against them under Section 135 of the Customs Act, 1962 will merely be a paper exercise as these legal persons cannot be awarded the sentence of imprisonment.

27. The noticees contended that Section 127K provides that any sum specified in an order of settlement passed under sub-section (5) of section 127C may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered as sums due to the Central Government in accordance with the provisions of section 142, by the proper officer having jurisdiction over the applicant.

28. The noticees further submitted that where major part of the amount settled remains unpaid after expiry of the period stated therein, as is the case in this matter, provisions of Section 127C(9) shall be attracted and only interest for the period of late payment of the penalties can be recovered.

29. Now the question to be answered is whether the proceedings initiated against the noticees by the present show cause notice has been proceeded with or the noticees still enjoy the immunity granted by the Final Order or not. In this regard, I find that, when the Settlement Commission was informed about the delay in making payment, vide letter dated 03.04.2025 the office of Settlement Commissioner had invited attention to provisions of Section 127C(9) and 127H (2) of the Customs Act, 1962 and requested to take action in accordance with the provisions of Section 127C(9), 127H(2) and 127K of the Customs Act, 1962. Therefore, before proceeding further, it would be prudent to refer to the above provisions of law.

29.1 Section 127C (9) reads as under:

*(9) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the applicant within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142.*

As per the Section 127C(9), where any duty, interest, fine and penalty payable in pursuance of the Settlement Order made under Section 127C (5) is not paid by the applicant within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142. The noticees also forwarded their submission on these lines contending that the department is required to recover only interest from them on the delayed payment of penalty made by them and not to proceed with the show cause notice. However, I find that Section 127H(2) *ibid* provided that an



immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (5) of section 127C within the time specified in such order, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

29.2 Section 127H(2) reads as under:

*(2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (5) of section 127C within the time specified in such order, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.*

30 I find that Section 127H(2) is unambiguous and it is provided lucidly that an immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (5) of section 127C within the time specified in such order. In the present case, it is an admitted fact that, the noticee and co-noticee No.1 had not paid the penalty imposed by the Settlement Commission by its Final Order dated 01.07.2024 within 30 (thirty days) as directed in the said order. As such, the immunity granted by the Settlement Commission stand withdrawn automatically as per the provisions contained in Section 127H(2) of the Customs Act, 1962. Since the remaining co noticees have paid all dues as per Order of Settlement Commission, I refrain from discussion on the remaining noticees in this Order.

31. However, the noticees raised a contention that the Settlement Commission has not passed any order withdrawing the immunity granted to them and relied upon in the case of **Somabhai Shankarbhai Patel Vs Union of India in a Central Excise matter decided by Hon'ble Gujarat High Court reported as 2012 (10) TMI 1014 - GUJARAT HIGH COURT = 2015 (324) E.L.T. 541 (Guj.)**. In this regard, I find that, the contention raised by the noticees is incongruous in as much as no such order is required to be passed by Settlement Commission and provisions of Section 127H(2), which provides for withdrawal of immunity, attracts automatically when a person to whom immunity granted defaults in making payment within the time specified by the Settlement Commission. In this regard I rely upon the very case law of **Somabhai Shankarbhai Patel (supra)** relied upon by the noticees where Hon'ble Gujarat High Court has held in clear terms that as the petitioners did not comply with the order of the Settlement Commission and failed to pay the sum required to be paid as per its order, the immunities in respect of penalty, fine and interest were liable to be withdrawn. The immunity in penalty and prosecution as well as the immunity in payment of and interest at lesser rate of 10% was conditional, and the conditions were not complied with by the petitioners. The sum specified in the order of the Settlement Commission was not paid. In fact, the immunities stood withdrawn automatically and by virtue of operation of sub-section (2) of Section 32K irrespective of any express order. Hon'ble High Court held as under:

**5.1** *As the provisions of Section 32M says that the order shall not be reopened in any proceedings, the subsequent Misc. Applications filed by the petitioners were not competent. No such applications could have been maintained. There is no provision in the Act which permits the filing of such applications which was in the nature of review of the order passed by the Settlement Commission. In that view, the prayers in the Misc. Application were rightly not granted. The order already passed by the Settlement Commission was conclusive in law. Therefore, the orders dated 21-4-2006 and 30-6-2006 rejecting the said Misc. Applications were proper and legal. Those applications could not have met any other fate.*



**5.2** Furthermore, in no way the order of withdrawal of immunities could be faulted. As the petitioners did not comply with the order of the Settlement Commission and failed to pay the sum required to be paid as per its order, the immunities in respect of penalty, fine and interest were liable to be withdrawn. The immunity in penalty and prosecution as well as the immunity in payment of and interest at lesser rate of 10% was conditional, and the conditions were not complied with by the petitioners. The sum specified in the order of the Settlement Commission was not paid. In fact, the immunities stood withdrawn automatically and by virtue of operation of sub-section (2) of Section 32K. The operation of Section 32K(2) is irrespective of any express order, as the bare reading of the said provision makes it clear.

32 The above case law is squarely applicable in the instant case as the facts of the case is identical and Section 32K(2) of Central Excise Act, 1944 is *pari materia* to Section 127H(2) of Customs Act, 1962. In view of the above, it is clear that, by not making payment of penalty by noticee and co-noticee No.1, the immunity granted by the Final Order dated 01.07.2014 of Settlement Commission stands withdrawn and there is no impediment in proceeding with the show cause notice in respect of noticee and co-noticee No.1. **Since all other co-noticees had made payment within the time specified by the Settlement Commission, they still enjoy the immunity granted to them by the Final Order dated 01.07.2014 of Settlement Commission.** Since the immunities stood withdrawn, as the section provides, the provisions of the Customs Act shall operate and apply as if such immunities had not been granted. In this regard I rely upon the case of **Somabhai Shankarbhai Patel (supra)** wherein Hon'ble High Court held as under:

**7.** On consideration of the facts and the rival contentions, what emerges clearly is that the total case and contention of the petitioners in attempting to re-agitate the very show cause notices dated 25-5-2005 and 24-6-2005 and at all material stages thereafter, were that as per the order of the High Court, the matter remained at a stage prior to the petitioners approaching the Settlement Commission i.e. at the show cause notice stage. Such a contention was based on erroneous assumption and interpretation, and which order in any case, came to be clarified by this Court in its order dated 6-7-2011 while deciding the Review application. Thereby the observations made in order dated 13-6-2010 were clarified and its effect stood effaced. The import of Section 32M was never lost sight of.

**7.1** The immunities were withdrawn under Section 32K(2). Once the immunities stood withdrawn, as the section provides, the provisions of the Act shall operate and apply as if such immunities had not been granted. Therefore, upon the withdrawal of the immunities in penalty and in interest payment, the liability to pay the amount of penalty as well as the interest amount as per the provisions of Section 11AB and Section 11AC arose. The challenge in the two subsequent petitions would be required to be appreciated having regard to the ambit and working of the aforesaid provisions.

**7.2** The approach of the authorities below in taking view that the immunity and interest having been withdrawn by the Settlement Commission the interest became payable under Section 11AB was proper and legal. Upon admission of excise duty liability and payment thereof, Section 11AB as regards interest liability and Sec. 11AC regarding penalty operated and are required to be allowed to operate to their full import. The authorities rightly held the view that the case being of suppression of facts the penalty under Sec. 11AC was imposable and for that no discretion was available as per the law laid down by the Supreme Court in *Union of India v. Dharmendra Textile Processors*. Furthermore, as the immunity in interest came to be withdrawn under Section 32K(2), the interest became chargeable under Section 11AB of the Act.



**7.3** *It may also be pertinently stated that the petitioners-assessee did not contend at any stage of the long drawn proceedings that they had wrongly admitted the duty liability before the Settlement Commission. Permitting the petitioners to resile would mean circumventing from the backdoor the mandate of Section 32M for conclusiveness of the order of the Settlement Commission.*

33. Now, coming to the charges levelled against the noticees, I find that that M/s. Mc Coy have evaded the Anti-Dumping Duty payable on the imported Ascorbic Acid of Chinese origin, as well as the incremental IGST @ 18% on the said Anti-Dumping Duty, by using the name of M/s. Shreem Bio Sciences Pvt. Ltd., incorrectly describing the goods in the Ex-Bond Bills of Entry and clearing them to a 'related' party' viz. M/s. Shreem Bio Sciences Pvt. Ltd. In the instant case, the Bills of Entry for clearance of the goods to DTA were filed in the name of M/s. Shreem Bio Sciences Pvt. Ltd. which appeared to exist only on paper, had no employees and whose Director, Shri Rahul Satishbhai Choksi is the brother of one of the Directors of Mc Coy. The imported goods were mis-declared by Mc Coy as having been manufactured in India and this *modus operandi* of misuse of SEZ scheme provisions had led to evasion of a differential duty of **Rs. 1,86,64,963/-** (including the Anti-Dumping Duty of Rs. 1,58,17,765/- and the incremental IGST of Rs. 28,47,198/-). Further, 0.326 MT of Ascorbic Acid (Vitamin C) having assessable value of Rs. 96,497/- had been improperly removed from the premises of Mc Coy and this had led to evasion of the differential duty of **Rs. 1,27,058/-** both totalling to **Rs. 1,87,92,021/-**. It is clear that conspiracy to clear the imported goods without payment of ADD was the brainchild of Mc Coy and that, it was at the behest of Mc Coy that the Ex-bond Bills of Entry had been filed in the name of DTA unit M/s. Shreem Bio Science Pvt. Ltd. It is clear that Mc Coy was the 'beneficial owner' of the goods and thus liable to pay Anti-Dumping Duty and incremental IGST as mentioned above.

34 I find that at the time of filing the Into-Bond Bills of Entry, Mc Coy had intentionally described Ascorbic Acid by its chemical name. Thereafter, false Batch Cards had been prepared to show that the goods have been micronized. At the time of DTA clearance, Mc Coy ensured that the goods had been declared as Ascorbic Acid manufactured in India or, as being of Indian-origin, in the Ex-Bond Bills of Entry and cleared without payment of Anti-Dumping Duty. Subsequent to the clearance to DTA, the goods were sold to other firms by Shri Rinaam Nalinkumar Shah, MD, Mc Coy, as confirmed in the Statement of the buyer viz. Shri Samir Kirthikant Vora, who was the Proprietor of M/s. Samir Pharma and Partner of M/s. Ace Pharma. It is evident that the idea to clear the imported goods without payment of the Anti-Dumping Duty was the handiwork of Mc Coy and that it was at the behest of Mc Coy that the Ex-Bond Bills of Entry were filed in the name of the DTA unit, M/s. Shreem Bio Sciences Pvt. Ltd. I find that Mc Coy was the ultimate beneficiary of the conspiracy to evade the Anti-Dumping Duty and had complete control over the goods even after the same had been cleared to the DTA. The Ascorbic Acid which had been manufactured in China, had been declared as being of Indian-origin in the Ex-Bond Bills of Entry filed for DTA clearance, and therefore, the description of the imported goods was altered so as to make it appear as being different from the declaration made in the Bills of Entry. Accordingly, I hold that the goods are liable for confiscation in terms of Section 111(m) of the Customs Act, 1962 as their description, as well as Country of Origin, has been mis-declared as being of Indian-Origin in the Home Consumption Bills of Entry (B/E). The balance quantity of 0.326 MT of Ascorbic Acid (Vitamin C) having assessable value of Rs. 96,497/- appears to be improperly removed from the premises of Mc Coy and therefore, appears to be liable to confiscation in terms of Section 111(j) of the Customs Act, 1962. I find that Hon'ble Settlement Commission also held at paragraph 13 of the Final Order that as the impugned goods were neither seized nor are they available

for confiscation, no fine can be imposed in lieu of confiscation. It is held in the order as under:

*13. Consequently, the Bench finds that, the impugned goods were misdeclared in relation to material particulars, in the entries made under the provisions of the Customs Act, 1962; ADD is leviable on the impugned goods as proposed in the SCN; the impugned goods are liable to confiscation under the provisions of Section 111(m)(ibid) and section 111(j)(ibid), as applicable; the duty as demanded in the SCN is payable and the Applicant and Co-Applicants are liable to penalty under the provisions of law as proposed in the SCN with respect to each of them.*

*The Bench finds that, as the impugned goods were neither seized nor are they available for confiscation, no fine can be imposed in lieu of confiscation.*

Therefore I do not interfere in the Order of the Settlement Commission on the above issue pertaining to confiscation and fine in lieu of confiscation.

35. I find that the acts of omission and commission on the part of Mc Coy have made them liable to penalty in terms of Section 112(a) & Section 112(b) *ibid*. Further, the duty was evaded by suppression of facts relating to the Chinese-Origin of the goods and wilful mis-statement about the goods as being of Indian-origin, by fabricating the Batch Cards. Therefore, I hold that the differential duty is liable to be demanded and recovered from Mc Coy in terms of Section 28(4) of the Customs Act, 1962 along with interest under the provisions of Section 28AA, *ibid*. For the same reasons, Mc Coy are also liable to penalty under Section 114A and Section 114AA of the Customs Act, 1962. Since the differential duty demanded has already been paid by the noticee along with interest, the same shall stand appropriated against the demand. Further, as per provisions of Section 114A, when penalty is imposed under Section 114A no penalty shall be imposed under Section 114 and 112 of the Customs Act, 1962.

36. Regarding the charges levelled against M/s. Shreem Bio Sciences Pvt. Ltd. are concerned, I find that M/s. Shreem Bio Sciences Pvt. Ltd is a unit located in the DTA. Further, the Director of the said unit, Shri Rahul Satishbhai Choksi, and the Director of Mc Coy, Shri Mehul Satishbhai Choksi, are brothers. As discussed earlier, the said DTA unit was approached by Shri Rinaam Nalinkumar Shah for filing the Ex-Bond Bills of Entry for the Ascorbic Acid imported in the SEZ by Mc Coy. Subsequently, Bills of Entry had been filed in the name of the said unit on a commission basis. The said unit had no employees and all work relating to the filing of Bills of Entry had been handled by the employees of Mc Coy. Therefore, it is clear that the said unit is a dummy unit and an accomplice of Mc Coy in this fraud, and was used to file the Ex-Bond Bills of Entry at the behest of Mc Coy. It is also evident that in the said Bills of Entry, the origin of the Ascorbic Acid had been mis-declared as India, and consequently the same had been cleared without the payment of Anti-Dumping Duty. Hence, Shri Rahul Satishbhai Choksi, Director of M/s. Shreem Bio Science Pvt. Ltd. knowingly and intentionally played instrumental role in submission of fraudulent documents for purpose of Customs clearance. Due to the acts of commission and omission, which rendered the said goods liable for confiscation, M/s. Shreem Bio Sciences Pvt. Ltd. have rendered themselves liable to penalty under Section 112 (a) and Section 112(b) of the Customs Act, 1962.



## 30

37. In view of the above discussions and findings, I pass the following order.

**ORDER**

- (i) I hold that the goods covered under Bills of Entry, as detailed in **Annexure -A** and **Annexure-B** to the Notice be held as Ascorbic Acid / Vitamin C originating from China and not manufactured in India.
- (ii) I hold that the said goods are liable to levy of Anti Dumping Duty (ADD) in terms of Notification No. 38/2015-Cus (ADD) dated 06.08.2015.
- (iii) I hold that the said goods valued at **Rs. 1,79,14,565/- (Rupees One Crore Seventy Nine Lakh Fourteen Thousand Five Hundred Sixty Five only)** as detailed in **Annexure-A** attached to the Show Cause Notice are liable for confiscation in terms of Section 111(m) of the Customs Act, 1962. Since the goods were neither seized nor available for confiscation, I do not impose fine in lieu of confiscation in view of the findings of the Settlement Commission.
- (iv) I confirm the demand of differential duty amounting to **Rs. 1,86,64,963/- (Rupees One Crore, Eighty Six Lakh, Sixty Four Thousand, Nine Hundred and Sixty Three only)** (including the Anti-Dumping Duty (ADD) of Rs. 1,58,17,765/- and the incremental IGST of Rs. 28,47,198/-) in relation to the said goods, as mentioned in Table III above and as per **Annexure-A** Worksheet titled as "*Anti-Dumping Worksheet on the Ascorbic Acid / Vitamin C imported by M/s. Mc Coy Drugs Pvt. Ltd.*" attached to the Show Cause Notice in terms of the provisions of Section 28(4) of the Customs Act, 1962, read with Section 30 of the SEZ Act, 2005 and Rule 25 of the SEZ Rules, 2006 along with the applicable interest under Section 28AA of the Customs Act, 1962. Since the differential duty has already been paid along with applicable interest, I order to appropriate the same against the demand.
- (v) I hold that the balance quantity of **0.326 MT** of Ascorbic Acid (Vitamin C) improperly removed from the premises of Mc Coy, having assessable value of Rs. 96,497/- (Rs. Ninety Six Thousand, Four Hundred and Ninety Seven Only) as mentioned in Table IV above and as per **Annexure-B** attached to the Show Cause Notice, liable for confiscation in terms of Section 111(j) of the Customs Act, 1962 and confirm the demand of differential Duty amounting to **Rs. 1,27,058/- (Rs. One Lakh Twenty Seven Thousand Fifty Eight Only)**, including Customs Duty, Anti Dumping Duty (ADD) of Rs. 84,996/- and the incremental IGST applicable to the aforesaid goods, as mentioned in Annexure-B attached to the Show Cause Notice, in terms of the provisions of Section 28(4) of the Customs Act, 1962, read with Section 30 of the SEZ Act, 2005 and Rule 25 of the SEZ Rules, 2006 along with applicable interest under Section 28AA of the Customs Act, 1962. Since the goods were neither seized nor available for confiscation I do not impose fine in lieu of confiscation in view of the findings of the Settlement Commission. Since the differential duty has already been paid along with applicable interest, I order to appropriate the same against the demand.
- (vi) I impose penalty of Rs. **2,12,89,749/- (Rupees Two crore, twelve lakhs, eighty nine thousand, seven hundred and forty nine only)** on M/s Mccoy Drugs P ltd in terms of Section 114 A of the Customs Act, 1962 on the total amount of duty of Rs. Rs. 1,87,92,021/-and interest of Rs. 24,97,728/-. I do not impose penalty under Section 112(a) and (b) of the Customs Act, 1962. However, as per first proviso to Section 114A, where such duty and interest 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 under this section shall be twenty-five per cent of the duty, provided that the amount of penalty so determined has also been paid within the period

of thirty days. I order to appropriate any amount already paid by them as penalty, against the penalty imposed.

- (vii) I impose penalty of Rs.\_5,00,000/- (Rupees Five lakhs only) under Section 114AA of the Customs Act, 1962 on M/s Mccoy Drugs P Ltd.
- (viii) I impose penalty of Rs. 18,00,000/- (Rupees Eighteen lakhs only) on M/s. Shreem Bio Sciences Pvt. Ltd., in terms of Section 112 (a) and 112(b) of the Customs Act, 1962.I order to appropriate any amount already paid by them as penalty, against the penalty imposed.
- (ix) In view of the compliance of the Order of Settlement Commission, I drop the proceedings initiated against co-noticee No.2 to 5.

Digitally signed by  
Shiv Kumar Sharma  
Date: 17-07-2025  
18:09:03  
(Shiv Kumar Sharma)  
Principal Commissioner  
Ahmedabad Customs.

F.No.[GEN/ADJ/COMM/125/2024-TECH](#)

Date: 17.7.2025

**DIN 20250771MN0000217692**

**To,**

- 1 Mc Coy Drugs Pvt. Ltd.**  
146 B/147, Sursez Diamond Park,  
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Email [info@mccoydrugs.com](mailto:info@mccoydrugs.com)
- 2 M/s. Shreem Bio Sciences Pvt. Ltd.,**  
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Piplod, Surat- 395007,  
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- 3 Shri Rinaam Nalinkumar Shah**  
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- 4 Shri Rahul Satishbhai Choksi**  
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Email [info@mccoydrugs.com](mailto:info@mccoydrugs.com)
- 6 Shri Dhaval Surajbhai Patel.**  
General Manager of Mc Coy Drugs Pvt. Ltd.  
B 201, Silver City Apartment, Althan, Surat, Gujarat

**Copy to :-**

1. The Development Commissioner, SEZ, Sachin, Surat.
2. The Deputy Commissioner, Customs Division, Surat.
3. To Superintendent (Systems), Customs, Ahmedabad (in PDF format) for uploading on the Official Website of Customs Commissionerate, Ahmedabad.
4. Guard File.