

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 <u>Phone No.02838-271423/271426</u>
File No.	: CUS/ECFS/MISC/204/2025-Docks Examn-O/o Pr Commr-Cus-Mundra
Order-in- Original No.	: MCH/ADC/AKM/219/2025-26
Passed by	: Amit Kumar Mishra, Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra.
Date of order /Date of issue	: 30-08-2025//01-09-2025
Show Cause Notice No. & Date	: SCN and PH waiver
Noticee(s)/Party/ Exporter	: M/s Prakash Chemicals International Pvt. Ltd. (IEC - 3402001152), Prakash House, 39/40, Krishna Industrial Estate, Opp. BIDC, Gorwa Road, Vadodara, Gujarat -- 390016
DIN	: 20250871MO0000823048

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

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

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

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

**‘सीमा शुल्क आयुक्त (अपील),
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद 380 009’
“THE COMMISSIONER OF CUSTOMS (APPEALS),
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”**

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

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

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by -

- (i) उक्त अपील की एक प्रति और A copy of the appeal, and
- (ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

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

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

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

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

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

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

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

BRIEF FACTS OF THE CASE

M/s Prakash Chemicals International Private Limited, Prakash House, 39/40, Krishna Industrial Estate, Opp. BIDC, Gorwa Road, Vadodara-390016, Gujarat (hereinafter referred to as 'the exporter'), having IEC No. 3402001152, filed **Shipping Bill No. 4319684 dated 09.08.2025** through their CHA M/s GNXT Logistics Pvt. Ltd for export of "**Xylene**" under CTH 27073000 with FOB value of **Rs. 22,67,806/-**.

2. The cargo was stuffed and sealed into one container (GCXU5754963) at the exporter's premises under self-sealing permission No. F.No. **VIII/48-34/SSP/EXP/MP&SEZ/2017-18 dated 18.09.2018**.

3. Upon scrutiny of the self-sealing permission, it was observed that the exporter was granted permission to stuff and seal goods specifically for "**TALC, MAIZE STARCH, LIQUID GLUCOSE**". However, in the instant export shipment, the exporter attempted to export "**Xylene (CTH: 27073000)**", which is not listed in the particulars of the cargo authorized under the self-sealing permission.

4. The examination of the cargo was carried out on 25.08.2025 by the Docks Officer. The Officer remarked in the examination report that "It is hazardous goods and goods found as declared."

5. Xylene is classified under CTH 27073000, which is distinctly different from the products listed in the self-sealing permission. The existing self-sealing permission does not extend to Xylene.

6. By stuffing and sealing Xylene under the self-sealing permission granted for other specified products, the exporter has violated the conditions of self-sealing permission and Section 34 of the Customs Act, 1962.

7. RELEVANT LEGAL PROVISIONS

Section 34 of the Customs Act, 1962: Goods not to be unloaded or loaded except under supervision of customs officer

"Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer: Provided that the Board may, by notification in the Official Gazette, give general permission and the proper officer may in any particular case give special permission, for any goods or class of goods to be unloaded or loaded without the supervision of the proper officer."

CBIC Circular No. 26/2017-Customs dated 01.07.2017:

Para 9(iii) states that Any exporter desirous of availing this procedure shall inform the jurisdictional Custom Officer of the rank of Superintendent or Appraiser of Customs, at least 15 days before the first planned movement of a consignment from his/her factory/ premises, about the intention to follow self-

sealing procedure to export goods from the factory premises or warehouse. The jurisdictional Superintendent or an Appraiser or an Inspector of Customs shall visit the premises from where the export goods will be stuffed & sealed for export.

Section 113(f) of the Customs Act, 1962 provides that: "*The following export goods shall be liable to confiscation:*

(f) any goods which are loaded or attempted to be loaded in contravention of the provisions of section 33 or section 34;"

Section 114(iii) of the Customs Act, 1962 provides that: "*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 113, or abets the doing or omission of such an act, shall be liable,*

(iii) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater."

8. The exporter violated the self-sealing procedure by stuffing and sealing containers for "Xylene" whereas they were authorized to perform self-sealing only for "TALC, MAIZE STARCH, LIQUID GLUCOSE" under the granted permission.

9. The exporter failed to comply with the specific conditions of self-sealing permission No. F.No. VIII/48-34/SSP/EXP/MP&SEZ/2017-18 dated 18.09.2018 granted by the Mundra Commissionerate, which specifically restricts self-sealing to the aforementioned products only.

10. The exporter vide their letter dated 27.08.2025 submitted the following:

"We, THE PRAKASH CHEMICALS INTERNATIONAL PVT LTD, IEC NO. 3402001152, are exporters of oils & other products

We have carried out a shipment vide invoice 9103108581 and shipping bill no. 4319684.

Wherein we included the commodities XYLENE, TOLUENE, ACETOLENE as per the specific order received from our overseas buyer.

For the majority cargo of, we hold valid factory stuffing permission. The process for adding the commodities to our factory stuffing permission has already been initiated.

We confirm that the subject material has been duly and correctly declared in both the customs invoice and the shipping bill, and that we have the corresponding tax invoices ready for your kind review

Please note that we are a very regular exporter of chemicals and allied products from mundra for a long time and have always endeavored to maintain the highest standards in complying with all rules and regulations. We kindly

request your support in this regard and allow us to proceed with the consignment.

We also assure your good office that such a lapse will not occur from our end in the future, and we will ensure stricter internal checks to prevent any procedural deviation.

*In this matter, we **do not want any showcase notice and personal hearing**. We look forward to your kind support and cooperation. So we request your good self to **kindly allow the shipment for back to town**"*

WAIVER OF SCN & PERSONAL HEARING

11. The exporter vide letter dated 27.08.2025 has requested for waiver of Show Cause Notice and Personal Hearing in the subject matter. The exporter has also requested to allow "Back to Town" of the goods.

DISCUSSION AND FINDINGS

12. I have carefully gone through the records of the case and written submission made by the exporter. The exporter has requested for waiver of Show Cause Notice and Personal Hearing. The principles of natural justice as provided in Section 122A of the Customs Act 1962 have been complied with. I find that the following main issues are required to be decided:

(i) Whether the goods attempted to be exported vide Shipping Bill No. 4319684 dated 09.08.2025 are liable for confiscation under Section 113(f) of the Customs Act, 1962 for violation of self-sealing procedures;

(ii) Whether the exporter is liable for penalty under Section 114(iii) of the Customs Act, 1962.

13.1 Regarding the first issue, I find that the goods attempted to be exported under Shipping Bill No. 4319684 dated 09.08.2025 were stuffed and sealed at the exporter's premises using self-sealing permission No. F.No. VIII/48-34/SSP/EXP/MP&SEZ/2017-18 dated 18.09.2018. However, this permission was granted specifically for "TALC, MAIZE STARCH, LIQUID GLUCOSE" and not for "Xylene".

13.2 CBIC Circular No. 26/2017-Customs dated 01.07.2017 establishes the framework for self-sealing procedures, requiring prior approval from the Principal Commissioner/Commissioner of Customs based on inspection of premises and evaluation of the exporter's compliance record. The circular emphasizes that permissions are granted for specific purposes and any changes require prior approval. I find that by stuffing and sealing "Xylene" under a permission granted for other specific products, the exporter has violated the fundamental principle that self-sealing permissions cannot be used for products other than those specifically approved.

13.3 I find that the self-sealing permission is granted after careful consideration of various factors including the nature of goods, manufacturing process, packaging requirements and security considerations. Allowing exporters to use such permissions for products other than those specifically mentioned would defeat the purpose of product-specific permissions and compromise the integrity of the self-sealing system.

13.4 I find that the exporter has used the self-sealing permission for a product not covered under the approval, though the physical examination confirmed that the cargo was correctly declared as "Xylene" in all export documents and there was no attempt to misdeclare the nature of goods. The violation is procedural, relating to the unauthorized use of self-sealing permission for a product not covered under the approval.

13.5 In view of the above, I find that the violation of self-sealing procedures renders the goods attempted to be exported liable for confiscation under Section 113(f) of the Customs Act, 1962.

14.1 Regarding the second issue of whether the exporter is liable for penalty under Section 114(iii) of the Customs Act, 1962, while examining the nature of violation, I find that the present case involves a procedural violation rather than any attempt at revenue evasion or fraudulent activity. The physical examination of the cargo confirmed that the goods were correctly declared as "Xylene" in all export documents and there was no misdeclaration or attempt to conceal the actual nature of goods. The goods in question are genuine chemical products and fall within their normal course of business. However, despite these mitigating factors, the violation of self-sealing permission conditions cannot be overlooked as it undermines the integrity of the regulatory framework.

14.2 I find that the self-sealing permission in the present case was granted on 18.09.2018 and the exporter has indicated that they had initiated the process for adding the commodities to their factory stuffing permission. However, they proceeded with the export before obtaining the necessary approval. Considering the procedural nature of the violation, the exporter's track record as a regular exporter, the fact that there was no revenue loss or fraudulent intent and the circumstances that the exporter has committed to ensuring stricter internal checks, I find that a moderate penalty would be appropriate.

14.3 In view of the above, as the goods are liable for confiscation under Section 113(f), I find that the exporter M/s Prakash Chemicals International Private Limited is liable for penalty under Section 114(iii) of the Customs Act, 1962, for acts of omission and commission that rendered the goods liable to confiscation.

ORDER

15. In view of the foregoing discussions and findings, I pass the following order:

(i) I order that the goods attempted to be exported under Shipping Bill No. 4319684 dated 09.08.2025 having total FOB value of **Rs. 22,67,806/-** (Rupees Twenty Two

Lakh Sixty Seven Thousand Eight Hundred and Six only) are liable for confiscation under Section 113(f) of the Customs Act, 1962. However, I give the option to the exporter to redeem the same for Back to Town on payment of Redemption Fine of **Rs. 1,00,000/-** (Rupees One Lakh Only) under Section 125 of the Customs Act, 1962;

(ii) I impose a penalty of **Rs. 50,000/-** (Rupees Fifty Thousand Only) on M/s Prakash Chemicals International Private Limited under Section 114(iii) of the Customs Act, 1962.

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

(अमित कुमार मिश्रा)
अपर आयुक्त सीमा शुल्क
सीमा शुल्क, मुंद्रा

F.No. CUS/ECFS/MISC/204/2025-Docks Examn-O/o Pr Commr-Cus-Mundra

To,

M/s Prakash Chemicals International Private Limited (IEC - 3402001152),
Prakash House, 39/40, Krishna Industrial Estate,
Opp. BIDC, Gorwa Road, Vadodara, Gujarat -- 390016

Copy to:

1. The Deputy Commissioner, Docks Examination, Custom House Mundra
2. The Deputy Commissioner, Review Section, Custom House Mundra
3. The Deputy Commissioner, TRC, Custom House Mundra
4. The Deputy Commissioner, EDI, Custom House Mundra
5. Guard File