

		<p align="center">OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, MP & SEZ MUNDRA, KUTCH, GUJARAT-370421</p> <p>PHONE: 02838-271463 FAX :02838-271169/271475</p>
A	File No.	CUS/APR/INV/207/2026-Gr 2-O/o Pr Commr-Cus-Mundra
B	OIO No.	MCH/ADC/ZDC/713/2025-26
C	Date of Order	.03.2026
D	Passed by	DIPAK ZALA Additional Commissioner Import Assessment Custom House, Mundra
E	SCN No. & Date	SCN WAIVED
F	Noticee/Party/ Importer	M/s Shri Tripura Plant Nutrition LLP (IEC- AEEFS6705G), 503 Block Nirvana Talawali Chanda B, Indore-453771, Madhya Pradesh
G	DIN	20260371MO000000A468

1. The Order – in – Original is granted to concern free of charge.
2. Any person aggrieved by this Order – in – Original may file an appeal under Section 128 of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. 1 to

The Commissioner of Customs (Appeal), MUNDRA,
Office at 7th floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380009
3. Appeal shall be filed within Sixty days from the date of Communication of this Order.
4. Appeal should be accompanied by a Fee of Rs. 5/- (Rupees Five Only) under Court Fees Act it must accompanied by (i) copy of the Appeal, (ii) 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. Proof of payment of duty / interest / fine / penalty / deposit should be attached with the appeal memo.
6. While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respect.
7. 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 or Penalty are in dispute, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE:

M/s Shri Tripura Plant Nutrition LLP (IEC- AEEFS6705G), (hereinafter referred to as 'Importer') having address 503 Block Nirvana Talawali Chanda B, Indore-453771, Madhya Pradesh had filed Bill of Entry No. 5717033 dated 15.11.2025 through CB M/s. Shree Parvathy Shipping for import of the following goods as mentioned in below table. The details of the Bill of Entry are as follows:-

Table - A

Sr No.	Goods declared	Declared CTH	Declared Quantity	No. of PKGs	Declared Assessable Value (in Rs.)	Duty Levied
1	BASFOLIAR CABMG SL (FERTILIZER FOR AGRICULTURE USE)- CTH 31059090	31059090	14592 KGs	10	21,91,200	2,24,598

2. On the basis of intelligence regarding misclassification, the consignment imported under Bill of Entry No. 5717033 dated 15.11.2025 was put on hold by the SIIB Section, Customs House, Mundra. The consignment was examined on 26.11.2025 in the presence of Shri Mohitsinh Jadeja, Sr. Executive (Operations), M/s Hind Terminals Pvt. Ltd., Mundra, and Shri Dharmendra V. Mahes, H-Card holder (H/KNDL1/20236616) of M/s Shree Parvathy Shipping (CHA). During examination, it was found that the goods covered under the said Bill of Entry were stuffed in Container No. MEDU6932988, sealed with Seal No. 100602. The container number and seal number were cross-checked with the import documents submitted by the CHA and were found to be in order. The goods had been declared in the Bill of Entry as "Basfoliar CabMg SL (Fertilizer for agriculture)" under CTH 31059090. The container seal was cut in the presence of the above-mentioned persons and the goods were de-stuffed and examined near the pump house of M/s Hind Terminals Pvt. Ltd., Mundra. Upon opening the container, it was observed that the goods were packed in plastic bottles of 20 litres capacity (28.4 kg each), stacked on 10 pallets. The goods were 100% de-stuffed with the help of a forklift. Thereafter, with the assistance of labour

and a surveyor, all packages were counted and quantified. It was found that the total number of pallets was 10, which was in conformity with the declaration made by the importer. Each pallet contained 48 bottles. The goods were found in liquid form. During examination, the details of the goods found were as under:

Table - B

Sr No.	Bill of Entry No. & date	Goods found during examination	Quantity Found (No. of Pallets/No. of Bottles)	Weight found (in Kgs)
1	5717033 dated 15.11.2025	MEDU6932988	10/480	14520

3. During the examination, no concealment of any other goods is found. Further, the quantity of the goods are found approx. same as declared in the bill of entry. Weight of the goods are found approx. same i.e. 14520 kgs. Further, to check the characteristic and types of cargo/goods, representative samples have been drawn for further lab-testing and sent to CRCL Kandla vide TM No. 401 dated 26.11.2025. The goods were tested by CRCL Kandla and lab report No. SIIB/DRI 7922 dated 30.12.2025 has been issued, as mentioned below:-

“The sample as received is in the form of a clear colourless viscous liquid. It is an aqueous preparation containing compounds of Calcium, Boron and Magnesium having following constants-

Calcium content = 11.4 % by weight

Density = 1.4004 g/ml

Ash = 25.05 % by weight

*The Basfoliar Cab M*g SL is not mentioned in FCO 1985.*

Actual use may be ascertained at your end.

Sealed remnant sample returned here with.

4. Analysis of the Test report/Classification of the imported goods:

4.1. During examination and subsequent scrutiny of documents and test reports, it is observed that the goods imported under Bill of Entry No. 5717033 dated 15.11.2025 have been declared as “Basfoliar Cab Mg SL (Fertilizer for agriculture)” and classified by the importer under CTH 31059090. In order to verify the correctness of the declared classification, samples of the goods were drawn and forwarded to CRCL, Kandla for chemical examination. As per CRCL Test Report L. No. 7922, ***the sample is found to be a clear, colourless, viscous liquid, being an aqueous preparation containing compounds of Calcium, Magnesium and Boron, having Calcium content of 11.4% by weight and ash content of 25.05% by weight. The test report further records that “Basfoliar Cab Mg SL is not mentioned in the Fertilizer Control Order (FCO), 1985”.***

4.2. Chapter 31 of the Customs Tariff Act, 1975 covers fertilizers. In particular, Heading 3105 covers “*Mineral or chemical fertilizers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilizers.*” However, ***Chapter Note 6 to Chapter 31 clearly provides that the expression “other fertilizers” applies only to products of a kind used as fertilizers and containing, as an essential constituent, at least one of the fertilising elements nitrogen, phosphorus or potassium.*** In the present case, based on the CRCL test report, the essential constituents of the imported goods are found to be Calcium, Magnesium and Boron, which are secondary nutrients and micronutrients. The test report does not establish the presence of Nitrogen, Phosphorus or Potassium as an essential constituent of the product. Accordingly, the mandatory condition laid down in Chapter Note 6 to Chapter 31 is not satisfied. Therefore, classification of the impugned goods under CTH 31059090 does not appear to be correct.

4.3. Further, CBIC Circular No. 1022/10/2016-CX dated 06.04.2016, issued after consultation with the Indian Agricultural Research Institute (IARI), clarifies that although micronutrients and secondary nutrients are sold and used in the market as fertilizers, for classification under Chapter 31, the presence of Nitrogen, Phosphorus or Potassium as an essential

constituent is mandatory. The said Circular further clarifies that any product where the essential character is derived from micronutrients or trace elements, and not from N, P or K, does not merit classification under CTH 3105, and such products are classifiable under **CTH 3824** as chemical products or preparations not elsewhere specified or included.

4.4. Heading 3824 of the Customs Tariff covers “Chemical products and preparations of the chemical or allied industries, not elsewhere specified or included.” The impugned goods, being an aqueous chemical preparation containing Calcium, Magnesium and Boron, not fulfilling the criteria of fertilizers under Chapter 31, are more appropriately classifiable under **CTH 38249900 as Chemical products not specified elsewhere**. On classification under CTH 38249900, the applicable rate of duty is Basic Customs Duty @ 7.5%, Social Welfare Surcharge @ 10% of BCD (unless exempted), and IGST @ 18%, as applicable. SWS is leviable on the revised BCD as the exemption earlier availed is no longer applicable post re-classification.

4.5. In view of the above, it appears that the importer has mis-classified the imported goods by declaring the same under CTH 31059090 instead of the correct CTH 38249900. Accordingly, the impugned goods are liable to be re-classified and re-assessed under the appropriate tariff heading. Consequently, the goods appear to be liable for confiscation under Section 111(m) of the Customs Act, 1962, for mis-declaration of classification, and the importer appears liable for penal action under the relevant provisions of the Customs Act, 1962.

5. Recording of statement

5.1. In response to summons dated 05.02.2026, the statement of Shri Bhanderi Harikrushn, Logistics Manager and Authorized Representative of M/s Shri Tripura Plant Nutrition LLP, was recorded on 05.02.2026 under Section 108 of the Customs Act, 1962 wherein he inter alia submitted that:-

- i. .On being asked about the import of Basfoliar Cab Mg SL under Bill of Entry No. 5717033 dated 15.11.2025, he stated that the said goods

were imported and declared as fertilizer under CTH 31059090.

- ii. On being confronted with the CRCL, Kandla test report and the relevant provisions of Chapter 31 of the Customs Tariff Act, 1975, he stated that the product does not contain any of the fertilising elements Nitrogen, Phosphorus or Potassium.
- iii. The imported product is ready to use product. After, import, they re-pack it according to the need of the farmers and sale it in Indian Market.
- iv. He admitted that the product had been wrongly classified under CTH 31059090 and accepted that the correct classification of the goods is under CTH 38249900.
- v. He further stated that no payment has yet been made to the overseas supplier and requested early clearance of the consignment.
- vi. They do not want any SCN/PH in the matter.

6. Valuation

6.1. In view of above, the imported goods were found to be mis-classified under the declared tariff heading, therefore, the declared transaction value was also examined in terms of Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. It is noted that the importer has declared the CIF value as Rs. 150.16 per kg (Rs. 21,91,200 for a quantity of 14,592 kg) in the Bill of Entry. It was further noted that the goods were imported in plastic containers of 20 litres capacity.

The declared value was also compared with retail sale prices of the same product of the same manufacturer available in the Indian market, as reflected on open-source platforms, which are in the range of Rs. 1,317 to Rs. 1,549 per litre. On such examination, no circumstances as prescribed under Rule 12 of the Customs Valuation Rules, 2007 were found to exist for rejection of the declared transaction value. Accordingly, declared transaction value is accepted for assessment purpose.

7. In view of above, the duty payable by the importer has been calculated as per the CTH 38249900 [BCD 7.5%, SWS 10% and IGST @18%] and it is

found that the importer has short levied/short paid the duty, the details are as under:-

Table - C

Sr No.	Goods declared	Declared CTH	Declared Quantity	Declared Assessable Value (in Rs.)	Duty Levied/Paid				Actual CTH	Duty actually payable			
					BCD	SWS	IGST	TOTAL		BCD	SWS	IGST	TOTAL
1	BASFOLIAR CABMG SL (FERTILIZER FOR AGRICULTURE USE)	31059090	14592 KG	2191200	109560	0	115038	224598	38249900	164340	16434	426955	607729
Total				2191200	109560	0	115038	224598	38249900	164340	16434	426955	607729

8. From the above table, it appears that total duty leviable on the imported goods (BCD + SWS + IGST) is Rs. 6,07,729/-, whereas, the importer has self assessed the duty of Rs. 2,24,598/- as self-assessed by the importer in the said BE, thus there appears to be non/short levy of Customs duty amounting to Rs. 3,83,131/- [Rs. 6,07,729/- (minus) Rs. 2,24,598/-]. Thus, by the acts of omission and commission at the level of importer, it appears that, these goods are liable for confiscation under section 111(m) of the Customs Act, 1962.

9. The Authorized representative of the importer during the recording of statement dated 05.02.2026 has stated that they do not want any SCN/PH in the matter.

10. RELEVANT LEGAL PROVISIONS:

(A) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

Section 2(22): "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

Section 2(23): "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

Section 2(25): "imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

Section 2(26): "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;

Section 2(39): "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.

Section 11A: "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.

Section 17. Assessment of duty. –

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

..

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

Section 46. Entry of goods on importation:

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

(4A) the importer who presents a bill of entry shall ensure the following, namely:

- (a) The accuracy and completeness of the information given therein;
- (b) The authenticity and validity of any document supporting it; and

(c) *Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

Section 111. *Confiscation of improperly imported goods, etc. – The following goods brought from a place outside India shall be liable to confiscation: -*

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

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

Any person, -

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

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable, -

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

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

Provided *that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]*

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

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

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

(B) Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

“Rule 9. Residual method. –

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of" this rule on the basis of –

(i) the selling price in India of the goods produced in India;

(ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;

(iii) the price of the goods on the domestic market of the country of exportation;

(iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

(v) the price of the goods for the export to a country other than India;

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.”

Rule 12. Rejection of declared value. - *(1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction*

value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.

11. Findings and conclusion of Investigation:

11.1. On the basis of specific intelligence regarding **mis-classification**, the consignment was put on hold by SIIB, Customs House, Mundra. The goods were examined and samples were drawn and tested at CRCL Kandla. The product is not mentioned in the Fertilizer Control Order 1985. On the basis of examination, test report, product literature, Chapter Notes to Chapter 31 and CBIC Circular No. 1022/10/2016-CX dated 06.04.2016, it was found that the imported goods do not contain Nitrogen, Phosphorus or Potassium as an essential constituent and therefore do not merit classification under **CTH 31059090**.

11.2. Accordingly, the declared classification under **CTH 31059090** is found to be incorrect and the imported goods **BASFOLIAR CABMG SL** are held classifiable under **CTH 38249900** as chemical products or preparations not elsewhere specified or included.

11.3. The importer has also accepted the observation and agreed that the product is actually classifiable under CTH 38249900 received under email dated 29.01.2026.

11.4. On re-classification of the goods from CTH 31059090 to CTH 38249900, the duty liability has been re-worked as per the applicable rates of duty. As per the duty calculation sheet, the total Customs duty payable on the imported goods works out to ₹6,07,729/-, whereas the importer had self-assessed and paid Customs duty amounting to ₹2,24,598/- at the time of filing of the Bill of Entry. Thus, on account of mis-classification of the imported goods, there appears to be short levy of Customs duty amounting to ₹3,83,131/- (₹6,07,729/- minus ₹2,24,598/-).

11.5. By mis-classifying the imported goods in the Bill of Entry No. 5717033 dated 15.11.2025, the importer appears to have contravened the provisions of **Section 46** and **Section 17** of the Customs Act, 1962, rendering the Bill of Entry liable for re-assessment under **Section 17(4)** of the Customs Act, 1962. The imported goods, having been mis-declared in respect of classification, appear liable for confiscation under **Section 111(m)** of the Customs Act, 1962 and the importer appears liable for penalty under **Section 112(a)(ii)** of the Customs Act, 1962.

11.6. It appears that the importer, M/s Shri Tripura Plant Nutrition LLP, has filed Bill of Entry No. 5717033 dated 15.11.2025 declaring the imported goods as “BASFOLIAR CABMG SL (FERTILIZER FOR AGRICULTURE USE)” under CTH 31059090, whereas the goods have been found classifiable under CTH 38249900. The said incorrect declaration of tariff classification in the Bill of Entry constitutes submission of incorrect material particulars before Customs authorities. By making such incorrect declaration in the statutory import documents, the importer appears to have rendered themselves liable for penalty under Section 114AA of the Customs Act, 1962, for knowingly or intentionally using false or incorrect declaration in the transaction relating to import of goods.

11.7. The authorized representative of the importer under the recording of statement has requested for waiver of SCN/PH in the matter. Further, the importer also vide email dated 29.01.2026 has submitted that they accept that the product imported is classifiable under CTH 38249900.

12. WAIVER OF SHOW CAUSE NOTICE AND PERSONAL HEARING: -

The importer vide letter dated 25.02.2026 has submitted that they agree with the classification proposed by department and requested to decide the matter on merit and they do not want any SCN and PH in the matter and ready to pay fine and penalty in the matter & further requested for permission to release of the goods at the earliest as they are facing huge

detention and demurrage.

13. Discussion and Findings:

13.1 I have carefully gone through the records of the case, investigation report dated 06.02.2026 and the applicable provisions of law. The importer, **M/s Shri Tripura Plant Nutrition LLP**, vide letter dated 25.02.2026 has requested for waiver of Show Cause Notice and Personal hearing. Thus, the principles of Natural Justice as provided in Section 122A of the Customs Act, 1962 have been complied with and I proceed to decide the case on the basis of documentary evidence available on records. The issue to be decided by me are:

- i. Whether the classifications of the goods, viz. BASFOLIAR CABMG SL (FERTILIZER FOR AGRICULTURE USE), as declared by the importer in the Bill of Entry No. 5717033 dated 15.11.2025 is liable to be rejected and the goods are liable to be re-classified under CTH 38249900 and not under 31059090.
- ii. Whether the importer has contravened the provisions of Section 46(4) of the Customs Act, 1962.
- iii. Whether duty has been correctly assessed under Bill of Entry No. 5717033 dated 15.11.2025 or the same is liable to be re-assessed under Section 17(4) of the Customs Act, 1962 with Total Customs duty involved in the imported goods to be **Rs. 6,07,729/-** (Rupees Six Lakh Seven Thousand Seven Hundred and Twenty Nine Only) instead of Rs. 2,24,598/- as declared in the BE.
- iv. Whether the goods, having assessable value of Rs. **21,91,200/-** have been imported by way of mis-declaration in contravention of Section 46 of the Customs Act, 1962 and whether the same are liable for confiscation under Section 111(m) of the Customs Act, 1962.
- v. The importer i.e., M/s. Shri Tripura Plant Nutrition LLP are liable for Penalty under Section 112(a)(ii) and Section 114AA of the Customs Act, 1962 for the import of goods by way of mis-declaration.

14. The facts established from the investigation, as borne out by the contemporaneous records, examination proceedings, and laboratory analysis.

14.1 During the physical examination of the consignment covered under Bill of Entry No. 5717033 dated 15.11.2025, conducted on 26.11.2025 at M/s Hind Terminals Pvt. Ltd., Mundra, in the presence of representatives from the terminal operator and the CHA, the container seal (No. 100602) was found intact and matching the import documents. Upon de-stuffing Container No. MEDU6932988, the goods were observed to be in liquid form, packed in 20-litre plastic bottles (each approximately 28.4 kg), stacked on 10 pallets, with each pallet containing 48 bottles, totaling 480 bottles. The total quantity weighed approximately 14,520 kg, which closely corresponds to the declared quantity of 14,592 kg, with minor variation attributable to normal measurement tolerances or packaging differences. No discrepancies were noted in the number of packages or pallets vis-à-vis the declaration. Importantly, no concealment of any other goods was detected during the 100% examination, and the consignment consisted solely of the declared liquid preparation.

14.2 Representative samples drawn during the examination were forwarded to the Central Revenue Control Laboratory (CRCL), Kandla, under TM No. 401 dated 26.11.2025. The CRCL Test Report No. SIIB/DRI 7922 dated 30.12.2025 confirmed the sample as a clear, colourless, viscous liquid constituting an aqueous preparation containing compounds of Calcium, Boron, and Magnesium. The key parameters reported include Calcium content of 11.4% by weight, density of 1.4004 g/ml, and ash content of 25.05% by weight. Critically, the report explicitly states that "Basfoliar Cab Mg SL is not mentioned in FCO 1985," and no presence of Nitrogen (N), Phosphorus (P), or Potassium (K) as essential constituents was established in the analysis.

14.3 The goods were declared in the Bill of Entry as "BASFOLIAR CABMG SL (FERTILIZER FOR AGRICULTURE USE)" under CTH 31059090. However, the established chemical composition and characteristics, as per the CRCL report, show that the product is primarily an aqueous solution providing Calcium (secondary nutrient), Magnesium (secondary nutrient), and Boron (micronutrient). The mandatory requirement under Chapter Note 6 to Chapter 31 of the Customs Tariff Act, 1975, stipulates that the expression "other fertilizers" under Heading 3105 applies only to products used as fertilizers containing, as an essential constituent, at least one of the fertilizing elements nitrogen, phosphorus, or potassium. Since the test report does not confirm N, P, or K as essential constituents (with any trace or minor elements, if present, not qualifying as essential for classification purposes), the declared classification under CTH 31059090 does not hold.

14.4 This position is further supported by CBIC Circular No. 1022/10/2016-CX dated 06.04.2016, issued after consultation with the Indian Agricultural Research Institute (IARI), which clarifies that products deriving their essential character from micronutrients or secondary nutrients (such as Calcium, Magnesium, Boron), without N, P, or K as essential constituents, do not merit classification under Chapter 31. Such preparations are appropriately classifiable under Chapter 38 as chemical products or preparations not elsewhere specified or included, specifically under CTH 38249900.

14.5 The product is not notified or included in the Fertilizer Control Order (FCO), 1985, which governs fertilizers under agricultural regulations, reinforcing that it does not qualify as a fertilizer for tariff classification purposes. The importer's authorized representative, Shri Bhanderi Harikrushn, in his statement recorded under Section 108 on 05.02.2026, admitted that the product does not contain any of the fertilizing elements N, P, or K as essential constituents, accepted the misclassification under CTH 31059090, and confirmed the correct classification under CTH 38249900. This admission aligns with the investigative findings and documentary evidence.

14.6 No evidence of the goods falling under any restricted or prohibited category under the extant import policy was found, as the consignment pertains to a chemical preparation allowable under general norms. There are no indications of issues related to country of origin, brand misrepresentation, or alerts from DGOV/NIDB that contradict the established facts. The investigation, including the examination report, seizure (hold) proceedings, sample analysis, and recorded statement, collectively establish the true nature and composition of the goods as an aqueous chemical preparation of Calcium, Magnesium, and Boron compounds, without essential N, P, or K.

14.7 I find that the goods imported under the present shipment were mis-declared in respect of classification and description during the examination and testing of the goods. I find that the goods were found mis-declared in terms of classification and description, and the actual characteristics of the goods as established do not correspond to the declared particulars in the import documents. The importer during the investigation has not disputed the findings of the investigation and has expressly accepted the re-classification proposed. The goods declared in the Bill of Entry and the actual goods found/established during the examination and analysis are already detailed in the foregoing paras and there is no need to repeat them here for the sake of brevity. The above findings clearly establish that the importer failed to make a true and correct declaration of the imported goods as mandated under Section 46 of the Customs Act, 1962.

15. The classification of the imported goods, declared as "BASFOLIAR CABMG SL (FERTILIZER FOR AGRICULTURE USE)" under CTH 31059090, has been examined in light of the established facts, laboratory analysis, and relevant tariff provisions.

15.1 The importer declared the goods under Heading 3105, specifically sub-heading 31059090, which covers "Mineral or chemical fertilizers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilizers." This classification was based on the representation of the product as a fertilizer suitable for agricultural use.

15.2 However, the CRCL Kandla Test Report No. SIIB/DRI 7922 dated 30.12.2025 describes the sample as a clear, colourless, viscous liquid in the form of an aqueous preparation containing compounds of Calcium, Boron, and Magnesium, with Calcium content at 11.4% by weight, density of 1.4004 g/ml, and ash content of 25.05% by weight. The report further notes that "Basfoliar Cab Mg SL is not mentioned in FCO 1985," and does not establish the presence of Nitrogen, Phosphorus, or Potassium as essential constituents in the product.

15.3 Chapter Note 6 to Chapter 31 of the Customs Tariff Act, 1975, provides that the expression "other fertilizers" in Heading 3105 applies only to products of a kind used as fertilizers and containing, as an essential constituent, at least one of the fertilising elements nitrogen, phosphorus, or potassium. In the present case, the essential character of the goods is derived from Calcium (a secondary nutrient), Magnesium (a secondary nutrient), and Boron (a micronutrient), without Nitrogen, Phosphorus, or Potassium qualifying as essential constituents based on the test results.

15.4 This interpretation is reinforced by CBIC Circular No. 1022/10/2016-CX dated 06.04.2016, which clarifies, after consultation with the Indian Agricultural Research Institute (IARI), that products sold or used as fertilizers but deriving their essential character from micronutrients or secondary nutrients (and not from N, P, or K as essential constituents) do not merit classification under Chapter 31. Such products are appropriately classifiable under Chapter 38 as chemical products or preparations not elsewhere specified or included.

15.5 The absence of the product in the Fertilizer Control Order (FCO), 1985, further supports that it does not qualify as a fertilizer under the regulatory framework aligned with tariff considerations for Chapter 31.

15.6 The declared classification under CTH 31059090 is therefore incorrect, as the goods do not satisfy the mandatory condition of containing at least one of N, P, or K as an essential constituent per Chapter Note 6 to Chapter 31. The goods, being an aqueous chemical preparation containing

compounds of Calcium, Magnesium, and Boron, without the essential fertilising elements required for Heading 3105, are correctly classifiable under CTH 38249900 as "Chemical products and preparations of the chemical or allied industries, not elsewhere specified or included."

15.7 I find that the classification declared by the importer under CTH 31059090 is liable to be rejected, and the goods are appropriately classifiable under CTH 38249900.

16. The valuation of the imported goods has been examined in terms of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The importer declared the transaction value on CIF basis as Rs. 21,91,200/- for the quantity of 14,592 kg, which works out to approximately Rs. 150.16 per kg. This value was declared in the Bill of Entry No. 5717033 dated 15.11.2025 and supported by the commercial invoice and other related documents.

16.1 No specific circumstances as prescribed under Rule 12 of the Customs Valuation Rules, 2007 (such as related-party transaction, restrictive conditions, or evidence of price manipulation affecting the transaction value) were found to exist that would warrant rejection of the declared transaction value. The comparison to domestic retail prices does not constitute sufficient grounds for rejection under the rules, as these prices reflect post-importation additions and are not directly comparable to the import price in the course of international trade. The declared CIF value is therefore accepted as the assessable value for the purpose of re-assessment under Rule 3 (transaction value method) of the Customs Valuation Rules, 2007.

16.2 For clarity and ease of re-assessment, the following table summarizes the parameters requiring re-determination and re-assessment for the Bill of Entry:

Table - D

Parameter	Declared by Importer	Re-determined / Accepted Value
Classification (CTH)	31059090	38249900
Assessable Value (Rs.)	21,91,200	21,91,200
Quantity (kg)	14,592	14,592 (or 14,520 as per examination)
Rate of BCD	Applicable under 31059090	7.5% under 38249900
Social Welfare Surcharge	As applicable under declared CTH	10% on revised BCD
IGST	As applicable under declared CTH	18%

16.3 The re-determined duty liability on the accepted assessable value of Rs. 21,91,200/- under the correct classification (CTH 38249900) works out to a total customs duty (BCD + SWS + IGST) of Rs. 6,07,729/-. In contrast, the importer had self-assessed and paid duty of Rs. 2,24,598/- under the declared classification. Accordingly, there is a differential duty/short levy of Rs. 3,83,131/- (Rs. 6,07,729/- minus Rs. 2,24,598/-) requiring payment, along with applicable interest under Section 28AA of the Customs Act, 1962.

17. The investigation report alleges that the goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. In this regard, I find that, as far as confiscation of goods is concerned, Section 111 of the Customs Act, 1962, provides for the confiscation of improperly imported goods. The relevant provisions of Section 111 are reproduced below:

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

17.1 In view of the facts and material evidence on record, including the examination report, CRCL test results, and the importer's admissions in the statement recorded under Section 108, it is clearly established that the

goods imported under Bill of Entry No. 5717033 dated 15.11.2025 have been mis-declared in respect of classification and description. The importer declared the goods as "BASFOLIAR CABMG SL (FERTILIZER FOR AGRICULTURE USE)" classifiable under CTH 31059090, whereas the established composition and characteristics (aqueous preparation containing compounds of Calcium, Magnesium, and Boron, without Nitrogen, Phosphorus, or Potassium as essential constituents, and not listed in FCO 1985) render the correct classification under CTH 38249900 as chemical products not elsewhere specified.

17.2 The mis-declaration pertains specifically to classification and the corresponding description as a fertilizer under Chapter 31, which does not align with the tariff requirements (Chapter Note 6 to Chapter 31). The goods do not correspond in respect of classification (a material particular) with the entry made in the Bill of Entry. The importer's authorized representative has admitted the mis-classification and accepted the proposed re-classification under CTH 38249900, without disputing the findings.

17.3 Accordingly, I find that the imported goods are liable for confiscation under Section 111(m) of the Customs Act, 1962, as they do not correspond in respect of classification and other material particulars with the entry made under the Act.

18. From the above, as discussed in the foregoing paras on classification, valuation, and confiscation, it is evident that the importer has mis-declared the goods in respect of classification and description. By these acts of omission and commission, the importer has rendered the subject goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and has also rendered themselves liable for penal action under the provisions of Section 112(a) of the Customs Act, 1962. With respect to the dutiable goods involved in the mis-declaration, I find that the importer is liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

18.1 As regards the penalty on the importer under Section 114AA of the Customs Act, 1962, the said section mandates penal action for knowingly or

intentionally using false statements, information, or documents in relation to the import of goods. From the investigation, including the recorded statement under Section 108 dated 05.02.2026 and subsequent communications from the importer, it is observed that the importer filed the Bill of Entry No. 5717033 dated 15.11.2025 with incorrect classification (CTH 31059090 instead of the correct CTH 38249900) and corresponding description as a fertilizer under Chapter 31, despite the product not satisfying the essential conditions for such classification as per Chapter Note 6 to Chapter 31 and CBIC Circular No. 1022/10/2016-CX dated 06.04.2016. The importer has admitted the mis-classification in the statement and accepted the proposed re-classification under CTH 38249900. These facts indicate that the importer knowingly or intentionally used incorrect material particulars in the import documents. Therefore, the importer is liable to penalty under Section 114AA of the Customs Act, 1962.

19. As the impugned goods have been found liable to confiscation under Section 111(m) of the Customs Act, 1962, it becomes necessary to examine whether redemption fine under Section 125 of the said Act is imposable in lieu of confiscation. The statutory provision reads as under:

“Section 125. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit.”

19.1 A plain reading of the above provision reveals that the imposition of redemption fine serves as an alternative to confiscation, providing the owner of the goods an opportunity to redeem them on payment of a fine, wherever their clearance for home consumption is not restricted under any policy or statutory provision.

19.2 In the instant case, the goods, namely BASFOLIAR CABMG SL (an aqueous chemical preparation containing compounds of Calcium, Magnesium, and Boron), are dutiable but not prohibited under the Customs Tariff Act, 1975, or the Foreign Trade (Development & Regulation) Act, 1992, or any other applicable law. There exists no restriction or prohibition under the extant import policy, including any compulsory certification requirements or other regulatory prohibitions, which would prevent their clearance for home consumption upon re-assessment under the correct classification (CTH 38249900). The mis-declaration pertains only to classification and description as a fertilizer under Chapter 31, which does not render the goods prohibited in nature.

19.3 Since the goods are non-prohibited and the importer has expressly requested early clearance of the consignment for home consumption (as evidenced by their letters dated 29.01.2026 and 25.02.2026, wherein they accepted the proposed re-classification, agreed to pay the differential duty, fine, and penalty, and sought waiver of SCN and personal hearing to avoid detention and demurrage charges), the mandatory provision under Section 125(1) comes into operation. Accordingly, the importer is entitled to the option of redemption of the confiscated goods for home consumption on payment of an appropriate fine in lieu of confiscation, as determined by the adjudicating authority.

20. In view of the above findings, I conclude that the importer misclassified the goods under CTH 31059090 instead of the correct CTH 38249900, and thereby mis-declared the description of the goods as a fertilizer under Chapter 31, rendering the goods liable to confiscation under Section 111(m) of the Customs Act, 1962, and making the importer liable to penalty under Section 112(a)(ii) as well as under Section 114AA of the Customs Act, 1962; further, as the goods are dutiable but not prohibited, an option to redeem the confiscated goods on payment of an appropriate redemption fine is required to be extended under Section 125(1) of the Customs Act, 1962.

21. In view of above discussions and findings supra, I pass the

following order.

Order

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

(i) I reject the classification declared by the importer under CTH 31059090 and hold that the goods are correctly classifiable under CTH 38249900 of the Customs Tariff Act, 1975. The goods shall be assessed at the correct rate of duty under this heading without the benefit of the wrongly claimed classification.

(ii) I order for confiscation of the goods imported vide Bill of Entry No. 5717033 dated 15.11.2025, namely BASFOLIAR CABMG SL, having a re-determined assessable value of Rs. 21,91,200/- (Rupees Twenty-One Lakh Ninety-One Thousand Two Hundred only), under Section 111(m) of the Customs Act, 1962. However, I give an option to the importer to redeem the said goods for home consumption on payment of **a redemption fine of Rs. 2,19,000/-** (Rupees Two Lakh Nineteen Thousand only) under Section 125 of the Customs Act, 1962. Where fine is not paid within 120 days from the date of this order such option would become null and void unless an appeal is pending against this order.

(iv) I impose a **penalty of Rs. 38,000/-** (Rupees Thirty-Eight Thousand only) upon the importer under Section 112(a)(ii) of the Customs Act, 1962.

(v) I impose a **penalty of Rs. 25,000/-** (Rupees Twenty Five Thousand only) upon the importer under Section 114AA of the Customs Act, 1962.

22. This Order is issued without prejudice to any other action that may be taken against the importer under the provisions of the Customs Act, 1962 or rules made thereunder or under any other law for the time being in force.

(Dipak Zala)
Additional Commissioner,
(Import Assessment)
Customs House, Mundra

Copy to:

M/s Shri Tripura Plant Nutrition LLP (IEC: AEEFS6705G)
503 Block Nirvana Talawali Chanda B,
Indore-453771, Madhya Pradesh

Copy to:

1. The Addl. Commissioner (RRA), Customs House, Mundra
2. The Additional Commissioner (SIIB), Customs House, Mundra
3. Guard File