

सीमा शुल्ककार्यालय का आयुक्त के (निवारक), सीमा शुल्क भवन,  
 जामनगर- राजकोट हाइवे, विक्टोरिया ब्रिज के पास,  
 जामनगर) गुजरात – (361 001



Office of the Commissioner of Customs (Preventive),  
 'Seema Shulk Bhavan', Jamnagar – Rajkot Highway,  
 Near Victoria Bridge, Jamnagar (Gujarat) – 361 001  
**Email:** commr-custjmr@nic.in; adj-custjmr@nic.in

DIN –20250971MM000000AD78

1.	फ़ाइल क्रमांक/ File Number	F. No. CUS/6840/2024-Adjn
2.	मूल आदेश क्रमांक/ Order-in-Original No.	10/Additional Commissioner/ 2025-26
3.	द्वारा पारित/ passed by	एन. श्रुजन कुमार/ N. Srujan Kumar अपर आयुक्त/ Additional Commissioner, सीमा शुल्क, निवारक/Customs (Preventive) जामनगर/ Jamnagar.
4.	Date of Order /आदेश दिनांक	08.09.2025
4.	Date of issue / आदेश जारी किया	08.09.2025
5.	कारण बताओ नोटिस क्रमांक एवं दिनांक Show Cause Notice Number & Date	ADC-7/2025-26 dated 15.07.2025
6.	नोटिसी का नाम/ Name of Noticee	M/s. IQOSA Impex Pvt. Ltd., Office no -9 9 Akshar Business Centre, Survey NO -144/p1/p10/p1/ 8-A NH, Morbi.
01.	इस आदेश की मूल प्रति संबन्धित व्यक्ति को निशुल्क प्रदान की जाती है।	
	The original copy of this order is provided free of cost to the person concerned.	
02.	इस मूल आदेश से व्यक्ति कोई भी व्यक्ति सीमा शुल्क अधिनियम, धारा की 1962 128A)(1)a सीमा शुल्क नियम (अपील), 1982 के नियम 3 के साथ पठित, के प्रावधानों के तहत, इस आदेश की प्राप्ति की तारीख से 60 दिन के भीतर फॉर्म सीए-1 में निम्नलिखित पते पर अपील दायर कर सकता है। फॉर्म सीए-1 में अपील का प्रपत्र, दो प्रतियों में दायर किया जाएगा और उसके साथ इस आदेश की समान संख्या में प्रतियाँ संलग्न की जाएंगी जिसके विरुद्ध अपील की गई है। कम से कम से जिनमें एक प्रमाणित प्रति हो	
	आयुक्त (अपील) मंजिल वी 7, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड,	

	अहमदाबाद – 380 009	
	Any Person aggrieved by this Order-In-Original may file an appeal in Form CA-1, within sixty days from the date of receipt of this order, under the provisions of Section 128 of the Customs Act, 1962, read with Rule 3 of the Customs (Appeals) Rules, 1982 before the Commissioner (Appeals) at the above mentioned address. The form of appeal in Form No. CA.-1 shall be filed in duplicate 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).	
03.	अपील पर 5/- रुपये का कोर्ट फीस स्टाम्प लगा होना चाहिए। जैसा कि भारतीय स्टाम्प अधिनियम, 1989 के तहत प्रदान किया गया है, या राज्य विधान द्वारा संशोधित किया जा सकता है, जबकि इस अपील के साथ संलग्न आदेश की प्रति पर रुपये 0.50 (पचास पैसे केवल (का कोर्ट फीस स्टाम्प होना चाहिए। जैसा कि न्यायालय शुल्क अधिनियम, 1870 की अनुसूची –I, मद 6 के तहत निर्धारित किया गया है।	
	The appeal should bear the Court Fee Stamp of Rs. 5/- as provided under the Indian Stamp Act, 1989, modified as may be, by the State Legislation, whereas the copy of the order attached with this appeal should bear a Court Fee Stamp of Rs. 0.50 (Fifty paisa only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.	
04.	अपीलीय ज्ञापन के साथ शुल्क भुगतान /जुर्माना /अर्थ दंड का सबूत भी संलग्न करे अन्यथा सीमा शुल्क अधिनियम, 1962 की धारा 128 के प्रावधानों का अनुपालन ना होने के कारण अपील को खारिज किया जा सकता है।	
	Proof of payment of duty / fine / penalty should also be attached with the appeal memo, failing to which appeal is liable for rejection for non-compliance of the provisions of Section 128 of the Customs Act, 1962.	
05.	अपील प्रस्तुत करते समय यह सुनिश्चित करे की सीमा शुल्क अपील)) नियम, 1982 नियम (प्रोसीजर) प्रक्रिया सिस्टेट और है। हुआ पालन पूरा का नियमो सभी के 1982	
	While submitting the Appeal, the Customs (Appeals) Rules, 1982, and the CESTAT (Procedure) Rules, 1982, should be adhered to in all respects.	
06.	इस आदेश के खिलाफ आयुक्त (अपील), सीमा शुल्क, उत्पाद शुल्क और सेवा कर अपीलीय न्यायाधिकरण के समक्ष मांग की गई शुल्क के 7.5% के भुगतान पर होगी, जहां शुल्क या शुल्क और जुर्माना विवाद में है, या जुर्माना विवाद में है, या जुर्माना जहां जुर्माना है अकेले विवाद में है।	
	An appeal, against this order shall lie before the Commissioner (Appeals), on payment of 7.5% of the duty demanded, where duty or duty and penalty are in dispute, or penalty are in dispute, or penalty, where penalty alone is in dispute.	

### BRIEF FACTS OF THE CASE

M/s IQOSA Impex Pvt. Ltd., Office No.-9, Akshar Business Centre, Survey No.-144/P1/P10/P1, 8-A NH, Morbi, IEC- AAHCI2825D, GSTIN- 24AAHCI2825D1ZY/G (hereinafter referred as M/s IQOSA), is engaged in import and trading of various Ceramics Raw Materials like Ceramic Brightener, Wollastonite Powder, Sodium Carboxy methyl Cellulose, 68 Alumina Ball, Titanium Dioxide, Zircon Replacement 25, Calcined Alumina Powder, etc. Zirconium Silicates etc. falling under Chapter Heading 38244090, 25309050, 39123100, 69149000, 28230010, 28182010 etc. Imports of above Ceramic Raw-materials undertaken by M/s IQOSA from Kandla, Mundra and ICD, Morbi. These import goods subsequently sold to different Ceramics Manufacturers on trading basis.

2. M/s IQOSA had filed Bill of Entry No. 5289629 dated 28.08.2024 (**RUD-1**) at ICD, Morbi (INWDH6) showing import of goods declared as “Ceramic Brightener Others” weighing 196.490 MT classifying the same under CTH 38244090, stuffed in Seven Containers as detailed under:

Sl. No.	Bill of Entry No.	Container No.	Weight (MT)
01.	5289629 dated 28.08.2024	MEDU 6285264	28.070
02.		MSDU 1383368	28.07
03.		CXDU1425340	28.07
04.		CAIU3180504	28.07
05.		UETU 26400971	28.07
06.		FCIU 4250409	28.07
07.		DFSU 3126188	28.07

3. Documents uploaded on e-Sanchit for BoE No. 5289629 dated 28.08.2024 were as under:

Sl. No.	Description of Documents	Document No.	Remark
01.	Commercial Invoice	NVOICE NO - AM24-IQOS22 dated 16.07.2024	Import Goods declared as Ceramic Brightener with Marks as N.W.: 40 KG, Grade-AB-1 Made in China Qty.-196 MT, Unit Price- USD 312 PMT Total Value- USD 61152 (CFR Mundra)

02.	Packing List	PL NO.- AM24-IQOS22 dated 16.07.2024	Marks- Ceramic Brightener  N.W.: 40 KG,  Grade-AB-1  Made in China  Qty.-196 MT, Package-4900 Bags  N.W- 196000 Kgs.; G.W 196490 Kgs.
03.	Bill of Lading	BL No.-MEDUGI746280 dated 26.07.2024	Total Item-4900  Total Gross Wt.-196490 Kgs.  700 Bags of Ceramic Brightener weighing 28070 Kgs. in each of Seven Containers.  HS Code- 32071090  Marks and Number: CERAMIC BRIGHTENER, N.W.: 40 KG, Grade-ZB-1, Made in China, Zirconium Silicate NET: 40 Kg.
04.	Sales Contract with M/s Amanda International Pvt. Ltd., China for 196 MT of Ceramic Brightener Grade : ZB-1	Contract No. AM24- IQOS22 dated 16.07.2024	Sales Contract between M/s IQOSA and M/s Amanda International Pvt. Ltd., China for 196 MT of Ceramic Brightener Grade: ZB-1 @ USD 312 PMT, totally amounting to USD 61152/- (CFR).
05.	Certificate of Analysis	Technical Analysis issued by M/s Amanda International Pvt. Ltd.	Showing composition of the import goods.
06.	Certificate of Origin	Certificate No. 24C620990919/50066 dated 13.08.2022224	Country of Origin- People's Republic of China  Description of Goods shown as :- WOLLASTONITE 325 MESH, MADE IN CHINA  HS Code: 25309050
06.	Letter for Amendment in CTH.	Letter of IQOSA dated 05.09.2024	Request for approval of amendment of CTH from 3824

4. It appeared that classification of import goods declared in Bill of Entry differed with Bill of Lading and that, M/s IQOSA had amended the classification from CTH 38244090 to CTH 32071090 and accordingly intimated/requested to Customs for approval vide their latter dated 05.09.2024.

5. Import consignment in Seven Containers was subjected to examination by the Customs on 07.09.2024 in view of the RMS instruction. In the examination of the import goods, it was noticed that in two of the Containers bearing Nos. FCIU 4250409 & DFSU 3126188, import goods were packed in the Bags printed and marked with "Zirconium Silicates". In remaining five Container Nos. MEDU 6285264, MSDU 1383368, CXDU1425340, CAIU3180504 & UETU 26400971 import goods were packed in Bags marked and printed with Ceramic Brightener and M/s IQOSA Impex Pvt. Ltd. The CHA present at the time of examination was asked about this anomaly and who was unable to explain. Therefore representative samples of import goods were drawn from two Containers FCIU 4250409 & DFSU 3126188 and were sent to CRCL, Vadodara under Test Memo No. 1235148 dated 07.09.2024 with query as under :-

- (i) Nature of the goods
- (ii) Composition and
- (iii) Whether the Test Sample is Ceramic Brightener

Test Report received vide Test Result No. RCL/ICD-Morbi/ IMP/3800/ 30.09.2024 issued by CRCL on 08.10.2024, wherein it was reported as under:

*"The Sample is in the form of off-white powder. It is mainly composed of Silica and small number of oxides of Calcium and Iron. It is other than Ceramic Brightener."*

6. Considering Test Result for Import goods of the two Containers FCIU 4250409 & DFSU 3126188 reported to be other than Ceramic Brightener, 56 MT of import goods in the said two Containers valued at Rs. 15, 00,000/- were placed under Seizure vide Panchnama dated 15.10.2024 and Seizure Memo dated 15.10.2024 under the reasonable belief that the same was liable for confiscation under provisions of Section 111 of the Customs Act, 1962. Further representative samples were also drawn from remaining five Containers MEDU 6285264, MSDU 1383368, CXDU1425340, and CAIU3180504 & UETU 26400971 by Customs under Panchnama dated 15.10.2024 in presence of Importer and the Customs Broker. The said representative sample of the remaining five containers was sent to CRCL, under Test memo No.1240874 dated 16.10.2024 raising queries as under: -

- (i) Nature of the Product,
- (ii) Chemical Composition,
- (iii) Whether the Test Sample is Ceramic Brightener, if not then please specify the product.

Test Result No. RCL/ICD- Morbi/IMP/4195/21.10.2024, issued on 24.10.2024 as received from CRCL for the above Sample reported as under:-

*"The sample is in the form of off-white powder. It is mainly composed of Silica and small amount of oxides of Calcium and Iron. It is other than Ceramic Brightener. % of Silica = 96.45%." (RUD-08)*

7. It was reported in the aforesaid Test Result No. RCL/ICD-Morbi/IMP/4195 /21.10.2024 that the imported goods in remaining five Containers to be mainly composed of Silica and Other Than Ceramic Brightener, therefore, the said goods weighing 140.35 MT and valued at Rs. 37, 15,515/- was also placed under seizure

vide Seizure Memo dated 29.10.2024 under the reasonable belief that the same was liable for confiscation under provisions of Section 111 of the Customs Act, 1962. Thus, the import goods covered under Bill of Entry No. 5289629/28.08.2024 declared as Ceramic Brightener and classified under CTH 32071090 were seized under the reasonable belief that the same were liable for confiscation under the Customs Act, 1962. Details of seizure in the subject case are as under:-

Sl. No.	Seizure Memo	Container No.	Quantity (MT)	Value (Rs.)
1.	Dated 15.10.2024	FCIU 4250409 DFSU 3126188	56	1500000/-
2.	Dated 29.10.2024	MSDU 1383368 CAIU 3180504 CXDU 1425340 MEDU 6285264 UETU 2640971	140.35	37,15,515/-
<b>Total</b>			<b>196.35 MTs</b>	<b>Rs. 52,35,515/-</b>

8. On request of the importer, the imported goods in the said Seven Containers were allowed warehousing in terms of Section 49 of the Customs Act, 1962. At the same time, import documents uploaded on e-Sanchit for Bill of Entry No. 5289629/28.08.2024 were also noticed having certain anomalies as under and therefore, Summons was issued to M/s IQOSA for their statement in the case.

- (i) Bill of Lading No.-MEDUGI746280 dated 26.07.2024 showed Classification of import goods to be 32071090 different from the classification declared in the Bill of Entry as CTH 38244090 (however amended later on by importer as per BL). Also, description of goods in the Bill of Lading was declared under Marks and Number as CERAMIC BRIGHTENER, N.W.: 40 KG, Grade-ZB-1, and Made in China, Zirconium Silicate NET: 40 Kg.;
- (ii) Certificate of Origin No. 24C620990919/50066 dated 13.08.2022224 uploaded on e-Sanchit showed description of import goods as "WOLLASTONITE 325 MESH";
- (iii) Anomalies in Packing Materials different from Packing List and indicating all-together different goods than what was declared in the Bill of Entry.

9. Statement of Shri Priyank Jagjivanbhai Kavar, one of the Directors of M/s IQOSA, in view of the above was recorded on 21.11.2024; wherein besides other things he interalia, stated that

- M/s IQOSA is engaged in import and trading of Ceramic Raw-Materials like Wollastonite, Nepheline, Ceramic Brightener etc. and their buyers are Ceramic Manufacturers in and around Morbi; that all works related to import in the company viz. M/s IQOSA is looked after by him and all decisions in the matter also taken by him;
- He was further shown copy of BE No. 5289629/28.08.2024 along with Bill of Lading No. MEDUGI746280, Commercial Invoice No. AM24-IQOS22 and corresponding Technical Analysis report and after perusing the same he stated to have imported seven containers of Ceramic Brightener having HSN 38244090 from M/s Amanda International Private Limited, China;
- Regarding difference in HS Code of import goods he stated that HSN Code for the import material is CTH 38244090 as mentioned in Bill of Entry and CTH 32071090 in Bill of Lading; that the Bill of Lading and other documents provided by his supplier and who mentioned HSN code as per their understanding; that HSN Code in Bill of Entry was entered by his CHA M/s Pravin Bhatt and Sons having CB Code-AAKFP2084MCH001;
- On being shown Seizure Memo dated 15.10.2024 for two Containers FCIU 4250409 & DFSU 3126188, he stated that as per their order goods were to be loaded in seven containers but the overseas suppliers had packing materials for five containers only; that therefore the goods in the said two containers were packed in bags printed with Zirconium Silicate; that the supplier had however also stamped Ceramic Brightener on each;
- He further stated that Ceramic Brightener and Zirconium Silicate are two different products classified also differently under HSN 2530 and 3207; that Zirconium Silicate is used as a opacifier in ceramic manufacturing and Ceramic Brightener imported by him is mainly containing Silicon-Dioxide is used as brightening agent; that there are many varieties of Ceramic Brightener viz. ZB-1, ZB-1<sup>+</sup>, ZR-30H etc.
- He was further shown the Lab Report Nos. RCL/ICD-Morbi/IMP/3800/30.09.2024 and RCL/ICD-Morbi/IMP/4195/21.10.2024 as received from CRCL, Vadodara for import goods of two containers and import goods of remaining five containers and on perusing the same he stated that import cargo is in form of off white powder and main component is Silica; that Processed Silica is known as Ceramic Brightener; that he was not agreed with the CRCL report.

10. Further, Test Results received from CRCL, Vadodara reported that the imported goods were other than Ceramic Brightener but were not complete in respect of all the queries raised in the Test Memo Nos. 1235148 dated 07.09.2024 and 1240874 dated 16.10.2024, therefore remnant samples were sent to CRCL, Delhi for retesting as per instruction of CRCL, New Delhi C.No. 35-Cus/Misc/Corres./2022-23 dated 05.04.2022, vide letter No. CUS/SHED/MISC/1480/2024 dated 26.12.2024 with queries as under:-

- (i) Nature of the Product/Specific description of product,
- (ii) Chemical Composition of the Samples,

(iii) Whether the samples are of "Untreated Fumed Silica" classifiable under CTH 28112200 or otherwise.

Test Result received from CRCL, Delhi for re-testing of samples vide their CLR No. 285 dated 09.01.2025 (for TM No. 1235148 dt. 07.09.2024) (and CLR No. 286 dated 09.01.2025 (for TM No. 1240874 dated 16.10.2024) reported as under:-

<p>Test Memo No. 1235148 dt. 07.09.2024 (sample of two Containers)</p> <p><i>The sample is in the form of off-white fine powder. It is mainly composed of silica along with small amount of other metallic oxides.</i></p> <p><i>Silica (% by mass) = 96.01.</i></p> <p><i>The sample u/r is other than fumed Silica.</i></p> <p><i>Whether sample u/r is used as ceramic brightener or not could not be ascertained</i></p>	<p>Test Memo No. 1240874 dt. 16.10.2024 (sample of five Containers)</p> <p><i>The sample is in the form of off-white fine powder. It is mainly composed of silica along with small amount of other metallic oxides.</i></p> <p><i>Silica (% by mass) = 96.86</i></p> <p><i>The sample u/r is other than fumed Silica.</i></p> <p><i>Whether sample u/r is used as ceramic brightener or not could not be ascertained.</i></p>
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11. A further statement of Shri Priyank Jagjivanbhai Kavar, the Directors of M/s IQOSA was recorded on 03.02.2025; wherein besides other things he interalia stated that,

- Certificate of Origin Sr. NO. CCP/T6202450003251, Cert. No. 24C620990919/50066, e-Sanchit by his CHA was wrongly uploaded for import of Ceramic Brightener under stated BE No. 5289629 dated 28.08.2024; that this COO had nothing to do with our import goods shown imported under BE NO. 5289629 dated 28.08.2024; that they also import WOLLASTONITE, from Mundra Port and mistakenly this document was uploaded by their CHA;
- He was shown Retest-Report bearing CLR Nos. 285 & 286 both dated 09.01.2025 of the samples drawn from lots of two Containers under TM No. 1235148 dated 07.09.2024 and from lot of Five Containers under TM No. 1240874 dated 16.10.2024 as received from CRCL Delhi both dated 29.01.2025. In the test result of CRCL New Delhi import product was reported differently from what they have declared in the Bill of Entry No. 5289629 dated 28.08.2024. On being asked he was agreed that the composition wise said Retest-Reports show differently than what they have declared in their Import/Documents. He further stated that they were accurately not aware about classification and actual declaration of the goods imported by them under BE No. 5289629 dated 28.08.2024 and they depended on their CHA M/s Pravin Bhatt and Sons; that they classified their import goods under CTH 38244090 which was later amended by our CHA to 32071090; that their goods which they know in Commercial Parlance as

Ceramic Brightener was actually Ceramic Raw Materials readied through Miscellaneous Chemical Preparations for Glaze Compound and which then goes into mixing with other materials like Zirconium Silicates, Clay including China Clay, Soda/Potash etc. for manufacture of Tiles; that therefore, as per their understanding, impugned import good was classifiable under CTH 38244090, which also has same aggregate rate of Customs Duty i.e. 27.735% as payable in the case of classification under CTH 32071090;

- On being asked about the correct description of the import goods imported by them, under Bill of Entry No.5289629 dated 28.08.2024, he stated that the goods imported by them under BE No. 5289629 dated 28.08.2024 is Ceramic Raw Material which is prepared by Miscellaneous Chemical Preparations and duly classified under residual entry under CTH 38244090;
- The Bill of Lading No. MEDUGI746280 mentioned goods as Ceramic Brightener ZB-1, Zirconium Silicate and whereas two containers were found with goods packed in bags marked as of Zirconium Silicate, so why not this be assumed that in guise of Ceramic Brightener they imported Zirconium Silicate, to what he replied that Goods imported by them was different from Zirconium Silicates; that in two containers Packing Material used with Marking of Zirconium Silicate was due to mistake by supplier side, who did this as Packing Material with Marking of Ceramic Brightener and IQOSA was exhausted; that also in Zirconium Silicate, presence of Silica is in the range of 25 to 35% and Zirconium Oxide is in the range of 50-60%, but in their case import goods is reported to be mainly composing Silica in range of 94-96%; that Zirconium Silicate attract lesser duty i.e. BCD- and IGST- 5% and had they imported Zirconium Silicate, they would not have paid higher duty i.e. @ 27.735% aggregate;

12. Seized goods were subsequently released to the Importer, M/s IQOSA provisionally in terms of Section 110A of the Customs Act, 1962 vide Release Order No. CUS/SHED/MISC/1480/2024 dated 19.02.2025 on execution of the Bond for full seizure value of Rs 52, 15,515/- and on furnishing Bank Guarantee for Rs. 15, 00,000/- vide BG No. 101GT01250490001 dated 18.02.2025 (HDFC Bank).

**13. Legal provisions relevant in the case:**

The following provisions of the law and the relevant Act thereof appear to be imperative in the case: -

**13.1. *Section 46 of the Customs Act, 1962 inter alia states (emphasis supplied):***  
***'Entry of goods on importation-***

*(1) The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed:*

Provided .....

(2) save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the Bill of Lading or other receipt given by the carrier to the consignor.

(3) .....

(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, and such other documents relating to the imported goods as may be prescribed.

(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'.

### **13.2. SECTION 111 (m) OF THE CUSTOMS ACT, 1962 :**

**Confiscation of improperly imported goods etc.**

The following goods brought from the 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.

**13.3. Section 112 of the Customs Act, 1962 - Penalty for improper importation of goods, etc.:** 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)...

Shall be liable,-

(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;

### **13.4. Section 117 of the Customs Act, 1962 - Penalty for Contravention, etc. not expressly mentioned:-**

*Any person who contravenes any provision of this Act or Abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no explores penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [four Lakh rupees]*

**13.5. Section 125(1) of the Customs Act, 1962 - Option to pay fine in lieu of confiscation:**

*(1) Whenever confiscation of any goods is authorized 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;*

**14.** Therefore, in view of the facts as discussed in the foregoing paras, it appeared that M/s IQOSA filed Bill of Entry No. 5289629/28.08.2024 at ICD -Morbi; wherein they declared import goods as Ceramic Brightener and classified the same under CTH 38244090. However, the import documents like Bill of Lading uploaded by them on e-Sanchit have had description of goods as Ceramic Brightener ZB-1 and Zirconium Silicate, and also classification was shown differently under HS Code 32071090. Subsequently M/s IQOSA changed the classification of their import under CTH 32071090 through amendment and RMS instructed for examination of the said import consignment. In the examination of the said import consignment in seven containers following facts were emerged:

- a. In five Containers MEDU6285264, MSDU1383368, CXDU1425340, CAIU3180504 & UETU26400971 imported goods were packed in the bags with Marking of M/s IQOSA Impex Pvt. Ltd. and Ceramic Brightener as per declaration in related Packing List e-Sanchit;
- b. In remaining two Containers FCIU 4250409 & DFSU 3126188 import goods were packed in different packaging bags, with Mark of Zirconium Silicates and the Packaging was not as per the Packing List;

**15.** Samples were subsequently drawn from the lots of two Containers first and then from the lots of five Containers and were sent to CRCL, Vadodara for chemical analysis thereof. The Test results received from CRCL, Vadodara stated mainly that the imported goods was composed mainly of Silica and it was other than Ceramic Brightener. Test Results of CRCL, Vadodara are reproduced hereunder: -

Sl. No.	Test Memo No.	Test Result No.	Test Result
01.	1235148 dt. 07.09.2024 (sample of two	RCL/ICD-Morbi/ IMP/3800/ 30.09.2024	<i>"The Sample is in the form of off-white powder. It is mainly composed of Silica and small amount of oxides of Calcium and Iron. It is other than Ceramic Brightener. % of</i>

	<i>Containers)</i>		<i>Silica = 96.9% by wt.</i>
02.	1240874      dt. 16.10.2024 (sample of five Containers)	RCL/ICD- Morbi/IMP/4195 /21.10.2024	<i>"The sample is in the form of off-white powder. It is mainly composed of Silica and small amount of oxides of Calcium and Iron. It is other than Ceramic Brightener. % of Silica = 96.45%."</i>

**16.** M/s. IQOSA Impex Pvt. Ltd. filed Bill of Entry No. 5289629/28.08.2024 at ICD, Morbi, declaring the import goods as 'Ceramic Brightener' and classified the same under CTH 32071090:

- (i) Import documents like Bill of Lading and Certificate of Origin uploaded on e-Sanchit have had description of goods different from as declared in the Bill of Entry in as much as in case of BL it was found having mention of Zirconium Silicate in addition to Ceramic Brightener and in case of COO, it was altogether of different consignment i.e. of Wollastonite;
- (ii) Packaging for the import goods in two Containers were found different from the Packing List as uploaded by them on e-Sanchit in as much as packaging materials in two containers have marking of Zirconium Silicate;
- (iii) Test Results received from CRCL, reported the goods to be other than Ceramic Brightener composing mainly Silica;

Therefore, in view of the above it appeared that the actual import goods covered under BE No. 5289629/28.08.2024 did not correspond to the entries made in the Bill of Entry and related Import documents as required under provisions of the Customs Act, 1962, the said goods in seven containers were seized vide Seizure Memo dated 15.10.2025 and 29.10.2025, under the reasonable belief that the same were liable for confiscation under provisions of Section 111(m) of the Customs Act, 1962.

**16.1.** Above facts were also admitted by Shri Priyank Jagjivanbhai Kavar, the Directors of M/s IQOSA in his statement dated 21.11.2024 and 03.02.2025 wherein he admitted that the goods imported by them though known in Commercial Parlance as Ceramic Brightener was actually Ceramic Raw Materials readied through Miscellaneous Chemical Preparations for Glaze Compound and which then goes into mixing with other materials like Zirconium Silicates, Clay including China Clay, Soda/Potash etc. for manufacture of Tiles; that therefore, as per their understanding, impugned import goods classifiable under CTH 38244090. He also stated that he was not well aware about the accurate classification of the import goods in question and the amendment in classification and uploading of import documents were all done by their CHA M/s. Pravin Bhatt and Sons, which were not correctly done.

17. Therefore, it appeared from the above that, M/s IQOSA has wrongly selected the CTH for the import goods in the Bill of entry. Import Documents uploaded on e-Sanchit like BL, Packing List and COO appeared grossly incorrect in as much as description of goods, classification thereof and packaging details were different than the actual goods. In this regard, it is pertinent to emphasize that with the introduction of self-assessment under the Customs Act, more faith is bestowed on the importers, as the practice of routine assessment, concurrent audit and examination has been dispensed with and importers have been assigned the responsibility of assessing their own goods Section 17(1) of the Customs Act, 1962. The law demands facts to be declared by importer and wherein it was incumbent on importer to pronounce the correct particulars of the goods imported by them with corroborative documentary evidence and to determine every aspect of an imported consignment from description, classification, tariff and notification benefit if any as applicable in respect of the import goods. The responsibility of filing of EDI Bill of Entry and ensuring the accuracy and completeness of the information submitted therein lies entirely with the importer and the importer is solely and entirely responsible in case of any incorrect/inaccurate information furnished therein, in view of Section 46(4A) of the Customs Act, 1962 read with provisions of Section 17(1) ibid. M/s IQOSA, appeared to have failed in correctly declaring the import goods and also entering correct classification thereof as required under Section 46(4) and 46(4A) of the Customs Act, 1962 and thereby rendering the goods liable for confiscation. They admitted to the fact of import goods declared in the Bill of Entry as Ceramic Brightener was actually Ceramic Raw Materials readied through Miscellaneous Chemical Preparations and was classifiable under CTH 38244090 and not under CTH 32071090 as was done by them. Therefore, by way of various acts and omission M/s IQOSA has contravened the statutory provisions of Section 46(4) and Section 46(4A) of the Act, ibid.

18. The samples of import goods were got tested from CRCL, Vadodara and then re-tested from CRCL, Delhi it was reported as under:

Query Raised	Test Memo No. 1235148 dt. 07.09.2024 (sample of two Containers)	Test Memo No. 1240874 dt. 16.10.2024 (sample of five Containers)
CRCL, Vadodara	<i>"The Sample is in the form of off-white powder. It is mainly composed of Silica and small amount of oxides of Calcium and Iron. It is other than Ceramic Brightener. % of Silica = 96.9% by wt."</i>	<i>"The sample is in the form of off-white powder. It is mainly composed of Silica and small amount of oxides of Calcium and Iron. It is other than Ceramic Brightener. % of Silica = 96.45%."</i>
CRCL, New Delhi	<i>"The sample is in the form of off-white fine powder. It is mainly composed of silica along with small amount of other metallic"</i>	<i>"The sample is in the form of off-white fine powder. It is mainly composed of silica along with small amount of"</i>

<p><i>oxides.</i></p> <p><i>Silica (% by mass) = 96.01.</i></p> <p><i>The sample u/r is other than fumed Silica.</i></p> <p><i>Whether sample u/r is used as ceramic brightener or not could not be ascertained</i></p>	<p><i>other metallic oxides.</i></p> <p><i>Silica (% by mass) = 96.86</i></p> <p><i>The sample u/r is other than fumed Silica.</i></p> <p><i>Whether sample u/r is used as ceramic brightener or not could not be ascertained.</i></p>
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19. From the facts and the circumstances discussed in the foregoing paras, it appeared that M/s IQOSA Impex had imported consignment of Ceramic Raw Materials known in commercial Parlance as Ceramic Brightener, however, classified the same incorrectly under CTH 32071090. The import goods under reference were reported by the CRCL, Vadodara and New Delhi to be the products, mainly composing Silica (in range of 96-98%), other than Ceramic Brightener and not ascertainable whether the same can be used as Ceramic Brightener or not, it appeared that the said goods are not classifiable under CTH 32071090, as done by the importer. The subject goods appeared to be raw material of Miscellaneous Chemical Preparations, for use in manufacture of Tiles Adhesive, Prepared Binders, Joint Filler by mixing with other natural raw materials like Zirconium Silicates, China Clay, Soda/Potash, Dolomite powder, Cement, Chemicals, etc.. Such Miscellaneous Chemical Product mainly composed of Silica with different properties are classified under HSN 3824, which is definable as under:

*“Prepared binders for foundry moulds or cores; Chemical products and preparations of chemical or allied industries including those consisting of mixtures and natural products), not elsewhere specified or included.”*

The import product therefore appeared to be classifiable under CTH 38244090, which is chargeable to Customs Duty @ BCD-7.5%, SWS-10% of BCD & IGST-18%. Details of seizure in the subject case are as under:

Sl. No.	Seizure Memo	Container No.	Quantity (MT)	Value (Rs.)
1.	Dated 15.10.2024	FCIU 4250409 DFSU 3126188	56	1500000/-
2.	Dated 29.10.2024	MSDU 1383368 CAIU 3180504 CXDU 1425340 MEDU 6285264 UETU 2640971	140.35	37,15,515/-

(Seized goods released provisionally to the importer under Section 110A of the Customs Act, 1962)

20. In view of the above, it appeared that M/s IQOSA Impex Pvt Ltd., filed Bill of Entry No. 5289629/28.08.2025, for import of goods, mis-declaring the same to be Ceramic Brightener and classified the same wrongly under CTH 32071090, they rendered the goods liable for confiscation under Section 111(m) of the Customs Act, 1962. Thus, 196 MTs of import goods declared as Ceramic Brightener and valued at **Rs. 52, 15,515/- (Fifty-Two Lakhs Fifteen Thousand Five Hundred and Fifteen only)** is liable for confiscation under provisions of Section 111(m) of the Customs Act, 1962. The seized goods were released provisionally to the importer under Section 110A of the Customs Act, 1962. M/s IQOSA Impex Pvt. Ltd., by way mis-declaring and mis-classifying the import goods rendered the same liable for confiscation by way of various acts of omissions as explained herein above para and thereby rendered themselves liable for penalty under Section 112(a)(ii) of the Customs Act, 1962.

21. M/s IQOSA Impex Pvt. Ltd., uploaded the documents viz. Certificate of Origin altogether of different consignment i.e. of Wollastonite instead of the actual goods shown imported by them. Actual packing of the import goods also found in two Containers bearing Nos. FCIU 4250409 & DFSU 3126188 was different from the Packing List uploaded on e-Sanchit. Above acts of M/s IQOSA was in contravention of the provisions of Section 46(4) and Section 46(4A) of the Customs Act, 1962 and in view whereof M/s IQOSA rendered themselves liable to penalty under Section 117 of the Customs Act, 1962.

22. In view of the above, M/s IQOSA Impex Pvt. Ltd., having their office at the address. Office No.-9, Akshar Business Centre, Survey No.-144/P1/P10/P1, 8-A NH, Morbi, IEC- AAHCI2825D, GSTIN-24AAHCI2825D1ZY was called upon to show cause as to why:

- i. Classification of the import goods declared as Ceramic Brightener done under CTH 32071090 should not be rejected and be re-classified under CTH 38244090 as Miscellaneous Chemical Preparation.
- ii. *196 MT of import goods declared as Ceramic Brightener, valued at Rs. Rs. 52,15,515/- (Fifty-Two Lakhs Fifteen Thousand Five Hundred and Fifteen only), should not be confiscated under Section 111 (m) of the Customs Act,1962. Seized goods has been provisionally released on execution of a Bond of full value and on furnishing Bank Guarantee for Rs. 15,00,000/-, vide BG No. 101GT01250490001 dated 18.02.2025, issued by HDFC Bank,*
- iii. *Penalty should not be imposed on them under Section 112(a)(ii) of the Customs Act,1962.*
- iv. *Penalty should not be imposed on them under Section 117 of the Customs Act,1962.*

#### DEFENCE REPLY

23. The Noticee vide his letter dated 02.08.2025 (received on 05.08.2025) in his written defense reply stated,

*"That the impugned notice is issued based on the allegation that we had mis-declared the imported goods under Bill of Entry No. S289629 dated 28.08.2024 as "Ceramic Brightener", which, according to the notice is "Miscellaneous Chemical Preparation" and mis-classified under CTH 3207 1090 (instead of 3824 4090).*

*At the outset, the allegations and averments leveled in the show cause notice are hereby denied. Save and except what is specifically admitted herein, no part of the notice which is not expressly dealt with shall be deemed to be admitted. The submission made hereunder is independent of and without prejudice to each other.*

*It is an admitted position that imported goods, i. e., Ceramic Brightener is a raw material used in ceramic industry (Para 19 of SCN). Hence, imported goods would be considered as Ceramic Raw Material, which is known in commercial parlance as Ceramic Brightener.*

*CTH 3207, read with explanatory notes, covers a range of preparations used in the ceramic industry (china, earthenware, etc.), in the glass industry, or for colouring or finishing metal articles. As against this, Tariff entry 3824 proposed for reclassification of the imported goods, covers prepared binders (3824 000 & 24 000), whereas 3824 40 90 is a residuary heading under 3824 40 dealing with prepared additives for cement, mortars, or concretes (and not tiles). There is no mention or reference about ceramic or tiles industry. Moreover, the impugned notice nowhere alleges that goods in question has any application of a binder. Hence, application of CTR 3 04 is ruled out.*

*In terms of Rule 4 of the General Rules for Interpretation, goods shall be classified under the heading appropriate to the goods to which they are most akin. In the instant case, CTH 3207 covers preparations used in the ceramic industries, as against Customs Tariff Entry 3824 40 90 dealing with binders. Considering that CTH 3207 is most akin for the imported goods, i.e., Ceramic Brightener (Ceramic Raw Material). Therefore, the Noticee has correctly classified the imported goods under CTH 3207 10 90.*

*Further, in order to obtain a certificate of origin for the import or export of goods, one needs to apply on <https://www.indiantradeportal.in/>. Here, when ceramic raw material is entered in the description, the ITC-HS Code is shown on the website is "32 7 10". (Relevant PDF is annexed hereto). Thus, it may be appreciated that the government has also classified Ceramic Raw Material under 3207 10.*

*In light of above, it is respectfully submitted we have not mis-declared and/or mis-classified the imported goods, as alleged in the impugned notice as there is no mis-declaration and/or mis-classification, goods are not liable for confiscation under Section 111 (m) of Customs Act, 1962 and we are not liable for penalty under Section 112 ibid.*

*In view of above, it is prayed to give due consideration to the submissions made hereinabove and drop the show cause notice."*

**PERSONAL HEARING:**

24. The personal hearing in the subject case was granted on 20.08.2025 in virtual mode as a natural justice. Shri Vikas Mehta, Advocate of the Noticee firm had appeared for Personal Hearing virtually. During the personal hearing he reiterated submissions made vide their reply dated 02.8.2025 and sought one week time to submit final reply. Accordingly, submitted his final reply vide Email dated 25.08.2025; wherein he stated that,

*"the goods imported by M/s. IQOSA, though known in commercial parlance as Ceramic Brightener, are actually ceramic raw material. This is duly stated in para 16.1 of the notice. On testing of samples taken from container No. FCIU 4250409 and DFSU 3126188, the same were not found to be Zirconium Silicates. These goods were not found to be any different from goods imported in 05 other containers. Hence, in all 07 containers, goods were similar, i.e. Ceramic Brightener (in trade parlance) and ceramic raw material, according to the show cause notice.*

*The test results have not denied that the goods are Ceramic Brighteners. As per para 19 of show cause notice, "the subject goods are raw material of miscellaneous chemical preparations for use in manufacture of tiles adhesive, prepared binders, joint filler by mixing with other natural raw material like zirconium silicates, china clay, soda/potash, dolomite powder, cement, chemicals, etc. Thus, use of goods in ceramic industries is an admitted position in the show cause notice.*

*It is proposed in the show cause notice to classify the goods under CTH 3824 which covers prepared binders for foundry moulds or cores; chemical products and preparations of chemical or allied industries including those consisting of mixtures and natural products, not elsewhere specified or included (para 19 of show cause notice refers). However, there is no allegation in the show cause notice that goods are meant for use as binders for foundry moulds or cores.*

*As a matter of fact, it is the case of the department that goods are meant for use in the ceramic industry. CTH 3207 specifically deals with preparations used in the ceramic industries. Hence, it is our humble submission that the correct classification of the goods is CTH 3207, as done by the importer.*

*Consequently, there is no mis-declaration and/or mis-classification. Hence, goods are not liable to confiscation under Section 111 (m) of Customs Act, 1962. Therefore, the importer is not liable to penalty under Section 112 (a) (ii) of Customs Act, 1962. Section 117 is a residuary provision and cannot be invoked once penalty is proposed under Section 112. All in all, the entire*

*notice is not tenable in the eyes of law on account of the above submissions and hence, it is prayed to vacate the same."*

**DISCUSSIONS AND FINDINGS:**

**25.** I have carefully gone through the case records, including the show cause notice, written and oral submissions made by the Noticee. I find that the issue to be decided in the present case is

- (i) Whether M/s IQOSA has mis-declared the CTH w.r.t. goods imported vide Bill of Entry No. 5289629 dated 28.08.2024 or otherwise; and
- (ii) Whether goods are liable for confiscation and the Noticee is liable for penalty under Section 112 and/or 117 of Customs Act, 1962 or otherwise.

**25.1** I observe that the un-disputed facts of the case are as under:

- (i) M/s IQOSA Impex Pvt. Ltd., Office No.-9, Akshar Business Centre, Survey No.-144/P1/P10/P1, 8-A NH, Morbi, IEC No. AAHCI2825D, GSTIN-24AAHCI2825D1ZY/G (hereinafter referred as M/s IQOSA) filed Bill of Entry No. 5289629 dated 28.08.2024 at ICD, Morbi (INWDH6) classifying the imported goods under CTH 38244090 with description "Ceramic Brightener Others" having total quantity of 196.490 MT in Seven Container & subsequently amended classification in B/E as CTH 32071090 in consonance with Bill of Lading.
- (ii) Imported goods were taken for examination as per RMS instructions. On examination of the imported goods, it was noticed that, out of seven containers, in two Containers bearing Nos. FCIU 4250409 & DFSU 3126188, imported goods were packed in the bags printed and marked with "Zirconium Silicates" whereas in remaining five Containers bearing No. MEDU 6285264, MSDU 1383368, CXDU1425340, CAIU3180504 & UETU 26400971, imported goods were packed in bags marked and printed with Ceramic Brightener.
- (iii) Considering the description of imported goods being different in the packing material, representative samples of imported goods were drawn from these two Containers bearing No. FCIU 4250409 & DFSU 3126188 and were sent to CRCL, Vadodara for testing vide Test Memo No. 1235148 dated 07.09.2024, so as to ascertain
  - (i) Nature of the goods
  - (ii) Composition
  - (iii) Whether the Test Sample is Ceramic Brightener.
- (iv) In response, the CRCL Vadodara vide Test Result No. RCL/ICD-Morbi/ IMP/3800/ 30.09.2024 dated 08.10.2024, reported as under:

*"The Sample is in the form of off-white powder. It is mainly composed of Silica and small number of oxides of Calcium and Iron. It is other than Ceramic Brightener."*

(v) In view of the above test results, the impugned goods weighing 56 MTs imported vide Containers No.s FCIU4250409 & DFSU 3126188, valued at Rs. 15, 00,000/- were placed under Seizure vide Seizure Memo dated 15.10.2024 under the reasonable belief of the being liable for confiscation under the provisions of Section 111 of the Customs Act, 1962.

(vi) Thereafter, the representative samples were also drawn from remaining five Containers by Customs under Panchnama dated 15.10.2024 and sent for test at CRCL Vadodara vide Test Memo No.1240874 dated 16.10.2024 and who in turn vide its Test Result No. RCL/ICD-Morbi/IMP/4195/21.10.2024 reported that;

*"The sample is in the form of off-white powder. It is mainly composed of Silica and small amount of oxides of Calcium and Iron. It is other than Ceramic Brightener. % of Silica = 96.45%."*

(vii) As it is reported in the aforesaid Test Report that the imported goods are other than Ceramic Brightener and comprising of Silica = 96.45%, therefore, the impugned goods imported in remaining five containers, weighing 140.35 MTs and valued at Rs. 37, 15,515/- were also placed under seizure vide Seizure Memo dated 29.10.2024 under the reasonable belief that the same was liable for confiscation under provisions of Section 111 of the Customs Act, 1962.

(viii) Although Test Results received from CRCL, Vadodara reported that the imported goods were other than Ceramic Brightener, but as it was not complete in respect of all the queries raised in the Test Memo Nos. 1235148 dated 07.09.2024 and 1240874 dated 16.10.2024, therefore as per Instruction of CRCL, New Delhi C.No. 35-Cus/Misc/Corres./2022-23 dated 05.04.2022, remnant samples vide letter no. CUS/SHED/MISC/1480/2024 dated 26.12.2024 were sent for re-testing to CRCL, Delhi with queries as under:

- Nature of the Product/Specific description of product,
- Chemical Composition of the Samples,
- Whether the samples are of "Untreated Fumed Silica "classifiable under CTH 28112200 or otherwise.

(ix) In response, CRCL Delhi vide their Test Result CLR No. 285 dated 09.01.2025 (for TM No. 1235148 dated 07.09.2024) and CLR No. 286 dated 09.01.2025 (for TM No. 1240874 dated 16.10.2024) reported as under:

Test Memo No. 1235148 dated 07.09.2024 (sample of two Containers)	Test Memo No. 1240874 dated 16.10.2024 (sample of five Containers)
<i>The sample is in the form of off-white fine powder. It is mainly composed of silica along with small amount of other metallic oxides.</i>	<i>The sample is in the form of off-white fine powder. It is mainly composed of silica along with small amount of other metallic oxides.</i>

<p><i>Silica (% by mass) = 96.01.</i></p> <p><i>The sample u/r is other than fumed Silica.</i></p> <p><i>Whether sample u/r is used as ceramic brightener or not could not be ascertained</i></p>	<p><i>Silica (% by mass) = 96.86</i></p> <p><i>The sample u/r is other than fumed Silica.</i></p> <p><i>Whether sample u/r is used as ceramic brightener or not could not be ascertained.</i></p>
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26. On comparative analysis of the test results issued by the CRCL, Vadodara and CRCL, New Delhi, I find that, the impugned goods are other Ceramic Brightener and contains Silica (% by mass) = 96% approx.

26.1 At this juncture, it is necessary to understand what Ceramic Brightener actually means. Accordingly, to the Wikipedia Search, “*there is no specific chemical or substance referred to as a "ceramic brightener"; rather, the term may refer to a chemical additive used in glazes or ceramic bodies to enhance their color, brightness, or other optical properties. For example, zirconium-based compounds, such as zirconium silicate, act as opacifiers and whiteners in glazes, while other additives can influence the final fired color.*”

26.2 I find that the Noticee in the parlance of market is selling impugned goods as Ceramic Brightener, which is actually ceramic raw material. The said fact can be well substantiate from the business website of the Noticee viz. <https://iqossaimpex.com/Ceramic-Brighter-ZB-1.php> ; wherein the impugned goods is marketed as under the name ‘Ceramic Brightener (ZB- 1), with description, “*The Structure, the Purity, the Hardness, and the Specific Surface Area are the main characteristics of these powders. Whiten tile body effectively. Low radiation, strong whitening effect Ceramic Brightener is developed, produced & sold by our own company, having very high cost performance. It can replace zirconium silicate to use in the ceramic industry. It has good stability and can improve the strength and corrosion resistance of ceramic. Mainly, it can whiten the products, resulting in cost savings.*” As such it can be concluded that, a ceramic brightener is nothing but a white powder additive, such as activated alumina or zirconium silicate, that is incorporated into a ceramic body or glaze. It serves to effectively whiten the final ceramic product, enhancing its visual appeal by reducing dullness, and can also improve the strength and corrosion resistance of the ceramic.

27. Now, coming to the correct classification of the impugned goods, I notice that, Rule 1 of the General Rules for the Interpretation of the Harmonized System stipulates, “*The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes.*”

27.1 For the sake of clarity, I hereby reproduce the heading of CTH 3207 and CTH

3824 in verbatim below:

**3207** PREPARED PIGMENTS, PREPARATED OPACIFIERS AND PREPARED COLOURS, VITRIFIABLE ENAMELS AND GLAZES, ENGOBES (SLIPS), LIQUID LUSTRES AND SIMILAR PREPARATIONS, OF A KIND USED IN THE CERAMIC ENAMELLING OR GLASS INDUSTRY; GLASS FRIT AND OTHER GLASS, IN THE FORM OF POWDER, GRANULES OR FLAKES

**3824** PREPARED BINDERS FOR FOUNDRY MOULDS OR CORES; CHEMICAL PRODUCTS AND PREPARATIONS OF THE CHEMICAL OR ALLIED INDUSTRIES (INCLUDING THOSE CONSISTING OF MIXTURES OF NATURAL PRODUCTS), NOT ELSEWHERE SPECIFIED OR INCLUDED

**27.2** I find that, as per Rule 1 of the General Rules for the Interpretation of the Harmonized System the impugned goods very well covered under the CTH 3207, being useful in Ceramic Industry. It is therefore, the appropriate classification of the impugned goods considering its utility will be under the heading 3207. Moreover, the CTH 3027 read with explanatory notes, covers a range of preparations used in the ceramic industry (china, earthenware, etc.) in the glass industry or for colouring or finishing metal articles while Tariff Entry 3824 covers prepared binders (38241000 & 38243000) whereas 38244090 is a residuary heading under 382440 dealing with prepared additives for cement, mortars or concretes (and not tiles.)

**27.3** I further find that, the duty structure of the CTH 32071090 and CTH 38244090 are one and the same i.e. BCD @ 7.5 %, SWS 10 % of BCD and IGST @ 18%. Hence, it can be inferred that there is no revenue implication on classifying the goods under either of the Customs Tariff Entry. Therefore, I find that there emerges no *mens rea* on the part of the Noticee to have mis-declared the imported goods.

**27.4** In view of the discussion supra, I find that impugned goods seized vide Seizure Memo dated 15.10.2024 and dated 29.10.2024 merits to be released and it is therefore I vacate seizure on the impugned goods imported vide Bill of Entry No. 5289629/28.08.2024 and refrain from the confiscation of impugned goods under the provisions of Section 111 of the Customs Act, 1962.

**28.** However, I also notice that, there were certain anomalies in the documents uploaded on e-Sanchit for Bill of Entry No. 5289629/28.08.2024 and other procedures i.e. (i) Bill of Lading No.-MEDUGI746280 dated 26.07.2024 showed classification of imported goods to be 32071090 different from the classification declared in the Bill of Entry as CTH 38244090 (however, amended later on by Importer as per BL); (ii) description of goods in the Bill of Lading was declared under Marks and Number as 'CERAMIC BRIGHTENER', N.W.: 40 KG, Grade-ZB-1, Made in China, Zirconium Silicate NET: 40 Kg while in the Certificate of Country of Origin No. 24C620990919/50066 dated 13.08.2024 uploaded on e-Sanchit the description of imported goods were shown as "WOLLASTONITE 325 MESH"; later

importer submitted that COO certificate was wrongly uploaded in e-sanchit, and (iii) Description of imported goods were different in packing bags and in packing list; indicating all-together different goods than what was declared in the Bill of Entry; (iv) Initially the goods were classified under CTH 3824 4090 in the Bill of Entry filed and later vide letter dated 05.09.2024 a request was made to amend CTH to 32071090.

**29.** In this context, I notice that, the self-assessment of Customs duty has been introduced in Customs w.e.f. 08.04.2011 by Section 38 of the Finance Act, 2011 under which Importer shall self-assess the duty leviable on import of the goods. In the instant case, during the course of assessment of the subject Bill of Entry and examination of the goods, the lacunae as detailed at Para 26 above were observed on the part of the Noticee and therefore, it transpires that, the Importer has not self-assessed the goods properly and correctly, thereby, violated the provision of Section 17(1) of the Customs Act, 1962 as discussed above.

**29.1** I further notice that, Section 46(4) of Customs Act, 1962 stipulates, the Importer is required to make/subscribe to a declaration as regard to the truth of the contents of the Bill of Entry submitted for assessment of Customs Duty. I find that, in terms of Section 46 of the Customs Act, 1962, while presenting the Bills of Entry before the Customs authority for clearance of the imported goods, it is duty of the Importer to declare the accuracy and completeness of the information given therein. The law demands accuracy and completeness of the information to be declared by the Importer. As the Importer has been working under the era of self-assessment, where they have been given liberty to declare every aspect of an imported consignment from classification to declaration of value of the goods or levy of duty at applicable rate, therefore, it was the responsibility of the Importer to place correct facts and figures before the Assessing Authority.

**29.2** I find that, in view of the above provisions of Section 46 ibid, it was obligatory on the part of the Importer to have declared the correct CTH, description, value, etc. of imported goods in the correct manner; however, the Importer failed to declare the CTH and description of the imported goods appropriately while filling Bill of Entry and therefore, I find that, the Importer has also contravened the provisions of sub-section (4) of Section 46 of the Customs Act, 1962, inasmuch as they had mis-declared description and quantity of the imported goods in the Declaration of Bill of Entry filed under the provisions of Section 46(4) of Customs Act, 1962.

**29.3** I find that such omission and commission on the part of the Noticee has rendered himself liable for penalty under Section 117 of the Customs Act, 1962.

**30.** According, I proceed to find following order:

**ORDER**

1. I hereby confirm and order that Classification of the imported goods as CTH 32071090 and vacate the seizure on impugned goods.
2. I hereby confirm and impose a penalty of Rs 1,00,000/- (Rupees One lakh only) on them under Section 117 of the Customs Act, 1962.

**31.** This order is issued without prejudice to any other action that may be taken against the importer or any other person under the Customs Act, 1962 or any other law for the time being in force.



**(N. Srujan Kumar)**  
**Additional Commissioner**

BY Speed Post A.D

To,

1. M/s IQOSA Impex Pvt. Ltd.,  
Office No.-9, Akshar Business Centre,  
Survey No.-144/P1/P10/P1, 8-A NH,  
Morbi

Copy to:-

- i. The Commissioner, Customs (Preventive), Jamnagar [Kind Attention: the Superintendent (Review-HQ), Customs (Preventive), Jamnagar]
- ii. The Deputy Commissioner of Customs, HQ, Preventive Section, Customs (P) Commissionate, Jamnagar.
- iii. The Assistant Commissioner of Customs, ICD, Morbi for information and further necessary action.
- iv. Guard File.