

	<p>कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा, सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421 OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS: CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT- 370421. PHONE : 02838-271426/271163 FAX :02838-271425 E-mail id- adj-mundra@gov.in</p>	
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A FILE NO./ फाइल संख्या	GEN/ADJ/ADC/1395/2025-Adjn dated 21.03.2025
B OIO NO./ आदेश संख्या	MCH/ADC/ZDC/707/2025-26
C PASSED BY/ जारीकर्ता	Dipak Zala, Additional Commissioner of Customs, Mundra Customs.
D DATE OF ORDER/ आदेश की तारीख	16.03.2026
E DATE OF ISSUE/ जारी करने की तिथि	16.03.2026
F SCN No. & Date/ कारण बताओ नोटिस क्रमांक	GEN/ADJ/ADC/1395/2025-Adjn dated 21.03.2025
G NOTICEE/ PARTY/ IMPORTER नोटिसकर्ता/पार्टी/आयातक	M/s. Reliance Industries Limited (IEC-0388066415), Village - Meghpar, Padana, Lalpur, Jamnagar, Gujarat-361280.
H DIN/ दस्तावेज पहचान संख्या	20260371MO00008378F7

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

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

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

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

“सीमाशुल्कआयुक्त) अपील(
चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,
नवरंगपुरा,अहमदाबाद 380 009”

**“THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA
HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN
ROAD,
NAVRANGPURA, AHMEDABAD-380 009.”**

3. उक्तअपील यहआदेश भेजने की दिनांक से 60दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.
4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be accompanied by –
 - i. उक्त अपील की एक प्रति और A copy of the appeal, and
 - ii. इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची 1-के अनुसार न्यायालय शुल्क अधिनियम-1870के मद सं० 6-में निर्धारित 5 -/रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.
5. अपील ज्ञापन के साथ ड्यूटी /ब्याज /दण्ड /जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.
6. अपील प्रस्तुत करते समय, सीमाशुल्क) अपील (नियम, 1982और सीमाशुल्क अधिनियम,1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.
7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5 % भुगतान करना होगा।
An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

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BRIEF FACTS OF THE CASE

M/s. Reliance Industries Limited (IEC-0388066415), Village - Meghpar,

Padana, Lalpur, Jamnagar, Gujarat-361280 (hereinafter also referred to as “the importer/the Noticee” for the sake of brevity”) presented following Bills of Entry, the details of which are as under, through their appointed Customs Broker M/s. Khimji Poonja Global Logistics at Custom House, Mundra, for clearance of following goods classifying the same under Tariff item 29202930 of first schedule of the Customs Tariff Act, 1975.

TABLE-I

Sl. No.	BE NO.	Item Description	Quantity in KGS	Assess Value (in INR)	Duty paid @ 25.78%
1	8174770 dtd. 06.10.2023	CHEM ANTIOXIDANT 168 TRIS-(2,4 -DI-TERT-BUTYL PHENYL)-PHOSPHITE) (DETAILS AS PER INV / P.LIST)	12000	26,05,284	5,15,534
2	8450557 dtd. 25.10.2023	CHEM ANTIOXIDANT 168 TRIS-(2,4 -DI-TERT-BUTYL PHENYL)-PHOSPHITE) (DETAILS AS PER INV / P.LIST)	24000	46,68,048	9,23,713
3	8867381 dtd. 21.11.2023	CHEM ANTIOXIDANT 168, TRIS-(2,4 -DI-TERT-BUTYL PHENYL), -PHOSPHITE (1000000048) (APTA: B236140090850053 DT: 01.11.2023)	48000	93,25,008	24,04,733
4	8910051 dtd. 24.11.2023	CHEM IRGAFOS 168FF (APTA CERT: -B236140090850052 DT.02.11.2023) Tris-(2,4 -di-tert-butyl phenyl)-phosphite	48000	98,90,160	25,50,475
5	9784496 dtd. 23.01.2024	CHEM IRGAFOS 168FF (APTA CERT: -B246140090850001 DT.02.01.2024) Tris-(2,4 -di-tert-butyl phenyl)-phosphite	48000	98,90,160	19,57,065
6	2084793 dtd. 10.02.2024	CHEM ANTIOXIDANT 168, TRIS-(2,4 -DI-TERT-BUTYL PHENYL), -PHOSPHITE-1000000048(APTA: -B246140090850007 DT.22.01.2024)	48000	93,08,376	18,41,942
7	2330314 dtd. 27.02.2024	CHEM IRGAFOS 168FF (APTA CERT: -B246140090850009 DT.07.02.2024) Tris-(2,4 -di-tert-butyl phenyl)-phosphite	60000	1,23,33,300	24,40,513
Total				5,80,20,336	1,26,33,975

2. During the course of Audit conducted by the Customs Receipts Auditors of office of the Principal Director of Audit (Central), Audit Bhavan, Ahmedabad for the period from October, 2023 to March, 2024, the Senior Audit Officer/CRA vide Para 12 of LAR No. 32/2024-25 has observed that Customs Tariff Heading 2920 specifically covers “Esters of other inorganic Acids of Non-Metals (Excluding Esters of Hydrogen Halides) and Their Salts; Their Halogenated, Sulphonated, Nitrated or Nitrosated Derivatives”. (SH) 29201100 covers “Parathion (ISO) and parathion-methyl (ISO) (methylparathion)”, (SH) 29202910 covers “Dimethyl sulphate”, (SH) 29202920 covers “Diethyl sulphate”, (SH) 29202930 covers “Tris (2, 3 Dibromopropyl) phosphate” and (SH) 2920 29 90 covers “Other” and attracts customs duty @27.73% (BCD 7.5%, SWS 10%, IGST 18%).

3. Whereas, it was noticed that the importer had imported “ CHEM

Antioxidant 168 TRIS-(2,4 -DI-TERT-Butyl Phenyl)-Phosphite)/ Additive AO Sonox” from China PR classifying these under CTH 29202930 and paid duty@ 25.78% (BCD6%, SWS 10% and 18% IGST) by claiming exemption (20% of BCD) under Sl. No. 318 of Notification 50/2018.

4. Whereas, on verification, it was noticed by Audit that CTH 29202930 were for classification of Tris (2, 3 Dibromopropyl) phosphate. The imported items were “CHEM Antioxidant 168 TRIS-(2,4 -DI-TERT-Butyl Phenyl)-Phosphite)/Additive AO Sonox” which specifically merit classification under CTH 29202990 on which benefit of exemption under Sl. No. 318 of Notification 50/2018 was not available. Their classification under CTH 29202930 by the importer was incorrect. Accordingly, customs duty @ 27.73% (BCD-7.5%, SWS-10% & IGST-18%) was applicable.

Computation of Differential duty:

5. In the instant case, the importer has imported the following goods by wrongly classifying them under CTH 29202930 instead of CTH 29202990. The CTH 29202930 covers Tris (2, 3 Dibromopropyl) phosphate, whereas, the importer has imported goods “CHEM Antioxidant 168 TRIS-(2,4 -DI-TERT-Butyl Phenyl)-Phosphite)/Additive AO Sonox” which specifically merit classification under CTH 29202990. Accordingly, by way of misclassification, the importer has paid duty @ 25.78% (BCD6%, SWS 10% and 18% IGST) instead of paying customs duty @ 27.73% (BCD-7.5%, SWS-10% & IGST-18%). The short-paid duty amount of **Rs. 11,26,755/- (Rupees Eleven Lakh Twenty-Six Thousand Seven Hundred and Fifty-Five Only)** as per calculation mentioned below-

TABLE-II

Sr. No.	BE No. & Date	Assess Value (in INR)	Duty paid @ 25.78%	BCD debited in Licence @ 6%	Total Duty Paid	Duty Leviable @27.73%	Short Levy of Duty
1.	8174770 dtd. 06.10.2023	26,05,284	5,15,534	1,56,317	6,71,851	7,22,445	50,595
	8450557 dtd. 25.10.2023	46,68,048	9,23,713	2,80,083	12,03,796	12,94,450	90,653
3	8867381 dtd. 21.11.2023	93,25,008	24,04,733	0	24,04,733	25,85,825	1,81,092
4	8910051 dtd. 24.11.2023	98,90,160	25,50,475	0	25,50,475	27,42,541	1,92,067
5	9784496 dtd. 23.01.2024	98,90,160	19,57,065	5,93,410	25,50,475	27,42,541	1,92,067
6	2084793 dtd. 10.02.2024	93,08,376	18,41,942	5,58,503	24,00,444	25,81,213	1,80,769

7	2330314 dtd. 27.02.2024	1,23,33,300	24,40,513	7,39,998	31,80,511	34,20,024	2,39,513
Total		5,80,20,336	1,26,33,975	23,28,310	1,49,62,284	1,60,89,039	11,26,755

6. Relevant Legal provisions, in so far as they relate to the facts of the case: -

- A. Customs Notification No. 50/2018-Cus dated- 30.06.2018;
- B. The Customs Tariff.
- C. Section 46 of the Customs Act, 1962 provides for filing of Bill of Entry upon importation of goods, which casts a responsibility on the importer to declare truthfully, all contents in the Bill of Entry.
Relevant portion of Section 46 (4) is reproduced below:-
“(i) 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”.
- D. Section 28 (4) of the Customs Act, 1962 provides that *“Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of-*
- a. *collusion; or*
 - b. *any willful mis-statement; or*
 - c. *suppression of facts,*
by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [so levied or not paid] or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice”.
- E. Section 28 (AA) of Customs Act, 1962 provides interest on delayed payment of duty-
- (1) Where any duty has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-Section (2), or has paid the duty under sub-Section (2B), of Section 28, shall, in addition to the duty, be liable to pay interest at such rate not below ten percent and not exceeding thirty-six per cent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-Section (2), or sub-Section (2B), of Section 28, till the date of*

payment of such duty:

F. Section 114A of the Customs Act, 1962 deals with the penalty by reason of collusion or any willful mis-statement or suppression of facts. The relevant provision is reproduced below: -

114A - Penalty for short-levy or non-levy of duty in certain cases - Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-Section (8) of Section 28 shall also be liable to pay a penalty equal to the duty or interest so determined: Provided that where such duty or interest, as the case may be, 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 the 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 duty or interest, as the case may be, so determined: Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

7. The importer/noticee has willfully mis-stated the facts & mis-declared the goods under CTH 29202930 which is for classification of Tris (2, 3 Dibromopropyl) phosphate. During the audit, it is observed that the imported goods were “CHEM Antioxidant 168 TRIS-(2,4 -DI-TERT-Butyl Phenyl)-Phosphite)/Additive AO Sonox” which specifically merit classification under CTH 29202990 on which benefit of exemption under Sl. No. 318 of Notification 50/2018 was not available. Their classification under CTH 29202930 was incorrect. Accordingly, customs duty @ 27.73% (BCD-7.5%, SWS-10% & IGST-18%) was applicable.

8. In the light of the documentary evidence, as brought out above and the legal position, it appears that the importer mis-classified the goods.

9. Whereas, it is apparent that the importer/noticee was in complete knowledge of the correct nature of the goods nevertheless, the importer/auditee claimed undue notification benefit for the said goods in order to clear the goods under CTH 29202930 by paying duty at lower rate of duty@ 25.78% (BCD6%, SWS 10% and 18% IGST) by claiming exemption (20% of BCD) under Sl. No. 318 of Notification 50/2018. With the introduction of self-assessment under Section 17, more faith is bestowed on the importer, as the practices of routine assessment, concurrent audit etc. have been dispensed with. As a part of self-assessment, the importer has been entrusted with the responsibility to correctly self-assess the duty. However, in the instant case, the importer intentionally did not pay correctly the customs duties on the imported goods. Therefore, it appears that the importer has willfully violated the provisions of Section 17(1) of the Act in as much as importer has failed to

correctly self-assessed the impugned goods and has also willfully violated the provisions of Sub-section (4) and (4A) of Section 46 of the Act. Therefore, the goods having assessable value of Rs. 5,80,20,336/- as detailed in above table, appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962.

10. Therefore, it appears that the importer wilfully mis-declared the goods under CTH 29202930 for duty evasion in terms of paying lower duty instead of paying duty @ 27.73% (BCD-7.5%, SWS-10% & IGST-18%) under CTH 29202990 for the impugned goods resulting into short levy of duty of Rs. 11,26,755/- (Rupees Eleven Lakhs Twenty Six Thousand Seven Hundred Fifty Five Only) for subject Bills of Entry, which is recoverable from the importer under the provisions of Section 28(4) of the Customs Act, 1962 (hereinafter referred to as 'the Act') along with interest as applicable under Section 28AA of the Act. By the said deliberate mis-declaration of goods under CTH 29202930, the importer also appears to have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.

11. Accordingly, Show Cause Notice dated 21.03.2025 was issued to M/s. Reliance industries limited (IEC-0388066415) wherein they were called upon to show cause as to why:

- i. The goods imported vide Bills of Entry as detailed in above table under CTH 29202930, should not be rejected and re-assessed at correct CTH 29202990;
- ii. The goods having assessable value of Rs. 5,80,20,336/- covered under Bills of Entry as detailed in above table, should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962;
- iii. The differential duty worked out as short levy amounting to Rs. 11,26,755/- (Rupees Eleven Lakh Twenty-Six Thousand Seven Hundred and Fifty-Five Only) for subject Bills of Entry as detailed in above table, should not be recovered from importer under Section 28 (4) of the Customs Act, 1962 along with the interest thereon as per Section 28AA of the Customs Act, 1962, as applicable;
- iv. Penalty should not be imposed upon them under Section 114A of the Customs Act, 1962.

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Record of Personal Hearing

12. In compliance with the principle of natural justice "Audi alteram partem", opportunities to be heard were granted to the noticee on 02.09.2025, 18.09.2025 and 19.02.2026. Shri Alok Prasad and Shri Srinivasan Ganesan, authorised representative of the importer appeared for hearing through virtual mode on 19.02.2026 to attend the scheduled personal hearing. In this hearing, they requested for 10 days to submit the reply of the SCN and requisite documents related to SCN.

Written Submission of Noticee/Importer

13. Shri Srinivasan Ganesan, authorised representative of importer submitted their written submission/reply vide mail Srini.Ganesan@ril.com on 10.03.2026. He inter-alia submitted that:-

(i) We vehemently deny the allegations of willful mis-statement, suppression of facts, and intention to evade payment of duty. The imported goods, namely "CHEM ANTIOXIDANT 168 TRIS-(2,4-DI-TERT-BUTYL PHENYL)-PHOSPHITE" and "CHEM IRGAFOS 168FF", were supplied by M/s. Shandong Linyi Sunny Wealth Chemicals Co. Ltd., China. The classification under CTH 29202930 was adopted strictly based on the supplier's declaration in their commercial invoices and the Certificate of Origin.

(ii) The supplier is a highly reputed global manufacturer who exports these exact goods to various buyers worldwide classifying them under this identical HSN code. Therefore, adopting this classification was a bona fide action on our part, not a deliberate attempt to wrongfully avail the benefits of Notification No. 50/ 2018 (SI. No. 318).

(iii) At the time of filing the respective Bills of Entry, all material facts—including the precise chemical description, assessable value, and origin—were declared truthfully, completely, and accurately. The assessment was completed keeping in view the explicitly declared descriptions and the accompanying import documents submitted. Nothing was hidden from the purview of the proper officer.

(iv) Because the classification was based entirely on the global manufacturer's standard export documentation and the goods were correctly described on the Bills of Entry, the charge of "mis-declaration" is factually incorrect. In the absence of any willful mis-statement or suppression of facts, the invocation of the extended period of limitation under Section 28(4) of the Customs Act, 1962 is legally unsustainable. Consequently, the proposals to confiscate the goods under Section 111(m) and to impose a penalty under Section 114A are unjustified and lack legal merit.

DISCUSSION AND FINDINGS

14. I have carefully gone through the facts of the case, SCN and records of the case. The principles of natural justice have been complied with by granting adequate opportunities to the noticee to present their defence. Now, I proceed to examine the issues involved in the present case in light of available records, statutory provisions and judicial precedents. On careful perusal of the Show Cause Notice, written submission and case records, I find that the following issues arise for determination in this adjudication:

- i. Whether the declared CTH 29202930 of impugned goods is liable to be rejected or otherwise, and the impugned goods are rightly classifiable under CTH 29202990 or otherwise.
- ii. Whether the differential duty to the tune of Rs. 11,26,755/- (Rupees Eleven Lakh Twenty-Six Thousand Seven Hundred and Fifty-Five Only) demanded under SCN is recoverable from the noticee in terms of Section 28 (4) of the Customs Act, 1962 along with the interest

- thereon as per Section 28AA of the Customs Act, 1962, as applicable.
- iii. Whether the imported goods are liable for confiscation under section 111(m) of the Customs Act, 1962 or otherwise.
 - iv. Whether acts of the importer attract penal action as proposed under Section 114A of the Customs Act, 1962.

15. After having identified and framed the main issues to be decided, I now proceed to deal with each of the issues individually for analysis in light of facts, submissions, circumstances of the case, provisions of the Customs Act, 1962 and nuances of various judicial pronouncements.

(A) Whether the declared CTH 29202930 of impugned goods is liable to be rejected or otherwise, and the impugned goods are rightly classifiable under CTH 29202990 or otherwise.

16.1 I find that M/s. Reliance Industries Limited imported “ Chem Antioxidant 168 Tris/Chem Irgafps 168FF ” under the various Bills of entries as above table-I and claimed notification benefit under Sr. No. 318 of 50/2018-Cus. Dated 30.06.2018. I observed that during the course of audit, Senior Audit Officer/CRA vide Para 12 of LAR No. 32/2024-25 has observed that Customs Tariff Heading 2920 specifically covers “Esters of other inorganic Acids of Non-Metals (Excluding Esters of Hydrogen Halides) and Their Salts; Their Halogenated, Sulphonated, Nitrated or Nitrosated Derivatives”. (SH) 29201100 covers “Parathion (ISO) and parathion-methyl (ISO) (methylparathion)”, (SH) 29202910 covers “Dimethyl sulphate”, (SH) 29202920 covers “Diethyl sulphate”, (SH) 29202930 covers “Tris (2, 3 Dibromopropyl) phosphate” and (SH) 2920 29 90 covers “Other” and attracts customs duty @27.73% (BCD 7.5%, SWS 10%, IGST 18%).

16.2 I observed that Tris (2, 3 Dibromopropyl) phosphate are classified under CTH 29202930 whereas imported goods were CHEM Antioxidant 168 TRIS-(2,4 -DI-TERT-Butyl Phenyl)-Phosphite)/Additive AO Sonox” which specifically merit classification under CTH 29202990 on which benefit of exemption under Sl. No. 318 of Notification 50/2018 was not available. In view of the above, it is evident that importer classified the goods under CTH 29202930 was incorrect. Accordingly, Customs Duty @ 27.73% (BCD-7.5%, SWS-10% & IGST-18%) was applicable. Therefore, I hold that the impugned goods are rightly classifiable under CTH 29202990.

(B) Whether the differential duty to the tune of Rs. 11,26,755/- (Rupees Eleven Lakh Twenty-Six Thousand Seven Hundred and Fifty-Five Only) demanded under SCN is recoverable form the noticee in terms of Section 28 (4) of the Customs Act, 1962 along with the interest thereon as per Section 28AA of the Customs Act, 1962, as applicable.

17.1 I noticed in the instant matter that importer had deliberately misclassified the goods in contravention of various provisions of the Customs Act and Rules there under with an intent to evade Customs Duty of **Rs.**

11,26,755/- (Rupees Eleven Lakh Twenty-Six Thousand Seven Hundred and Fifty-Five only). Hence, the provisions of the Section 28(4) of the Customs Act, 1962 for invoking extended period for demand of duty is rightly invocable in the instant case. Therefore, the differential duty amounting **Rs. 11,26,755/-** as demanded under SCN are recoverable from the Noticees in terms of 28(4) of the Customs Act, 1962. Further, I find that interest on delayed payment of duty which accrues automatically once demand of duty is confirmed is also recoverable from the importer under the provisions of Section 28AA of the Customs Act, 1962. For this, I rely on the decision of the **Hon'ble Apex Court in the case of CCE Pune Vs SKF India Ltd. [2009(239) ELT (385) SC]**.

(C) Whether the imported goods are liable for confiscation under section 111(m) of the Customs Act, 1962 or otherwise.

18.1 As per my findings in above para, the impugned goods are rightly classifiable under CTH 29202990 but the importer has willfully wrongly mis-classified the goods under CTH 29202930 and claimed undue benefit of notification 50/2018-Cus dated 30.06.2018. and evaded Customs duty amounting to Rs. 11,26,755/- (Rupees Eleven Lakh Twenty-Six Thousand Seven Hundred and Fifty-Five Only).

18.2 I also find that it is a fact that consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011; 'Self-Assessment' has been introduced in Customs. Section 17 of the Customs Act, effective from 08.04.2011, provides for self-assessment of duty on imported goods by the importer himself by filing a Bill of Entry, in the electronic form. Provisions of the Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make proper & correct entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. As per Regulation 4 of the Bill of Entry (Electronic Declaration) Regulation, 2011 (issued under Section 157 read with Section 46 of the Customs Act, 1962) the Bill of Entry shall be deemed to have been filed and after self-assessment of duty completed when, after entry of the electronic declaration (which is defined as particulars relating to the imported goods that are entered in the Indian Customs Electronic Data Interchange System) in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a Bill of Entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration. Thus, under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. Thus, with the introduction of self-assessment by amendments to Section 17, since 8th April, 2011, it is the added and enhanced responsibility of the importer to declare the correct description, value, quantity, notification, etc and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

18.3 From the above, I find that the Noticee has violated Sub-Section (4) and 4(A) of Section 46 of the Customs Act as they have mis-classified the goods and evaded the payment of applicable duty. I find that the Noticee was required to comply with Section 46 which mandates that the importer

filing the Bill of Entry must make true and correct declarations and ensure the following:

- i. Accuracy and completeness of the information declared;
- ii. The authenticity and validity of any document supporting the information provided; and
- iii. Comply with restrictions or prohibitions relating to the goods under this Act or any law in force at the time being;

18.4 I find that the Show Cause Notices propose confiscation of goods under the provisions of Section 111 (m) of the Customs Act, 1962. Provisions of Section 111 (m) of the Customs Act, 1962 is re-produced herein below:

“any goods which do not correspond in respect of value or in any other particular with the entry made under this Act, shall be liable to confiscation.”

In the instant case, the importer did not declare correct CTH and hence, contravened the provisions of Section 46 of the Customs Act, 1962. These acts of omission and commission on the part of the importer rendered the goods liable for confiscation under the provisions of Section 111 (m) of the Customs Act, 1962.

REDEMPTION FINE: -

18.5 As the impugned goods are found to be liable for confiscation under Section 111 of the Customs Act, 1962, I find that it is necessary to consider as to whether redemption fine under Section 125 of Customs Act, 1962, is liable to be imposed in lieu of confiscation. I find that, in the present case, the subject goods are not physically available for confiscation at this stage. The goods have already been cleared and are no longer under the control of Customs. Therefore, physical confiscation of the goods is not feasible. However, I note that the Hon'ble CESTAT, Ahmedabad, in the case of M/s. Van Oord India Pvt. Ltd. vs. Commissioner of Customs, Ahmedabad [Customs Appeal No. 10679 of 2024-DB], has held that redemption fine can be imposed even when the goods are not physically available for confiscation. Further, this points were already settled in case of Judgment dated 11.08.2017 of Hon'ble High Court of Madras in C.M.A. No. 2857 of 2011 in the case of Visteon Automotive Systems India Ltd. Vs. CESTAT, Chennai [2018 (9) G.S.T.L. 142 (Mad.)].

Para 23 of the said Judgment is as follows:

“ The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act", brings out the point clearly. The power to impose redemption

fine springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act.”

18.6 I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same has not been challenged by any of the parties concerned. Hence, from the above discussion and relying on the above judgements, I conclude that in the present case, the redemption fine in lieu of confiscation of the goods under Section 125 of the Customs Act, 1962 is required to be imposed.

(D) Whether acts of the importer attract penal action as proposed under Section 114A of the Customs Act, 1962.

19.1 I find that the SCN proposes penalty on the notice under section of 114A of the Customs Act, 1962. Provisions of Section 114A of the Customs Act, is re-produced herein below:-

“SECTION 114A. Penalty for short-levy or non-levy of duty in certain cases. – Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has 2 [****]been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under [sub-section (8) of section 28] shall also be liable to pay a penalty equal to the duty or interest so determined:

[Provided that where such duty or interest, as the case may be, 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 the 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 duty or interest, as the case may be, so determined:

19.2 Penalty under Section 114A can be imposed in cases where the duty has not been levied or has been short-levied by reason of collusion or any wilful mis-statement or suppression of facts. I find on the basis of the evidence and above discussions that the importer in the present case has wilfully mis-classified the goods whereas they were fully aware, for such act and omissions, I hold the importer liable to penalty under Section 114A of the Customs Act, 1962.

20. In view of the above facts of the case and findings on record, I pass the following order:-

ORDER

- i. I order to reject the declared classification of the impugned goods under CTH 29202930 under Bills of Entry as detailed in table-1 above and order to re-classify under CTH 29202990.
 - ii. I hold that the impugned goods having assessable value of Rs. 5,80,20,336/- (Rupees Five Crore Eighty Lakh Twenty Thousand Three Hundred and Thirty Six) Are liable for confiscation under Section 111(m) of the Customs Act, 1962. I impose redemption fine of **Rs. 5,80,203/-** Under Section 125(1) of the Customs Act, 1962, in lieu of confiscation.
 - iii. I confirm the demand of differential duty amounting to Rs.11,26,755/- (Rupees Eleven Lakh Twenty-Six Thousand Seven Hundred and Fifty-Five only) Under Section 28(4) of the Customs Act, 1962 and order to recover the same from the importer along-with applicable interest in terms of Section on 28AA of the Customs Act, 1962.
 - iv. I impose penalty of **Rs. 11,26,755/-** on M/s. Reliance Industries Limited under Section 114A of the Customs Act, 1962. However, in case the importer pays the duty along with interest within 30days of the communication of the order, the amount of penalty payable shall be twenty-five percent of the duty, as per proviso of Section 114A of the Customs Act, 1962.
21. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.
22. The Show Cause Notice No. GEN/ADJ/ADC/1395/2025-Adjn dated 21.03.2025 stands disposed in above terms.

Dipak Zala,
Additional Commissioner,
Custom House, Mundra

By Speed Post/Regd. Post/E-mail/Hand Delivery

To,

M/s. Reliance Industries Limited,
Village - Meghpar, Padana, Lalpur,

Jamnagar, Gujarat-361280.

Copy to:

- i. The DC/AC, RRA/EDI/Audit, Mundra Customs.
- ii. Guard file.