



मन्यमेव जयते

भारत सरकार/ Government of India  
वित्त मंत्रालय/ Ministry of Finance  
आयुक्त सीमा शुल्क एनएस-II का कार्यालय,  
केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन  
न्हावा शेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र 707 400-  
OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II  
CENTRALIZED ADJUDICATION CELL,  
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA  
SHEVA,  
DIST- RAIGAD, MAHARASHTRA-400707



F.No. : S/10-877/2024-25/ADC/LIC/NS-II/CAC/JNCH

F.No. : CUS/LIC/MISC/85/2025-LIC-O/o- Commr-Cus-NS-II

SCN No. 1697/2024-25/JC/LIC/NS-II/CAC/JNCH

आदेशकीतिथि(Date of Order) : 26.09.2025

जारी किए जाने की तिथि (Date of Issue): 26.09.2025

Order Passed by: डॉ. चितरंजन प्रकाश वाघ Dr. Chittaranjan Prakash Wagh  
अतिरिक्त आयुक्त, सीमा शुल्क Additional Commissioner of Customs,  
एनएस-II, जेएनसीएच. (NS-II), JNCH, NHAVA SHEVA

आदेशसंख्या 25-26/ 884 :/ADC/NS-II/CAC/JNCH

Order No. : 884 /25-26/ADC/NS-II/CAC/JNCH

DIN NO. : 20250978 NT 0000999591

Name of Party : M/s Matterhorn Chem Pharma Pvt. Ltd (IEC No.AAMCM3041L)

## मूल आदेश

### Order-In-Original

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।

1. This copy is granted free of charge for the use of the person to whom it is issued.

2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता.उरण, जिला - रायगढ़, महाराष्ट्र - 400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) (नियमावली, 1982 में संलग्न फॉर्म सी.ए1. में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इस की एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।

2. An appeal against this order lies with the Commissioner of Customs (Appeals), Jawaharlal Nehru Custom House, Nhava Sheva, Uran, Raigad under Section 128 (1) of the Custom Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA 1 appeared in Custom (Appeals) Rule, 1982. The appeal should bear a court fee stamp of ₹ 2.00 paisa paid only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a court fee stamp of ₹ 2.00 paisa only as prescribed under Schedule 1, item 6 of the Court Fees Act, 1870.

3. इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5%का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

3. Any person desirous of appealing against this decision or order shall, pending the appeal, make 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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**Sub: Adjudication of Show Cause Notice No. 1697/2024-25/JC/LIC/NS-II/CAC/JNCH dated 05.02.2025 issued to M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L).**

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### BRIEF FACT OF THE CASE

Alert Circular No. 07/2021 dated 26.07.2021 was issued by NCTC wherein it was observed that some exporters had availed wrong MEIS benefit @ 3% of FOB value by misclassifying the goods under CTH 29420090 instead of correct CTH 2901 to 2941 where MEIS benefit was @ 2% of FOB value. Accordingly, an audit of **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** (hereinafter referred to as the "Exporter") having address at 11-C-7, Moolji Nagar, S.V. Road, Building No.02, Sai Baba Nagar, Borivali West, Mumbai-400092 and currently address at 603 SANGAM JANAKI NARAYAN VILLA CHS LTD, CTS NO.1550 4A AND 1550 4B, CHEMBUR, GHATLA VILLAGE ROAD, MUMBAI, MAHARASHTRA, 400071 was conducted.

2. During the post-clearance audit, export data of **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** was scrutinized and it was noticed that they had filed Shipping bills as mentioned in Annexure-A to show cause notice for export of goods viz. "Tramadol Nitrate(2-((Dimethylamino) Methyl)-1-(Methoxyphenyl) Cyclohexanol Nitrate)" classifying them under CTH 29420090 of the first schedule of the Customs Tariff Act, 1975 which covers "OTHER ORGANIC COMPOUNDS; other;" claiming MEIS benefit @ 3% of FOB value. However, the said goods appeared to be correctly classifiable under tariff item CTH 29225090.

For ease of reference, the relevant headings are reproduced below:

Table-1

| Sr.No. | CTH      | Description of the goods as per first Schedule to the Customs Tariff Act, 1975.  |
|--------|----------|--|
| 1      | 29420090 | OTHER ORGANIC COMPOUND (Not classified elsewhere); Other; other  |
| 2      | 29225090 | OXYGEN-FUNCTION AMINO-COMPOUNDS<br>- Amino-alcohol, other than those containing more than one kind of oxygen function, their ethers and esters; salts thereof; |

### 3. Classification of exported goods.

For better understanding of the above relevant tariff headings, relevant chapter notes are reproduced as below:

**A) Custom Tariff Heading 2942 is reproduced as under:**

**2942 Other Organic Compound ( Not classified elsewhere) :This heading covers separate chemically defined organic compounds not classified elsewhere.**

1. Ketenes\*. Like ketones, these are characterised by a carbonyl group ( $>C=O$ ) but it is linked to the neighbouring carbon atom by a double bond (e.g., ketene, diphenylketene). This heading however excludes diketene which is a lactone of heading 29.32.
2. Boron trifluoride complexes with acetic acid, diethyl ether or phenol\*.
3. Dithymol di-iodide.

**294200 - Other organic compound:**

— Cefadroxil & its salts, Ibuprofane, Diazepam, Nifedipine, Ranitidine, Danes salt of D(-) Phenyl Glycine, D(-) para hydroxyl Dane's Salts:

29420090--- Other

**B) Custom Tariff Heading 2922 is reproduced as under:**

29.22-Oxygen-function amino-compounds.

- Amino-alcohols, other than those containing more than one kind of oxygen function, their ethers and esters; salts thereof:

2922.50-Amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen

Function

29225090---Other

*The term "oxygen-function amino-compounds" means amino-compounds which contain, in addition to an amine function, one or more of the oxygen functions defined in Note 4 to Chapter 29 (alcohol, ether, phenol, acetal, aldehyde, ketone, etc., functions), as well as their organic and inorganic acid eaters. This heading therefore covers amino-compounds which are substitution derivatives of amines containing oxygen functions of headings 29.05 to 29.20, and esters and salts thereof.*

**Classification of Goods as mentioned above:-**

**I. Tramadol Nitrate(2-((Dimethylamino) Methyl)-1-(Methoxyphenyl) Cyclohexanol Nitrate):-** It is a 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol in which both stereocenters have R-configuration; the (R,R)-enantiomer of the racemic opioid analgesic tramadol, it exhibits ten-fold higher analgesic potency than the (S,S)-enantiomer. It has a role as a delta-opioid receptor agonist, a kappa-opioid receptor agonist, a mu-opioid receptor agonist, an adrenergic uptake inhibitor, an antitussive, a capsaicin receptor antagonist, a muscarinic antagonist, a nicotinic antagonist, a NMDA receptor antagonist, an opioid analgesic, a serotonergic antagonist, a serotonin uptake inhibitor and a metabolite. It is a conjugate base of a (R,R)-tramadol(1+).

Further, from above it is evident that only those organic compounds which are not specified elsewhere can be classified under heading 2942. In the present case, as per chapter notes as discussed supra, the exported items, i.e. "Tramadol Nitrate(2-((Dimethylamino) Methyl)-1-(Methoxyphenyl) Cyclohexanol Nitrate)" would be out of the scope of Tariff

Heading 2942 as claimed by the exporter and appears to correctly classifiable under CTH 29225090 which attracts MEIS @ 2% instead of 3% as claimed by the exporter.

**4. EXPORT INCENTIVES UNDER DUTY CREDIT SCRIPS-MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS): -**

4.1 In terms of Chapter 3 of the Foreign Trade Policy (FTP) 2015-2020 exporters are issued duty credit scrips under two schemes for exports of Merchandise and Services namely (i) Merchandise Exports from India Scheme (MEIS) & (ii) Service Exports from India Scheme (SEIS) with an objective to provide rewards to the exporter to offset infrastructural inefficiencies and associated costs involved in export of goods/ products, which are produced/ manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

4.2 The Merchandise Exports from India Scheme (MEIS) provides benefits to exports of notified goods with the ITC (HS) code made to the notified markets, listed under Appendix 3B of the Hand book of Procedures (HBoP) in the form of Duty Credit Scrips. Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise]. The basis of calculation of reward would be FOB value of exports realized in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in free foreign exchange, whichever is less, unless otherwise specified.

4.3 Directorate General of Foreign Trade (DGFT), Ministry of Commerce vide Public Notice No. 61/2015-20 dated 07.03.2017 re-notifies the MEIS Schedule Appendix 3B (Table-2) harmonizing MEIS Schedule with ITC(HS), 2017. The MEIS entitlement as per Public Notice No. 61/2015-20 dated 07.03.2017 as amended, on the products classifiable under relevant HS Codes as per table-C is as under:

**Table-2**

| SrNo. | ITC(HS)Code2017<br>(Eight Digit) | Descriptions of<br>goods as per ITC(HS)2017 | MEISSr.No. | MEISReward Rate (In<br>%) |
|-------|----------------------------------|---|------------|---------------------------|
| 1.    | 29420090                         | Other                                       | 1633       | 3%                        |
| 2.    | 29225090                         | Other                                       | 1435       | 2%                        |

5. It appeared that the said exporter had not made correct and truthful declaration of the material facts in their shipping bills by misclassifying their goods and thereby claimed undue MEIS benefits @ 3%, instead of applicable 2%, amounting to **R s 6,26,650 /-** (**Rupees Six Lakh Twenty Six Thousand Six Hundred Fifty Only**) which were utilized for payment of customs duty towards the imports by them vide advised C. L. No. 175/2023-24/JNCH(A1) dt.03.05.2023.

6. From the Chapter notes, chapter headings and reasons as elaborated in foregoing paras, it appears that **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** have wilfully mis-stated the classifications of the subject goods exported by them and suppressed the actual classification in their export documents filed before the Customs authorities as well as DGFT with an intent to avail undue benefit of MEIS scheme and therefore the MEIS scrips obtained by them on the basis of such manipulated documents becomes invalid and it can be termed that they were obtained fraudulently. It

appears that **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** by resorting to such acts, have contravened various provisions of Customs Act, 1962.

7. Vide Finance Act, 2011 with effect from 08.04.2011 "Self-Assessment" has been introduced under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or the exporter by filing a bill of entry or shipping bill as the case may be, in the electronic form, as per Section 46 or 50 respectively. Thus, under self-assessment, it is the importer or exporter who will ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported/exported goods while presenting Bill of Entry or Shipping Bill. In the present case, **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** have deliberately contravened the above said provisions with an intention to wrongfully avail excess MEIS benefit fraudulently, which were legitimately due to them.

8. From the facts discussed in the foregoing paras, it appears that:

8.1 The exporter **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** had misclassified the goods declared as "**Tramadol Nitrate(2-(Dimethylamino) Methyl)-1-(Methoxyphenyl) Cyclohexanol Nitrate**" under CTH 29420090 instead of correct CTH 29225090. Accordingly, it appears that **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** had deliberately claimed wrong classification with intent to fraudulently avail the benefit of MEIS at higher rate of 3% instead of 2% of FOB value. Further, the undue benefits of MEIS availed and utilized by mis-classifying the said exported goods is required to be denied.

8.2 **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** presented a large number of shipping bills before DGFT to obtain MEIS License/Scrips. The duty credit/granted on such MEIS License/Scrips includes MEIS credit earned on correctly classifiable goods at appropriate eligible rates. However, it appears that **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** has deliberately mis-classified the export goods under CTH 29420090 in shipping bills having FOB value of **Rs. 6,26,65,000/- (Rupees Six Crore Twenty-Six Lakh Sixty-five Thousand only)** during the calendar year 2019 and 2020, as detailed in Annexure-B to the SCN appears to be recoverable as per section 28(4) and/or 28AAA of the Customs Act, 1962, as applicable.

9. It is evident that MEIS benefit, covered by Customs Notification No.24/2015-Customs dated 08/ 4/2015, as amended, is a custom duty exemption by way of debit through MEIS Scrips. The power to exempt would include within its ambit the power to demand duty in the event such exemption is wrongly claimed/mis-used. Since the MEIS Scrips/Licenses, have been obtained by **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** by mis-classification of the export goods as discussed in the foregoing paras, are therefore liable for suspension/ cancellation/ restriction. Hence the exemptions claimed by the importers are not admissible and duty at the appropriate rate is leviable on the imports to the extent of duty credit denied and same is required to be recovered from **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)**

10. **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** had contravened the provisions of Section 50(2) of the Customs Act, 1962 by willfully mis-declaring/misclassifying their export goods and intentionally claimed undue MEIS benefit which resulted in loss of government revenue of **Rs. 6,26,650 /- (Rupees Six Lakh Twenty Six Thousand Six Hundred Fifty Only)**. On culmination of the investigation, the subject

show cause notice was issued to **M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)**, calling upon them to show cause as to why:

(i) The declared classification of the subject goods "**Tramadol Nitrate(2-((Dimethylamino) Methyl)-1-(Methoxyphenyl) Cyclohexanol Nitrate)**" as mentioned in the shipping bills under CTH 29420090 should not be rejected and the subject goods should not be re-classified under CTH 29225090 of the first schedule to the Customs Tariff Act, 1975 and the said shipping bills should not be re-assessed.

(ii) The exported goods, having total declared FOB value **Rs. 6,26,65,000/-(Rupees Six Crore Twenty-Six Lakh Sixty-five Thousand only)** as mentioned in calculation sheet, should not be held liable to confiscated under section 113(i) of Customs Act, 1962 although the same are not available for confiscation.

(iii) Export benefit availed by the Exporter in terms of MEIS through shipping bills as detailed in Annexure-A for, **Rs. 6,26,650 /- (Rupees Six Lakh Twenty Six Thousand Six Hundred Fifty Only)** should not be recovered as per section 28(4) read with section 28AAA of the Customs Act, 1962 along with applicable interest under section 28AA of the Customs Act, 1962.

(iv) Penalty should not be imposed upon them under the provisions of sections 114(iii), 114AA & 114AB of the Customs Act, 1962.

### **Replies and Record of Personal Hearing**

11. In line with the principles of natural justice, A personal hearing Memo dated 29.07.2025 was issued to the Exporter at the address (i) 11-C-7, Moolji Nagar, S.V. Road, Building No.02, Sai Baba Nagar, Borivali West, Mumbai-400092 (as mentioned in SCN) (ii) 603 SANGAM JANAKI NARAYAN VILLA CHS LTD, CTS NO.1550 4A AND 1550 4B, CHEMBUR, GHATLA VILLAGE ROAD, MUMBAI, MAHARASHTRA, 400071 (as mentioned in IEC), for appearing on 08.08.2025 before adjudication authority for personal hearing in virtual mode in the subject matter.

11.1 In response to the said PH Memo dated 29.07.2025 which was issued to the Exporter at the address "11-C-7, Moolji Nagar, S.V. Road, Building No.02, Sai Baba Nagar, Borivali West, Mumbai-400092 (as mentioned in SCN)" was returned by the postal authority with the remark of "**Insufficient Address**"

11.2 In response to the said PH Memo dated 29.07.2025, which was issued to the Exporter at the address "603 SANGAM JANAKI NARAYAN VILLA CHS LTD, CTS NO.1550 4A AND 1550 4B, CHEMBUR, GHATLA VILLAGE ROAD, MUMBAI, MAHARASHTRA, 400071 (as mentioned in IEC)", the Exporter replied through E-mail ([matterhornchem.pharma2018@gmail.com](mailto:matterhornchem.pharma2018@gmail.com)) dated 05.08.2025 and informed that they have not received Show Cause Notice no. 1697/2024-25/JC/LIC/NS-II/CAC/JNCH dated 05.02.2025 and requested to provide the copy of said SCN dated 05.02.2025.

11.3 As requested by the Exporter, the scan copy of the said SCN dated 05.02.2025 was forwarded to the Exporter on 05.08.2025 at the same mail.

11.4 The Exporter vide mail dated 06.08.2025<sup>1</sup> and also letter dated 06.08.2025, address to ADC/CAC/NS-II/JNCH, informed that they have received the copy of said SCN dated 05.02.2025 on 05.08.2025 and requested to grant two or three weeks so that they have to reply against the said SCN dated 05.02.2025.

11.5 Considering the request of the Exporter, further a personal hearing Memo dated 26.08.2025 was issued to the Exporter with a request to appear before Adjudicating Authority for personal hearing on 02.09.2025. In response to this notice, shri Vinay Khatau, Director attended personal hearing on 02.09.2025 personally (physically as own wish) and stated that they are the Merchant exporters and not manufacturer. In view of the export order, they have purchase the goods exported from the manufacturer who had issued the invoices, specifying the classification of the goods under CTH 29420090 and accordingly they declared the goods under CTH 29420090 in the Shipping Bills. They have accepted the issue raised in SCN as they do not want any litigation and accordingly they have paid the Excess MEIS amount alongwith applicable interest and penalty(15%) within the 30 days of receipt of the SCN and submitted the same vide their written submission dated 01.09.2025. they requested to close the matter.

### WRITTEN SUBMISSION OF THE EXPORTER

12. The Exporter vide their written submission dated 01.09.2025 which was submitted at the time of Personal Hearing on 02.09.2025, submitted that they do not agree with the charges of contravention of any of the provisions leveled against them and the allegations of intentional mis-classification of the products and wrongly and ineligibly claiming excess MEIS benefit and they also disagree with the proposition of holding the goods liable for confiscation and differ from the proposal for imposing penalty on them. In support of their claim they are providing their detailed clarification in following paras :

- (i) They are Merchant Exporters and using the same HSN Code as mentioned in the Purchase Invoice of manufacture/ supplier of goods. Accordingly the burden of correct classification of the products under correct tariff is met at the manufacturer supplier's end and it is not on the merchant exporter. They also mentioned manufacture as Third Party in their shipping bills. They have submitted the Shipping Bills and Tax invoice for reference.
- (ii) The goods are supplied under concessional rate for Merchant Exporters as provided in the Notification No 41/2017-IGST (R) @ 0.10% GST and they have to follow the conditions stipulated in the circular. There is no dispute the goods were procured from manufacturer supplier under tax invoice duly classified. **It is also a matter of record that after the exports and receipt of foreign remittance, they have claimed export benefit by way of procuring MEIS License and the same have been duly sold in the market.**
- (iii) SCN Dispute that correct classification of goods is HSN 29225090 where MEIS is 2% while they have classified as HSN No 29420090 where MEIS rate is 3%.
- (iv) They have received PH notice on 29.07.2025 and not aware about the show cause notice. So they have requested to provide copy of show cause notice and first time they have received SCN on 05.08.2025.
- (v) As regards to the demand of excess MEIS benefit of Rs.6,26,650 / - so proposed under Section 28(4) and / or Section 28AAA of ibid along with interest and penalty, it is submitted that they are regular exporters and they do not intend to have any protracted litigation and not intend to retain any export benefit where there is either any doubt or dispute in the matter. To avoid the litigation and to avail the benefit of section 28(5) they have paid voluntarily the full amount of alleged excess MEIS benefit on the said three exports covered under three Shipping Bills so demanded under Section 28(4) and they intend to avail the benefit of Sec.28(5) and accordingly they have paid the full amount of disputed excess MEIS benefit of Rs,5,70,944 /- along with interest as per Section 28AA of

Rs.3,51,103/- along with 15% penalty of Rs.85,642/- within 30 days of receipt of SCN i.e 30<sup>th</sup> August 2025.the details as under:

| Challan no | Date of challan | Amount  | Documents No/Shipping Bill No | Date       |
|------------|-----------------|---------|-------------------------------|------------|
| 1029169821 | 30/08/2025      | 248322  | 1400453                       | 14/02/2020 |
| 1650780287 | 30/08/2025      | 349154  | 7243263                       | 16/12/2020 |
| 1172492496 | 30/08/2025      | 410213  | 6216817                       | 30/10/2020 |
| Total      |                 | 1007689 |                               |            |

The said payment should be considered as claiming of the option given under Section 28(5) and to conclude the matter as per Section 28(6) of ibid.

(vi) It is matter of record that the SCN has proposed recovery of alleged export benefit of Rs.6,26,650/- under Sec.28(4) quantifying the same as 1% of the FOB. However they have not claimed MEIS of that value but it is claimed on the value after deducting the insurance and commission and the correct value of MEIS license ( has to be considered for quantifying the excess MEIS benefit. For ready reference they have submitted a detailed Statement showing S/B wise export value, relevant MEIS License and the MEIS value and the excess MEIS benefit@1% alongwith interest liability thereon. They also submitted the MEIS License copy issued by the DGFT in the matter.

(vii) It would be observed that the excess MEIS benefit @ 1% of the MEIS License value is Rs. 5,70,944/- which stands paid as per Sec.28(5) alongwith applicable interest of Rs. 3,50,165/- and 15% penalty of Rs. 85,642/-and the present proceeding deserved to be concluded as per Sec.28(5) of ibid. The SCN was served upon them on 05.08.2025 and the payment has been made within 30 days of receipt of SCN and they have claimed the option of Sec. 28(4) and accordingly the SCN deserve to be concluded as per Sec.28(5) of Customs Act, 1962.

(viii) The Shipping bill 1545991 dated 20.02.2020 mentioned in SCN seems to be incorrect however other details mentioned against this Shipping Bill are correct, the correct shipping bill no. and date should be read as 7243263 dated 16.12.2020.

(x) The above facts also illustrates that there is no contravention on part of them as an exporter and there are no grounds or invoking Sec.113(i) read with Section 114(iii), 114AA & 114AB Of Customs Act, 1962 and the SCN should be withdrawn and /or concluded as submitted above. They request to accept the submission and close the proceeding.

### DISCUSSION AND FINDINGS

13. I have carefully gone through the entire records of the case and the case has been examined in the light of the evidences produced by the department, applicable laws/rules in the matter. I find that the subject Show Cause Notice was issued on 05.02.2025 under Section 124 read with Section 28(4) read with Section 28AAA of the Customs Act 1962 for alleged misclassification of goods. Further, in compliance to the provisions of Section 28(8) and Section 122(b) of the Customs Act, 1962 and in terms of the principles of natural justice, opportunities for Personal Hearing (PH) were granted to the Exporter. Thus, the principles of natural justice have been followed during the adjudication proceedings.



Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the allegations made in the SCN as well as the submissions / contentions made by the Exporter.

14. The main issues for consideration before me are as under:

i. whether the impugned export goods, i.e. **“Tramadol Nitrate(2-((Dimethylamino) Methyl)-1-(Methoxyphenyl) Cyclohexanol Nitrate)”** were misclassified by the Exporter under CTH 29420090 instead of correct CTH 29225090 as per the show cause notice.

ii. Whether the alleged mis-classification, if any, was done wilfully and deliberately with an intent to avail inadmissible MEIS benefits.

iii. whether the Exporter are liable for further consequential action under various sections of Customs Act, 1962 as detailed in the subject show cause notice.

iv. whether the Exporter have received show cause notice on 05.08.2025.

v. Whether the excess amount of MEIS benefit is Rs. 5,70,944/- instead of Rs. **6,26,650 /- so demanded in the said SCN dated 05.02.2025.**

vi. Whether the Shipping bill 1545991 dated 20.02.2020 mentioned in Annexure-A to the SCN is incorrect instead of correct Shipping Bill no. and date as 7243263 dated 16.12.2020.

15. Now, I consider the first, second and third issue. In this regard, I have carefully gone through the submission and statement of the Exporter at the time of Personal Hearing, I find that they are the Merchant exporters and not manufacturer. In view of the export order, they have purchase the goods exported from the manufacturer who had issued the invoices, specifying the classification of the goods under CTH 29420090 and accordingly they declared the goods under CTH 29420090 in the Shipping Bills. **However, They have accepted the issue raised in SCN as they do not want any litigation and accordingly they have paid the Excess MEIS amount alongwith applicable interest and penalty(15%) within the 30 days of receipt of the SCN and submitted the same vide their written submission dated 01.09.2025.**

16. Now, the next issue before me is whether the Exporter have received show cause notice on 05.08.2025. In this regard, I have carefully gone through the submission and reply of the Exporter and records of the case which are as below:

16.1 The subject SCN dated 05.02.2025 was issued to the notice and served at address 11-C-7, Moolji Nagar, S.V. Road, Building No.02, Sai Baba Nagar, Borivali West, Mumbai-400092 as mentioned in the said SCN and same has been verified with License section.

16.2 The noticee in their submission dated 01.09.2025 submitted the receipt of Ministry of Corporate Affairs alongwith Form No. INC-22 for notice of situation or change of situation of registered office i.e. changed their office address as **“603 SANGAM JANAKI NARAYAN VILLA CHS LTD, CTS NO.1550 4A AND 1550 4B, CHEMBUR, GHATLA VILLAGE ROAD, MUMBAI , MAHARASHTRA, 400071”**. The date of this address changes is 28..08.2024 w.e.f. 29.08.2024.

16.3 On enquired with official site of DGFT for IEC verification, the Address of the said IEC- AAMCM3041L is found as **“603 SANGAM JANAKI NARAYAN VILLA CHS**

LTD, CTS NO.1550 4A AND 1550 4B, CHEMBUR, GHATLA VILLAGE ROAD, MUMBAI, MAHARASHTRA, 400071”.

16.4 A personal hearing Memo dated 29.07.2025 was issued to the Exporter at the address “11-C-7,Moolji Nagar, S.V. Road, Building No.02, Sai Baba Nagar,Borivali West, Mumbai-400092(as mentioned in SCN)”. The said PH Memo dated 29.07.2025 was returned by the postal authority with the remark of “**Insufficient Address**”.

16.5 The same PH Memo dated 29.07.2025 was also issued to the Exporter at the address “603 SANGAM JANAKI NARAYAN VILLA CHS LTD, CTS NO.1550 4A AND 1550 4B, CHEMBUR, GHATLA VILLAGE ROAD, MUMBAI, MAHARASHTRA, 400071(as mentioned in IEC)”. In response to the said PH Memo, the Exporter replied through E-mail([matterhornchem.pharma2018@gmail.com](mailto:matterhornchem.pharma2018@gmail.com)) dated 05.08.2025 and informed that they have not received Show Cause Notice no. 1697/2024-25/JC/LIC/NS-II/CAC/JNCH dated 05.02.2025 and requested to provide the copy of said SCN dated 05.02.2025.

16.6 As requested by the Exporter, the scan copy of the said SCN dated 05.02.2025 was forwarded to the Exporter on 05.08.2025 at the same mail. The Exporter vide mail dated 06.08.2025 and also letter dated 06.08.2025, address to ADC/CAC/NS-II/JNCH, informed that they have received the copy of said SCN dated 05.02.2025 on 05.08.2025.

In view of the above facts and evidences, I find that the Exporter has been changed their office address at “603 SANGAM JANAKI NARAYAN VILLA CHS LTD, CTS NO.1550 4A AND 1550 4B, CHEMBUR, GHATLA VILLAGE ROAD, MUMBAI, MAHARASHTRA, 400071” from the date 28.08.2024 and same has been updated with DGFT in their IEC address. The SCN dated 05.02.2025 was served to the Exporter at the address “11-C-7,Moolji Nagar, S.V. Road, Building No.02, Sai Baba Nagar,Borivali West, Mumbai-400092(as mentioned in SCN)” which was not received to them. Further the PH Memo dated 29.07.2025 also served to the same address which was returned by the postal authority with the remark of “**Insufficient Address**”. Hence, it is pertinent to say that the Exporter had changed their address before issued the SCN and appears that the said SCN dated 05.02.2025 was not received by the Exporter **and the same has been received on 05.08.2025 through mail. Therefore, I find that, the Exporter has received the said SCN dated 05.02.2025 on 05.08.2025.**

17. Now, the next issue before me is Whether the excess amount of MEIS benefit is Rs. 5,70,944/- instead of Rs. 6,26,650 /- so demanded in the said SCN dated 05.02.2025. In this regard, I have carefully gone through the submission of the Exporter and the facts are as below:

17.1 The excess amount of MEIS benefit of Rs. 6,26,650/-(1% of the FOB) was demanded in the said SCN dated 05.02.2025 against the three Shipping Bills, mentioned in the Annexure-A to the said SCN.

17.2 The Exporter vide their submission dated 01.09.2025 has submitted that they have issued Two MEIS License and they have claimed MEIS on the value after deducting the insurance and commission and the correct value of MEIS license has to be considered for quantifying the excess MEIS benefit. For ready reference they have submitted EDI copy of all Shipping Bills, relevant copy of MEIS License issued by the DGFT and copy of ANF-3A issued to the Exporter by DGFT. The details as tabulated below:

| MEIS | Date | of | FOB Value (in Rs.) | Duty | Shipping Bill/date | port | Realised | MEIS |
|------|------|----|--------------------|------|--------------------|------|----------|------|
|------|------|----|--------------------|------|--------------------|------|----------|------|

| License No. | issue      | (declared in MEIS Lic.) | Credit(in Rs.) |                    |        | FOB(in Rs.) | amount (in Rs.) 3% of FOB |
|-------------|------------|-------------------------|----------------|--------------------|--------|-------------|---------------------------|
| 0319342705  | 24.11.2021 | 54,436,881              | 1633105        | 5164683/14.09.2020 | INBOB4 | 10192484    | 305774                    |
|             |            |                         |                | 6216817/30.10.2020 | INNSAI | 23900992    | 717029                    |
|             |            |                         |                | 7243263/16.12.2020 | INNSAI | 20343405    | 610302                    |
| Total       |            | 54436881                | 1633105        |                    |        | 54436881    | 1633105                   |
| 0319289401  | 16.06.2020 | 21,462,040              | 643860         | 1400453/14.02.2020 | INNSAI | 12849994    | 385499                    |
|             |            |                         |                | 9357862/31.12.2019 | INHVD4 | 8612046     | 258361                    |
| Total       |            | 21462040                | 643860         |                    |        | 21462040    | 643860                    |

17.3 For better understanding of the above the details are tabulated below for the Shipping Bills pertains to INNSAI as mentioned in Annexure-A to the SCN:

| SB/date            | Declared FOB (in Rs.) as per SB | MEIS License No.      | Realised FOB for claiming MEIS (Rs.) | Amount of MEIS claimed (3% of Realised FOB) | Actual MEIS to be claimed (2% of Realised FOB) | Excess MEIS claimed to be paid |
|--------------------|---------------------------------|-----------------------|--------------------------------------|---|--|--------------------------------|
| 6216817/30.10.2020 | 26300000                        | 0319342705/24.11.2021 | 23900992                             | 717030                                      | 478020   | 239010                         |
| 7243263/16.12.2020 | 22465000                        | 0319342705/24.11.2021 | 20343405                             | 610302                                      | 406868   | 203434                         |
| 1400453/14.02.2020 | 13900000                        | 0319289401/16.06.2020 | 12849994                             | 385500                                      | 257000   | 128500                         |
| Total              | 62665000                        |                       | 57094391                             | 1712832                                     | 1141888  | 570944                         |

In view of the facts and evidence above the exporter has claimed MEIS on the value after deducting the insurance and commission from declared FOB in the said SBs and the correct value of MEIS license has to be considered for quantifying the MEIS benefit. Therefore, the actual amount of excess MEIS benefit is **Rs. 570944/- (Five Lakh Seventy Thousand Nine Hundred and Forty Four Only)**.

18. Now, the next issue before me is Whether the Shipping bill 1545991 dated 20.02.2020 mentioned in Annexure-A to the SCN is incorrect instead of correct Shipping Bill no. and date as 7243263 dated 16.12.2020. In this regard, the said Shipping Bill No. 1545991 dated 20.02.2020 verified with 1.5 ICES System and found that the said shipping bill does not pertain to the M/s. Matterhorn Chem Pharma Pvt. Ltd.

In view of above, I found that the other details like Description of the goods, FOB value, CTH etc. mentioned against this Shipping Bill are correct, only Shipping Bill no. and date are wrongly mentioned in the Annexure-A. The correct Shipping Bill No. and date as 7243263 dated 16.12.2020

19. I find that 28(6) of the Customs Act, 1962, reads as under:

**Section 28(6):** "Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) ...

19.1 Further, as per section 28(5) of the Customs Act, 1962, the noticee may pay the duty in full or in part, as may be accepted by him, alongwith interest under section 28AA and penalty equal to 15% of the duty specified in the notice, within 30 days of the receipt of the notice. I find that the Noticee has paid the full amount of dispute Excess MEIS benefit of Rs. 5,70,944/- (Five Lakh Seventy Thousand Nine Hundred and Forty Four Only) alongwith applicable interest of Rs.3,51,103/- and penalty (@ 15%) of Rs. 85,642/- vide e- challan no. 1029169821, 1650780287 and 1172492496 all have dated 30.08.2025 i.e. within 30 days of receipt of SCN (receipt on 05.08.2025). The payment details tabulated as below:

| SB No./date        | MEIS License/date     | Excess MEIS amt | Interest up to 30.08.2025 | Penalty @15% | Total   | Challan no/date       |
|--------------------|-----------------------|-----------------|---------------------------|--------------|---------|-----------------------|
| 1400453/14/02/2020 | 0319289401/16.06.2020 | 128500          | 100547                    | 19275        | 248322  | 1029169821/30.08.2025 |
| 7243263/16/12/2020 | 0319342705/24.11.2021 | 203434          | 115205                    | 30515        | 349154  | 1650780287/30.08.2025 |
| 6216817/30/10/2020 | 0319342705/24.11.2021 | 239010          | 135351                    | 35852        | 410213  | 1172492496/30.08.2025 |
| Total              |                       | 570944          | 351103                    | 85642        | 1007689 |                       |

The above challans have been verified with ICEGATE PORTAL online.

19.2 With regard to payment of interest under Section 28AA of the Customs Act, 1962, sub-Section 2 of Section 28AAA(2), provides that "Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28AA and the amount of such interest shall be calculated for the period beginning from the date of utilisation of the instrument till the date of recovery of such duty".

The interest has been verified with Cash Section, JNCH for genuineness of the interest amount and I find that the noticee has paid the applicable interest on the excess MEIS benefit amount on date 30.08.2025 i.e. at the time of payment of Excess MEIS benefit amount within 30 days of receipt of SCN (receipt on 05.08.2025).

Hence, I hold that the proviso of Section 28(6) of the Customs Act, 1962 is squarely applicable in the instant matter and the matter shall be deemed as concluded.

20. I find that the SCN proposes for confiscation of the impugned goods under section 113(i) of the Customs Act, 1962. In this regard, from the facts discussed in the SCN and case records, it is established that the noticee had mis-classified their export goods and availed inadmissible MEIS benefits. Therefore, I hold that the impugned goods are liable to confiscation under section 113(i) of the Customs Act, 1962.

21. However, with regard to imposition of redemption fine under section 125 of the Customs Act, 1962, I have gone through Section 125, of the Customs Act which provides for option to pay fine in lieu of confiscation Section 125 of Customs Act reads as-

*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:*

*Provided that where the proceedings are deemed to be concluded under proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of goods which are not prohibited or restricted, no such fine shall be imposed.*

22. Since the matter is being concluded in terms of sub-section (6) of section 28 of the Customs Act, 1962, I find that the law provides that no fine, in lieu of confiscation of the goods, is imposable under section 125 of the Customs Act, 1962.

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

#### ORDER

(i) I order conclusion of the proceeding in respect of the subject Show Cause Notice No. 1697/2024-25/JC/LIC/NS-II/CAC/JNCH dated 05.02.2025 against M/s **Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)**, in terms of sub section (6) of section 28 of the Customs Act 1962.

(ii) I order to appropriate recovery made by way of voluntary payment by M/s **Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)** against the duty, interest and penalty.

24. This order is issued without prejudice to any other action that may be taken against the noticee(s) or against any other person(s)/ Entities concerned, under the Customs Act, 1962, and/or under any other law for the time being in force in India.

(Dr. Chittaranjan Prakash Wagh)

Digitally signed by Addl. Commissioner of Customs  
Wagh Chittaranjan Prakash  
Date: 26-09-2025 15:48:24. JNCH, Nhava Sheva.

To,

M/s. Matterhorn Chem Pharma Pvt. Ltd (IEC No. AAMCM3041L)  
603 SANGAM JANAKI NARAYAN VILLA CHS LTD,  
CTS NO.1550 4A AND 1550 4B,CHEMBUR,GHATLA  
VILLAGE ROAD,MUMBAI , MAHARASHTRA, 400071 *EM9869054731N*

Copy to :

1. The Commissioner of Customs, NS-II, JNCH, Zone-II.
2. The Addl. Director General of Foreign Trade, CGO Office, Churchgate, Mumbai-400020. *EM9869054731N*
3. The Asst./Deputy Commissioner of Customs, Audit(Circle- A1), JNCH.
4. The Asst./Deputy Commissioner of Customs, CRRC, JNCH.
5. The Asst./Deputy Commissioner of Customs, Review Cell
6. The Asst./Deputy Commissioner of Customs, License Section/NS-II,JNCH.
7. The Asst./Deputy Commissioner of Customs, CEAC
8. The Asst./Deputy Commissioner of Customs,EDI, JNCH for uploading on website
9. CHS Section for display on notice board.
10. Master File

उप आयुक्त सीमाशुल्क / Commissioner of Customs  
सी.एच.एस. अनुभाग  
C.H.S. SECTION  
29 SEP 2025  
जवाहरलाल नेहरू सीमाशुल्क भवन, न्हावा शेवा  
Jawaharlal Nehru Custom House, Nhava Sheva

RECEIVED  
CRAC.(EXPORT) SECTION  
29 SEP 2025  
JAWAHARLAL NEHRU CUSTOM HOUSE  
NHAVA SHEVA, TAL.URAN,  
DIST. RAIGAD, MAHARASHTRA-400 707.

*Jan*  
29/09/2025  
TA License

प्राप्त किया/ RECEIVED  
केंद्रीय राजस्व वसूली कक्ष  
CENTRAL REVEUE RECOVERY CELL  
29 SEP 2025  
जवाहरलाल नेहरू सीमाशुल्क भवन, न्हावा शेवा  
Jawaharlal Nehru Custom House, Nhava Sheva  
ता.उरण-Tal.Uran, जिला रायगड-Dist. Raigad-400707.

आयुक्त/उप आयुक्त, सीमाशुल्क  
COMMISSIONER OF CUSTOMS  
सी.सी.ए. अनुभाग/PCA SECTION  
Circle:-  
26 SEP 2025  
जवाहरलाल नेहरू सीमाशुल्क भवन, न्हावा शेवा, मुंबई-II  
Jawaharlal Nehru Custom House, Nhava Sheva, Mumbai-II  
क्र. संख्या/ Sr. No.....

सी.ई.ए.सी./C.E.A.C.  
प्राप्त किया/ RECEIVED  
03.10.2025  
जवाहरलाल नेहरू सीमाशुल्क भवन, मुंबई-II  
Jawaharlal Nehru Custom House, Mumbai-II