

आयुक्त सीमाशुल्क का कार्यालय (एन.एस-1)
Office of the Commissioner of Custom (NS-I),
जवाहरलालनेहरूसीमाशुल्क भवन, न्हावा-शेवा
Jawaharlal Nehru Custom House, Nhava-Sheva
ता.- उरण, जिला- रायगड, महाराष्ट्र-400707/
Tal-Uran, District-Raigad, Maharashtra - 400 707.

Date of order: 01.09.2025
Date of issue: 01.09.2025

S/110 Adj-27/2025-26/Gr II (C-F)

DIN: 20250978NW000000B5CC

Passed by: Jay G Waghmare
Joint Commissioner of Customs (NS-I),
Gr. 2 (C-F), JNCH, Nhava Sheva.

Order No. 744 (L)/2025-26/JC/Gr II C-F/NS-I/CAC/JNCH
Name of Party/Noticee/Importer: M/s. Raj Agritech (IEC: 1105002993)

मूलआदेश

- यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।
- 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 - रायगड, महाराष्ट्र -400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए. 1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 1.50 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 1.50 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1970 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
- इस निर्णय या आदेश के विरुद्ध अपील करनेवाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर मांगे गये शुल्क के 7.5%का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

- This copy is granted free of charge for the use of the person to whom it is issued.
- An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Sheva, Tal :Uran, Dist : Raigad, Maharashtra - 400707 under section 128(1) of the Customs 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 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.1.50 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 Rs. 1.50 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1970.
- 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.

Brief facts of the case

M/s. Raj Agritech (IEC: 1105002993) having registered address at A-45, First Floor, New Siyaganj, Pathar Gowdown Road, Indore-452003, (hereinafter referred to as 'the importer') through their Customs Broker, M/s. Micro Clearing Agency filed Bill of Entry No. 2059411 dated 15.05.2025 (hereinafter referred to as 'subject Bill of Entry') for import of goods declared as "POWHUMUS/Potassium Humate, Organic Manure (For Agriculture use)" from Germany.

2. Details of Bill of Entry No. 2059411 dated 15.05.2025 was verified in the ICES and found as following: -

Table-I

Sr No	Description	Particulars
1	Bill of Entry No & date	2059411 dated 15.05.2025
2	Importer	M/s. Raj Agritech
3	CHA	M/s. Micro Clearing Agency
4	IGM No	1133814 dated 21.04.2025
5	Declared description of the goods along with CTH	POWHUMUS/Potassium Humate, Organic Manure (For Agriculture use) (Declared CTH: 38249900)
6	Invoice Value	EUR 18560/-
7	Assessable Value	Rs. 20,26,518/-
8	Duty	Rs 5,62,055/-
9	Country of Origin	Germany

3. The goods having description POWHUMUS/Potassium Humate, Organic Manure (For Agriculture use) imported vide Bill of Entry No. 2059411 dated 15.05.2025 was classified under CTI -38249900 with 7.5% BCD however the same appears to classifiable under CTH 38089340 as Plant Growth Regulator with 10% BCD. The Potassium Humate is used as a soil conditioner to improve soil structure, nutrient availability, and overall plant health. Therefore, these goods are correctly classifiable under plant growth regulator i.e. 38089340.

4. During the clearance of goods at RMS section, it was observed that "POWHUMUS/Potassium Humate, Organic Manure (For Agriculture use)" is a bio stimulant and should have registration of department of Fertilizer, as per Section 20C (7) of the Fertilizer (Inorganic, organic or Mixed) (Control) order, 1985. The relevant Section is reproduced as under:

"No person shall manufacture or import of Bio stimulant, unless such Bio stimulant is notified by the Central Government in Schedule VI."

On perusal of the chemical composition of the impugned goods as mentioned in the Certificate of Analysis dated 18.03.2025 uploaded in the e-sanchit, it is not clear whether the goods are notified by the Central Government under Schedule VI or not.

5. It is further observed that vide Gazette notification No. 50 882(E) dated 23.02.2021 issued by Ministry of Agriculture, certain conditions were laid down at point no 3 sub-heading (5) wherein manufacturer/importer was required to submit an application to the controller for grant of provisional registration in form G-1 along with (a) details of the product, its specification, label and such other particulars as may be required and (b) manufacturer needs G-2 certificate issued by the state government for clearance of the bio-stimulant. Although, as on date no proof of submission of Form G to appropriate prescribed authority has been brought on record by the Importer.

6. As the importer have not produced mandatory certificates at the time of clearance, it is observed that they violated the conditions laid down in Gazette notification dated 23.02.2021 by Ministry of Agriculture for import of Bio-stimulant. Therefore, it appears that the importer misclassified the goods to circumvent the applicability of the mandatory requirement of the FCO, 1985, rendering the goods liable to confiscation under section 111(d) and Section 111(m) of Customs Act, 1962 and importer is also liable for penal action under section 112 (a) (i) of the Customs Act, 1962.

Legal provisions relevant to the instant case are:

7. Fertilizer Control Order 1985:

Considering the Order dated 23.02.2021, the relevant provisions of the Fertilizer (inorganic, organic or mixed) Control Order (FCO), 1985 as amended from time to time is reproduced below:

7.1 "Clause 2 (kk) – Definition of Importer

"Importer" means a person who imports fertilizer in accordance with the Export and Import Policy of the Central Government, as amended from time to time.

7.2 "Clause 2(ab) 'bio stimulant' means a substance or microorganism or a combination of both whose primary function when applied to plants, seeds or rhizosphere is to stimulate physiological processes in plants and to enhance

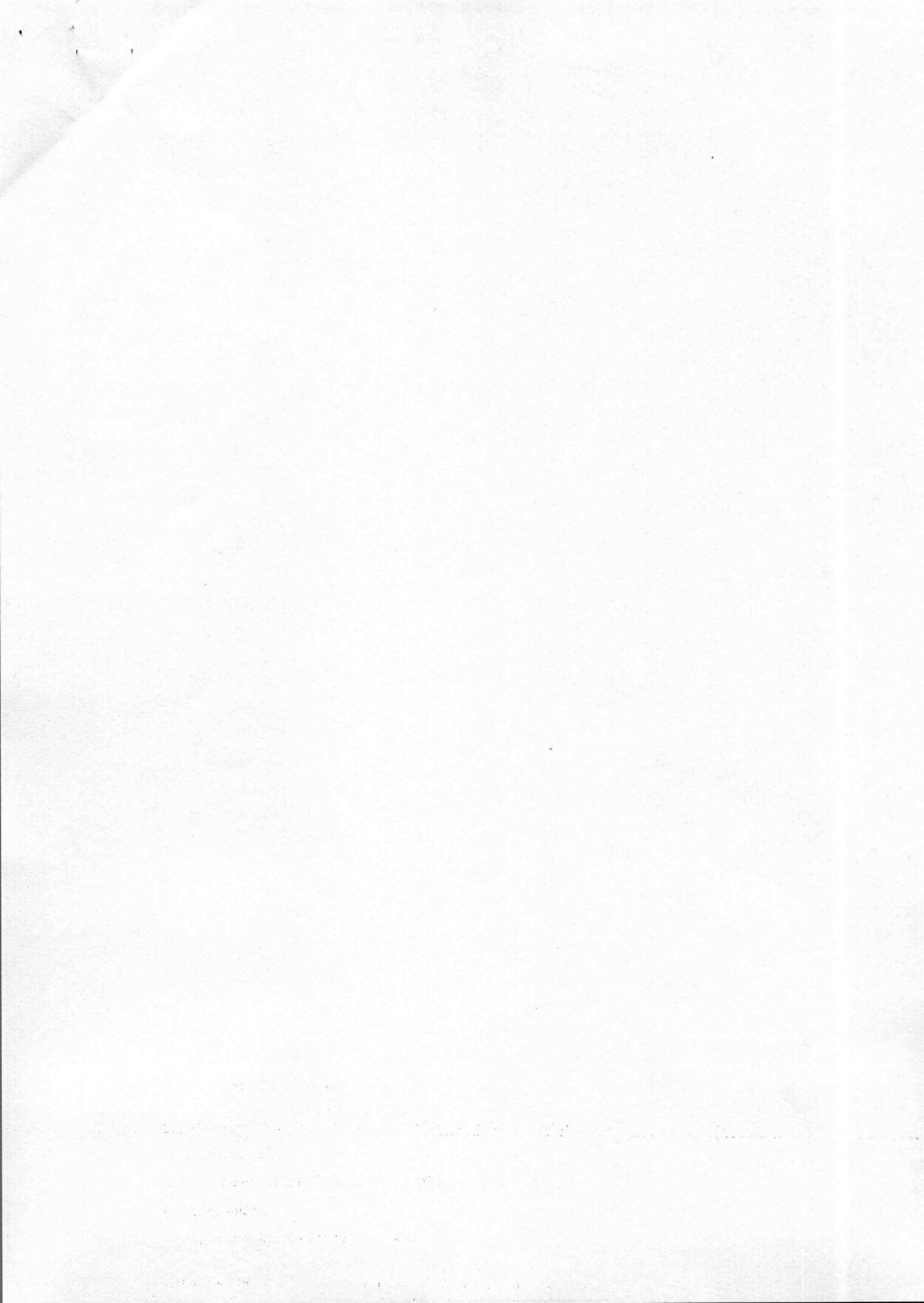
its nutrient uptake, growth, yield, nutrition efficiency, crop quality and tolerance to stress, regardless of its nutrient content, but does not include pesticides or plant growth regulators which are regulated under the Insecticide Act, 1968 (46 of 1968);"

7.3 Clause 20C. Specifications in respect of bio-stimulants-

(1) Notwithstanding anything contained in this Order, the specifications of bio-stimulants, including its name, active ingredients or where it is not possible to indicate its active ingredients, then its chemical composition, name of the crop to which it may be applied, its benefits and the method of analysis for determination of its active ingredients or chemical composition shall be specified by the Central Government in Schedule VI.

(2) The bio-stimulants specified in Schedule VI shall be classified under any of the following categories, namely:-

- (a) botanical extracts, including seaweed extracts;
- (b) bio-chemicals;
- (c) protein hydrolysates and amino acids;



- (d) vitamins;
 - (e) cell free microbial products;
 - (f) antioxidants;
 - (g) anti-transpirants;
 - (h) humic and fulvic acid and their derivatives
- (3) Notwithstanding anything contained in the order every manufacturer or importer of the biostimulant shall make an application to the Controller in form G along with the required data.
- (4) Notwithstanding anything contained in this order, any person manufacturing/ importing, a biostimulant as on the date of publication of this order for which no standards have been specified, may, subject to making an application for grant of provisional registration under sub-clause (5), continue to manufacture for sale, sell, offer for sale, stock or exhibit such biostimulant for a period of two years from the date of publication of this order.
- (5) The manufacturer/ importer referred to in sub-clause (4) shall, within a period of six months from the date of publication of this order, submit an application to the Controller for grant of provisional registration in Form G-1 along with-
- (a) details of the product, its specifications, label and such other particulars as may be required;
 - (b) a certificate issued by the State Government in Form G-2 to the effect that-
 - (i) the product is available in the market prior to the publication of the said order; and
 - (ii) no incident has come to its notice about harmful effect of the product.
- (6) On receipt of an application under sub-clause (5) for provisional registration, the Controller shall, by an order in writing, grant a provisional certificate of registration of biostimulant in Form G-3.
- (7) No person shall manufacture or import any biostimulant unless such biostimulant is notified by the Central Government in Schedule VI.

8. Customs Act, 1962

The relevant provisions of law relating to import and valuation of goods in general, the Policy and Rules relating to imports, the liability of the goods to confiscation and the persons concerned are liable to penalty for illegal importation under the provisions of the Customs Act, 1962 and the other laws for the time being in force are summarized as below: -

8.1. SECTION 2: Definitions: -

- (33) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

8.2. SECTION 46: Entry of goods on importation: -

46(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 documents supporting it; and
- (c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under other law for the time being in force

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

111 (d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

8.4. SECTION 112. 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

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

8.5. SECTION 114AA: Penalty for use of false and incorrect material.

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

8.6 Section 125:- Option to pay fine in lieu of confiscation :-

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, without prejudice to the provisions of the proviso to sub-section (2)

of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon. 2[(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1) the owner of such goods or the person referred to in sub-section (1) shall, in addition, be liable to any duty and charges payable in respect of such goods.]

9 Foreign Trade (Development & Regulation) Act, 1992:

As per Section 11 of the Foreign Trade (Development and Regulation) Act, 1992, as amended in 2010, which states that, no export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made there-under and the Foreign Trade Policy for the time being in force. Further, as per Rule 11 of the Foreign Trade (Regulation) Rules, 1993 on the importation into India, the owner of such goods shall in the bill of entry or any other document prescribed under the Customs Act, 1962, state the value, quality and description of such goods to the best of his knowledge and belief and shall subscribe a declaration of the truth of such statement at the foot of such bill of entry or any other documents. As per Rule 14 of the Foreign Trade (Regulation) Rules, 1993, no person shall make, sign or use or cause to be made, signed or used any declaration, statement or document for the purposes of importing any goods knowing or having reason to believe that such declaration, statement or document is false in any material particular.

10. **Classification of Goods:** - The goods having description POWHUMUS/Potassium Humate, Organic Manure (For Agriculture use) imported vide Bill of Entry No. 2059411 dated 15.05.2025 was classified under CTI -38249900 with 7.5% BCD, however the same appears to classifiable under CTH 38089340 as Plant Growth Regulator with 10% BCD. The Potassium Humate is used as a soil conditioner to improve soil structure, nutrient availability, and overall plant health. Therefore, these goods are correctly classified under plant growth regulator i.e. 38089340.

11. In view of above, as the importer have not produced mandatory certificates at the time of clearance, it is observed that they violated the conditions laid down in Gazette notification dated 23.02.2021 by Ministry of Agriculture for import of Bio-stimulant. Therefore, it appears that the importer misclassified the goods to circumvent the applicability of the mandatory requirement of the FCO, 1985 and violates the provisions of Customs Act 1962, impugned goods are 'prohibited goods' under Section 2 (33) of the Customs Act, 1962, and are liable for confiscation under section 111 (d) and 111(m) of the Customs Act 1962.

12. Therefore, in exercise of the powers conferred by Section 124 of the Customs Act, 1962, the M/s. Raj Agritech (IEC: 1105002993) having address at A-45, First Floor, New Siyaganj, Pathar Gowdown Road, Indore-452003 was called upon vide Show Cause Number 392(L)/2025-26/JC/Gr.II (C-F)/NS-I/CAC/JNCH to Show Cause to the Joint Commissioner of Customs, Group II(C-F), N.S-I, JNCH, Nhava-Sheva, Taluka-Uran, District-Raigad, Maharashtra-400707 within 30 days of the receipt of this notice as to why:

- i. The impugned goods imported vide Bill of Entry No. 2059411 dated 15.05.2025 for import of goods declared as having assessable value of the goods is Rs. 20,26,518/- should not be confiscated under section 111(d) and 111(m) of the Customs Act, 1962.

- ii. The goods having description as "Potassium Humate First Grade Powder" and "Potassium Humate Granular" and covered under Bills of Entry 2059411 dated 15.05.2025 should not be re-assessed under Section 17 of the Customs Act, 1962, by correctly classifying them under CTI 38089340, as stated above.
- iii. Penalty should not be imposed on them under section 112(a) and/ or 114AA of the Customs Act, 1962.

PERSONAL HEARING & WRITTEN SUBMISSION

13. The importer vide letters dated 29.07.2025 and 26.08.2025 has submitted their written submissions as under:

1. The imported material is a processed organic chemical preparation derived from lignite/leonardite, used as a raw material in the manufacture of bio-stimulant formulations, and is not a finished product intended for direct use on crops.
2. The product functions as a soil conditioner and organic carbon source, enhancing soil structure, nutrient uptake, and root health. It does not act through hormonal modulation, nor does it produce direct effects on plant physiological processes such as dormancy breaking, flowering, or cell elongation — effects which are characteristic of plant growth regulators under CTH 38089340.
3. The imported material is a raw material used in our manufacturing process for the manufacture of bio-stimulant formulations under the brand "ZOR", and also we are holders of a valid Form G-3 Certificate of Provisional Registration. This further substantiates that the imported goods are raw materials used in an authorized domestic manufacturing process.
4. We further submit that we hold a valid Form G-3 Certificate of Provisional Registration, issued on 12th December 2022, for the "manufacture and marketing of bio-stimulant formulations under our registered brand "ZOR – Humic Acid 1.5% (Granules)", in accordance with Clause 20C of the Fertiliser (Control) Order, 1985.
5. As per First amendment Notification S.O.795(E) dated 20th February 2024, issued by the Ministry of Agriculture and Farmers Welfare, the Government extended the timeline for provisional registration of bio-stimulants beyond the initial cut-off, thereby allowing manufacturers and importers to operate under Form G-3 on a provisional basis till 22nd day February, 2025.
6. Further, the Second Amendment S.O. 1236(E) dated 17th March 2025 extended the applicability of these provisions up to 16th June 2025, thus covering the registration issued to us in December 2022.

7. Therefore, our operations and classification are compliant with the applicable regulatory framework, and the goods imported are clearly input raw materials for manufacturing approved bio-stimulant formulations under valid registration.

They have submitted that they don't want personal hearing because already so much time has been passed and they need the goods for further processing as soon as possible and to decide the case on merit basis.

DISCUSSION AND FINDINGS

14. I have carefully gone through the facts of the case and submission made by the Importer.
15. I have carefully gone through the facts of the case and find that the fundamental issue to be decided in the matter is whether impugned/bonafide cargo is liable for confiscation and the importer is liable for penalty.
16. I find that the importer hold a valid Form G-3 Certificate of Provisional Registration, issued on 12th December 2022, for the manufacture and marketing of bio-stimulant formulations under our registered brand "ZOR – Humic Acid 1.5% (Granules)", in accordance with Clause 20C of the Fertiliser (Control) Order, 1985. Further, as per First amendment Notification S.O795(E) dated 20th February 2024, issued by the Ministry of Agriculture and Farmers Welfare, the Government extended the timeline for provisional registration of bio-stimulants beyond the initial cut-off, thereby allowing manufacturers and importers to operate under Form G-3 on a provisional basis till 22nd day February, 2025. Further, the Second Amendment S.O. 1236(E) dated 17th March 2025 extended the applicability of these provisions up to 16th June 2025, thus covering the registration issued to the importer in December 2022. Hence, the Bill of Entry No. 2059411 dated 15.05.2025 is duly covered under the Form G-3 Certificate Registration Number BSC-43/5/357/2022 dated 12 December, 2022.
17. I find that the importer had submitted the required documents i.e. valid Form G-3 certificate from Ministry of Agriculture and Farmers Welfare, Department of Agriculture and Farmers Welfare, Krishi Bhavan, New Delhi, for manufacture or import the bio-stimulants under sub-clause (6) of clause 20 C of the Fertiliser (Inorganic, Organic or Mixed)(Control) Order, 1985, which was not produced at earlier stage. In view of the above, confiscation of the goods under section 111(d) has to be dropped because there is no prohibition regarding importability of goods, as the importer has a valid Form G-3 Certificate.
18. I find that the goods having description POWHUMUS/Potassium Humate, Organic Manure (For Agriculture use)' imported vide Bill of Entry No. 2059411 dated 15.05.2025 were classified under CTI -38249900 with 7.5% BCD, however the same appears to be classifiable under CTH 38089340 as Plant Growth Regulator with 10% BCD. The Potassium Humate is used as a soil conditioner to improve soil structure, nutrient availability, and overall plant health. Therefore, these goods are correctly classified under plant growth regulator i.e. 38089340.
19. I find 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. Section 46 of the Customs Act, 1962 makes it mandatory for the importer to make entry for the imported goods by presenting a Bill of Entry electronically to the proper officer. 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, notification, compliances etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. I find that in the subject case, the importer M/s. Raj Agritech (IEC: 1105002993) has failed to declare the correct description and required compliance. Thus, I find that, the Importer's acts of omission and commission appeared to have rendered the goods liable for confiscation under provisions of Section 111(m) of the Customs Act 1962. Hence, I find that, the importer for his act of omission and commission is liable for penalty under Section 112(a) (i) of the Customs Act, 1962.

20. As regards the proposal for penalty on importer M/s. Raj Agritech (IEC: 1105002993) under Section 114AA of the Customs Act, 1962, I find there is nothing on record which suggest intentional usage of false and incorrect material in the matter. The issue involves matter of interpretation and as such I find this is not a fit case to invoke Section 114AA.

21. In view of the foregoing discussions, I pass the following order.

Order

- i. I confiscate the goods imported vide Bill of Entry No. 2059411 dated 15.05.2025 by the importer M/s. Raj Agritech (IEC: 1105002993) having assessable value of the goods is Rs. 20,26,518/- (Rupees Twenty Lakhs Twenty-Six Thousands Five Hundred and Eighteen Only) under section 111 (m) of the Customs Act, 1962. I, however, give an option to the importer to redeem the goods for Home Consumption on payment of Redemption Fine of Rs. 1,00,000 (Rupees One Lakh Only) under Section 125 of the Customs Act, 1962. If the redemption fine is not paid within 120 days of the issue of this Order, the option given for redemption shall become void in compliance of Section 125(3) of the Customs Act, 1962, unless an appeal against this order is pending.
 - ii. I impose a penalty of Rs. 5,000 (Rupees Five Thousands Only) on importer M/s. Raj Agritech (IEC: 1105002993) under section 112(a) (i) of the Customs Act, 1962.
 - iii. I drop the proceeding under Section 114AA of the Customs Act, 1962.
22. This order has been passed without prejudice to any other action that may be taken against the above-mentioned firms and person under the provisions of the Customs Act, 1962 and / or any other law, for time beg in force in India.

Digitally signed by
Jay Girijappa Waghmare
Date: 01-09-2025
14:54:59

(Jay G Waghmare)
Joint Commissioner of Customs

Group-II (C-F), NS-I, JNCH

Received 03/09/25
Adhar Bahari
456535757764
Adhar
No 9009052886

To:

M/s. Raj Agritech (IEC: 1105002993)
A-45, First Floor, New Siyaganj,
Pathar Gowdown Road, Indore-452003

Copy to:-

- 1. Pr. Commissioner of Customs, NS-I, JNCH
- 2. Dy. Commissioner of Customs, CRAC (I), JNCH
- 3. Dy. Commissioner of Customs, Centralized Adjudication Cell, JNCH
- 4. The Dy./Asstt. Commissioner of Customs, CHS, JNCH (For displaying on Notice Board)
- 5. Dy. Commissioner of Customs, EDI Section -sent by mail.
- 6. Office Copy

M/S RAJ AGRITECH
Adhar
Proprietor

प्राप्त किया/ RECEIVED
 केन्द्रीय समीक्षा एवं अपील कक्ष (I)
 CENTRAL REVIEW & APPEAL CELL (I)
 इन्दौर/NS-V
 19 SEP 2025
 जवाहरलाल नेहरू सीमाशुल्क भवन, न्हावा शेवा
 Jawaharlal Nehru Custom House, Nhava Sheva

प्राप्त किया/ RECEIVED
 केन्द्रीकृत अधि निर्णयन कक्ष
 CENTRALISED ADJUDICATION CELL
 19 SEP 2025
 JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA
 जवाहरलाल नेहरू सीमाशुल्क भवन, न्हावा शेवा