

 सत्यमेव जयते	<b>भारतसरकार/ Government of India</b> <b>वित्तमंत्रालय/ Ministry of Finance</b> <b>आयुक्तसीमाशुल्कएनएस-IIकाकार्यालय,</b> <b>केंद्रीकृतअधिनिर्णयनप्रकोष्ठ, जवाहरलालनेहरूसीमाशुल्कभवन</b> <b>न्हावाशेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र- 400 707</b> <b>OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II</b> <b>CENTRALIZED ADJUDICATION CELL,</b> <b>JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,</b> <b>DIST- RAIGAD, MAHARASHTRA-400707</b>	
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F. No. S/10-10/2025-26/Commr./NS-II/CAC/JNCH

DIN	: 20251278NT000000B136
आदेश की तिथि Date of Order	: 30.12.2025
जारी किए जाने की तिथि Date of Issue	: 30.12.2025
आदेश सं. Order No.	: 326 /2025-26/आयुक्त/एनएस-II/ सीएसी/जेएनसीएच 326/2025-26/Commr /NS-II /CAC /JNCH
पारितकर्ता Passed by	: श्री गिरिधर जि. पई आयुक्त, सीमाशुल्क (एनएस-II), जे.एन.सी.एच, न्हावाशेवा : Sh. Giridhar G. Pai Commissioner of Customs (NS-II), JNCH, Nhava Sheva
पक्षकार (पार्टी)/ नोटिसी का नाम Name of Party/Noticee	: मेसर्स ऐश आर ऐश फार्मास्युटिकल्स प्राइवेट लिमिटेड M/s. S.R.S. Pharmaceuticals Pvt. Ltd.

**मूल आदेश**  
**ORDER-IN-ORIGINAL**

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।  
The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम १९६२ की धारा १२९(ए) के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच), ३४, पी .डी .मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।  
Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.)

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-  
Main points in relation to filing an appeal:-

फार्म	: फार्मन .सीए३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है
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	Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy)
समय सीमा Time Limit	: इस आदेश की सूचना की तारीख से ३ महीने के भीतर Within 3 months from the date of communication of this order
फीस Fee	: (क) एक हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५ लाख रुपये या उससे कम है। (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less. (ख) पाँच हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५ लाख रुपये से अधिक परंतु ५० लाख रुपये से कम है। (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh (ग) दस हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५० लाख रुपये से अधिक है। (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
भुगतानकीरी ति Mode of Payment	: क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सीईएसटीएटी, मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो। A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.
सामान्य General	: विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९९२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए। For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीत शास्तिका ७.५ % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसा न किये जाने पर अपील सीमाशुल्क अधिनियम, १९६२ की धारा १२९ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129 of the Customs Act 1962.

F. No. S/10-10/2025-26/CC./DMC/NS-II/CAC/JNCH  
SCN No. 660/2018-19/DMC/CAC/JNCH dated 17.07.2018

**Subject: Adjudication of Show Cause Notice F. No. 660/2018-19/DMC/CAC/JNCH dated 17.07.2018 issued by EPSMMC, JNCH to M/s S.R.S. Pharmaceuticals Pvt. Ltd. - reg.**

**Brief facts of the case**

M/s. S.R.S. Pharmaceuticals Pvt. Ltd. holder of Import Export Code No. 03900Z2091 and declared address at 601-605, Marathon Max Bldg. No.- 02 Mulund Goregaon, Link Road, LBS Marg, Mulund West., Mumbai Maharashtra-400080 (hereinafter referred to as "the importer") have obtained exemption from payment of duty against clearance of goods in terms of Notification No. 96/2009-Customs, dated 11.09.2009 of the Government of India, Ministry of Finance against Advance Authorization License No. 0310720632, dated 14.01.2013 (hereinafter referred to as the license").

2. The importer has executed a bond on 22.01.2013 (as accepted by the Assistant Commissioner of Customs) in terms of the said notification and had undertaken to fulfil the conditions of the bond, advance authorization license and relevant customs notification at the time of registration of the license at Nhava Sheva port.

2.1. The importer has cleared imported goods involving customs duty amounting to Rs 1,82,34,377/- under the said advance authorization in terms of the said notification as detailed in Annexure-A appended to the notice.

2.2. As per the conditions of the said notification, license conditions and undertaking given in the bond, the importer was required to produce proof of fulfilment of export obligation within the period as prescribed in the said notification. Further, a letter F.No. S/26-Misc-382/2017-18 DMC dated 23.02.2018 was addressed to said importer to submit evidence of fulfilment of Export obligation of said license of which the importer did not respond even after 30 days from receipt of said letter. Therefore, it appears that the importer has not fulfilled the Export Obligation.

2.3. As per the provisions of Section 143 of Customs Act, 1962, the said imported goods were allowed clearance by proper officer on execution of bond by the importer wherein the importer bounded themselves to discharge liability in certain manner, which they have failed to do so by not submitting Export Obligation Discharge Certificate (EODC). Thus, the importer appears to have not complied with the conditions of the said notification, license conditions and undertaking given in the bond.

2.4. Thus, it appears that the importer is liable to pay duty forgone of Rs 1,82,34,377/- (Annexure-1) on the said imported goods along with interest at the applicable rate on the imported goods in terms of the conditions of said notification read with the conditions of license and the bond executed by the importer read with Section 143 of the Customs Act, 1962. It also appears that the imported goods were not used for intended purpose for which the exemption from payment of duty was claimed, therefore, the aforesaid goods are liable

F. No. S/10-10/2025-26/CC./DMC/NS-II/CAC/JNCH  
SCN No. 660/2018-19/DMC/CAC/JNCH dated 17.07.2018

for confiscation under Section 111(o) of the Customs Act, 1962. It, therefore, appears that the importer for the acts of omissions and commissions mentioned above, have rendered themselves liable for penal action under Section 112 (a) of the Customs Act, 1962.

2.5. Now, therefore, the importer is hereby called upon to show cause to the Commissioner of Customs, NS-II, having office at Jawaharlal Nehru Custom House, Nhava Sheva - II, Tal. Uran, Dist. Raigad, Maharashtra 400 707 as to why:-

- (i) The imported goods of declared assessable value of Rs. 3,80,74,864/- (Rs. Three crore eighty lakh seventy four thousand eight hundred and sixty four only), should not be held liable for confiscation under Section 111(o) of the Customs Act 1962 read with conditions of bond executed in terms of Section 143 of the Customs Act 1962 read with Notification No. 96/2009-Customs dated 11.09.2009 as amended/applicable;
- (ii) Duty forgone amount of Rs. 1,82,34,377/- (Rs. One crore eighty two lakh thirty four thousand three hundred and seventy seven only) along with applicable interest (from the date of clearance of goods to the date of payment of duty) should not be recovered in terms of conditions of bond executed under Section 143 of the Customs Act, 1962 read with Notification No. 96/2009-Customs dated 11.09.2009 read with condition of advance authorization;
- (iii) Penalty should not be imposed on the importer under Section 112(a) of the Customs Act, 1962;
- (iv) Bond furnished by the importer should not be enforced for recovery of duty, interest, penalty and redemption fine, if any.

#### **RECORD OF PERSONAL HEARING:**

3. Personal hearing in the matter was granted on 11.12.2025. Shri Shrikant Shinde, Asst. Manager, Logistics attended personal hearing wherein he submitted that EODC for the said Advance Authorisation has been issued by DGFT, that Bon/BG for the said licence has also been cancelled from EPSMMC, JNCH. He submitted copies of EODC, issued from DGFT and copy of Bond cancellation in respect of Advance Authorisation No. 0310720632 dated 14.01.2013 vide email and requested to take same on record.

4. The importer submitted the copy of the Redemption Letter dated 09.07.2019 bearing F.No. 03/95/040/00616/AM13 issued by Directorate General of Foreign Trade, Mumbai, wherein it is stated that firm has paid custom duty with interest on imports effected as noted by customs on debit sheet of authorisation, the case has been regularised in terms of para 4.49 of Handbook of procedures 2015-20.

5. On verification from the online portal of DGFT, it is found that the status of the Advance Authorisation No. 0310720632 dated 14.01.2013 is reflecting as 'closed'.

#### **DISCUSSION AND FINDINGS:**

F. No. S/10-10/2025-26/CC./DMC/NS-II/CAC/JNCH  
SCN No. 660/2018-19/DMC/CAC/JNCH dated 17.07.2018

6. I have carefully gone through the facts of the case and the evidences on record. Issues involved for decision in the instant case are:

- (i) Whether the imported goods, having a declared assessable value of Rs. 3,80,74,864/- (Rs. Three crore eighty lakh seventy four thousand eight hundred and sixty four only), imported under Advance Authorisation and cleared under Notification No. 96/2009-Customs dated 11.09.2009 (as amended), are liable to confiscation under Section 111(o) of the Customs Act, 1962, for alleged violation of the conditions of the said notification and the bond executed under Section 143 of the Customs Act, 1962.
- (ii) Whether the duty foregone amount of Rs. 1,82,34,377/- (Rs. One crore eighty two lakh thirty four thousand three hundred and seventy seven only), along with applicable interest from the date of out-of-charge of the goods till the date of payment, is recoverable from the importer under the provisions of Section 143 of the Customs Act, 1962 read with Notification No. 96/2009-Customs dated 11.09.2009 and the conditions of the Advance Authorisation, or whether the importer has satisfactorily complied with the said conditions so as to preclude such recovery.
- (iii) Whether the importer is liable to penalty under Section 112(a) of the Customs Act, 1962, for any act or omission rendering the goods liable to confiscation under Section 111(o) of the Customs Act, 1962.
- (iv) Whether the bond furnished by the importer under Section 143 of the Customs Act, 1962 is liable to be enforced for recovery of duty, interest, penalty and redemption fine.

7. I find that the importer has submitted the copy of Redemption Letter dated 09.07.2019 bearing F.No. 03/95/040/00616/AM13 issued by Directorate General of Foreign Trade, Mumbai, wherein it is stated that the firm has paid custom duty with interest on imports effected as noted by customs on debit sheet of authorisation, the case has been regularised in terms of para 4.49 of Handbook of procedures 2015-20.

8. I find that as per the condition of the notification No. 96/2009-Customs dated 11.09.2009 the importer has to produce evidence of discharge of export obligation to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, within a period of sixty days of the expiry of period allowed for fulfilment of export obligation, or within such extended period as the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow.

9. I find that the CBIC, New Delhi has issued a Circular no. 16/2017 dated 02.05.2017 in this context whereby the Deputy/Assistant Commissioner of Customs have power to extend the period to submit proof of fulfilment of EO without any limit. Thus, there is inherent provision in Revenue notifications to keep action of Customs pending till EODC is

F. No. S/10-10/2025-26/CC./DMC/NS-II/CAC/JNCH  
SCN No. 660/2018-19/DMC/CAC/JNCH dated 17.07.2018

issued by DGFT. Moreover, the process of issuance of EODC by DGFT itself is linked to submission of BRC by the license holder. The BRC itself can be submitted as per the period allowed by RBI in terms of Foreign Exchange Management Act, 1999. The license/authorization is also subject to extension, if any by DGFT. Hence, alignment of the time period given in Customs notifications with that given in FTP/HBP may not be required.

10. I find that the Circular no. 16/2017 dated 02.05.2017 stipulates that a simple notice will suffice to the licence/authorization holders for submission of proof of discharge of export obligation. Further, I find that the reason for issuance of Show Cause Notice was non-fulfillment of Export Obligation which the noticee has fulfilled and EODC has also been issued by DGFT belatedly in this regard.

11. I find that the noticee should have informed the Customs with regard to their inability to submit EODC and subsequently they should have taken allow for extension to submit EODC as stipulated in the conditions of the notification no. 96/2009-Cutoms dated 11.09.2009 but the noticee had failed to do so. I find that the CBIC Circular no. 16/2017 dated 02.05.2017 specifies that in cases where the License/authorization holder submits proof of their application having been submitted to DGFT, the matter may be kept in abeyance till the same is decided by DGFT. Thus, I find that the importer's inability of non-submission of the proof of their application having been submitted to DGFT, is mere an irregularity done by the noticee.

12. I have also gone through the online portal of DGFT and found that the status of the said Advance Authorisation License No. 0310720632 dated 14.01.2013 is reflecting as 'closed'. I find that the Directorate General of Foreign Trade, Mumbai is the Competent Authority to certify the fulfillment of Export Obligation against the Advance Authorisation License and had issued the Redemption Letter dated 09.07.2019 bearing F.No. 03/95/040/00616/AM13 to the Importer.

13. The copy of Bond cancellation submitted by the importer in respect of the said Authorisation has also been verified from EPSMMC, JNCH vide letter dated 18.12.2025 and it is confirmed that the Bond executed against the said Authorisation has been cancelled from EPSMMC, JNCH. Thus, I do not find any ground to proceed further in the instant matter after examining all the facts and documents produced by the noticee and legalities involved.

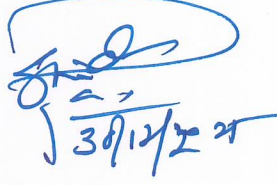
#### **ORDER**

14. In view of above, I pass the following order:

I hereby drop the proceedings against M/s. S.R.S. Pharmaceuticals Pvt. Ltd. (IEC No. 0390022691) in respect of Show Cause Notice no. 660/2018-19/DMC/JNCH dated 17.07.2018 issued vide F.No. S/40-LUT-4400/13 Gr-VND JNCH.

F. No. S/10-10/2025-26/CC./DMC/NS-II/CAC/JNCH  
SCN No. 660/2018-19/DMC/CAC/JNCH dated 17.07.2018

15. This Order is passed without prejudice to any other action that may be taken in respect of the goods in question and/or against the person concerned or any other person including Customs Brokers concerned under the Provisions of the Customs Act, 1962 and/or other law for the time being in force.



Digitally signed by  
GIRIDHAR GOPALKRISHNA PAI  
Date: 30-12-2025 10:18:39  
(Giridhar G. Pai)  
Commissioner of Customs  
Nhava Sheva-II, JNCH

To:

M/s S.R.S Pharmaceuticals Pvt. Ltd.  
601-605, Marathon Max Bldg. No. -02  
Mulund Goregaon, Link Road, LBS Marg  
Mulund West, Mumbai, Maharashtra – 400080

Copy to:

1. The Chief Commissioner of Customs, Mumbai Customs Zone-II, JNCH, Nhava Sheva
2. The Dy. Commissioner of Customs, EPSMMC, JNCH, Nhava Sheva
3. EDI, JNCH
4. The Superintendent, CHS, JNCH for display on Notice Board, JNCH
5. Office Copy

