OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-I
सीमाशुल्कआयुक्तकाकार्यालय, एनएस-**I**
CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE,
केंद्रीकृतअधिनिर्णयनप्रकोष्ठ, जवाहरलालनेहरूसीमाशुल्कभवन,
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA 400707
न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र **-400 707**

Date of Order: 15.12.2025 आदेश की तिथि: **15.12.2025**

Date of Issue 16.12.2025 जारी किए जाने की तिथि**: 16.**12.2025
DIN: 20251278NW0000666EA1

F.No. S/10-52/2025-26/Pr. Commr./Gr. IIAB/NS-I/CAC/JNCH
SCN No. 322/2025-26/Pr. Commr. / Gr. IIAB/NSI/CAC/JNCH dtd 18.06.2025

Passed by: Shri Yashodhan Wanage
पारितकर्ता: श्री. यशोधन वनगे
Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva
प्रधानआयुक्त, सीमाशुल्क (एनएस-**1),** जेएनसीएच, न्हावाशेवा

Order No.: 298 /2025-26 /Pr. Commr/NS-I /CAC /JNCH

आदेशसं. : **298/2025-26**/प्र. आयुक्त/एनएस-1/ सीएसी/जेएनसीएच
Name of Party/Noticee: M/s. Unijules Life Sciences Limited (IEC:-0306040565).

पक्षकार (पार्टी)/ नोटिसी का नाम: मेसर्स यूनिजुल्स लाइफ साइंसेज लिमिटेड (आईईसी:**-0306040565)**।

ORDER-IN-ORIGINAL
मूलआदेश

1. The copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति की प्रतिलिपि जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए नि: शुल्क दी जाती है।

2.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.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमा शुल्क अधिनियम १९६२ की धारा १२९ (ए (के तहत इस आदेश के विरुद्ध सीईएसटीएटी, पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीज़नल बेंच(, ३४, पी. डी. मेलो रोड, मस्जिद (पूर्व), मुंबई– ४०००० ९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal: -

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Form - Form No. CA-3in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - फार्म न. सीए - ३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए)

Time Limit - Within 3 months from the date of communication of this order.

समय सीमा – इस आदेश की सूचना की तारीख से ३ महीने के भीतर

Fee - (a)Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.

फीस- (क) एक हजार रुपये – जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५ लाख रुपये या उससे 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 lakhs.

(ख) पाँच हजार रुपये –जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति कीरकम ५ लाख रुपये से अधिक परंतु ५० लाख रुपये से कम है।

(c)Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs.50 Lakh.

(ग) दस हजार रुपये –जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति कीरकम ५० लाख रुपये से अधिक है।

Mode of Payment - A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

भुगतान की रीति –क्रॉस बैंक ड्राफ्टजो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सीईएसटीएटी, मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - 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.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमा शुल्क अधिनियम, १९६२, सीमाशुल्कअपील (नियम, १९८२, सीमा शुल्क, उत्पाद शुल्क एवं सेवाकरअपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए।

4. 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.

इस आदेश के विरुद्ध अपील करने के इच्छुक किसी भी व्यक्ति को, अपील लंबित रहने तक, मांगे गए शुल्क या लगाए गए जुर्माने का 7.5% जमा करना होगा तथा अपील के साथ ऐसे भुगतान का प्रमाण प्रस्तुत करना होगा, अन्यथा अपील सीमा शुल्क अधिनियम 1962 की धारा 129 के प्रावधानों का अनुपालन न करने के कारण अस्वीकृत की जा सकेग

1. BRIEF FACTS OF THE CASE:

1.1 M/s. Unijules Life Sciences Limited (IEC:-0306040565) (hereinafter referred to as the importer/ Noticee) imported consignment/s of "Iohexol USP & Iopamidol USP under CTH 29242990" vide Bill of Entries as mentioned in Annexure A to the Show cause Notice and availed benefit of exemption of customs Notification no. 50/2017 dated 30.06.2017 under Sr.No.167(A) alongwith IGST paid @5% (Schedule I of IGST Notification no. 01/2017 under Sr.No. 180 for the said consignments.

1 .2 The importer has imported consignment/s of "Iohexol USP & Iopamidol USP" under CTH 29242990 with packing of 25 KG Drum and availed benefit of S.N. 167(A) of Customs Notification no. 50/2017 dtd 30.06.2017(as amended) along with IGST paid @5% (Schedule I of IGST Notification no. 01/2017 under S.N. 180) for the said consignment. Exemption of Sr.No.167(A) of the Customs Notification no. 50/2017 dated 30.06.2017(as amended) is applicable to Chapter 28, 29, 30, 38 for Life Saving drugs/medicines including their salts and esters and diagnostic test kits specified in List 4 & Iohexol USP & Iopamidol USP are specified in the list 4, appended to Sr. No. 55 & 54 respectively.

1.3 Relevant portion of the customs exemption notification no. 50/2017 dated 30.06.2017 claimed by the importer is mentioned below:

"In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3, of Customs Tariff Act, 1975 (51 of 1975), and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012-Customs, dated the 17th March, 2012 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 185 (E) dated the 17th March, 2012, except as respects things done or omitted to be done before such supersession, the Central Government, on being satisfied that it is, necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below or column (3) of the, said Table read with the relevant List appended hereto, as the case may be, and falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the said Customs Tariff Act, as are specified in the corresponding entry in column (2) of the said Table, when imported into india:-

a. from so much of the duty of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the standard rate specified in the corresponding entry in column(4) of the said Table; and
b. from so much of integrated tax leviable there on under sub section (7) of section 3 of said Customs Tariff Act, read with section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) as is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said Table, subject to any of the conditions, specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column(6) of the said Table:

Table

Sr.	Chapter or	Description of goods	Standard	Integrated	Condition	Amended

No.	Heading or sub- heading or tariff item		rate	Goods and Services Tax	No.	By Notification No.
(1)	(2)	(3)	(4)	(5)	(6)	
167	28, 29 ,30 Or 38	The following goods, namely:- Provided that nothing contained in this Sr. No. shall have effect after the 31st March, 2025				(1) Proviso Inserted By 02/2023Dt. 01-02-23
		(A)Life saving drugs/medicines including their salts and esters and diagnostic test kits specified in List 4.	Nil	-	-	
		(B) Bulk drugs used in the manufacture of life saving drugs or medicines at (A)	Nil	-	9	

Condition no.	Condition	
9	If the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022	Substituted By 2/2023 Dt. 01-02-23

1.4 The importer's intention was to avail S.N. 167(A) of Customs Notification. 50/2017 dated 30.06.2017(as amended) by declaring it as “Lifesaving drugs/medicines including their salts and esters and diagnostic test kits specified in List 4” to avoid the Condition no. 9 of Sr.No. 167(B), which mandates the procedure set out in the Import of Goods at Concessional Rate of Duty (IGCRD) Rules, 2017/2022.Further, the two entries under the same Serial Number, in the instant case, Sr. No. 167(A) and Sr. No. 167(B) of the Customs Notification No. 50/2017 represent different approaches to achieving the same ultimate goal of ensuring the availability of lifesaving drugs or medicines including their salts and esters and diagnostic test kits specified in List 4 at affordable prices by offering customs duty exemption i.e. both entries work toward the same ultimate aim but through different methods or pathways.

1.4.1 Whereas, the overall purpose of both Sr.No.167 (A) and 167 (B) is to reduce the cost and enhance the availability of critical, lifesaving medicines by Reducing customs duties on finished life Saving drugs and diagnostic kits under Sr. No. 167 (A) & Reducing customs duties on bulk drugs (APIs) under Sr. No. 167(B) that are used to manufacture these life

saving drugs. It appears that both entries aim to make these drugs more affordable for the health care system and ultimately for patients by two Different Methods to Achieve the Same Goal:

1.4.2 Sr.No.167 (A)-For Finished Drugs:
Objective: Directly reduce the cost of importing finished, ready-to use lifesaving medicines and diagnostic kits.

Method: Finished drugs and diagnostic kits (as listed in List 4) are exempt from customs duties when imported, making them cheaper for immediate use in healthcare.

Target Products: Fully formulated, packaged, and ready-to administer medicines that can go straight to hospitals, pharmacies, or patients without any further manufacturing.

Example: An antiretroviral drug imported as finished tablets for immediate distribution would be exempt from customs duties under 167(A).

1.4.3 Sr.No.167 (B)-For Bulk Drugs (APIs) - Used in Manufacturing:

Objective: Support local manufacturing of lifesaving drugs by reducing the cost of importing raw materials (APIs), used in the manufacturing of life saving drugs or medicines mentioned in the said List 4. Method: Exempting bulk drugs (APIs) used to manufacture the finished drugs listed under 167(A) from customs duties.

Target Products: Active Pharmaceutical Ingredients (APIs) that are imported in bulk and require further processing or formulation into finished drugs. These APIs are essential raw materials for local manufacturers to produce lifesaving drugs.

Example: Iohexol USP & Iopamidol USP, an API, is imported to be further formulated into diagnostic contrast agents. The Iohexol USP & Iopamidol USP would be classified under 167(B) as it is not yet in its finished, patient-ready form.

In view of above, it indicated that Sr. No. 167(A) aimed at facilitating the immediate availability of life saving drugs by importing the final product, while Sr. No. 167(B) aimed at promoting domestic pharmaceutical manufacturing by lowering the costs of importing the necessary raw materials(APIs) for local production of these lifesaving drugs.

1.5 Further, the List 4 to Sr.No. 167(A) of Customs Notification 50/2017 dated 30.06.2017 (as amended) indicated that the List primarily includes finished drugs rather than bulk drugs (APIs). In this regard, following Indicators may be observed:

i. Specific Drug Names: Items listed are typically administered to patients in their final dosage forms, such as injections, infusions, or oral formulations.
ii. Customs Notification Context: The context of customs notifications like this one typically involves the importation of finished pharmaceutical products that are intended for immediate use in medical settings, rather than bulk drugs that would require further manufacturing or formulation.

1.6 In view of the above, it strongly suggested that the List 4 of the Customs Notification No. 50/2017 (as amended) predominantly focuses on finished drugs rather than bulk drugs. These finished drugs are likely subject to specific customs duty exemptions or reductions to facilitate their import into India for direct clinical use.

1.7 Further, the contention being made-that because the definition of "drugs" under the Drugs and Cosmetics Act, 1940, covers both bulk drugs (APls) and finished medicines, therefore bulk drugs should be included in List 4 of the Customs Notification 50/2017 (as amended)-needs to be carefully examined in the context of the specific purpose and language of the customs notification. In this regard following points may be considered:

(i) Purpose of the List 4 Medicines:

Sr.No.167 of Customs Notifications No. 50/2017 dated 30.06.2017 (as amended) appears to grant specific benefits, such as customs duty exemptions or reductions, to encourage the import of critical or life-saving drugs in their finished form. These lists are typically focused on products that are ready for clinical use to ensure their immediate availability in the healthcare system.

List 4 specifically enumerates drugs that are considered essential or important for public health, and these are usually finished products that can be directly administered to patients.

(ii) Bulk Drugs vs Finished Products:

Bulk Drugs (APls): While the definition of "drugs" under the Act does include bulk drugs, these substances generally require further processing or formulation before they can be administered to patients. The intent of the customs notification list appears to prioritize finished products that do not require additional processing.

Finished Products: These are ready-to-use forms, such as tablets, injections, or solutions, which have undergone all necessary manufacturing steps and are immediately available for treatment purpose.

(iii) Legislative Intent and Interpretation:

Customs Policy: The inclusion of items in specific lists like List 4 is a policy decision aimed at achieving certain public health outcomes. The customs authorities may intend to distinguish between bulk drugs, which are raw materials, and finished drugs, which are the end products, when applying duty exemptions.

Interpretation: Just because the Drugs and Cosmetics Act, 1940 covers both bulk and finished drugs under the term "drug" does not automatically mean that bulk drugs should be included in lists intended for finished drugs. The specific language and purpose of the customs notification take precedence.

(iv) Implications for Bulk Drugs:

If bulk drugs were to be included in List 4, it would potentially open the door for different customs treatment for APIs, which might not align with the policy objectives of the notification. The notification might be structured to ensure that duty benefits are extended

only to those products that are immediately usable in healthcare settings, which typically means finished drugs rather than bulk drugs.

Accordingly, the inclusion of a substance in List 4 of the customs notification 50/2017 (as amended) likely depends on whether it is intended to be used directly in healthcare settings (i.e., as a finished drug). While the Drugs and Cosmetics Act, 1940 does cover both bulk and finished drugs under the broader definition of "drugs," this does not necessarily imply that bulk drugs should be included in a list that is focused on finished medicines.

1.8 As the terms "Medicine" or "Drugs" are not defined under Customs Act, 1962 & Customs Tariff Act, 1975. In this regard, reference may be taken from Drugs and Cosmetics Act, 1940. Section 3(b) of the Drugs and Cosmetics Act, 1940 defines "drug" in the following terms:

a. "Drug" includes-
   i. All medicines for internal or external use of human beings or animals and all substances intended to be used for or in the diagnosis, treatment, mitigation or prevention of any disease or disorder in human beings or animals, including preparations applied on human body for the purpose of repelling insects like mosquitoes;

The Drugs and Cosmetics Act, 1940 defines "Drugs" includes finished as well as bulk drugs both, though it does not define bulk drugs explicitly.

b. As the term "Bulk Drugs" is not defined under Customs Act, 1962 & Customs Tariff Act, 1975. In this regard, reference may be taken from Drug (Price Control) Order, 2013. In the said Order, Bulk Drugs is defined as,

"Active Pharmaceutical Ingredients or Bulk Drug" means any pharmaceutical, chemical, biological or plant product including its salts, esters, isomers, analogues and derivatives, conforming to standards specified in the Drugs and Cosmetics Act,1940 (23of 1940) and which is used as such or as an ingredient in any formulation.

&

"formulation" means a medicine processed out of or containing one or more drugs with or without use of any pharmaceutical aids, for internal or external use for or in the diagnosis, treatment, mitigation or prevention of disease and, but shall not include -

i. any medicine included in any bonafide Ayurvedic (including Sidha) or Unani (Tibb) systems of medicines;
ii. any medicine included in the Homeopathic system of medicine; and
iii. any substance to which the provisions of the Drugs and Cosmetics Act, 1940 (23 of 1940) do not apply.

1.9 In view of above, it was clear that the imported goods qualify as "Bulk Drugs" under S.N. 167(B) of Customs Notification 50/2017 dated 30.06.2017 (as amended) rather than 167 (A) of Customs Notification 50/2017 dated 30.06.2017 (as amended). Therefore, the Importer was not eligible for exemption under Sr.No.167(A) of Customs Notification 50/2017 dated 30.06.2017 (as amended) wrongly availed by them. Further, the importer was also not

eligible for exemption under S.N. 167(B) of Customs Notification 50/2017 dated 30.06.2017 (as amended) as they have not followed the requirements of condition 9 which mandates following the procedure set out in IGCRD, 2017/2022.

1.10 It was also observed that the importer has claimed IGST rate on the imported goods @ 5% as per Sr.No.180 of Schedule-I of IGST Levy Notification No. 01/2017-lntegrated Tax (Rate) dated 28.06.2017 (as amended). In this regard, relevant portion of the IGST rate on the imported items claimed by the importer is tabled below:

Schedule-I

S.No.	Chapter/ Heading/ Sub-Heading/ Tariff item	Description of goods	IGST rate
180	30 or any chapter	Drugs or medicines including their salts and eaters and diagnostic testkit, specified in List I appended to this Schedule	5

List I of Sr.No.180 appended to Schedule I of the said Notification is as under:

(S.N.176) Iopamidol
(S.N.177) lohexol
Indium(III) in bleomycin
Indium l13 Sterile generator and elution accessories
Indium113inbrainscanningkit
Indium113 in liver scanning kit

1.11 However, it was observed that the imported goods are "Bulk Drugs" rather than "Drugs or medicines including their salts and eaters and diagnostic test kit" as discussed above. Instead, the imported item qualifies under Sr.No. 40 of Schedule-III of IGST Levy Notification No.01/2017- Integrated Tax (Rate) dated 28.06.2017 (as amended). In this regard, relevant portion of the IGST rate on the imported items is tabled below:

Schedule-III

S.No	**Chapter/ Heading/ Sub- Heading/ Tariff item**	**Description of goods**	**IGST rate**
40	29	All organic chemicals other than giberellic acid	18

1.12 To determine whether List 1 under Schedule I of IGST Act, 2017 contains finished drugs or medicines or otherwise, there are several indicators that suggest this interpretation. In this regard, following key indicators may be observed:

i. Reference to "Drugs or Medicines-

Terminology- The language used in the schedule typically refers to "drugs or medicines" which commonly implies products that are in their final form, ready for patient administration. These are products that have completed all stages of manufacturing, including formulation, packaging, and quality control.

ii. Inclusion of Salts, Esters, and Diagnostic Kits-

Finished Products: The inclusion of "salts and esters" alongside "drugs or medicines" suggests that these are specific active forms of drugs that are already incorporated into their final dosage forms.

Diagnostic Kits: The mention of diagnostic kits further supports that List1 is meant for products used directly in health care settings, which are typically finished and ready to use.

iii. Lower IGST Rate (5%):

Facilitation of Access: The 5% IGST rate is generally reserved for essential or life-saving medicines, which are ready for distribution to patients. The lower tax rate helps reduce the cost of these critical drugs to make them more accessible.

iv. Context and Structure of Schedule I:

Finished Goods Focus: Schedule I, in general, focuses on goods that are in their final usable form. The structure of this schedule often distinguishes between bulk substances (which might fall under different schedules with higher IGST rates) and finished products.

v. Regulatory Context:

Healthcare Priority: Regulatory frameworks often prioritize finished drugs and essential medicines in specific lists to ensure they are available at reduced tax rates. This prioritization typically does not extend to raw materials or bulk drugs, which require further processing.

vi. Historical Precedent and Usage:

Established Practice: Historically, lists like List 1 under such schedules have been interpreted and applied to finished drugs rather than bulk drugs, reflecting consistent regulatory practice.

Accordingly, it appeared that List 1 under Schedule I is intended to cover finished drugs or medicines rather than bulk drugs (APIs). Therefore, the lower IGST rate of 5% should be applicable on these products as they are in their final, patient-ready form. Further Bulk drugs, on the other hand, would typically attract IGST rate of 18% under Schedule III of IGST Act, 2017.

1.13 Further in a similar matter, an application for Advance Rulings was filed by the applicant M/s Sterling Bio tech Ltd, Vadodara before Gujarat Authority of Advance Rulings, Ahmadabad**.** The applicant has submitted that they are manufacturing bulk drugs namely Danuorubic in, Epirubicin, Idarubicin and Zoledronin Acid and supplying presently under general heading at Sr. No. 40 covered under chapter 29 of Schedule-III of the NotificationNo.01/2017-Ct (rate) dated 28.06.2017 as well as State Notification and Integrated Tax Notification. The applicant further submitted that description of four bulk drugs as stated above specifically not mentioned at Sr.No.40 of Chapter 29 of Schedule-III of

Notification No.01/2017-CT(Rate) dated 28.06.2017. However, specific reference is made about the said four bulk drugs in List1 appended to Schedule I which are covered as drugs or medicine including their salts and esters at Sr. No. 180 of the Schedule I of the NotificationNo.01/2017-CT(Rate) dated 28.06.2017.

In this regard, the applicants sought for the Advance Ruling in respect of the following question:

"*Whether the applicant is eligible to claim the benefit of lower rate of 5% {COST- 2.5% +SGST-2.5%}under Sr. No. 180 of Schedule I of the rate schedule for goods under Not.No.01/2017-CT (Rate) dated 28.06.2017 as well as of State Tax Notification*. "

As per Advance Rulings no.GUJ/GAAR/R/54/2020 dated 30.07.2020 passed by the Gujarat Authority of Advance Rulings, Ahmadabad denied the benefit of lower rate of 5% under S.N.180 of Schedule I in terms of above advance rulings which is squarely applicable in the instant case.

In view of the above, it is clear that the applicable IGST rate on the imported items should be 18% as per Sr.No.40 of Schedule-III of IGST Levy Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended)in terms of above advance rulings which is squarely applicable in the instant case.

1.14 Accordingly, a Consultative letter dated 13.12.2024, the Importer was advised to pay the Differential duty along with applicable interest and penalty within 15 days of the receipt of the consultative letter in terms of Section 28(4) of the Customs Act 1962. The importer was further advised to avail the benefit of lower penalty in terms of Section 28(5) of the Customs Act, 1962, by early payment of short paid duty and interest along with penalty @ 15%.

1.15 In response to aforesaid consultative letter, the importer has submitted its reply vide their letter dated 22.12.2024 as below:

1.15.1 The said allegation of willful misstatement and suppression of facts with a malafide intention to evade the payment of Customs duty is not acceptable as they have not done anything proactively to avail the said exemption, as will be submitted in the subsequent paragraphs, which are without prejudice to one another.

1.15.2 They are manufacturers of life-saving injectables and supply them to various buyers, most of whom are government departments. For making the same, they need Iohexol USP & Iopamidol USP in bulk. The said inputs have been imported by them for many years

1.15.3 Previously, they imported the said inputs under the provisions of Sr. No. 148 of Notification No. 12/2012 (Cus) dated 17.03.2012 issued under Section 25(1) of the Customs Act, 1962, which attracted the following Customs duties:

a. Basic Customs Duty: 7.5%

b. CVD: 12.5%

c. Customs Education Cess: 2%

d. Customs Secondary & Higher Education Cess: 1%

e. Additional Duty (Import): 4%.

1.15.4 The importer would follow the procedure prescribed under The Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, executing the necessary bond and submitting the required usage certificate as prescribed. The importer would obtain an endorsement from the jurisdictional Central Excise authorities to the effect that the importer has executed the bond as required by the said rules for the required amount and the same was executed and accepted by the said authorities. A copy of one such instance in the form of letter dated 24.10.2016 was enclosed as Annexure-1 as an illustration.

1.15.5 The importer had, thus, been following the proper procedure till 23.04.2018 when a similar application dated 12.02.2018 was filed before the Customs authorities at the Customs Commissionerate, Nagpur, for submission of continuity bond for procurement of import goods under Notification No. 50/2017-Cus dated 30.06.2017, Sr. No. 167, List 4, along with six sets of applications under the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, with proper documents. A copy of the same was enclosed as Annexure-2.

1.15.6 It was informed vide letter issued under F. No. VIII(39)/9/C-Bond/IGCRD/UNIJULES/CDN-1/2018-19/100 dated 23.04.2018 by the Assistant Commissioner, Customs Division, Nagpur-I, Customs Commissionerate, Nagpur, that the said application dated 12.02.2018 was returned with all documents to the importer. It was further informed that the said goods, i.e., Iohexol (USP), were included in (a) of Sr. No. 167 in Notification No. 50/2017-Customs dated 30.06.2017 and that the Customs (Import of Goods at Concessional Rate of Duty) Rule, 2017, is not applicable to the said goods as there was no condition in Notification No. 50/2017-Customs dtd. 30.06.2017 regarding following the procedure as per the said rules which came into effect from 01.07.2017 vide notification no. 68/2017-Customs (N.T.). As such, their application was returned, which left them with no choice, but to file the Bills of Entry claiming the benefit of Notification No. 50/2017-Customs dated 30.06.2017, as instructed by the field officers.

1.15.7 The said notification grants exemption to both drugs packed in less than 25 kg packing (falling under HSN 30) and bulk drugs (regularly imported by the importer in 25 kg packing). While imports under HSN 30 are exempted without any prescribed condition, imports under HSN 29 which are having the same molecule of injectable medicine as that of the small packs are exempted with a condition that the bond/LUT is to be filed and a prescribed procedure is to be followed. Accordingly, the importer had followed the proper procedure till the departmental authorities returned the documents stating that the said products were exempted, as stated above. However, the importer has maintained and followed the manufacturing and supply procedures on the same lines which were prescribed under the said notification and is ready to present the same before Customs authorities or jurisdictional GST authorities as the authority may order.The importer is governed by various Governmental agencies, importantly, Food and Drugs Administration, which exercises lot of controls on the production of medicines. Hence, the importer has to have immaculate documentation

1.15.8 In view of the directions given by the department and the non-acceptance of the LUT furnished by the importer, as discussed above, the importer followed the same. Now, the

department cannot take a 180 degree view and allege mala fides against the notice. This would be against the principles of estoppel. Since the importer acted upon the directives of the department, they cannot be made to suffer for no fault of them and that too, for meagre procedural issues. In this regard the importer would like to rely on the decision of the Hon'ble Mumbai High Court in the case of A.V. Industries v. Union of India as reported in 2005(187) ELT 9 (Bom.), in which the Hon'ble Mumbai High Court has held as under

"Having heard rival parties, it is not in dispute that the action of the respondents has made the petitioner to believe that value restriction has been given goby by the DGFT. The petitioner appears to have acted upon the endorsement made in the licence deleting the value restrictions and made imports. The petitioner has thus acted to its own prejudice. No fault can be found with the imports made by the petitioner relying upon the endorsement made in the licence. The legal submission of Mr. Shah that there cannot be estoppel against law is well recognised. However, when the import is in accordance with the import licence issued to the petitioner, the respondents cannot take shelter under the import policy and purport to take action against the petitioner. It is not the case of the respondents that the deletion of the conditions set out in the licence is due to misrepresentation or suppression of material facts on the part of the petitioners. It is not even the case of the revenue that the deletion of the licence condition was carried out by the officers of the department in connivance with the petitioners. Therefore, if the deletion of the condition was a bona fide error or misconstruction of the import policy by the officers of the department the petitioners cannot be made to suffer."

1.15.9 The case of the importer is on a similar footing as in the aforesaid case and hence the ratio of the same is squarely applicable to the cause of the notice. In view of the same, the proceedings proposed against the importer may kindly be dropped.

1.15.10 The consultative letter alleges mala fides against the importer with intent to evade the payment of Customs Duties. The importer further submit that they are doing regular importation of the said goods since so many years and is used to following the procedure as communicated in the letter impugned. There were no disputes while following the said procedure. The importer was never questioned for any undervaluation, misdeclaration etc till date. Hence, the importer has an immaculate record and there was not a single instance when the importer was found doing any malafides**.**

1.15.11 The importer was asked by the jurisdictional officers as stated above and hence the same was complied with by the importer. Even otherwise, they said procedure has already been followed and details submitted and only formal bond etc was not executed, this too, due to the letter by the Customs Authority. The importer was entitled otherwise also, to get the exemption by following the prescribed procedure as contended in the said letter. Thus the importer did not stand to gain or lose in the said case and hence there was no reason for doing any mala fides and misdeclaration. It was also submitted that the importer maintained clear records of the receipt of the imported goods, their test reports, e-way bills, Intimation slips issued to the RM Stores department Batch number, certificate of analysis of the raw material

prepared by the importer and also consumption statement, copy of each of the said document was enclosed for the purpose of illustration, collectively as Annexure-3.

1.15.11.1 Importer also submitted that they are a manufacturer and the end product was being cleared on payment of appropriate GST liveable thereon. The customers of the importer include high profile parties as well as Government supplies. Thus, the importer would have been entitled to the benefit of the Input Tax Credit, had the differential duty been levied as contemplated in the said Advisory letter dtd. 13.12.2024.Thus the said exercise is entirely revenue neutral and hence the allegation of suppression of facts, with a mala fide intention to evade the payment of Customs duty does not survive. Importer has correctly claimed the IGST rate of 5% for the import of Iohexol USP and Iopamidol USP, as per Sr.No. 180 of Schedule-I of IGST Levy Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 vide classification under CTH 30039090 or 29242990. These goods are indeed listed under this entry, and the lower rate of IGST is applicable as they are classified as lifesaving drugs. Further, classification of the product under both CTH 30039090 & 29242990 provides IGST rate of 5% for the import of Iohexol USP and Iopamidol USP (Sr.No,180 of Schedule-I of IGST Levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 (as amended)). If the 18% GST levied on the imported goods, it would cause an inverted duty structure and the importer would be eligible to seek refund as the rate of GST on final product manufactured by the importer would be 5%. This would cause accumulation of ITC with the importer.

1.15.12 The importer had procured the goods in question from authentic sources and has observed the proper procedure at the time of import and had filed bills of entry, invoices, packing lists etc for obtaining the clearance of the cargo from Customs. The said bills of entry were scrutinised by the department, and on finding the same correctly described and declared, the same were allowed out of charge. It is submitted further, that the packing list of the goods shows clearly that the goods weighed 3 MT and were packed in 120 drums. This clearly shows that the goods were packed in drums and in each drum 25 Kg of the drugs were packed. Thus the records submitted at the time of import clearly declared the packing and the description of the goods. Goods classified under HSN 29 are rarely packed in retail packages as the same are bulk drugs and hence the question of any misdeclaration on the part of the importer is not acceptable at all. The goods were also examined at the Customs year after year and were allowed clearance of, by the department without any objection. Hence the question of suppression of fact with a mala fide intention does not exist. In view of the same it is clear the importer has not misdeclared or misrepresented anything and hence the provisions of Section 28(4) of the Customs Act, 1962 are not invokable at all.Vide the aforesaid letter they have been directed to produce various documents such as Bills of entry, Invoices, packing list, bills of lading, etc as also the usage of the imported goods in the manufacture of the life saving drugs by the importer, which were enclosed as Annexure- 4 collectively.

1.15.13 Importer also submitted that the issue involved in the case of Sterling biotech case before the Authority for advance ruling was whether the goods cleared by them were eligible to exemption under Sr no. 180 of the notification no. 1/2017-IGST (Rate) dtd. 28-06-2017.

Whereas in the notification no. 50/2017 Sr.No. 167A, B and C the goods are exempted and hence the question of applicability of the ratio of the Advance ruling cited in the Consultative Letter does not arise. The same are on totally different footing. The said notification was not applicable to the Chapter 29 whereas in the present case the notification no. 50/2071 Sr No. 167 covers Chapter 29 as well. Hence the contention in the Consultative letter is not relevant in the case of the importer.

1.15.14 Further in view of the exemptions given in Sr. No. 167 A, B and C of Notification no. 50/2017-IGST Rate to Chapter 30 and 29 it is clear that the legislative intent of the government seems to grant exemption to the life saving drugs, be the same imported in retail or in bulk for manufacture of retail. Hence the benefit of the exemption has been properly taken by the importer. It was further submitted that in both the cases of Sr no. 167, no duty is leviable/ exemption is granted, and hence there is no revenue loss involved in the case. Moreover, there is only a procedure to be followed and hence the said case may not even qualify for being answered by the Authority for Advance Ruling.

1.15.15 It was also submitted that the importer is under financial stress and the NCLT, Mumbai have vide CP 3080/(IB)/MB/2018 dtd. 08.03.2019 passed order that the petition filed under Section 7 of I & B Code, 2016, against the importer for insolvency resolution process was admitted and copy of the aforesaid order was enclosed in Annexure 5. In view of the same it was requested that the proceedings contemplated against the importer may be kindly dropped. In this regard they relied upon the decision of the Hon'ble Mumbai High Court in case of Uday kumar Bhaskar Bhat v/s DC, State Tax, reported in 2024(84)GSTL 80 (Bom.).

1.16 Importer's submissions were countered in the following ways:

1.16.1 Though BCD is Nil for Sr. No. 167(A) & is also Nil for Sr.No.167 (B) of the Customs Notification No. 50/2017 dated 30.06.2017 but subject to conditions set out in the Import of Goods at Concessional Rate of Duty (IGCR) Rules, 2017/2022, the importer is not eligible for the Sr.No.167(A) of the aforesaid Notification. As the importer is importing bulk drugs. On the other side, the importer is also not eligible for the Sr.No.167(B) of the aforesaid Notification as the importer has not followed the procedure that mandate to follow conditions set out in the Import of Goods at Concessional Rate of Duty (IGCR)Rules, 2017/2022.

1.16.2 The importer stated that notification itself considers "Iohexol USP & Iopamidol USP" as drug only. In this regard, it appears that the List 4 of the Customs Notification No.50/2017 (as amended) predominantly covers finished drugs rather than bulk drugs. These finished drugs are likely subject to reduced customs duty to facilitate their import into India for direct clinical use. The importer is not eligible for the Sr.No.167(A) of the aforesaid Notification as the importer is importing bulk drugs in bulk 25Kgs packages.

1.16.3 It appeared that Sr.No. 167(A) ofthe Notification 50/2017 is aimed at facilitating the immediate availability of lifesaving drugs by importing the final product, while Sr.No.167(B) of the Notification 50/2017 is aimed at promoting domestic pharmaceutical manufacturing by lowering the costs of importing the necessary raw materials (APIs) for local production of the

life saving drugs. In the instant case, the importer is not eligible for the Sr. No. 167(A) of the aforesaid Notification, as the importer is importing bulk drugs. Since the goods imported are not readily usable they cannot be treated as goods of similar nature to that of readily usable drugs, the importer is not eligible to claim the benefit of an entry of Sr. No. 167(A) of Customs Notification 50/2017.

1.16.4 As regards issue of IGST, it was found that List 1 under Schedule –I of IGST Act, 2017, is intended to cover finished drugs or medicines rather than bulk drugs (APIs). Therefore the lower IGST rate of 5% should be applicable on these products as they are in their final, patient-ready form. Further Bulk drugs, on the other hand, would typically attract IGST rate of 18% under Schedule-III of IGST Act, 2017. In the instant case, as the importer is importing "Iohexol USP & Iopamidol USP" bulk drugs, therefore the imported goods would typically attract IGST rate of 18% under Schedule III of IGST Act, 2017.

1.16.5 In the matter of Advance Ruling of M/s Sterling Biotech Ltd, as the case appears to be similar to the present case, Advance Rulings no. GUJ/GAAR/R/54/2020 dated 30.07.2020 passed by the Gujarat Authority of Advance Rulings, Ahmadabad denied the benefit of lower rate of 5% under Sr.No.180 of Schedule-I and confirms IGST @ 18% under Sr. No. 40 of Schedule-III of Notification 01/2017 dated 28.06.2017, therefore in terms of above advance rulings which is squarely applicable in the instant case, bulk drug import appears to attract IGST@18%.

1.16.6 Accordingly, the applicability of Sr.No.167(B) of Customs Notification no. 50/2017 dated 30.06.2017 (as amended) & applicability of IGST @ 18 % as per Sr.No.40 of Schedule-III of IGST Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 on the imported goods are very clear and specific, it appeared that the importer had willfully availed the Sr.No.167(A) of Customs Notification no.50/2017 dated 30.06.20l7 (as amended) for the import of the subject goods thereby to avoid condition no. 9 which mandates the procedure set out in the IGCRD 2017/2022 & paid lower IGST @ 5% than applicable and thus the provisions of Section 28 (4) are invocable in the case.

1.17 Further data was retrieved for last five years for the bill of entries filed by the Importer in INNSA1 for the import of “Iohexol USP & Iopamidol USP”. It has been found importer has cleared 28 Bills of Entries (25 for Iohexol and 3 for Iopamidol) having Total Assessable Value of Rs. 29,20,67,524/- and total differential duty foregone (BCD @ 7.5% + SWS @ 10% of BCD + Differential IGST) is Rs. 6,68,99,987/- as per the Annexure-A attached with SCN.

1.18 Accordingly, Show Cause Notice bearing no. 322/2025-26/Pr. Commr /GR II(A-B)/NS-I/CAC/JNCH dated 18.06.2025 was issued to M/s. Unijules Life Sciences Limited seeking as to why:

1.18.1 Customs duty Exemption under Sr.No. 167(A) of Customs Notification no. 50/2017 dated 30.06.2017(as amended) for the subject gods should not be rejected.

1.18.2 The IGST rate claimed under Schedule I– Sr. No. 180 of IGST levy Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017 for the subject goods should not be rejected and IGST rate under Schedule III – Sr. No. 40 of said notification should not be levied.

1.18.3 Differential duty amount of Rs. 13,68,19,716.2/- (Rupees Thirteen Crore sixty eight lakh nineteen thousand seven hundred sixteen & two paise only) with respect to the items covered under Bill of entry as mentioned in Annexure-A of the notice should not be demanded under Section 28(4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.

1.18.4 The subject goods as detailed in Annexure A of the notice having a total assessable value of Rs. 59,96,09,771.6/- (Rupees fifty nine crore ninty six lakh nine thousand seven hundred seventy one & six paise only) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962.

1.18.5 Penalty should not be imposed on the importer under Section 114 A of the Customs Act, 1962.

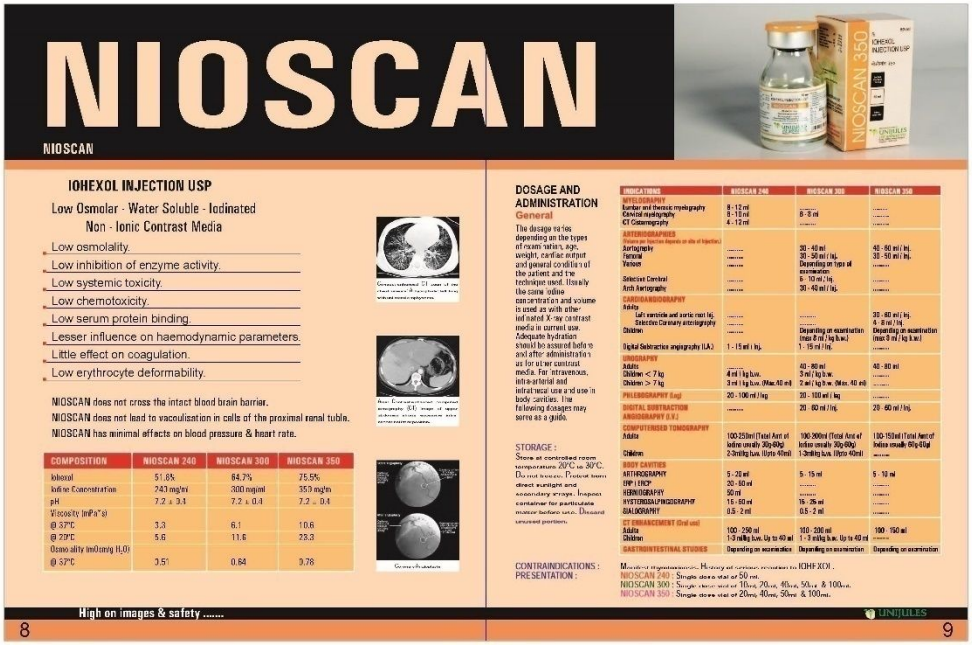
WRITTEN SUBMISSIONS

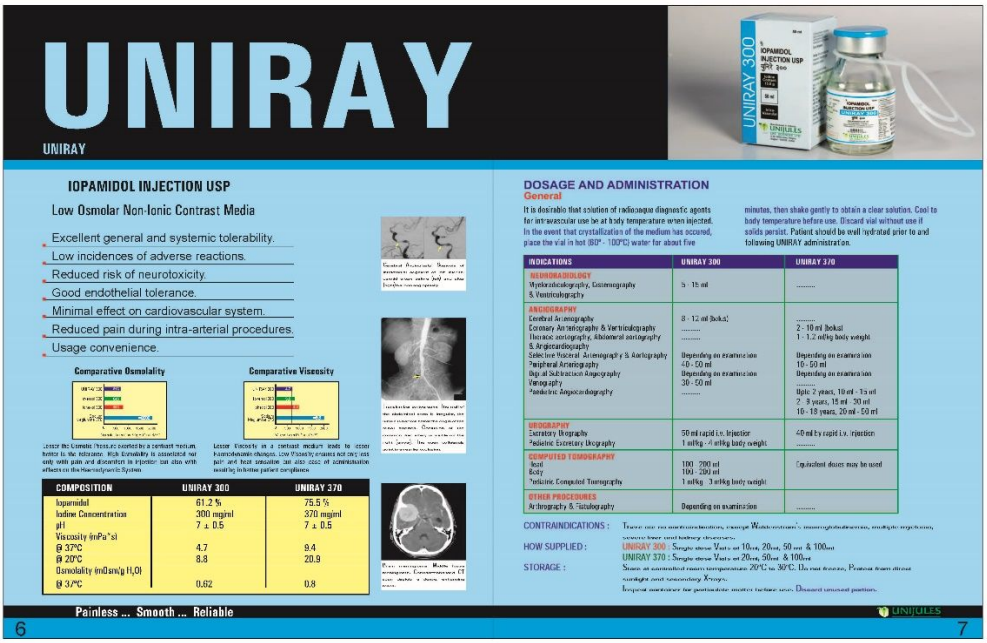
2. M/s. Unijules Life Sciences Limited gave written submissions vide their letter dated 23.09.2025, wherein they *inter-alia* stated as below:

2.1 The Noticees is engaged in the business of manufacturing and marketing of allopathic and herbal pharmaceutical branded and non-branded formulations for human and veterinary consumption and also inter alia engaged in the manufacture and supply of injectable formulations and contrast media, for which they regularly imports various APIs required for their manufacturing activity. All APIs imported by the noticee have the requisite certificate / license / permission from Central Drug Standard Control Organization (hereinafter referred to as "CDSCO"). Further, the noticee also obtained necessary permissions/licenses from the Food and Drugs Control Administration. They has obtained a valid "licence to import drugs (excluding those specified in Schedule X) to the Drugs and Cosmetic Rules, 1945" bearing Number IL/BD-008119-RC/BD-002080 dated 01.04.2020 in Form 10 read with Rule 23 and 27 of the Drugs and Cosmetic Rules, 1945 for import of Iohexol USP and Iopamidol USP respectively (enclosed as Annexure-2A). It is pertinent to note that Form 10 is the requisite license for import of drugs including the bulk drugs such as Iohexol USP and Iohexol USP imported by the noticee. Furthermore, the noticee also obtained a Registration Certificate for import of drugs into India in Form 41 for import Iohexol USP, Iopamidol USP, Levofloxacin Hemihydrate IP, and Iodixanol USP vide Registration Certificate No. RC/BD-002080 dated 12.03.2020 (enclosed as Annexure-2B). This also signifies that a bulk drug like IOHEXOL USP is considered a drug for the purpose of the Drugs and Cosmetics Law in India. Moreover, the said Registration Certificate and License to import in Form 10 have also been renewed by the noticee over time.

2.2 The notice manufacture the following products using the imported goods (details as follows):

Ingredients	Indication(s)	Dosage Form
Iohexol	Iodinated Non-Ionic low osmolar contrast media	Iohexol Injection USP 350 mg I/ml (Liquid Injection)
Iopamidol	Iodinated Non-Ionic low osmolar contrast media	Uniray 370 (Liquid Injection)





UNIRAY

IOPAMIDOL INJECTION USP

Low Osmolar Non-Ionic Contrast Media

- Excellent general and systemic tolerability.
- Low incidences of adverse reactions.
- Reduced risk of neurotoxicity.
- Good endothelial tolerance.
- Minimal effect on cardiovascular system.
- Reduced pain during intra-arterial procedures.
- Usage convenience.

Comparative Osmolality

Comparative Viscosity

COMPOSITION	UNIRAY 300	UNIRAY 370
Iopamidol	61.2 %	75.5 %
Iodine Concentration	300 mg/ml	370 mg/ml
pH	7 ± 0.5	7 ± 0.5
Viscosity (mPa*s)		
@ 37°C	4.7	9.4
@ 20°C	8.8	20.9
Osmolality (mOsm/g H_2O)		
@ 37°C	0.62	0.8

Painless ... Smooth ... Reliable

6

DOSAGE AND ADMINISTRATION

General

It is desirable that solution of radiologic diagnostic agents for intravascular use be at body temperature when injected. In the event that crystallization of the medium has occured, place the vial in hot (60° - 100°C) water for about five minutes, then shake gently to obtain a clear solution. Cool to body temperature before use. Discard vial without use if solids persist. Patient should be well hydrated prior to and following UNIRAY administration.

INDICATIONS	UNIRAY 300	UNIRAY 370
NEURORADIOLOGY		
Myeloradiculography, Cisternography & Ventriculography	5 - 15 ml	.....
ANGIOGRAPHY		
Cerebral Arteriography	8 - 12 ml (bolus)	.....
Coronary Arteriography & Ventriculography	.....	2 - 10 ml (bolus)
Thoracic aortography, Abdominal aortography & Angiocardiography	.....	1 - 1.2 ml/kg body weight
Selective Visceral Arteriography & Aortography	Depending on examination	Depending on examination
Peripheral Arteriography	10 - 50 ml	10 - 50 ml
Digital Subtraction Angiography	Depending on examination	Depending on examination
Venography	30 - 50 ml	.....
Pediatric Angiocardiography	.....	Upto 2 years, 10 ml - 15 ml 2 - 9 years, 15 ml - 30 ml 10 - 18 years, 20 ml - 50 ml
UROGRAPHY		
Excretory Urography	50 ml rapid i.v. injection	40 ml by rapid i.v. injection
Pediatric Excretory Urography	1 ml/kg - 2 ml/kg body weight	.....
COMPUTED TOMOGRAPHY		
Head	100 - 200 ml	Equivalent doses may be used
Body	100 - 200 ml	
Pediatric Computed Tomography	1 ml/kg - 3 ml/kg body weight	
OTHER PROCEDURES		
Arthrography & Fistulography	Depending on examination	.....

CONTRAINDICATIONS : Those not to administration, except Waldenstrom's macroglobulinemia, multiple myeloma, severe liver and kidney diseases.

HOW SUPPLIED : UNIRAY 300 : Single dose Vials of 10 ml, 20 ml, 50 ml & 100 ml
UNIRAY 370 : Single dose Vials of 20 ml, 50 ml & 100 ml

STORAGE : Store at controlled room temperature 20°C to 30°C. Do not freeze. Protect from direct sunlight and secondary X-rays.
Inspect container for particulate matter before use. Discard unused portion.

UNIJULES

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Also copy of Certificate of Analysis and product leaflet of finished product was enclosed as Annexure-3 for illustrative purpose.

2.3 Noticee had made all necessary declarations including classification, description, exemption notifications, etc. which are always subject to examination / verification by the customs authorities and always filed requisite documents including bill of lading, supplier's invoice, packing list, import permit / CDSCO license, etc. with the customs department at the time of assessment of the imported goods. After due examination and satisfaction with the declarations made by the Company, the Customs department grants out-of-charge for home consumption. Also copy of examined Bill of Entry No. 4168483 dated 13.01.2023 along with screenshot from ICEGATE portal was produced.

2.4 During the period from 06.07.2020 to 24.03.2025, the noticee vide multiple Bills of Entry imported Iohexol USP and Iopamidol USP under Tariff Item 2924 29 90 of the First Schedule to the Customs Tariff Act, 1975 which are non-ionic iodinated contrast media used primarily for diagnostic imaging. Their role is to enhance the visibility of internal structures in X-ray-based imaging techniques such as computed tomography (CT) and angiography. These substances are specifically designed and manufactured as opacifying agents which help differentiate tissues by increasing contrast on radiographic images. The noticee imported the said goods by availing the benefit under Sl. No. 167(A) of Notification No. 50/2017-Customs dated 30.06.2017 (hereinafter referred to as "Notification No. 50/2017") as amended by Notification No. 68/2017-Customs(NT) dated 30.06.2017 and discharging IGST under Sl. No. 180 of Schedule I of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017.

2.5 Noticee also mentioned that the goods were assessed by officers as well as under the RMS and cleared for home consumption. The goods were correctly described, classified and accordingly, the benefit of Notification No. 50/2017 was availed. Further, a few consignments which are in dispute were subjected to regular assessment procedure of examination and verification by the customs officers before grant of out-of-charge. After being satisfied with the response, such consignments were granted out-of-charge allowing home clearance of the imported goods. This proves that classification and exemption notification adopted by the noticee during the course of import of the goods was also examined and approved by the customs officials in the past. Based on the above assessment and verification, other similar consignments were cleared under RMS assessment. This shows that the customs department was satisfied and agreed with the benefit availed by the Noticee under Sl. No. 167(A) of Notification No. 50/2017 and under Sl. No. 180 of Schedule I of Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017.

2.6 Prior to the introduction of GST, the noticee imported IOHEXOL USP and IOPAMIDOL USP by claiming benefit under Sl. No. 148B of Notification No. 12/2012 dated 17.03.2012 on fulfilment of the relevant Condition i.e., compliance with the Customs (Import of Goods at Concessional Rate of Duty) Rules in letter and spirit as under:

a. Intimation to Deputy Commissioner/Assistant Commissioner of Central Excise having jurisdiction over the factory about intent to avail benefit of exemption notification titled “Annexure-III”;

b. Continuity Bond and Surety bond.

However, after the introduction of GST, Notification No. 50/17-Cus. dated 30.06.2017 was issued in supersession of Notification No. 12/2012-Cus. dated 17.03.2012 and post introduction of GST, the noticee filed an application letter dated 12.02.2018 under the new Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 intimating their intent to import Iohexol USP in terms of Sl. No. 167(B) of Notification No. 50/17 read with Notification No.68/17-Cus. (NT). In terms of IGCRD Rules 2017, following documents were submitted by the noticee as detailed below:

a. Application under the IGCRD Rules, 2017 and Annexure-I Showing information as per the IGCRD Rules, 2017.

b. Continuity Bond of Rs.65,50,000/- given at the time of import of goods.

2.7 The Ld. Assistant Commissioner, Customs Division-I, Nagpur-I, Customs Commissionerate, Nagpur vide letter dated 23.04.2018 clarified that the imported goods (Iohexol USP and Iopamidol USP) are covered under Sl. No. 167(A) of Notification No. 50/2017. Consequently, the procedure under the IGCRD Rules is not applicable to the noticee as there is no condition to follow such procedure under Sl. No. 167(A) of Notification No. 50/2017. Copy of letter dated 23.04.2018 was enclosed as Annexure-8. Basis the above response from the jurisdictional custom officials, the noticee continued imports of IOHEXOL USP in terms of Sl. No. 167 (A) of the above notification.

2.8 The noticee was issued with a Consultative Letter No.539/2024-25/C-2 having F. No. CADT/CIR/ADT/ThBA/551/2024-ThBA-CIR-C2 dated 13.12.2024 by the Assistant Commissioner, DC/AC-III, Commissioner of Customs (Audit), JNCH, Nhava Sheva, Raigad, Maharashtra alleging that Iohexol USP and Iopamidol USP imported during 06.07.2020 to 14.08.2024 are not eligible to BCD exemption under Sl. No. 167(A) of Notification No. 50/2017 and also are liable to higher rate of IGST under Sl. No. 40 of Notification No. 01/2017. Consequently, the noticee was suggested to pay differential duty of Rs.18,81,67,566/- along with interest and penalty.

2.9 In response to the said consultative letter, the noticee filed a detailed reply vide letter dated 22.12.2024 before the Ld. Commissioner of Customs (Audit), JNCH, Nhava Sheva, Uran, District Raigad, Maharashtra- 400707 and made the submission as follows:

a. The imported goods are drugs used in the manufacture of lifesaving medicines and diagnostic products, which are explicitly covered under the Notification No. 50/2017 as well as Sl. No. 180 of Schedule I of Notification No. 01/2017-IGST.

b. The Bills of Entry were scrutinised by the Department, and the clearance was allowed without any objection, the subject goods were also given out of charge. Thus, Section 28(4) of the Customs Act is not invocable.

c. The legislative intent of the Government is to grant exemption to the life saving drugs, be the same imported in retail or in bulk for manufacture of retail. Thus, benefit under SL. No. 167A, 167B and 167C of Notification no. 50/2017-IGST Rate is correctly taken in respect of imported goods.

d. If the noticee are liable to discharge higher IGST, the same would be available as a refund. The situation is revenue neutral, thus, no IGST is liable to be recovered.

e. The noticee acted on the directions of the Department, and they cannot be made to suffer for no fault of theirs and that too for mere procedural infractions, if any.

f. The noticee had no reason to mis declare the same as the benefit of the exemption was alternatively available and which was being done since long

g. The noticee is under financial liquidation and the NCLT, Mumbai vide CP 3080/(IB)/MB/2018 dated 08.03.2019 declared moratorium under Section 14 of the Insolvency and Bankruptcy Code with consequential directions, including prohibition of institution of any suit or proceedings against the Noticee.

h. Without considering the submissions made by the noticee, the Ld. Principal Commissioner issued the present SCN

2.10 The noticee encountered financial stress for various reasons out of its control. An application was filed by one of the financial creditors of the noticee under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “IBC”) for recovery of debts owed by the noticee before the National Company Law Tribunal, Mumbai Bench (hereinafter referred to as “NCLT”). The NCLT admitted the application under Section 7(5)

of the IBC and issued Order dated 08.03.2019 for initiating Corporate Insolvency Resolution Process ("CIRP") in respect of the noticee under Section 13 of the IBC. Vide the said Order dated 08.03.2019, the NCLT declared moratorium and appointed Mr. Amit Chandrashekhar Poddar, a registered insolvency professional as the Interim Resolution Professional. The relevant portion of the NCLT Order is extracted as under for easy reference:

"This petition filed under Section 7 of I&B Code, 2016, against the Corporate Debtor for initiating corporate insolvency resolution process is at this moment admitted. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

IV. That the order of moratorium shall have effect from 08.03.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be"

V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.

VI. That this Bench at this moment appoints Mr Amit Chandrashekhar Poddar, a registered insolvency professional is having Registration Number [IBBI/IPA001/IP-P00449/2017-18/10792] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. Fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard."

2.10.1 As per the order passed by the NCLT, the Resolution Professional took over the management and control of the Noticee/ Corporate Debtor, collected claims and constituted a Committee of Creditors (hereinafter referred to as the "COC") under Section 21 of the IBC. The COC confirmed Mr. Amit Chandrashekhar Poddar, the Interim Resolution Professional as the Resolution Professional (hereinafter referred to as "Resolution Professional"). In accordance with due processes stipulated under the IBC, the Resolution Professional invited prospective Resolution Applicants to submit Resolution Plan for approval of the COC. However, the CIRP is still pending, and the Resolution Plan is yet to be considered and

approved by the COC and the NCLT. Pertinently, while the CIRP proceedings are still underway, the Ld. Principal Commissioner vide the present SCN initiated proceedings against the Noticee proposing to recover customs duty, IGST along with interest and penalty. Further, it is significant to note that since a Resolution Professional has been appointed in terms of IBC, it is the Resolution Professional who is empowered to represent and act on behalf of the Corporate Debtor i.e. Noticee during the CIRP in terms of Section 25 of the IBC. Accordingly, the present reply is being to SCN is being filed by the Resolution Professional on behalf of the Corporate Debtor i.e., the noticee, in discharge of his duties under the IBC.

2.10.2 It was also submitted that the notice against which the present SCN has been issued has already been admitted into the CIRP by the Hon'ble NCLT, Mumbai Bench under Section 7 of the IBC, vide Order dated 08.03.2019 and as per the said Order the moratorium shall have effect from 08.03.2019 till the completion of the corporate insolvency resolution process or until the Hon'ble NCLT approves the resolution plan under Section 31(1) of the IBC or an order for the liquidation of the Noticee under Section 33 of IBC is passed.It is submitted that the CIRP proceedings are still underway and neither a Resolution Plan has been approved nor any order for liquidation of noticee has been passed. Thus, during this moratorium period, the Order dated 08.03.2019 read with the IBC, the following is prohibited:

a. Institution or continuation of suits or proceedings against the Corporate Debtor i.e., the noticee in the present case;

b. Execution of judgements, decrees, or orders;

c. Foreclosure, recovery or enforcement of any security interest; and

d. Recovery of property by owner or lessor in possession of the Corporate Debtor i.e., the noticee.

It was submitted that the object of the moratorium is to provide a period during which the Corporate Debtor is insulated from proceedings, thereby preserving the assets and enabling the Resolution Professional and the COC to explore viable resolution. It is settled law that once CIRP is in force and not lifted, there would be a complete embargo/bar to initiate and continue proceedings against the Noticee is approved no fresh claims can be brought against the Noticee before any other authority other than the NCLT. No proceedings can be initiated against the Noticee during the moratorium period. They relied upon judgments of Sundaresh Bhatt Vs. CBI – 2022 (381) ELT 731, Associate Décor Ltd. Vs. DC – 2022 (67) GSTL 534 and Karthuk Alloys Vs. Ast Commissioner of Goa – 2025 (3) TMI 135 Bombay High Court.

2.10.3 Further, the CIRP has been admitted on 08.03.2019 and continues to remain pending with no resolution plan approved, the moratorium is still very much in force. Consequently, it is submitted that the present proceedings initiated vide the SCN against the noticee during the moratorium period is ex-facie contrary to Section 14 of the IBC, prohibited and bad in law. Without prejudice, if any proceedings may be initiated after the moratorium is lifted and the CIRP ends. Thus, in light of the above, the present recovery proceedings are bad in law.

However, without prejudice, if any, the proceedings may be initiated against the noticee after the moratorium is lifted and the CIRP is completed. Further, it is submitted that the fact of initiation of CIRP in respect of the noticee is a matter of public record, duly notified through public announcements in accordance with the IBC. Despite such notice being in the public domain, the present proceedings have been ignorantly initiated in the name of the noticee itself. Whereas, any such communication or proceeding, if any maintainable, ought to have been addressed to the Resolution Professional who alone is authorized representative of the noticee during the CIRP.

2.11 The SCN has failed to give any clear reason or evidence to support its allegations that the imported goods are not eligible for benefit under Sl. No. 167(A) or Sl. No. 167(B) of Notification No. 50/2017. The SCN has not provided any literature or reasoning stating that "Iohexol USP" and "Iopamidol USP" are not eligible for the concessional rate of duty under Sl. No. 167(A) of Notification No. 50/2017. Thus, on this ground itself, the present SCN is liable to be dropped. The present SCN is vague and cryptic. The present SCN has failed to consider the scope of Sl. No. 167(A) of Notification No. 50/2017. Further, the SCN has totally ignored the nature and characteristics of the imported goods. The entire SCN has just made bald allegations and has proposed differential duty demand along with interest and penalty based on assumptions and presumptions. On this ground alone, the SCN is liable to be dropped. They relied upon judgments of Electronik Lab Vs. CC – 2005 (187) ELT 362, Govind Laskar Vs. CCE - 1991 (52) ELT 529.

2.12 It was submitted that the present SCN served to the Noticee does not bear any signature of the Ld. Principal Commissioner. The SCN merely states that it is signed on 18.06.2025 at 17:53:37 minutes, however, without bearing any physical signature. Further, the signature status as "signed by Yashodhan Arvind Wanage date: 18-06-2025 17:53:37" appears to be text typed out and is not the digital signature. It is also submitted that the present issue is no longer res integra and has been decided in favour of the noticee in plethora of cases. Thus, nothing survives in the present SCN and the same is liable to be dropped. It is a settled law that principles of judicial discipline mandate that the lower authority has to follow the decision of the higher forum. Accordingly, the adjudicating authority is bound to follow the decision of Hon'ble CESTAT passed in the case of the noticee itself. They relied upon judgment of Ram Nath Vs. CC- 2025 (7) TMI 1345.

2.13 The present SCN alleges that the goods imported by the noticee is not eligible to avail benefit under Sl. No. 167(A) of Notification No. 50/2017 on the ground that the said entry is not applicable for bulk drugs. Further, it is also alleged that the benefit under Sl. No. 167(B) of Notification No. 50/2017 is also not available in respect of imported goods since the procedure under the IGCRD Rules has not been followed and condition no. 9 is not fulfilled. The term "drug" includes bulk drug and formulation as per Drugs (Prices Control) Order, 1995. Hence, the imported goods are a drug. Notification No. 50/2017 recognizes the items specified in List No. 4 as drugs or medicines. Therefore, if an item is specified in List No. 4 appended to the said Notification, then they are drugs or medicines. Notification No. 50/2017 has not defined bulk drug. The term 'drug' includes 'bulk drug' in terms of Drug (Price Control) Order, 1995. The said Order defines the terms 'bulk drug' and 'drug' as under:

"(i) "bulk drug" means any pharmaceutical, chemical, biological or plant product including its salts, esters, stereo-isomers and derivatives, conforming to pharmacopoeial or other standards specified in the Second Schedule to the Drugs and Cosmetics Act, 1940 (23 of 1940), and which is used as used or as an ingredient in any formulation;"

(ii) "drug" includes –

(a) all medicines for internal or external use of human beings or animals and all substances intended to be used for, or in the diagnosis treatment, mitigation, or prevention of any disease or disorder in human beings or animals, including preparations applied on human body for the purpose of repelling insects like mosquitoes;

(b) such substances, intended to affect the structure or any function of the human or animal body or intended to be used for the destruction of vermin or insects which cause disease in human beings or animals, as may be specified from time to time by the Government by Notification in the Official gazette; and

(c) bulk drugs and formulations;"

From the above, it is clear that drugs are inclusive of 'bulk drugs' under the Drug (Price Control) Order, 1995.

2.14 Subsequently, the Drug (Price Control) Order, 1995 was subsumed by Drug (Price Control) Order, 2013 and the definition of the term 'drugs' which formed part of the Drug (Price Control) Order, 1995 was done away with as 'drug' was defined in the Drugs and Cosmetics Act, 1940. Clause 2(2) of the 2013 Order reads as follows:

"All other words and expressions used herein and not defined but defined in the Act or the Drugs and Cosmetics Act, 1940 (23 of 1940) shall have the meanings respectively assigned to them in the said Acts."

Reference is made to Section 3(b) of the Drugs and Cosmetics Act, 1940 which provides the definition of the term "drugs." The relevant portion of the said definition is extracted hereunder:

"(b) "drug" includes-

(iii) all substances intended for use as components of a drug including empty gelatin capsules; and

In light of the above, it can be said that since bulk drugs are used in the formulations to make drugs and act as active components / API of a medication that provide the intended therapeutic effect; bulk drugs can be considered as intended to be used as a component of a drug. Hence, it can be concluded that 'drugs' as defined in the Drugs and Cosmetics Act, 1940 include bulk drugs.

2.15 Further, it was submitted that the noticee obtained "License to Import Drugs (Excluding Those Specified in Schedule X) to the Drugs and Cosmetics Rules, 1945" in Form-10 from the Central Drugs Standard Control Organisation (hereinafter referred to as

"CDSCO") for import of subject bulk drugs i.e., Iohexol USP and Iopamidol USP. This clearly signifies that the license obtained for import of drugs would be applicable for import of bulk drugs also. Thus, even if the imported goods are treated as a bulk drug for the reason that it is used in the manufacture of medicines or formulation, for the purpose of the Notification, it would be treated as drugs and hence are covered by Sl. No. 167(A) of Notification No. 50/2017. In view of the above, the imported goods are drugs for the purposes of the said Notification. Iopamidol is specified at Item 54 and Iohexol is specified at Item 55 under List 4 of Notification No. 50/2017. Therefore, Iohexol USP and Iopamidol USP are covered by Sl. No. 167(A) of Notification No. 50/2017, even if Iohexol USP and Iopamidol USP are treated as a bulk drugs for the reason that it is used in the manufacture of contrast media such as Uniray, Nioscan, etc. For the purpose of the said Notification, the imported goods are to be treated as drugs and hence covered by Sl. No. 167(A) of Notification No. 50/2017.

2.16 It was submitted further that the goods specified in Sl. No. 167(B) of Notification No. 50/2017 are bulk drugs used in the manufacture of drugs or medicines at (A) above. Apart from the various items mentioned in List 4 of the Notification No. 50/2017 there may be other drugs, which may be used for manufacture of medicines or drugs, which are not covered under Sl. No. 167(A). Therefore, those drugs which are not covered under Sl. No. 167(A) of Notification No. 50/2017, are covered under Sl. No. 167(B), if they are used in the manufacture of drugs specified Sl. No. 167(A) of Notification No. 50/2017. As the imported goods fall under Sl. No. 167(A) of Notification No. 50/2017, there is no need for the Noticee to follow the procedure prescribed in IGCRD Rules. Procedural compliance under these rules is mandatory condition for clause (B) and not for clause (A). In light of the above, the SCN issued by the Ld. Principal Commissioner is incorrect and is liable to be dropped.

2.17 It was submitted that noticee had rightfully availed the benefit under Sl. No. 167(A) of Notification No. 50/2017, in compliance with clear and unambiguous confirmation and approval from the Ld. Assistant Commissioner, Nagpur. After the introduction of GST, a formal Application dated 12.02.2018 under the IGCRD Rules before the Ld. Assistant Commissioner, Nagpur for import of goods namely, Iohexol USP under Notification No. 50/2017-Customs (NT) dated 30.06.2017 seeking exemption under Sl. No. 167, list 4 as per procedure set out in Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. The Ld. Assistant Commissioner, Nagpur after due verification of the application and the documents furnished by the Noticee, issued letter dated 23.04.2018 stating that the goods Iohexol USP are included under Sl. No. 167(A) of Notification No. 50/2017 and that the IGCRD Rules are not applicable for the import of the said goods. C.20. Accordingly, in light of the clear confirmation and approval given by the Ld. Assistant Commissioner, Nagpur to the noticee, they acted in good faith and imported the subject goods and availed the benefit of Sl. No. 167(A) of Notification No. 50/2017.

2.18 They submitted that the Ld. Principal Commissioner vide the SCN failed to establish any evidence to suggest the Noticee intention to avail the undue benefit or to evade payment of duty. Thus, in light of the same, it is submitted that the Noticee is eligible to avail the benefit of Sl. No. 167(A) of Notification No. 50/2017 and the present SCN is liable to be

dropped. SCN has conveniently ignored the binding judicial precedents of higher forums which is in utter disregard to the principle of judicial discipline. Hence, the SCN is liable to be dropped on this ground itself. They relied upon judgment of Hon'ble Tribunal (Mumbai Bench) rendered in the case of Burroughs Wellcome (India) Limited Vs. CCE – 2007 (216) ELT 522, Cipla Limited Vs. CC, Chennai – 2007 (218) ELT 547 (Tri. - Chennai), Astrix Laboratories Ltd. Vs Commissioner – 2009 (233) ELT 372 (T) and Aurobindo Pharma Ltd. Vs CCE, Hyderabad – 2009 (247) ELT 206 (Tri-Bang) etc.

2.19 It was submitted that the Ld. Principal Commissioner is duty bound by the decision / judgment of higher forums (including Tribunal and Supreme Court) and cannot ignore it. Therefore, judicial discipline requires him to follow the decision of the higher authority. They relied upon judgment of the Hon'ble Supreme Court in UOI Vs. Kamlakshi Finance Corporation - 1991 (55) ELT 433 (SC), and judgment of the Hon'ble Bombay High Court in Veena Commercial Corporation Vs. Union of India - 1993 (68) ELT 596. In the instant case, the Ld. Principal Commissioner has completely ignored the above decisions and proceeded to deny the exemption benefit to the imported goods.

2.20 They submitted that it is a settled principle that benefit of any Notification has to be extended by giving a plain meaning to the description without resorting to intent or interpretation of such notifications/ circulars etc. This position of law has been time and again reiterated by the Hon'ble Apex Court in a series of decisions. They relied upon judgment in case of Hemraj Gordhandas Vs. HH. Dave - 1978 (2) ELT (350), Sri Sathya Sai Institute of Higher Medical Sciences Vs. UOI - 2003 (158) ELT 675 (SC) and Saraf trading corporation Vs. State of Kerala - (2011) 2 SCC 344 etc. C.45. Considering that Notification No. 50/2017 is a beneficial notification which incentivizes domestic industries in India, the entries mentioned in the exemption notification must be construed liberally and in case of ambiguity, the entries in the notification should be interpreted in favour of the assessee. They relied upon judgment of the Hon'ble Supreme Court's decision in the case of Government of Kerela Vs. Mother Superior Adoration Convent - 2021 (376) ELT 242 (SC). Thus, it was apparent that the subject goods are lifesaving drugs/ medicines specified in List 4, these are covered under Sl. No. 167(A) as submitted above. Therefore, in the present case, the subject goods are eligible for benefit under Sl. No. 167(A) of Notification No. 50/2017 and the same has been claimed appropriately by the Noticee.

2.21 Further, the department also vide letter dated 23.04.2018 had informed the Noticee to import Iohexol USP by availing the benefit under Sl. No. 167(A) of Notification No. 50/2017. Thus, since it is apparent that the subject goods are lifesaving drugs/ medicines specified in List 4, these are covered under Sl. No. 167(A) as submitted above. Therefore, in the present case, it is submitted that the subject goods are eligible to benefit under Notification No. 50/2017 and the same has been claimed appropriately by the noticee.

2.22 They submitted that in cases where more than one exemption available in respect of the imported goods, the importer-assessee / Noticee can choose any one of the exemptions which is beneficial to him. The department cannot force any of the above exemptions of their choice on to the Noticee. Though, it is a well settled law that specific entry over-rides the

general entry, the said principle of specific over-rides the general will not apply when there is more than one exemption available for the goods. In other words, where there is plurality of exemptions available, the assessee has the option to choose any one of the exemptions, even if the exemption so chosen is generic and not specific. the noticee relied upon various judgments in case of HCL Ltd. Vs. Collector of Customs, New Delhi - 2001 (130) ELT 405 (SC), Coca Cola Limited – 2009 (94) RLT 401 (Bom.) and ABB Ltd Vs. CCE- 2009(92) RLT 665 (L.B.) etc,

2.23 The SCN alleges that since the present goods are imported in bulk quantity, the imported goods are eligible to benefit under Sl. No. 167(B) of Notification No. 50/2017 subject to condition 9 of the said Notification which requires the Noticee to follow the procedure in terms of IGCRD Rules. However, since Condition No. 9 of the Notification has not been followed by the Noticee, benefit under Sl. No. 167(B) is not available in respect of the imported goods. They submitted that a copy of the co-relation of the Iohexol USP and Iopamidol USP imported during the disputed period which were used in the manufacture of the contrast media can be furnished, even now. Illustrative copy of data pertaining to correlation of the consumption of the imported goods into the formulations manufactured by the Noticee in respect to Iohexol USP imported vide Bill of Entry No. 4168483 dated 13.01.2023 was enclosed as Annexure-13.

2.24 They submitted that it was on the mis-guidance of another department that the noticee availed benefit of Sl. No. 167(A) and not 167(B) when they were already availing 167(B) in the past and complying with the IGCRD condition. Such action of the noticee on account of the approval by another department cannot be fatal to their case. It was submitted that the actions of the noticee clearly reflect adherence to the procedural mandates without any intent to bypass or contravene any provisions. Further, any perceived contravention of Condition No. 9 of Notification No. 50/2017 is merely procedural and should not impact the Noticee entitlement to the concessional benefit.

2.25 They submitted that the benefit under Sl. No. 167(A) and 167(B) of Notification No. 50/2017 were both available in respect of the imported goods. Sl. No. 167(A) is without any condition, whereas Sl. No. 167(B) requires procedural compliance under the IGCRD Rules. Any perceived contravention of Condition 9 of the Notification No. 50/2017 is merely procedural and should not impact the noticee's entitlement to the concessional benefit. Thus, it was submitted that independently, the present goods are also eligible to benefit under Sl. No. 167(B) of Notification No. 50/2017. The SCN is incorrect in denying both the independent exemption benefits under Sl. No. 167(A) and 167(B) to the Noticee. Further, it is submitted that both Sl. No. 167(A) and Sl. No. 167(B) of Notification No. 50/2017 prescribe nil rate of duty. The importation of life saving drugs specified in List 4 whether they are imported in bulk form or not are all subject to nil customs duty. Consequently, any failure to comply with Condition No. 9 of Notification No. 50/2017 does not result in any financial loss to the Government revenue. There is no financial detriment to the government in either case.

2.26 They submitted that any attempt to impose IGST at a higher rate than the rate applicable under Sl. No. 180 of Schedule 1 of Notification No. 01/2017 and denial of

exemption benefit in terms of Notification No. 50/2017 on imported Iohexol USP and Iopamidol USP would undermine the Government's efforts in promoting the policy of providing affordable healthcare by subsidizing prices of life saving drugs.

2.27 The Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 (hereinafter referred to as "IGCRD, 2016") were framed by the Central Government in or around 29.2.2016 superseding the erstwhile the Concessional Rate of Duty Rules 1996 and Circular/letter dated 29.02.2016 issued by the Tax Research Unit, Central Board of Excise and Customs, as part of the explanatory notes to Union Budget 2016-17 clarified the rationale behind introduction of new Concessional Rate of Duty Rules 2016. Thus, the Concessional Rate of Duty Rules 2016 simplified the procedure of availing duty exemption by importers/manufacturers on self-declaration basis as opposed to requiring permission from the Central Excise officers earlier. This part of the amendment is not significant or material for the present purpose. The material change introduced by the new concessional duty Rules, 2016 is this. The new concessional duty Rules 2016 governed end use of imported goods for provision of output service also in addition to the existing position of end use of imported goods for manufacture of excisable goods. Perhaps, this was introduced a pre- cursor to the introduction of GST, since the Central Government was already of the view that there should be no distinction in most respects between manufacture of goods or rendering of service from the point of view of indirect taxation.

2.27.1 The Central Board of Central Excise & Customs also issued Customs Instruction M.F. (D.R.) F. No. 450/147/2015-Cus.IV, dated 31.03.16. Much prior to introduction of GST, but in anticipation of and prelude to it, Circular foretold, perhaps by a way of an inevitable prophecy that under new Concessional Rate of Duty 2016 Rules both Central Excise registration number and GST number (after introduction of GST) will have to be mentioned in bill of entry in order to enable smooth transition into GST regime. During the pre-GST era the goods were imported under Sl. No. 167(B) of Notification No. 50/2017 under bulk drugs and the concessional duty was availed on fulfilment of Condition 9. The noticee duly followed and fulfilled the necessary procedure specified under the new Concessional Rate of Duty Rules, 2016.

2.27.2 They submitted that they had duly declared its Central Excise registration number in the application filed under the Concessional Rate of Duty Rules. 2016. This also was declared in the Bills of entry for import of IOHEXOL USP. The noticee also declared that the imported IOHEXOL USP will be used in manufacture of excisable goods i.e., Iohexol Injection USP. The Customs officials after due verification and application of mind allowed clearance of the imported goods by extending the exemption benefit under Sl. No. 148B of Notification No. 12/2012.The Central Excise authorities in charge of the factory also duly accepted and approved the procedure followed for end use of the imported goods as stipulated in the new concessional duty Rules, 2016. In particular, the quarterly end use returns filed by Noticee was duly receipted and acknowledged by the Central Excise authorities.

2.27.3 Prior to the introduction of GST, practically all commodities under the sun fell under Schedule to Central Excise Tariff Act, 1985 read with Central Excise Act, 1944. Only alcohol liquor for human consumption and medicines and toilet preparation containing them were outside purview of Central Excise Act. With effect from 01.07.2017, GST was introduced. Only six specified items falling under the new Fourth Schedule to Central Excise Act, 1944 continued to attract Central Excise Duty. These essentially covered five petroleum products and tobacco. All goods other than petroleum products were now covered by GST Act. These changes were effected to the Central Excise Act, 1944 through relevant provisions of Taxation Laws Amendment Act, 2017.Notification No. 50/2017-Cus was issued on 30.6.2017 - essential change made by this notification compared to earlier Notification No.12/2012-Cus related to additional duties of customs equal to excise duty being replaced by IGST. No change in the new notification No.50/2017 vis-à-vis earlier Notification No.12/2012 to the extent it related to basic customs duty. Accordingly, all existing exemption notifications were effectively and suitably modified or changed only to the extent they related to additional duties of customs equal to erstwhile excise duty without impacting or making any changes to the extent they related to basic customs duty.

2.27.4 The existing position/status quo qua rate of BCD, prevailing in the pre-GST period, was continued and maintained for the post GST period also. This was because introduction of GST has no relation to or impact on basic customs duty. Consequently, Notification No. 50/17-Cus. dated 30.06.2017 was issued in supersession of Notification No. 12/2012-Cus. dated 17.03.2012. A bare comparison of the two Notification Nos. 12/2012-Cus dated 17.03.2012, as it stood on 30.6.2017 and Notification No. 50/2017 dated 30.6.2017 would show that notification is identical in all respects to the extent it related to basic customs duty. Consequential changes were made only in relation to additional duties of customs equal to excise duty being replaced by IGST. In other words, columns 1 to 4 of both the notifications 12/2012 and 50/2017 were identical for all serial numbers. Only Column 5 of Notification No. 12/2012 relating to additional duties of customs were replaced by IGST vide column 5 of the successor notification No.50/2017.

2.27.5 In the bills of entries filed for import, post introduction of GST, the Noticee continued to avail the benefit under Notification No. 50/2017, however, under Sl. No. 167A as directed by the Department. The bills of entries were duly accepted by the Customs officers and consignments allowed to be cleared by the customs authorities. All documents like bills of entries and other documents filed before the authority duly indicated the GST registration number. That Iohexol Injection USP was the final product for the Noticee was also duly disclosed to customs authorities both pre and post GST regime. Thus, all custom officials were / are very well aware that the imported goods are being used in manufacture of Iohexol Injection USP.

2.27.6 They further submitted that prior to the introduction of GST the Noticee duly followed the procedure under the IGCRD Rules and it is not the case that the Noticee was facing any difficulties in regard to the same. However, had the Department not misguided the Noticee to avail the benefit in respect of the imported goods under Sl. No. 167A of Notification No. 50/2017, the Noticee would have duly followed the procedure under the

IGCRD Rules and availed the benefit under Sl. No. 167(B) of Notification No. 50/2017. Moreover, it is submitted that the internal records available with the Noticee shows that the subject goods have been imported and used for their intended use only.

2.28 They also submitted that Sl. No. 180 of Schedule I of Notification No. 01/2017 prescribes IGST at 5% on drugs or medicines including their salts and esters and diagnostic test kits, specified in List 1 appended to this Schedule when classifiable under Chapter 30 or any chapter under the First Schedule to the said Notification. Sl. No. 176 appended to Schedule I covers Iohexol. E.3. Further, Sl. No. 40 of Schedule III of Notification No. 01/2017 prescribes IGST @ 18% in respect of all organic chemicals other than gibberellic acid classifiable under Chapter 29 of the First Schedule to Customs Tariff Act, 1975. As submitted above, 'drugs' as defined in the Drugs and Cosmetics Act, 1940 read with Section 3(b) of the Drugs and Cosmetics Act, 1940 includes bulk drugs.

2.29 They are importing Iohexol USP and Iopamidol USP in bulk form for use in manufacture of contrast media. Further, the noticee also obtained License to Import Drugs in Form-10 from the CDSCO for import of Iohexol USP and Iopamidol USP. This clearly signifies that the license obtained for import of drugs would be applicable for import of bulk drugs also. Further, even if the imported goods are treated as a bulk drugs for the reason that it is used in the manufacture of medicines or formulation, for the purpose of the Notification, it would be treated as drugs and hence are covered by Sl. No. 180 of Notification No. 01/2017. Thus, the imported goods are drugs for the purposes of Notification No. 01/2017. Iopamidol is specified in Sl. No. 176 and Iohexol is specified in Sl. No. 177 of List I appended to Notification No. 01/2017. Therefore, the imported goods are specifically covered under Sl. No. 180 of Notification No. 01/2017 as "Drugs or medicines including their salts and esters and diagnostic test kits, specified in List 1 appended to this Schedule". Consequently, IGST is exigible @5% on the imported goods.

2.30 Further, they also submitted that on the plain reading of Sl. No. 180 of Schedule 1 Notification No. 01/2017 clearly covers the impugned goods, there is no room for further intendment or contextual reading that is required to interpret the entries. On a strict interpretation, the subject goods are covered by Sl. No. 180 of Schedule I since these are drugs/ medicines specifically covered under List 1. In view of the above, the allegations in the SCN issued by the Ld. Principal Commissioner are grossly incorrect and the demand for recovery of differential IGST i.e., excess of 13% of IGST is liable to be dropped.

2.31 They also submitted that present SCN places reliance on the Gujarat Advance Ruling in M/s Sterling Biotech Ltd. bearing Advance Ruling No. GUJ/GAAR/R/54/2020 to disallow lower rate of IGST @ 5% under Sl. No. 180 of Notification No. 01/2017 on the subject imports. However, in the said Advance Ruling, the applicant was engaged in the manufacture of bulk drugs consumed in the manufacture of life saving drugs and medicaments for treatment of cancer, etc. The Applicant submitted that their bulk drugs i.e., Danuorubicin, Epirubicin, Idarubicin and Zoledronin Acid are covered under Sl. No. 180 of Notification No. 01/2017. In this regard, it was held that the product being supplied by the applicant cannot be

directly administered in a human being. The concessional rate of GST is applicable only to the medicine or drugs, which are ready for administering in the human being or person. The expression "Bulk Drugs" would have been included in the said Sl. No. had the intention of the Government been to extend the benefit of concessional rate to the bulk drugs/raw material. Thus, it was held that GST @ 5% is not applicable in respect of the said goods.

2.31.1 They also submitted that the Advance Rulings under the GST law are binding only on the applicant who sought the ruling and in relation to the specific transaction that was subject matter of the ruling. The Advance Rulings are issued by specific authorities and are only binding within their jurisdiction for that applicant. The present case clearly involves a different taxpayer and transaction, rendering the said Advance Ruling relied in the SCN inapplicable. Further, applying such a ruling to the present case without any independent adjudication, is erroneous and that the Courts in various cases have consistently held that advance rulings do not constitute general precedents or a precedent for other taxpayers. The reliance placed by the Ld. Principal Commissioner on the said Advance Ruling to the present case to levy IGST @5% has no legal basis and is legally unsustainable. Furthermore, it was submitted that the said Advance Ruling was never appealed by M/s Sterling Biotech since the Noticee was no longer in operation shortly after the issuance of the Advance Ruling and that the said Advance Ruling relied in the SCN does not apply to the present case as Advance Ruling is specific to the importers / assessee. Therefore, the alleged levy of IGST at 18% in terms Sl. No. 40 of Schedule III of Notification No. 01/2017 is without any legal basis.

2.32 They also submitted that in terms of Section 16 read with Section 2(26) of the Central Goods and Services Act, 2017, a registered person is entitled to take input tax credit of IGST charged on the import of goods and even if the noticee would have paid IGST instead of availing the exemption benefit at the time of importation, the same would be available as credit to the Noticee. When the finished goods such as Iohexol Injection, Iopamidol Injections etc. manufactured using imported goods would be cleared on the payment of CGST/SGST, credit of IGST paid at the time of import would be available to the noticee as credit. Therefore, if the Noticee had paid IGST, the noticee would have taken credit of the same and would have paid that much lesser CGST/SGST on the finished products cleared by them. Also, it was submitted that the entire exercise of present demand of IGST in this case would be revenue neutral as the noticee would be entitled for the credit in case these duties are demanded from them. In support of their submissions they relied upon the judgments in case ofCCE & C (Appeals) Vs. Narayan Polyplast – 2005 (179) ELT 20 (SC) and CCE Vs. Narmada Chematur– 2005 (179) ELT 276 (SC) etc.

2.33 They submitted that certain entries have been taken into account more than once, thereby resulting in an inflated duty liability proposed to be recovered by the department. For instance, it may be noted that Sr. No. 27 and Sr. No. 29 of Annexure-A are both in respect of Bill of Entry No. 4843338 dated 02.08.2024. The differential BCD, SWS and IGST amounting to Rs.37,78,033.499/- against the said Bill of Entry has been computed twice at the respective Sr Nos. Similarly, such duplication can also be noted at Sr. No. 28 and 30 of Annexure-A against Bill of Entry No. 5054301 dated 14.08.2024 which leads to a clear

duplication of Rs.56,65,182.664/-. It was submitted that these duplications in computation inflated the duty liability and must be rectified. Without prejudice, the total duty proposed to be demanded is required to be recomputed. Thus, without prejudice to the submissions made above, the differential duty, taxes and cess to the extent of Rs.94,43,215.664/- is liable to be dropped on account of duplication of computation.

2.34 They submitted that SCN cannot be issued under Section 28(4) of the Customs Act in the instant case since the instant case is not that of short levy, non-levy, refund, etc. as the noticee correctly classified the imported goods and availed the exemption benefit under Sl. No. 167(A) of Notification No. 50/2017 and paid IGST in terms of Sl. No. 180 of Schedule I of Notification No. 01/2017. Therefore, the demand for differential duty in respect of goods imported till 17.06.2023 is completely barred by limitation. Customs duty demand for imports made from 06.07.2020 to 17.06.2023 is completely barred by limitation. In matters of availment of benefit under exemption notification, extended period of limitation is not invocable. They further submitted that the present case does not pertain to any short levy/non-levy of duty. Furthermore, it is a settled law that claim to a classification and/or an exemption notification is a matter of bona-fide belief and in such cases, extended period of limitation is not invokable and they relied upon judgement of the Hon'ble Supreme Court in Northern Plastic Vs. CC – 1998 (101) ELT 549 (SC).

2.35 They submitted that the extended period is not invokable in the present case since no mis-declaration, wilful suppression or mis-statement of facts can be alleged. In the present case, the dispute is limited to classification, alleged incorrect availment of benefit under exemption notification and alleged payment of IGST at lower rate in respect of the imported goods which is a matter of legal interpretation and bona fide belief. Therefore, the issue of classification, availment of benefit under an exemption notification or discharge of tax at lower rate which is not correct as per the Customs department can at best be a case is not a case of misclassification or mis-declaration or incorrect availment of benefit under exemption notification.

2.36 With respect to the consignments in dispute, the goods for which duty is demanded, were assessed by officers as well as under the RMS and cleared for home consumption. The goods were correctly described and accordingly, the appropriate exemption benefit was availed. The invoices and other import documents submitted along with the bills of entry clearly declare true and correct information regarding the nature of these goods. Further, several of the consignments which are in dispute were subjected to regular assessment procedure of examination and verification by the customs officers before grant of out-of-charge. Based on the above assessment and verification, other similar consignments were cleared without examination. This shows that the customs department was satisfied and agreed that the exemption Notification was available to the Noticee. Thus, the present proceeding is nothing but a change of opinion. They relied upon the judgment in case of Cosmic Dye Chemical Vs. CCE, Bombay – (1995) 6 SCC 117 and CCE, Aurangabad Vs. Bajaj Auto Limited – 2010 (260) ELT 17 (SC) etc.

2.37 They submitted that in the present case, the SCN has not shown or even referred to any conscious or intentional act of collusion, wilful mis-statement or suppression of fact on the part of the Noticee, i.e., there is no positive act by the noticee indicating that they has incorrectly claimed the benefit under Sl. No. 167(A) of Notification No. 50/2017. The SCN is a bare SCN which does not give any basis / evidence for alleging incorrect availment of notification benefit. Further, the SCN also does not allege that there is any mis-declaration with respect to other material particulars such as description of the imported goods or their classification. The SCN has also failed to produce any literature or text in support of the allegations therein. This clearly shows that there is no basis for the bald allegations made in the present SCN except for assumptions and misunderstandings. The noticee was under a bonafide belief that they were eligible to avail the exemption benefit in respect of the imported goods cleared under various tariff items. Therefore, no misstatement or suppression of facts can be alleged against the Noticee.

2.38 They also submitted that the imported goods were also examined by the customs department, which were cleared by classifying the goods under Chapter 29 of Customs Tariff and on availment of benefit under Sl. No. 167(A) Notification No, 50/2017 and discharging IGST at 5% under Sl. No. 180 of Schedule I of Notification No. 01/2017. Apart from the consignment cleared under RMS, these very goods were subjected to regular assessment procedure i.e., inspection and verification by the customs department before granting out-of-charge and relied upon judgements in case of Nizam Sugar Factory Vs. CCE - 2008 (9) STR 314 (SC), ECE Industries Vs. CCE- 2004 (164) ELT 236 (SC). They also submitted that Para 2.7 of Chapter 3 of the CBEC Manual on Procedure for clearance of imported and export good, states that while filing an EDI bill of entry, all the necessary declarations have to be made electronically. The original documents such as signed invoice, packing list, certificate of origin, test report, technical write-up etc. are required to be submitted by the importer at the time of examination. The importer/CHA also needs to sign on the final documents before Customs clearance. This situation did not change after introduction of 'self-assessment' in the Customs laws by Finance Act, 2011 on 08.04.2011 by amendment of Section 17 of the Act. The self-assessment only requires (as in the case of Central Excise – Self Removal Procedure), that the importer must himself indicate the classification of the imported goods in the Bill of Entry. This does not mean that in every case of self-assessment, the department is entitled to invoke the extended period of limitation as provided in Section 28(4) of the Customs Act, 1962. Hence the department cannot make the self -assessment done by the Noticee as an alibi to invoke the extended period citing mis-declaration or suppression of facts as a reason. They relied upon the judgment in case of Midas Fertchem Impex Vs. Principal CC – 2023 (1) TMI 998, Challenger Cargo Carriers Vs. Principal CC – 2022 (12) TMI 621 etc.

2.39 They submitted that extended period cannot be invoked in cases wherein the primary facts have been disclosed in the bills of entries. In the present case, the availment of exemption benefit under Sl. No. 167(A) of Notification No. 50/2017, discharge of IGST at 5% and description of the imported goods is the disclosure of basic and primary facts and thus, suppression cannot be attributed. It was submitted that the noticee duly availed the exemption benefit. In any case, the assessee / importer is required to declare the primary

facts. Accordingly, once primary facts have been disclosed, extended period of limitation is not invokable. They relied upon the judgment in case of Maruti Udyog Limited Vs. CCE, Delhi – 2002 (147) ELT 881 (Tri. – Del.). They also submitted that the extended period of limitation in the supply of the Show Cause Notice cannot be invoked in its case as the issue is one of classification of a particular goods and relied upon the judgment in case of Coastal Energy Vs. CCE & ST, Guntur - 2014 (310) ELT 97 (Tri-Bang) and Northern Plastic Vs. CCE – 1998 (101) ELT 549 (SC) etc.

2.40 They also submitted that issue of availing the benefit of exemption notification or a specific entry under rate notification is a matter of bona fide belief and legal interpretation, thus extended period of limitation cannot be invoked. However, no such thing has been done even when the consignments were physically examined and granted out-of-charge and the customs department was always aware of the classification adopted and the exemption benefit availed in respect of the goods in question. In fact, few of the imports have been subjected to physical examination and verification wherein the customs officer after examining the imported goods and supporting documents, has approved the classification adopted by the noticee and the benefit availed under Sl. No. 167(A) of Notification No. 50/2017 and IGST discharged at 5%. This itself shows that the entire proceeding has been initiated only to deny exemption available and demand higher duty.

2.41 They also submitted that the extended period cannot be invoked as the present issue involves an interpretation of the law. The issue raised in the present SCN is one of availment of exemption benefit under Notification No. 50/2017 and discharge of IGST at 5% in terms of Sl. No. 180 of Schedule I of Notification No. 50/2017 and relied upon the judgment in case of Singh Brothers Vs. CCE – 2009 (14) STR 552, b) Steel cast Ltd. Vs. CCE – 2009 (14) STR 129 etc., in support of the contention that extended period cannot be invoked in cases of interpretation of the law.

2.42 They further submitted that the SCN has also proposed to impose interest under Section 28AA of the Customs Act and the question of levy of interest arises only if the demand of duty is sustainable. As submitted in the foregoing paragraphs, the demand of duty is not sustainable, therefore, the question of levy of any interest under Section 28AA on such duty would not arise. and relied upon the judgment of the Hon'ble Supreme Court of India in the case of Prathibha Processors Vs. UOI - 1996 (88) ELT 12 (SC).

2.43 They submitted that that confiscation provisions under Sections 111 of the Customs Act can be pressed into service only in cases where the assessee has acted with a mala fide intention, and it is proved beyond doubt that there was mens rea on part of the assessee. Bonafide conduct on part of the assessee does not entail the goods liable to confiscation and relied upon the judgment in case ofAllseas Marine Contractors Vs. CC - 2011 (272) ELT 619 (Tri. -Del.). There is no dispute as to whether the description given in the bill of entry about the imported goods tally with other import documents such as invoice, packing list, bill of lading etc. and the only dispute in the present case is regarding the availment of exemption benefit under Notification No. 50/2017 and alleged discharge of IGST at lower rate in respect of the imported goods. The invoices and other import documents submitted along with the

bills of entry clearly declare the true value, exemption notification, etc. at the time of import. It was also submitted that eligibility to Sl. No. 180 of Schedule 1 of Notification No. 01/2017 and exemption benefit under Sl. No. 167(A) of Notification No. 50/2017 in respect of imported goods was not objected by the Department at the time filing of Bills of Entry in question. Accordingly, the noticee availed the benefit of exemption on the imported goods under bona fide belief and claiming of exemption notification or claiming a particular heading for the purposes of classification does not amount to mis-declaration. They relied upon the judgment in case of Ace Kargoways Pvt. Ltd. vs. CC -2003(158) ELT 505, CC Vs. Maruti Udyog Ltd. - 2002 (141) E.L.T. 392 etc.

2.44 They also submitted that on perusal of the SCN, it appears that the sole reason for invocation of Section 111(m) of the Customs Act, is on the ground that the Noticee has made false declarations under Section 46(4) of the Customs Act by not discharging the applicable duty and availing exemption benefit under Notification No. 50/2017. However, as submitted above, the SCN nowhere provides proper reasons and justification as to why the said exemption benefit is not eligible to the Noticee, thus, the Department failed to discharge its burden proof. Thus, on this ground itself it is submitted that the imported goods cannot be liable to confiscation under Section 111(m) of the Customs Act.

2.45 They also submitted that the customs department was always aware of the exemption benefit availed by the Noticee under Sl. No. 167(A) of Notification No. 50/2017 in respect of the imported goods. In fact, the consignments in dispute were examined and no queries were raised by the customs department. Moreover, the noticee was informed by the custom department itself regarding the classifying the said goods under Sl. No. 167 (A) instead of Sl.No. 167 (B) vide letter dated 23.04.2018. The present dispute can be one of legal interpretation and the Noticee has every right to believe that the classification adopted, and the exemption benefit availed by the Noticee is correct. Penalty under Section 114A of the Customs Act can be imposed in cases when the duty has not been paid or short-paid/part-paid by the reason of collusion or any wilful misstatement or suppression of facts. It is clear that the duty demand is not sustainable in the present case since there has been no suppression or wilful mis-statement of facts by the Noticee. In fact, the customs department has always been aware of all the facts and the practice undertaken by the Noticee. The only allegation of classification and incorrect availment of Notification benefit is a matter of bona fide belief. The ingredients of Section 114A of the Customs Act are not satisfied in the instant case. The noticee has not willfully suppressed or misstated any facts in the instant case, it only availed the benefit of Sl. No. 167(A) of Notification No. 50/2017 and discharged IGST at a lower rate under bona fide belief. In support of their submissions they relied upon the judgment in case of Anand Nishikawa Vs. CCE – (2005) 7 SCC 749, Pushpam Pharmaceuticals Company Vs. CCE – 1995 (78) ELT 401 (SC), Aban Lloyd Offshore Vs. CC – 2006 (200) ELT 370 (SC) etc.

2.46 The SCN proposed to demand and recover differential IGST along with interest in terms of Section 28(4) and Section 28AA of the Customs Act and imposition of penalty under Section 114A of the Customs Act. They submitted that IGST is levied under Section 5 of the Integrated Goods and Services Tax Act, 2017 in terms of Section 3(7) of the Customs

Tariff Act, 1975. However, the Customs Tariff Act has limited provisions, and it borrows various provisions from the Customs Act, for implementation of its provisions and that Section 3(12) of the Customs Tariff Act, which is the borrowing provision with regard to IGST, does not borrow provision for demand of IGST with interest or penalty from the Customs Act. Therefore, demand of IGST along with interest has been incorrectly proposed to be recovered. Also, penalty has been incorrectly proposed to be imposed on the Noticee so far as the IGST component of the demand is concerned and no interest can be recovered. They relied upon judgment in case of India Carbon Ltd. Vs. State of Assam - (1997) 6 SCC 479, wherein Hon'ble court relied upon the upon the earlier five-judge bench decision in the case of J.K. Synthetics Ltd. Vs. CTO - (1994) 4 SCC 276 and held that interest can be levied and charged on delayed payment of tax only if the statute that levies and charges the tax makes a substantive provision in this behalf. They relied upon judgment in case of Bajaj Health & Nutrition Pvt. Ltd. Vs. CC, Chennai - 2004 (166) ELT 189, Tonira Pharma Ltd. Vs. Commissioner - 2009 (237) ELT 65 (Tribunal), Siddeshwar Textile Mills Pvt. Ltd. Vs. Commissioner - 2009 (248) ELT 290 (Tri) etc.

2.47 They also submitted that the 'duty' under Customs Law must be restricted to such duties that are levied under Customs Act. In this respect, it is pertinent to note that the IGST is not levied under Section 12 of the Customs Act and that the IGST is levied in terms of Section 5 of the IGST Act 2017 read with Section 3(7) of the Tariff Act. Section 3(7) of the Customs Tariff Act merely provides for the manner of collection of the IGST. They relied upon the judgement of Hon'ble Tribunal in the case of Interglobe Aviation Vs. CC – 2020 (43) GSTL 410 (Tri. - Del.) and Spice Jet Ltd. Vs. CC (General) – 2021 (1) TMI 663 - CESTAT NEW DELHI wherein it was held that integrated tax is not "duty" under the Customs Act.

2.48 They submitted that the goods imported by the Noticee was cleared for home consumption on the strength of duly assessed bills of entry and 'Out of Charge' orders issued by the proper officer under the authority of the provisions of Section 17 and Section 47 of the Customs Act. There is no dispute on this factual position. They also submitted that these orders were passed after the satisfaction of the proper officer that the said goods have been properly assessed before clearance for home consumption. It was further submitted that the aforesaid orders (Out of Charge), being quasi-judicial orders, can only be set aside by an order of the competent appellate authority in appellate proceedings and that quasi-judicial orders cannot be sought to be set aside by mere issuance of a show cause notice, which has proposed to declare the goods to be liable for confiscation. They relied upon judgment in case of CCE Kanpur Vs. Flock (India) – 2000 (120) ELT 285 (SC), Priya Blue Industries Vs. CC (Preventive) – 2004 (172) ELT 145 (SC), ITC Limited Vs. CCE, Kolkata IV – 2019 (368) ELT 216 (SC), Jairath International Vs. UOI – 2019 (10) TMI 642 etc.

PERSONAL HEARING

3.1 Opportunity for personal hearing in the matter was granted to the importer on 30.10.2025 and accordingly, the noticee attended the hearing on the said date through virtual mode. Akhilesh Kangsia, Madhura Khandekar, Sidhharth Sen advocates appeared on behalf

of the Noticee. They reiterated their written submissions and relied upon letter dated 24.04.2018 of AC/Nagpur wherein it was mentioned that the IGCRD is not applicable on the goods in question and the same are eligible for benefits of Serial no. 167A of Notification no. 50/2017-Cus. He further relied and submitted Drug Price Control Order (DPCO) wherein bulk drugs are covered under the definition of Drugs. They relied upon judgments in case of Burroghs Wellcome (I) Ltd.- 2007 (216) ELT 522, and Shri Baser Vs CCEx. & St-2024(12) TMI 270 etc. They also submitted that the noticee has filed for liquidation before NCLT and Resolution Professional has been appointed in the matter.

DISCUSSIONS AND FINDINGS

4.1 I have carefully gone through the Show Cause Notice, material on record and facts of the case, as well as written and oral submissions made by the Noticee. Accordingly, I proceed to decide the case on merit.

4.2 I find that on the basis of the Post Clearance Audit, it was noticed that M/s. Unijules Life Sciences Limited had cleared the goods viz. "Iohexol USP and Iopamidol USP" under Tariff Heading 29242990 by paying NIL rate of BCD and IGST @5%. It was noticed that the importer had availed benefits of Notification no. 50/2017-Customs, Serial no. 167A. SCN has alleged that as the goods are not imported as finished product and imported in Bulk quantity, therefore, Serial no. 167(A) of the Notification no. 50/2017-Cus will not be applicable in the matter and Serial no. 167 (B) of the said notification would be applicable on the goods. However, serial no. 167(B) of Notification no. 50/2017-Cus is applicable on the goods subject to the adherence of condition no. 9 of the notification. As per condition no. 9, the importer was required to follow the procedure set out in Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. However, since the importer did not follow the procedure mentioned in Condition no. 9 of the notification, he was not eligible for the same. Therefore, demand of differential duty to the tune of Rs. 13,68,19,716.2/- (Rupees Thirteen Crore sixty eight lakh nineteen thousand seven hundred sixteen & two paise only) was raised on the importer along with consequential penalties. The importer has submitted that as per the definition in Drug Price Control Order, the drugs include bulk drugs and therefore, the goods are eligible for exemption under serial no. 167A of the Notification. They further submitted that the goods are specifically covered under List 4 to the impugned Notification and therefore, are covered by Serial no. 167A of the notification.

4.3 On careful perusal of the Show Cause Notice and case records, I find that following main issues are involved in this case which are required to be decided:

(A) Whether the goods viz. IOHEXOL USP & IOPAMIDOL USP are eligible for exemption under Serial no. 167A of Notification No. 50/2017-Cus dated 30.06.2017 or otherwise?

(B) Whether duty amounting to Rs. 13,68,19,716.2/- is recoverable from the importer under Section 28(4) of the Customs Act, 1962 or otherwise?

(C) Whether the goods as detailed in Annexure A of the notice having a total assessable value of Rs. 59,96,09,771.6/- (Rupees fifty nine crore ninty six lakh nine thousand seven hundred

seventy one & six paise only) should not be held liable for confiscation under Section 111(m) of the Customs Act, 1962 or otherwise?

(D) Whether penalty should not be imposed on the importer under Section 114 A of the Customs Act, 1962 or otherwise?

5. After having framed the substantive issues raised in the SCN which are required to be decided, I now proceed to examine each of the issues individually for detailed analysis based on the facts and circumstances mentioned in the SCN, provision of the Customs Act, 1962, nuances of various judicial pronouncements as well as Noticee's oral and written submissions and documents / evidences available on record.

(A) Whether the goods viz. IOHEXOL USP & IOPAMIDOL USP are eligible for exemption under Serial no. 167A of Notification No. 50/2017-Cus dated 30.06.2017 or otherwise?

5.1 I find that M/s. Unijules Life Sciences Limited has imported the product IOHEXOL USP and IOPAMIDOL USP by availing benefit of exemption Notification no. 50/2017-Customs dated 30.06.2017, Serial no. 167A. However, the department has alleged that the goods are eligible for benefits under Serial no. 167B of the said notification subject to the adherence of condition no. 9 of the notification. SCN alleges that the subject goods were imported in bulk quantity and are not finished product, hence, the concessional rate is applicable on the imported goods under Sl. No. 167(B) of Notification No. 50/2017 subject to fulfilment of its conditions. It alleges that, Sl. No. 167(A) of Notification No. 50/2017 is not applicable for bulk drugs. The relevant portion of the said Notification is extracted hereunder:

Sr. No.	Chapter or Heading or sub- heading or tariff item	Description of goods	Standard rate	Integrated Goods and Services Tax	Condition No.	Amended By Notification No.
(1)	(2)	(3)	(4)	(5)	(6)	
167	28, 29 ,30 Or 38	The following goods, namely:-				
		(A)Life saving drugs/medicines including their salts and esters and diagnostic test kits specified in List 4.	Nil	-	-	
		(B) Bulk drugs used in the manufacture of life saving drugs or medicines at (A)	Nil	-	9	

Condition no. 9 of the notification is as below:

"If the importer follows the procedure set out in Customs (Import of goods at concessional rate of duty) Rules, 2017".

5.2 I find that the notice has alleged that the subject goods are imported in Bulk quantity and therefore they are bulk drugs. I find that 'Bulk drugs" is not defined in Customs Act, 1962 or the rules & regulations framed there under. Therefore, the definition of the same are required to be drawn from the relevant legal provisions applicable to the drugs. I find that the drugs and medicines are governed by Drugs and Cosmetics Act and the definition of drugs & Bulk Drugs are mentioned under Drugs (Price Control) Order, 1995 and the drug is defined as under:

"*(i) "bulk drug" means any pharmaceutical, chemical, biological or plant product including its salts, esters, stereo-isomers and derivatives, conforming to pharmacopoeial or other standards specified in the Second Schedule to the Drugs and Cosmetics Act, 1940 (23 of 1940), and which is used as such or as an ingredient in any formulation".*

(ii) "drug" includes –

(a) all medicines for internal or external use of human beings or animals and all substances intended to be used for, or in the diagnosis treatment, mitigation, or prevention of any disease or disorder in human beings or animals, including preparations applied on human body for the purpose of repelling insects like mosquitoes;

(b) such substances, intended to affect the structure or any function of the human or animal body or intended to be used for the destruction of vermin or insects which cause disease in human beings or animals, as may be specified from time to time by the Government by Notification in the Official gazette; and

(c) bulk drugs and formulations;"

I find that the same definition of Bulk drug or active pharmaceutical ingredient has been included in Section 2(1)(b) of The Drugs (Price Control) Order, 2013 also. Further, drug has been defined under Section 3(b) of the Drugs and Cosmetics Act, 1940 which defined drugs as under:

"drug" includes—(i)all medicines for internal or external use of human beings or animals and all substances intended to be used for or in the diagnosis, treatment, mitigation or prevention of any disease or disorder in human beings or animals, including preparations applied on human body for the purpose of repelling insects like mosquitoes;

(ii)such substances (other than food) intended to affect the structure or any function of the human body or intended to be used for the destruction of vermin or insects which cause disease in human beings or animals, as may be specified from time to time by the Central Government by notification in the Official Gazette;

(iii)all substances intended for use as components of a drug including empty gelatine capsules;……..."

5.3 From the definitions mentioned hereinabove, I find that the drugs include bulk drugs as per Section 2(1)(b) of The Drugs (Price Control) Order, 2013. Also, as per Section 3(b)(iii) of the Drugs and Cosmetics Act, 1940, drugs include all substances intended for use as components of a drug. Therefore, the bulk drugs which are used as an ingredient in formulations to make drugs are squarely covered within the definition of drug in accordance with the Drugs and Cosmetics Act, 1940.

5.4 As discussed in paras *supra,* drugs cover bulk drugs also. Accordingly, wherever bulk drugs are mentioned in above Notification, the benefits as applicable to 'drugs' shall also be applicable to 'bulk drugs'. Further, I find that the noticee has given submissions that for the import of the impugned item i.e. IOHEXOL& IOPAMIDOL, they had procured 'Licences to import Drugs' from the competent authorities which also shows that even though the item imported by the noticee is alleged to be bulk drug in the Show Cause Notice, however, licence to import drugs issued to them, also brings out that the item imported by the noticee is nothing but drug.

5.5 I find that the Notice has proposed to demand the differential duty under the pretext that the impugned goods are imported in bulk quantity and not the finished product; hence, they are bulk drug and therefore, serial no. 167A of the said notification is not applicable on the same. I find that the Show Cause Notice has wrongly interpreted that the drugs which are imported in bulk quantity will be considered as bulk drugs. As discussed in detail in aforementioned paras, bulk drugs have been clearly defined in the Drug (Price Control Order), 2013 as any pharmaceutical product or its salts which are used as such or as an ingredient for formulation of the drugs and nowhere it mentions or even indicates that drugs imported in bulk quantity would be considered as bulk drug. Therefore, I find that the interpretation made in the notice that the drugs imported in bulk quantity would be considered as bulk drugs is flawed and unsustainable, more so when the bulk drugs have been clearly defined in the relevant legal provisions.

5.6 Moreover, I find that Serial no. 167A of Notification no. 50/2017-Customs dated 30.06.2017 is applicable for the Life Saving Drugs/Medicines specified in List 4 to the notification. I further find that the impugned product i.e. IOHEXOL is specifically mentioned at Serial no. 55 of List 4 of the impugned notification and IOPAMIDOL is mentioned at Serial no. 54 of List. I find that Serial no. 167A is applicable not only for the drugs/medicines but also their salts & esters, therefore, even though the goods viz. IOHEXOL and IOPAMIDOL are imported in bulk quantity, since the same is specifically covered under Serial no. 54 & 55 of List 4 of the notification and are therefore, eligible for benefits of exemption notification no. 50/2017-Customs under Serial no. 167A. It is clear that when the exemption notification clearly grants benefit to 'all life Saving drugs/medicines including their salts, esters and diagnostic kits specified in List 4' irrespective of the classification under Chapter 29, 30, no further restriction can be supplied to restrict the usage of the benefit. I also observe that notification nowhere restricts benefit of Serial no. 167A for a drug specified in List 4 just because it is imported in bulk quantity. I find that the notice has alleged that the goods imported by the noticee are covered under chapter 29 of First Schedule of Customs tariff and thus not eligible for notification. In this regard, I find that the

notification has covered all the goods within the description mentioned therein which are imported under chapter 28, 29, 30, or 38. As the goods imported under Chapter 29 are also eligible for exemption notification if they fulfil other conditions, the goods imported by the noticee even if considered under Chapter 29 of the notification, the same stands eligible for the benefits under the said notification.

5.7 I find that the notice has taken an interpretation of the impugned notification that the benefit of Serial no. 167A is applicable only to the finished products and if the benefit is extended to bulk drugs, it would potentially open the door for different customs treatment for APIs. I find that the notification nowhere has mentioned that the benefit under Serial no. 167A can be extended only to the finished products and not to the goods imported in bulk quantity. I find that the notification has categorically mentioned the list of the products to which benefit of NIL rate of duty can be extended and such goods are mentioned in List 4 to the notification. Had the intention of the notification been to provide exemption benefit only to the finished products, it would have explicitly mentioned the same as a condition as done in case of Serial no. 167B. I find that the notification has covered all the life saving drugs/medicines including their salts which are specified in List 4. As the goods imported by M/s. Unijules Life Sciences Limited are specifically covered under Serial no. 54 &55 of the List and as discussed in detail in paras *supra*, the goods are covered within the ambit of definition of 'Drugs', therefore, the impugned goods are eligible for benefit of NIL rate of duty.

5.8 I find that the notice has mentioned that the items of List 4 mentions only finished goods. I find that the stance taken in the notice is contradictory in itself, as the goods imported by the noticee are covered under List 4 of the notification and it is alleged in the notice that the said goods are not finished products. I find that the inclusion of drugs/medicines in List 4 of the notification is not related to the same being finished product or otherwise. I find that the Notification is unambiguous in its categorization and classification of products, including IOPAMIDOL and IOHEXOL, under the relevant entries. There is no justification for reinterpretation when the legislative intent is clear. The notice's contention that the exemption is available only to finished goods is not tenable in law. Nowhere does the notification stipulate such a condition. On the contrary, the language of Serial no. 167A clearly states that "drugs/medicines" mentioned in List 4 are eligible for the duty exemption benefit. I find that the goods under import are specifically mentioned in List 4 of the notification and the presence of the goods in List 4 clearly indicates the legislative intent to allow exemption on their import. I find that it is a settled principle of statutory interpretation that when the text of the notification is clear and unambiguous, no external aids or restrictive interpretations should be resorted to. I find that plethora of judgments have emphasized that a beneficial notification promoting a particular industry or public policy should not be interpreted in a restrictive manner unless explicitly stated, more so, where goods are specifically listed. I rely upon judgment in case of Commissioner of Customs Import (Mumbai) Vs Konan Synthetic Fibres Ltd. {2012-TIOL 29 SC CUS} wherein Hon'ble Apex court held that beneficial notifications should be given a liberal interpretation, especially where their purpose is to promote or encourage certain activities. The Court

reiterated that while the eligibility criteria must be strictly met, once eligibility is established, the notification must be construed so as to advance its purpose rather than defeat it.

5.9 I also find that the Show Cause Notice makes bare allegation without substantiating or relying upon any documents or evidences in support of their claim that the drugs imported in bulk quantity would be considered as bulk drugs. Therefore, I find that conjoint reading of definition of drug/bulk drug along with serial no. 167A of the notification made it adequately clear that the drug even if imported in the form of bulk quantity will be eligible for the benefits of the exemption notification no. 50/2017-Customs, serial no. 167A.

5.10 I find that serial no. 167B of the impugned notification covers the pharmaceutical products which are not mentioned in List 4 to the Notification but which are used as an ingredient for the manufacturing of the products of List 4. Apart from the various items mentioned in List 4 of the Notification No. 50/2017 there may be other drugs, which may be used for manufacture of medicines or drugs covered under List 4. Therefore, those drugs which are not covered under Sl. No. 167A of the Notification No. 50/2017, are covered under Sl. No. 167B, if they are used in the manufacture of drugs specified in List 4. In the instant case, the goods imported by the noticee are specifically mentioned at serial no. 54 & 55 of List 4 and imported as drugs with appropriate licences. Further, Importer has provided copy of label and COA indicating ingredients of Iohexol Injection USP 350 mg l/ml (Liquid Injection) and Uniray 370 (Liquid Injection) are Iohexol and Iopamidol respectively. Therefore, I am of the considered opinion that the goods imported by M/s. Unijules Life Sciences Limited i.e. Iohexol & Iopadimol in bulk quantity have to be treated as a drug and the same is eligible for benefits of Serial no. 167A of the exemption Notification no. 50/2017-Customs.

5.11 Even if it is assumed that the goods imported by the noticee are bulk drugs and covered under Serial no. 167B of the impugned notification, in that case also, the noticee becomes eligible for both serial no. 167A as well as 167B. In this regard, I find that it is a settled law that if two entries in an exemption notification are applicable to the given goods, then the importer can legitimately claim under the more advantageous entry. In this regard, I rely upon judgment of Hon'ble Supreme Court in case of HCL Limited Vs Collector of Customs {2001 (130) ELT 405 SC} vide which it was held that where there are two exemption notifications that cover the goods in question, the assessee is entitled to the benefit of that exemption notification which gives him greater relief, regardless of the fact that that notification is general in its terms and the other notification is more specific to the goods. Similar stance was taken by Hon'ble Apex Court in case of Share Medical Case Vs UOI {2007 (209) ELT 321 (SC)} and Collector of Central Excise, Baroda Vs Indian Petro Chemicals {1997 (92) E.L.T. 13 SC}. In case of Indian Petro Chemicals supra the hon'ble court held as under:

"We have read the judgment and order of the Customs, Excise and Gold (Control) Appellate Tribunal under appeal. It came to the conclusion that two exemption notifications were applicable and gave to the assessee the benefit of that notification which was more beneficial

to it. Having read the judgment and order and heard learned counsel, we see no good reason to interfere with the judgment and order under appeal. The appeal is dismissed."

5.12 I find that after implementation of GST, the importer had filed an application letter dated 12.02.2018 before the jurisdictional Customs Officer, Nagpur to comply with Customs (Import of goods at Concessional Rate of Duty) Rules,2017 with respect to the identical products viz. IOHEXOL USP. However, Assistant Commissioner of Customs, Nagpur Customs vide their letter dated 23.04.2018 informed them that the goods i.e. IOHEXOL USP are included in (A) of Serial no. 167 of Notification no. 50/2017-Customs and the Customs (Import of goods at Concessional Rate of Duty) Rules, 2017 are not applicable on them. Assistant Commissioner, Customs Division-I, Customs Commissionerate, Nagpur vide his letter F. No. VIII(39)/9/C-Bond/IGCRD/UNIJULES/CDN-1/2018-19/100 dated 23.04.2018 stated as below:

"Goods i.e. (IOHEXOL USP) are included in (a) of Sr. no. 167 in Notification no. 50/2017-Customs dated 30.06.2017. The Customs, (Import of Goods at Concessional Rate of Duty), Rule 2017 is not applicable for Goods namely IOHEXOL USP as there is no condition in Notification no. 50/2017-Customs dated 30.06.2017 regarding following the procedure as per the Customs, (Import of Goods at Concessional Rate of Duty), Rule 2017 which come in force on 01.07.2017 vide Notification no. 68/2017-Customs (N.T.)".

5.13 I further find that the Office of the Pr. Commissioner of Customs (Preventive), Nhava Sheva Preventive Unit, R&I, Mumbai had also initiated investigation in the identical matter of eligibility of serial no. 167A of Notification no. 50/2017-Customs for import of IOHEXOL against another importer. In that case, the investigating agency found that the importer had correctly availed the notification benefit and issued a letter to the importer to that effect. Relevant part of the said letter dated 15.03.2024 of Preventive Unit is as follows:

"*It is to inform that as per S.No. 167(A) of Notification No. 50/2017-Cus dated 30.06.2017 as amended, provides exemption in respect of import of Lifesaving drugs/medicines including their salts and esters and diagnostic test kits specified in List 4. List 4 to notification no. 50/2017-Cus contains the various Drugs/Medicines, Iohexol by name and description appear in List 4 at item no. 55. Further, definition of life saving drugs has not been given in the notification. Further, on the basis of the literature available on the internet and provided by the importer in this case, it appears that importer has availed the correct notification benefit....."*

5.14 Moreover, I also find that the Commissioner of Customs, NS-1, JNCH, Nhava Sheva has also taken an identical position in Order-in-Original no. 100/2018-19/Commr./NS-I/JNCH dated 31.01.2019 in case of M/s. Abil Chempharma & 49 others wherein it was held that the goods were eligible for the benefits of Notification under serial no. 167A as it is applicable at the moment. Relevant part of the order is as below:

".....9. In view of the aforesaid, only logical conclusion that can be drawn in the present proceedings is that goods classifiable under Chapter 28,29 and 30 of the tariff, if specified in the List 3 of the Notification no. 12/2017-Cus., would remain eligible for the

exemption provided under Sr. no. 147(A) of that notification as well as that provided under sr. no. 108(A) of the Notification No. 12/2012-CE dated 17.03.2012. the fact that such goods are bulk drugs and not formulations would not have any effect on the eligibility for the benefits extended under the said exemption notifications. Therefore, the proposals contained in the Show Cause Notices listed in table annexed to this order fail on merits. Therefore, I do not consider it necessary to dwell on the issue of limitation. The proceedings initiated vide the aforementioned show cause notices stands concluded."

5.15 I find that the benefits from duties of Customs as available under serial no. 167A and 167B is not unprecedented and such notifications were in existence & available to the importers earlier also vide different notification numbers. However, the conditions of the notifications have been identical as in the instant case. I find that the matter at hand is not *Res Integra* and has already been settled by various judicial forums. I find that in case of Burroghs Wellcome (I) Ltd. {2007 (216) ELT 522 (Tri.-Mumbai)} Hon'ble CESTAT, Mumbai has passed an order wherein identical matter was raised. At the relevant period, Serial no. 43 of Notification no. 11/1997 was under dispute which is similar to notification no. 50/2017- in question. Hon'ble Tribunal held as under:

"*……..However, in the instant case, we find that the phrase "life saving drugs" has not been defined either in the notification or in the Drugs (Prices Control) Order. Moreover, "drugs" have been defined to include "bulk drugs". As such life saving drugs can also include "bulk drugs". Accordingly, we are of the view that even though the appellants had earlier claimed exemption for the impugned goods stating these to be bulk drugs, they cannot be precluded from claiming the exemption for life saving drugs in respect of the very same impugned goods as no further verification is required to be made at the original stage. Moreover, we also find that both the impugned goods are specifically listed in List 2 annexed to the notification as required under serial No. 43(A). Such specific inclusion does not require any further verification to be done at the original level.*

13. We also find that by not defining the life saving drugs in the relevant notifications, the intention of the Government is to give as a wider coverage to the term as possible and the same is borne out in the Budget Circular for the year 1995 which, in Paragraph 23.1, says that life saving drugs are being exempted under the generic description and without any reference to forms.

14. In view of our findings as above, we hold that the impugned goods in respect of both the appellants being specified in List 2 to the relevant notifications, are entitled to exemption from basic and additional customs duty under serial No. 43(A) under Notification 11/97 and under similar provisions in the successor notifications during the relevant time……."

5.16 I find that similar view was taken by Hon'ble CESTAT, Chennai in case of Cipla Limited Vs CC, Chennai {2007 (218) ELT 547 (Tri.- Chennai)}wherein the Hon'ble Tribunal held that even though the items imported by Cipla are used in the manufacture of drugs or medicines, the imported items itself being specified in List 3, the same would be covered by Sl. No.80 (A) of the Customs Notification No. 21/2002 and Sl. No. 47A of

Notification No. 4/2006 and therefore would be wholly exempt from the Basic Customs Duty and CVD. For this purpose, the Tribunal referred to and relied upon the decision of Tribunal, Mumbai Bench, in the case of Burroughs Welcome (India) Limited, referred above. Relevant portion of the above decision reads as under:

"……4. M/s. Burroughs Wellcome (I) Ltd. had imported Polymyxin B Sulphate and used the same along with some other ingredients in the manufacture of Neosporin. M/s. Pfizer Ltd. had imported Cefoperazone Sodium and used the same for manufacture of Cefoperazone Sodium Injections. The issue before the Tribunal was whether the above parties were eligible for the benefit of exemption from payment of CVD on the items imported by them, under Sl. No. 43 (A) of Notification No. 11/97-CE and under the corresponding entries of successor Notifications. It was not in dispute that the imported items figured in List 2 appended to Sl. No. 43 (A) of the above Notification. While the Revenue classified the goods as 'bulk drugs' under Sl. No. 43(B), the assessees classified them as life saving drugs under Sl. No. 43 (A). 'The Tribunal accepted the assessees contention and held that the drugs imported by them were to be categorized under Sl. No. 43(A) inasmuch as they found mention in List 2. It was further held that, as Sl. No. 43 (A) was more beneficial than 43 (B), the assessee was not precluded from claiming such benefit at a later stage. It is settled law that, where two exemption Notifications are applicable to a given goods which is otherwise chargeable to duty, the assessee is entitled to avail the benefit of that Notification which is more beneficial vide Indian Oil Corporation Ltd. v. CCE - 1991 (53) 347 (Tribunal), CCE v. Indian Petrochemicals - 1997 (92) E.L.T. 13 (S.C.) and H.C.L. Ltd. v. CC - 2001 (130) E.L.T. 405 (S.C.). Applying the same principle, we hold the view that, if two entries in an Exemption Notification are applicable to a given goods, the assessee can legitimately claim under the more advantageous entry. Therefore, we are inclined to follow, with approval, the view taken by the co-ordinate Bench in the case of Burroughs Wellcome (I) Ltd .& Pfizer Ltd.

5. In the instant case, admittedly, the 'bulk drugs' imported by the appellants were specifically mentioned in List 3 appended to Sl. No. 80(A) of Customs Notification No. 21/02 and are liable to be considered as 'drugs' mentioned at 80(A). It is beyond doubt that 'bulk drugs' are also 'drugs'. They are so defined under the Drugs (Prices Control) Order, 1995 also. The imported goods, which are specified in List 3, must fall within the coverage of 'drugs specified in List 3' and consequently the benefit of Sl. No. 80(A) would be admissible to them in relation to BCD. It would follow that, insofar as CVD is concerned, the benefit of Sl. No. 47(A) of the Central Excise Notification would be available to the goods. We have taken this view upon strict interpretation of the language used in the description of goods under the relevant entries of the Notification, in terms of the Apex Court's ruling in Gujarat State Fertilisers Co. v. CCE - 1997 (91) E.L.T. 3 (S.C.) and other cases cited by learned DR. In the result, all the appeals filed against the appellate Commissioner's order on merits are bound to succeed……."

5.17 I find that similar view was taken by CESTAT, Bangalore in case of Astrix Laboratories Ltd. Vs CC, Hyderabad-I {2009 (233) ELT 372 (Tri.-Bangalore)}. Relevant part of the order is as below:

*"……..**5.1** In the case of M/s. Burroughs Wellcome (I) Ltd. (supra), the question was as to whether the bulk drugs Polymyxin B Sulphate for use in the manufacture of Neosporin would be entitled to the benefit of the exemption under Sl. No. 43 of the Notification No. 11/97 was considered. Sl. No. 43 of the said Notification in Clause (A) specified nil rate of duty for life saving drugs is specified in List - 2 to the Notification. Clause (B) of Sl. No. 43 of the Notification No. 11/97 specified nil rate of duty for bulk drugs used in the manufacture of life saving drugs or medicines at Clause (A) of Sl. No. 43. However, for availing the benefit under Sl. No. 43(B), the procedure prescribed under the Customs (Import of Goods at Concessional Rate of Duty for manufacture of Excisable Goods) Rules, 1996 is to be followed. This has been followed and there is no denial of the same. In view of this position, the ratio of the judgment cited supra would also apply to the facts of this case, as the facts were similar and the benefit of the Notification was given.*

5.2 It is further seen that Nevirapine is specifically mentioned in List-3 of the Notification No. 21/2002-Cus., hence, it is a drug covered under Sl. No. 47(A) of Notification No. 4/2006-C.E. dated 1-3-2006. It is also seen that all drugs or medicines including their salts and esters and diagnostic test kits which are specified in List-3 of List-4 of the Notification No. 21/2002-Cus., dated 1-3-2002 are exempted, when they are manufactured in India. Thus, both the items find a specific entry in Sl. No. 117 and 118 respectively of List-3 of Notification No. 21/2002-Cus., dated 1-3-2002. Therefore, the term "drug" has to be considered to include bulk drug and formulation as per Drugs (Prices Control) Order, 1995 and hence, both the items being bulk drugs are entitled for the benefit of the Notification. The impugned orders are not correct and legal and hence, they are set aside by allowing these appeals."

5.18 I find that the SCN has proposed to impose IGST @18% only because the goods, alleged to be not eligible for Serial no. 167A of Notification no. 50/2017-Customs dated 30.06.2017 and are imported as bulk drug. I find that goods imported by M/s. Unijules Life Sciences Limited are governed by IGST Notification no. 01/2017-IGST as amended for applicability of IGST duty on the same. I find that the 'drugs or medicines including their salts and esters & diagnostic kits, of Chapter 30 or any other chapter & specified in List 1 appended to schedule of the notification' are covered under Serial no. 180 of Schedule-I of the said notification i.e. 01/2017-Integrated Tax (Rate). I find that the item IOPADIMOL &IOHEXOL has been specifically covered at serial no. 176 &177 of List 1 of Schedule-I and therefore, IGST@ 5% is applicable on the said goods which has been duly paid by the importer in the Bills of Entry as detailed in Annexure-A to the notice.

5.19 I find that the notice has relied upon the Advance Ruling in case of M/s. Sterling Biotech Limited, Vadodra and has stated that the said advance ruling is applicable in the instant case also. I find that the applicability of Advance Rulings is governed by Section 28J of the Customs Act, 1962. I find that as per provisions of Section 28J of the Act, *ibid.* the advance ruling pronounced by the authority is applicable only on the applicant who sought it and on the jurisdictional authorities in respect of the applicant. However, I find that the noticee in the instant caseis different from the applicant in case of ruling relied upon the in the notice and also the competent authority who passed the ruling is from different jurisdiction vis-à-vis jurisdiction wherein impugned goods are imported. I also find that the

reliance on the said advance ruling in case of M/s. Sterling Biotech Limited, Vadodra cannot be made as the impugned goods are specifically mentioned in List 1 to Schedule-I of the IGST Notification. Also, in the identical issues plethora of judgments have been issued by various Tribunal authorities wherein the benefit of exemption was granted to the respective companies on the ground that the goods are specifically covered by the notifications. Also, as detailed in paras above, the notification is unambiguous regarding its applicability on the goods mentioned in the list attached to it and the notice's contention that the exemption is available only to finished goods is not tenable in law as nowhere does the notification stipulate such a condition. Accordingly, I am of the considered opinion that IGST @ 5% is applicable on the impugned goods imported by M/s. Unijules Life Sciences Limited as the same are squarely covered in List 1 to Schedule-I of the IGST Notification 01/2017-IGST.

5.20 In view of the above, I am of the considered opinion that the demand of differential duty amounting to Rs. 13,68,19,716.2/- (Rupees Thirteen Crore sixty eight lakh nineteen thousand seven hundred sixteen & two paise only) as demanded from the importer is not sustainable as the noticee has rightly availed the benefits of the exemption notification no. 50/2017-Cus, Serial no. 167A and has correctly paid IGST under Schedule I of the IGST notification. As the demand of differential duty is not sustainable, therefore, the interest on duty also cannot be demanded.

5.21 In view of the aforesaid discussions and findings, as the noticee has rightly availed serial no. 167A of the notification no. 50/2017-Customs and Serial no. 180 of IGST notification no. 01/2017-IGST. Therefore, there is no mis-declaration on part of the noticee in that regard and the goods are not found to be liable for confiscation under Section 111(m) of the Customs Act, 1962 as proposed in the notice.

5.22 I find that the importer has rightly availed the notifications benefit and there has been no shortfall of duty and accordingly, the goods are also not liable for confiscation. Therefore, the penalty under Section 114A of the Customs Act, 1962 on the importer is not sustainable and liable to be set aside.

6. In view above, I pass the following order:

ORDER

6.1 I order that the demand for differential duty amounting to Rs. 13,68,19,716.2/- (Rupees Thirteen Crore sixty eight lakh nineteen thousand seven hundred sixteen & two paise only) from the importer M/s. Unijules Life Sciences Limited under Section 28(4) of the Customs Act, 1962, is not sustainable and is hereby dropped.

6.2 I order that the proposal to levy interest under Section 28AA of the Customs Act, 1962, is dropped, as the principal demand does not survive.

6.3 I order that the proposal to confiscate the goods covered under the Bills of Entry listed in Annexure-A of the SCN under Section 111(m) of the Customs Act, 1962, is not maintainable and is hereby dropped.

6.4 I order that the proposal to impose penalties on M/s Unijules Life Sciences Limited under Section 114A, of the Customs Act, 1962, is not warranted and is hereby dropped.

6.5 I order that the Show Cause Notice No. 322 /2025-26/Pr. Commr /GR II(A-B)/NS-I/CAC/JNCH dated 18.06.205 is hereby dropped in its entirety.

7. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or the persons/ firms concerned, covered or not covered by this show cause notice, under the provisions of Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

Digitally signed by
Yashodhan Arvind Wanage
Date: 15-12-2025
08:25:04

(यशोधन अ. वनगे / Yashodhan A. Wanage)
प्रधान आयुक्त, सीमा शुल्क / Pr. Commissioner of Customs
एनएस-I, जेएनसीएच / NS-I, JNCH

To,

1. M/s Unijules Life Sciences Limited (IEC:-0306040565),
D-82, MIDC, Hingna, Maharashtra-440028

Copy to:-

1. Asst./Dy. Commissioner of Customs, Audit, JNCH.
2. The Additional Commissioner of Customs, Group II(AB), JNCH.
3. DC, Chief Commissioner's Office, JNCH
4. AC/DC, Centralized Revenue Recovery Cell, JNCH
5. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
6. EDI Section for displaying on website
7. Office Copy.