



सीमाशुल्क आयुक्त का कार्यालय (न्हावा शेवा - II)
OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-II),
जवाहरलाल नेहरू सीमाशुल्क भवन, न्हावा शेवा
JAWAHARLAL NEHRU CUSTOMS HOUSE, NHAVA SHEVA
तालुका : उरण, जिला : रायगड, महाराष्ट्र - 400 707.
TALUKA: URAN DIST. RAIGAD, MAHARASHTRA - 400707.

F. No. CUS/ECFS/MISC/255/2025-Exp(Docks)

Date of Order: 8.10.2025

Date of Issue: 9.10.2025

DIN: - 20251078NT0000924998.

Passed By: SACHIN S PAGARE

Deputy Commissioner of Customs,
CEAC, NS-II, JNCH, Nhava Sheva.

मूल आदेश संख्या/Order-In-Original No.: 1178/2025-26/DC/CEAC/NS-II/CAC/JNCH
M/s. Arham BioChem Pvt. Ltd. (IEC-3712000308)

मूलआदेश

1. यह प्रति जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निः शुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील सीमाशुल्क अधिनियम 1962 की धारा 128 (1) के तहत इस आदेश की संसूचना की तारीख से साठ दिनों के भीतर सीमाशुल्क आयुक्त (अपील), जवाहरलाल नेहरू सीमाशुल्क भवन, शेवा, ता. उरण, जिला - रायगड, महाराष्ट्र -400707 को की जा सकती है। अपील दो प्रतियों में होनी चाहिए और सीमाशुल्क (अपील) नियमावली, 1982 के अनुसार फॉर्म सी.ए.-1 संलग्नक में की जानी चाहिए। अपील पर न्यायालय फीस के रूप में 2.00 रुपये मात्र का स्टॉप लगाया जायेगा और साथ में यह आदेश या इसकी एक प्रति लगायी जायेगी। यदि इस आदेश की प्रति संलग्न की जाती है तो इस पर न्यायालय फीस के रूप में 2.00 रुपये का स्टॉप भी लगाया जायेगा जैसा कि न्यायालय फीस अधिनियम 1870 की अनुसूची 1, मद 6 के अंतर्गत निर्धारित किया गया है।
3. इस निर्णय या आदेश के विरुद्ध अपील करने वाला व्यक्ति अपील अनिर्णीत रहने तक, शुल्क या शास्ति के संबंध में विवाद होने पर माँगे गये शुल्क के 7.5% का, अथवा केवल शास्ति के संबंध में विवाद होने पर शास्ति का भुगतान करेगा।

ORDER-IN-ORIGINAL

1. This copy is granted free of charge for the use of the person to whom it is issued.
2. An appeal against this order lies with the Commissioner of Customs (Appeal), Jawaharlal Nehru Custom House, Nhava Sheva, Tal: Uran, Dist.: Raigad, Maharashtra - 400707 under section 128(1) of the Customs Act, 1962 within sixty days from the date of communication of this order. The appeal should be in duplicate and should be filed in Form CA-1 Annexure on the Customs (Appeal) Rules, 1982. The Appeal should bear a Court Fee stamp of Rs.2.00 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 2.00 only as prescribed under Schedule 1, items 6 of the Court Fee Act, 1870.
3. Any person desirous of appealing against this decision or order shall, pending the appeal, make payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

M/s. Arham BioChem Pvt. Ltd. (hereinafter also known as the Exporter), located at A 301, Virwani Industrial Estate, Goregaon East, Mumbai- 400063, (IEC No. 3712000308), filed Shipping Bill No. 5647694 dated 25.09.2025 having total FOB value of Rs. 25,61,948.55/-, for the export of goods containing different items including "Sodium Sulphide (CAS No. 1313-82-2)" under RITC 28301000 of the Customs Tariff Act, to Honduras. The declared Free on Board (FOB) value of the impugned goods, i.e., Sodium Sulphide (CAS No. 1313-82-2), covered under item no. 05 of the Shipping Bill No. 5647694 dated 25.09.2025 was Rs. 2,78,880/-, and the exporter claimed export benefits under the Drawback of Rs. 2,788.80 and Remission of Duties and Taxes on Exported Products (RoDTEP) schemes of Rs. 1952.16.

2. During scrutiny of the documents presented for examination, the following observations were made by the docks officers:

- a. The exporter intends to export Sodium Sulphide (CAS No. 1313-82-2) under RITC Code 28301000, which is classified as a Special Chemicals, Organisms, Materials, Equipment, and Technologies (SCOMET) item under Category 1D (Other Chemicals), SCOMET entry No. 1D022. As per the Directorate General of Foreign Trade (DGFT) regulations, export of chemicals under Category 1D of the SCOMET list requires specific authorization.
 - b. Sodium Sulphide (CAS No. 1313-82-2) is classified as a SCOMET item under Category 1D (Other Chemicals), SCOMET entry No. 1D022. As per DGFT regulations, export of chemicals under Category 1D of the SCOMET list requires specific authorization.
 - c. However, the exporter has not obtained the necessary authorisation from the Directorate General of Foreign Trade (DGFT) for the export of Sodium Sulphide, which is a requirement under the export control regulations.
3. As per Appendix-3 to Schedule 2 - Export Policy - ITC(HS) 2022, the export of SCOMET items like Sodium Sulphide (CAS No. 1313-82-2) requires prior authorization with the DGFT. The exporter is prohibited from exporting the product without proper authorization under the said Notification and must provide evidence of authorization or a valid license for the export. Export of Chemicals listed in category 1D to the countries other than those specified in Table-1 shall be allowed only against an export authorization. However, the exporter has failed to provide the necessary authorization documents for Sodium Sulphide (CAS No. 1313-82-2).

4. RELEVANT LEGAL PROVISIONS

A. Export Policy - ITC(HS) 2022:

(i) Category 1D of the Appendix-3 to Schedule 2 of ITC(HS), 2022-

1D Export of chemicals in this category is allowed to countries specified in Table 1 without an export licence subject to the condition that the exporter shall notify the Department of Chemicals & Petrochemicals, Ministry of External Affairs (D&ISA) and the DGFT within 30 days of such export in the prescribed format (Aayat

Niryat Form) along with the End-Use Certificate and submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery. Export of chemicals in this category to other countries shall be restricted and will be allowed only against an export licence, and in that case the exporter shall submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery.

Sl.No.	SCOMET	Chemical	CAS Number
22	1D022	Sodium sulphide	1313-82-2

Table 1

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States

(ii) DGFT Notification No. 19/2015-20 dated 17/08/2021 para 4.55(iv) states that “the following categories of export/exports shall not be eligible for rebate under RoDTEP scheme: products which are restricted/prohibited for export under Schedule-2 of Export Policy in ITC (HS)”.

B. Customs Act, 1962:

Section 2(22): "goods" includes (a) vessels, aircraft, and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;

Section 2(33): "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

Section 11H(a): "illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;

Section 50: Entry of goods for exportation. -

(1) The Exporter of any goods shall make entry thereof by presenting [electronically] [on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export [in such form and manner as may be prescribed];

Provided that the [Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to make entry by presenting electronically [on the customs automated system], allow an entry to be presented in any other manner.

(2) The Exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The Exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:

- (a) the accuracy and completeness of the information given therein;
- (b) the authenticity and validity of any document supporting it; and
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

Section 113: Confiscation of goods attempted to be improperly exported, etc.

The following goods shall be liable to confiscation:

(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force, shall be liable to confiscation;

(ia) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under section 75;

(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;

Section 114(i): Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding three times the value of the goods as declared by the Exporter or the value as determined under this Act, whichever is the greater.

C. Foreign Trade (Development and Regulation) Act, 1992

Section 11: (1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

D. Foreign Trade Policy- 2023

Para 2.01(b): Further, there are some items which are 'Free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

Para 2.40: All goods may be exported without any restriction except to the extent that such exports are regulated by ITC(HS) or any other provision of

FTP or any other law for the time being in force. DGFT may, however, specify through a Public Notice such terms and conditions according to which any goods, not included in ITC(HS), may be exported without an authorisation.

5. In view of the above, it appears that the goods declared as "Sodium Sulphide (CAS No. 1313-82-2)" having declared FOB value of Rs. 2,78,880/- were attempted to be improperly exported by the Exporter even when the goods are classified as a SCOMET item under Category 1D (Other Chemicals), SCOMET entry No. 1D022, which is restricted and requires compliance with the provisions of the said policy, including authorization with the DGFT before the export of the product. Further, as per available submissions, no authorization/NOC from DGFT is produced by the exporter as prescribed in the policy, which is required to export items of Category 1D (Other Chemicals) of the SCOMET list to a country other than of Table-1 of the category. However, the goods were attempted to export to Honduras, which is not enlisted in the table-1 *ibid*. Therefore, it appears that the exporter has attempted to export "Sodium Sulphide (CAS No. 1313-82-2)" in violation of restrictions imposed by the DGFT Notification No. 47/2015-2020 dated 20.12.2021.

6. Thus by attempting to export the restricted goods without export authorisation, the Exporter has also violated the provisions of section 50(3) of the Customs Act, 1962, provisions of para 2.01(b) & para 2.40 of the Foreign Trade Policy, 2023 and provisions of section 11 of the Foreign Trade (Development and Regulation) Act, 1992. Thus, by these acts of omission and commission, the exporter has rendered the said goods filed under Shipping Bill No. 5647694 dated 25.09.2025, i.e., "Sodium Sulphide (CAS No. 1313-82-2)" having declared FOB value of Rs. 2,78,880/- liable for confiscation under Section 113(d) of the Customs Act, 1962, and therefore for attempting to improperly export the goods without valid authorization from the DGFT, the exporter appears liable for penalty under Section 114(i) of the Customs Act, 1962.

WRITTEN SUBMISSION OF THE EXPORTER

7. The exporter, M/s. Arham BioChem Pvt. Ltd., vide their letter dated 07.10.2025 requested for waiver of Show Cause Notice and Personal Hearing in the matter. They have stated that they accepted the objection raised by the dock officer, and requested to allow to back to town of the item no. 05 and to the export of the remaining 10 items of the shipping bill. They have also stated that the goods "sodium sulphide" is used for tanning leather and it is easily available in India; and that is why they could not realised that the same is restricted and filed shipping bill to export the same.

DISCUSSION AND FINDINGS

8. I have thoroughly examined the facts of this case, the submissions made by the exporter, and the documents on record. The exporter, M/s. Arham BioChem Pvt. Ltd., has not contested the findings of the department regarding the discrepancies in the consignment under Shipping Bill No. 5647694 dated 25.09.2025 for the export of goods declared as "Sodium Sulphide (CAS No. 1313-82-2)" under

RITC 28301000 of the Customs Tariff Act. I find that the proposed grounds for confiscation of the goods and imposition of penalty were verbally explained to the exporter and documents shown as stipulated in the proviso to Section 124 of the Customs Act, 1962. The same has been acknowledged by the exporter vide their letter wherein they requested for waiver of Show Cause Notice and Personal Hearing. Hence, the exporter's request for waiver of SCN and PH is accepted. Accordingly, I take up the case for adjudication in the absence of any defence submissions and on merits.

9. I find that an attempt was made by the exporter, M/s. Arham BioChem Pvt. Ltd., to improperly export the goods, i.e., "Sodium Sulphide (CAS No. 1313-82-2)" declared in Shipping Bill No. 5647694 dated 25.09.2025. The export of SCOMET items like Sodium Sulphide (CAS No. 1313-82-2) requires prior authorization with the DGFT. Even though the export of Sodium Sulphide (CAS No. 1313-82-2) is free as per the ITC(HS) based Export Policy 2022, the exporter is prohibited from exporting the same without a valid DGFT authorization under the DGFT Notification No. 47/2015-2020 dated 20.12.2021 and the Export Policy - ITC(HS) 2022 for the export to Honduras. However, the exporter has failed to submit any such authorization or NOC.

11. Further, as per the records available, I find that the exporter has neither submitted any export authorization for the said goods, i.e., "Sodium Sulphide (CAS No. 1313-82-2)", nor have they applied to the DGFT for the grant of export authorization, as required under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, and the relevant provisions of the Foreign Trade Policy (FTP). The export of such goods is governed by the conditions set forth in the FTP and the DGFT Notification No. 47/2015-2020 dated 20.12.2021, which necessitate prior authorization with the DGFT.

10. It is well-settled law that any restriction on import or export is to an extent a "prohibition" and therefore, the expression "any prohibition" in Section 113(d) of the Customs Act includes restrictions. Restriction is one type of prohibition if a policy condition is not fulfilled or complied with. In this regard, I would proceed in accordance with the following judgments of the Hon'ble Supreme Court of India, which establish that a restriction, when violated, becomes prohibition:

- In *Sheikh Mohd. Omer V/s. Collector of Customs, Calcutta & Ors* (1971 AIR 293) clearly laid down that, for the purpose of Section 111 (d) of the Customs Act, 1962, the term "Any prohibition" means every prohibition. In other words, all types of prohibitions. Restriction is one type of prohibition. Prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition.
- In the case of *M/s. Om Prakash Bhatia V/s. Commissioner of Customs, Delhi* [2003 (155) ELT 423(SC)], the Hon'ble Supreme Court of India had held that "If the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods".
- Further, in the case of *Union of India & Ors. V/s. M/s Raj Grow Impex LLP & Ors.* (2021-TIOL-187-SC-CUS-LB), the Hon'ble Supreme Court of India had followed the judgements in *Sheikh Mohd Omer* (supra) and *Om Prakash Bhatia* (supra) to hold that "any restriction on import or export is to an extent prohibition; and the expression "prohibition" in Section 111(d) of the Customs Act includes

restrictions".

11. Further, in the self-assessment era, it is the responsibility of the exporter to ensure compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. Thus I find that by attempting to export the restricted goods without a valid DGFT authorization for the export, the exporter has violated the provisions of section 50(3) of the Customs Act, 1962 and provisions of section 11 of the Foreign Trade (Development and Regulation) Act, 1992. Hence, I hold that the impugned goods, i.e., "Sodium Sulphide (CAS No. 1313-82-2)" having declared value of Rs. 2,78,880/-, attempted to be improperly exported via Shipping Bill No. 5647694 dated 25.09.2025, are therefore liable to be confiscated under Sections 113(d) of the Customs Act, 1962.

12. Thus, for their acts of omission and commission as detailed above, and for attempting to improperly export restricted items without a valid DGFT authorization for the export, I hold that the exporter is liable for penalty under Section 114(i) of the Customs Act, 1962.

ORDER

13. In view of the aforestated facts and circumstances of the case, the documents and evidence on record, and the legal aspects as discussed above, I hereby pass the following order:

(i) I order for confiscation of the goods, i.e., "Sodium Sulphide (CAS No. 1313-82-2)", having declared value of Rs. 2,78,880/- (Rupees Two Lakhs Seventy Eight Thousand Eight Hundred Eighty Only), attempted to be improperly exported via Shipping Bill No. 5647694 dated 25.09.2025, under Sections 113(d), 113(ia) and 113(ja) of the Customs Act, 1962. However, I impose a Redemption Fine of Rs. 14,000/- (Rupees Fourteen Thousand Only) on the exporter, M/s. Arham BioChem Pvt. Ltd., in lieu of confiscation, under Section 125 of the Customs Act, 1962, for the limited purpose of Back to Town only.

(ii) I impose a penalty of Rs. 14,000/- (Rupees Fourteen Thousand Only) on the exporter, M/s. Arham BioChem Pvt. Ltd., under Section 114(i) of the Customs Act, 1962.

(iii) I order to allow the impugned goods, i.e., "Sodium Sulphide (CAS No. 1313-82-2)", having declared value of Rs. 2,78,880/- (Rupees Two Lakhs Seventy Eight Thousand Eight Hundred Eighty Only) for Back to Town only after payment of the redemption fine imposed via para 14(i) above and to amend the Shipping Bill No. 5647694 dated 25.09.2025 accordingly.

14. This order is issued without prejudice to any other action that may be taken against the Noticee(s) or any other person(s) concerned with the said goods under the Customs Act, 1962, or any other law for the time being in force in India.

Digitally signed by
Sachin Shreekar Pagare
Date: 08-10-2025
17:41:04

(Sachin Pagare)
Deputy Commissioner of Customs,
CEAC, NS-II, JNCH, Nhava Sheva

To:

M/s. Arham BioChem Pvt. Ltd.,
A 301, Virwani Industrial Estate,
Goregaon East, Mumbai- 400063

Copy to:

1. Addl. Commissioner of Customs, NS-II, JNCH,
2. Asstt./Dy Commr., of Customs, Centralize Review Cell (Export), JNCH,
3. Asstt./Dy Commissioner of Customs, Docks (Export), JNCH,
4. Asstt./Dy Commissioner of Customs, CRRC, JNCH,
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