

 <p>सत्यमेव जयते</p>	<p>भारत सरकार/ Government of India वित्त मंत्रालय/ Ministry of Finance आयुक्त सीमा शुल्क एनएस-II का कार्यालय, केंद्रीकृत अधिनिर्णयन प्रकोष्ठ, जवाहरलाल नेहरू सीमा शुल्क भवन न्हावा शेवा, तालुका-उरण, जिला -रायगढ़, महाराष्ट्र- 400 707 OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II CENTRALIZED ADJUDICATION CELL, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA, DIST- RAIGAD, MAHARASHTRA-400707</p>	
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द.प.सं./DIN: 20260178NT0000919626

फ़ा.सं. /F. No.: CUS/ASS/MISC/899/2025-CEAC-

Date of Order: 09.01.2026

Date of Issue: 09.01.2026

SCN No. 1582/2025-26/ADC/CEAC/NS-II/CAC/JNCH

Date of SCN: 11.12.2025

जारीकर्ता/Passed By: **Shri Raghu Kiran B.,**
Commissioner of Customs(In- Situ),
CEAC, NS-II, JNCH, Nhava Sheva.

मूल आदेश सं./Order-In-Original No.: 1437 /2025-26/ADC/CEAC/NS-II/CAC/JNCH

निर्यातक का नाम/Exporter's Name: **मै. कोरल लेबोरेटरीज लिमिटेड: (0394033353)**
M/s Coral Laboratories Ltd. (IEC- 0394033353)

मूल आदेश

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 - रायगढ़ - ४०० ७०७, महाराष्ट्र 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 स्टांप 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 स्टांप 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.1.50 only and should be accompanied by this order or a copy thereof. If a copy of this order is enclosed, it should also bear a Court Fee Stamp of Rs. 1.50 only as prescribed under Schedule 1, item 6 of the Court Fee Act, 1970.

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

An intelligence was gathered by NSPU that M/s Coral Laboratories Ltd. (IEC-0394033353) was trying to export MOXBRO FORTE SYRUP without having manufacturing drug licence and without having mandatory NOC for manufacturing of the said goods from Central Drugs Standard Control Organisation (CDSCO) vide Shipping Bill No. 3766710 dated 22.07.2025.

1.1 It was found that M/s. Coral Laboratories Ltd. (IEC- 0394033353), a manufacturer Exporter (hereinafter also referred to as the Exporter), having registered address at Plot No. 27/28, Pharma City, Selaqui, Dehradun, Uttarakhand-248001 have filed Shipping Bill No. 3766710 dated 22.07.2025 through their authorised Customs Broker M/s. Star India Container Line Pvt. Ltd for the export of Medicaments i.e. "Moxbro Forte Syrup" having Manufacturing date 03/2025 and expiry date 08/2027, under ITC(HS) 30041030 and the shipment was destined to M/s Asal Pharma Co. (APHCO), Bakaro Medicine Market, Mogadishu, Somalia. The declared FOB value of the consignment was Rs. 25,53,000/- under Scheme Code-19 (Drawback) with RoDTEP (Remission of Duties, Taxes on Exported Products). A summary of the shipping bill is as below-

S/bill no. and date	Goods description & HS Code	FOB Value (INR)	Quantity	Batch No.	Drawback Claimed (Rs.)	RoDTEP Claimed (Rs.)	IGST Paid/LUT

3766710 22.07.20 25	Moxbro Forte Syrup (3004103 0)	25,53,0 00	50,000 Units	UFM25 01 to UFM25 10	30,636	17,871	LUT
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The said consignment was put on hold vide mail dated 24.07.2025 and letter bearing Hold No. 09/2025-26 dated 24.07.2025.

2. The consignment was examined vide Panchanama dated 25.07.2025 in presence of Shri. Mayank Chetan Katira Authorised Representative of M/s. Coral Laboratories Ltd. (IEC- 0394033353) and Shri. Sanjay Yashwant Jadav representative of the Customs Broker. The consignment was found packed in cartons of same size. The said cartons were having marks of product name, batch No., manufacturing date, expiry date, gross weight, net weight and quantity. Each carton was containing 120 boxes having glass bottles of product with labelling "Amoxicillin and Bromhexine Hydrochloride Dry Suspension Moxbro Forte Syrup for oral suspension 250". Each bottle had mark of 100 ml content. Manufacturing date and expiry date were found as declared in shipping bill as 03/2025 and 08/2027 respectively. The term "NOT FOR MEDICINAL USE" was not found marked on bottles as well as on packing boxes. Representative samples of each batch were also drawn under Panchanama. It was observed that the goods attempted to export contained a drug composition of Amoxicillin and Bromhexine Hydrochloride as per the marking on the label. The Certificates of Analysis submitted by the exporter also confirmed its composition that it contains Amoxicillin and Bromhexine Hydrochloride.

3. One representative sample was forwarded to the Chief Chemical Examiner, DYCC lab, JNCH vide letter dated 29.07.2025 to find about the nature and composition of the subject sample and whether sample is same as declared and if the sample does not match the description of the goods then what is the nature of the goods and its composition. The DyCC JNCH vide Test Memo dated 11.08.2025 has confirmed the positive tests for Amoxicillin and Bromhexine hydrochloride. However, the presence of psychotropic or narcotic substance was not clarified by DyCC, JNCH. Therefore, DyCC, JNCH vide letter dated 11.08.2025 was again requested to confirm whether any psychotropic or narcotic substance in the sample is available. To which, DyCC, JNCH has replied vide letter dated 12.08.2025 that New Customs House Laboratory is the one to test and give report for Psychotropic or narcotic substance. Therefore, representative sample was forwarded to DyCC New Custom House vide letter dated 13.08.2025. DYCC lab NCH,

Mumbai vide report dated 25.08.2025 stated that the sample **does not answer positive test** for Heroin, Morphine, Ganja, Charas, THC, MDMA, Amphetamine and Diazepam.

4. Later, the exporter vide email dated 29.07.2025 submitted the NOC dated 23.04.2025 for Manufacture of Unapproved/Banned/New Drugs for export purpose issued by CDSCO-North Zone. However, Exporter was supposed to get the Manufacturing License from State Licensing Authority for Manufacture of Unapproved/Banned/New Drugs for export purpose, after issuance of CDSCO NOC and before manufacturing of the goods as per the central government letter dated 30.04.2024 issued vide file no. IMP-12/1/2024. As the NOC was issued on 23.04.2025 and the goods manufactured in the month of March, 2025. To ascertain if the said NOC is valid for this consignment, a letter dated 29.07.2025 was forwarded to CDSCO-North Zone to clarify the same. In reply vide email dated 05.08.2025, CDSCO has informed that the NOC has been issued from their office for export purpose. However, manufacturing licence/ product permissions are being issued by concerned state Licensing Authority. Hence, for further clarification in the matter, letter dated 22.08.2025 regarding manufacture license/product permission for manufacture of unapproved/approved new drug (bulk) for R&D/ Formulation Development/ Manufacture of exhibit batches for export purpose was forwarded through mailed to Drug Controller and State Licensing Authority, Uttarakhand. But reply is not received till date.

5. Statement of Shri Mayank Katira, Export Executive in Logistics department from M/s Coral Industries Pvt. Ltd. (IEC-0394033353) was recorded on 05.08.2025 under section 108 of Customs Act, 1962 wherein he interalia stated that:

- I. M/s Coral Laboratories (IEC-0394033353) is in the business of exports of Pharmaceutical formulations (Tablets, Capsules, Injection, Syrup). They have exported to around 44 countries. Currently, they supply 25 countries, mainly African countries and Common Wealth countries. They mainly purchase raw materials from Domestic Market itself. They supply for Government Tenders in India (Pharmaceuticals & Medical Devices Bureau of India(PMBI), Bihar Medical Supplies, Haryana Medical Supplies) and Shri Mayank Katira was employed as an Executive for Export and supply chain Management from 2021. He takes all the decisions regarding Customs export clearance and logistics. He handled the export and logistics for the consignment under

shipping bill no. 3766710 dated 22.07.2025 which is a consignment of MOXBRO Forte Syrup containing Amoxicillin and Bromhexine Hydrochloride.

- II. On being asked about powers conferred under section 26A of the Drugs and Cosmetics Act, 1940 and prohibition on the manufacture for sale, sale and distribution for human use of drug fixed dose combination of Amoxicillin + Brohexine with immediate effect in India, vide Notification No. S.O. 777(E) published in the Gazette of India, Extraordinary, Part-II, Section 3(ii), dated 10.03.2016, he interalia stated that he was aware that the combination of Amoxicillin + Brohexine is prohibited for manufacture for sale, sale and distribution for human use of drug fixed dose in India.
- III. On being asked about the procedure for export of such combination of Amoxicillin + Brohexine. He interalia stated that their License No. 42/UA/SC/P-2006 was renewed for another five years from 7th June 2021 to 6th June 2026 for the factory at Dehradun for the product list having items for export purpose only. The list at serial no. 27 has item MOXBRO Forte Syrup containing Amoxicillin & Brohexine Hydrochloride, got approval from 13.06.2016 for export only. They were then supposed to get the CDSCO NOC for each lot i.e. quantity specific as this product was notified as prohibited for manufacture for sale, sale and distribution for human use in India, by the notification date 02.06.2023 referring the gazette notification of 2016. So, they were supposed to get the product permission again from state licensing authority i.e. state drug controller, then they were supposed to manufacture the product. After that they were supposed to export the product. They were also supposed to submit the Certificate of Good Manufacturing Practices which they already have valid till 27.07.2025 and further also renewed till 26.02.2026.
- IV. On being asked about the consignments of item containing Amoxicillin + Brohexine being exported by you during the period 2023-2024 & 2025 till date. He interalia stated that they have only exported MOXBRO Forte Syrup dry containing Amoxicillin + Brohexine. No other product of same composition has been exported by them. From 20.07.2023, they have exported 06 consignments of the same product i.e. MOXBRO Forte Syrup dry suspension and also to the same buyer. The details of export of 06 consignments are as follows.

Sr. No.	Shipping Bill No.	Date	Quantity
01	2588618	20.07.2023	50000
02	4254270	28.09.2023	40000
03	5706761	30.11.2023	40000
04	8911107	05.04.2024	50000
05	1341448	31.05.2024	50000
06	5045353	23.10.2024	50000

- V. On being asked about submitting/ e-sanchit of all the requisite documents related to export of this particular item i.e. "MOXBRO Forte Syrup dry suspension" in the System while filing Shipping Bill for all the previous shipping bills of this particular item. He interalia stated that they have submitted GMP certificate, Product permission issued by state drug controller in 2021, Certificate of analysis, Customs Invoice, packing list, No hazardous certificate.
- VI. On being asked if they specifically have the NOC for export for those previous consignments exported vide shipping bill mentioned above, NOC conditions or requirements were compiled in those previous consignment. He interalia stated that they did not have CDSCO NOC & fresh product permission from State licensing authority for those particular consignments as mentioned above. Hence, these were not uploaded in E-sanchit.
- VII. On being asked about the consignment of item MOXBRO Forte Syrup dry suspension containing Amoxicillin + Brohexine previously exported by you in previous shipments were valid export. He interalia stated that they were not aware about the guidelines and hence they had not taken the CDSCO NOC & fresh product permission from State licensing authority. Hence he accepted that these were not valid export.
- VIII. On being asked about the requirement and conditions imposed by CDSCO NOC for export of item MOXBRO Forte Syrup. He interalia stated that they manufactured the goods at the Dehradun factory itself. The said product is manufactured only for export purpose. One condition of the CDSCO NOC says to bear on its label "not for medicinal use" invariably. However, the said goods are for human consumption only, so the condition should not be valid for our product. However, they would have a discussion with CDSCO regarding the same. So they have not affixed any such label on their stock.

- IX. On being asked about Labelling requirement on packaging for pharmaceutical items and if they have complied them. He interalia stated that it is mandatory to have manufacturing license, expiry date, Batch detail, manufacturing date, company name, manufacturer & buyer name, composition, bar code detail. Some other details like dosage direction, indications, directions for reconstitution are supposed to be printed on the literature leaflet kept in every Mono-cartons. As per his knowledge the same has been complied with their product.
- X. On being asked about the filed SB No. 9644578 dated 03.04.2025 at JNCH and the status of the export of said consignment. He interalia stated that the particular consignment was not exported. As they came to know first time about the whole procedure for export of this particular product, at the time of clearing the said shipping bill No. 9644578 dated 03.04.2025. So they did not have any NOC from CDSCO while filing the said shipping bill. This was informed by the Docks Customs Officer at CFS, GDL Logistics about the whole procedure. Then they applied the CDSCO NOC which was issued on 23.04.2025. However, because the NOC was issued on later date, Order in Original No. 309(L)/2025-26/ADC/CEAC/NS-II/CAC/JNCH dated 16.06.2025 was issued to us for back to town of the goods with fine and penalty of Rs. 1,00,000 each. This fine and penalty amount has already been paid by them on 21.06.2025. The said consignment was lying at GDL CFS till June, 2025. After O-I-O they shifted the goods from GDL, CFS to their godown at Swiddhinath Complex, Dapode, Bhiwandi-421302. The said goods were brought to Conex, CFS on 22.07.2025 for export purpose to the same supplier at Somalia.
- XI. On being asked if they have provided all the requisite documents to Customs, then why did they agree for back to town and also comply with the Order conditions, why did they not appeal against Order. He interalia stated that they did not have CDSCO NOC at the time of filing the shipping bill and presenting the shipping bill for clearance before the Customs. However, CDSCO NOC was issued on 23.04.2025. They also did not have Manufacturing license/fresh product permission as the same could only be issued for future manufacturing. But the said lot was already manufactured. These were the reasons, they accepted the Back to Town (BTT). They did not want to lose on the shelf life of the product, and they were not aware of the process of the appeal, so they did not appeal against it.

- XII. On being asked about the changes made in terms of product or documents, to make it export-worthy now and again trying to export the said goods vide shipping bill no. 3766710 dated 22.07.2025. He interalia stated that there is no major change. However, now at the time of filing the shipping bill or presenting the shipping bill for clearance they had CDSCO NOC beforehand. They could not dispose these goods into India as per the Law, so they thought of exporting the same. However, he accepted that these goods were manufactured before issuance of CDSCO NOC but as they had already paid the fine and penalty therefore they tried to export and thought that Customs can support the trade.
- XIII. On being asked that the same lot of consignment was brought back to attempt to export the goods and if they presented CDSCO NOC in e-sanchit for SB No. 3766710 dated 22.07.2025, it appears that they have deliberately attempted to export the same consignment again without any updation of documents or product. He interalia stated that they have uploaded the CDSCO NOC dated 23.04.2025 while filing the shipping bill no. 3766710 dated 22.07.2025. Their product was not psychotropic or narcotic substance and they had already paid the fine and penalty therefore they tried to export and thought that Customs can support the trade.
- XIV. On being asked he interalia stated that their product 'MoxBro Fortis Syrup' is an antibiotic product used to treat respiratory tract infection and does not contain any psychotropic or narcotic substance. As per the current export trade situation, many African countries are facing the crisis of foreign exchange which has impacted export trade in Pharma Industry. They have already faced a shelf-life loss of 5 months with Rs. 1,00,000 fine and penalty each along with storage and shipping line cancellation charges and it has impacted a huge financial loss. They as an exporter requested Customs authorities to allow the export for this shipment and they ensure that they will complete all the guidelines issued for this product for their future exports.
6. As per the Gazette of India Notification S.O 777(E) dated 10.03.2016 , The Central Government has prohibited the manufacture for sale, sale and distribution for human use of drug fixed dose of compound Amoxicillin and Bromhexine in India. As per CDSCO Letter no. 7-5/2018/Misc./034(NOC) dated 02.08.2018, the activity of issuance of NOCs for manufacture of unapproved/banned/new drugs solely for export purpose was delegated to the CDSCO Zonal offices vide File No. DCG

(1)/Misc/2011 dated 01.06.2011 with effect from 20.06.2011. This process of grant of such NOCs by the CDSCO was discontinued from 20.08.2018 and after that such NOCs were granted by state licensing authority till 15.05.2024 after satisfying that the following conditions are complied with in the process of grant of permission for manufacture of unapproved/banned/new drugs:

- (i) The applicant shall provide copy of valid export order.
- (ii) The applicant shall provide copy of manufacturing license issued under Drugs & Cosmetics Act, 1940 and Rules, 1945.
- (iii) The applicant should mention whether the batch to be exported has undergone Quality control testing or shall be tested at the destined site.
- (iv) The applicant shall ensure that the drug(s) manufactured on the basis of the permission granted is exported and that no part of it is diverted for domestic sale in India through a declaration in the form of an affidavit on non-judicial paper.
- (v) The applicant shall maintain a stock register for quantities of API purchased for manufacturing drug formulations manufactured, consignments exported and remaining stocks of drugs and bulk drugs which will be open for a periodic inspection by the State Licensing Authority.
- (vi) The applicant shall make available for inspection of the appropriate authorities, on completion of the export orders, information regarding each consignment dispatched, remaining stock of drug and related raw materials and intermediates in hand.
- (vii) The applicant shall ensure physical destruction of all un-exported quantity of drugs. This should be included as a condition of manufacturing license issued to the applicant by the State licensing authority.
- (viii) In the event of cancellation of the export order, the manufacturer shall ensure the physical destruction of all unexported quantity of the drug and shall submit a declaration to State Licensing Authorities in the form of affidavit on non-judicial stamp paper.
- (ix) The applicant shall ensure that the drug for which permission has been given shall cease to be manufactured or exported if the drug is prohibited in future in the country or in the importing country.

(x) In the case of drugs covered under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS), the applicant shall obtain NOC from the Narcotic Commissioner of India, Central Bureau of Narcotics, Gwalior. The batches to be exported shall undergo quality control testing under the control of CBN Gwalior or at destination site.

7. Vide letter dated 30.04.2024 issued vide file no. IMP-12/1/2024, Central Government through the Directorate General of Health Services, Drugs Standard Control Organization has stated that NOC's for Manufacture of Unapproved/Banned/New Drugs for export purpose from 15.05.2024 can be obtained from respective Zonal Offices of CDSCO before issuing Manufacturing License from State Licensing Authority for Manufacture of Unapproved/Banned/New Drugs for export purpose.

"... it has been decided with the approval of Hon'ble HFM vide Ministry F.no. X. 11035/210/2018-DR(Pt) dated 21st June, 2023 that industry must be facilitated to file fresh applications- for NOC manufacture of unapproved/ approved new drug/banned drugs solely for export, purpose from 15th May, 2024 on online mode CDSCO Zonal Offices. Accordingly, power delegated to State/UT licencing authority stands withdrawn w.e.f. 15th May, 2024 and such NOC's shall be granted by the head of respective CDSCO zonal office w.e.f. 15th May, 2024, Further, All State/UT drugs controllers are required to handover all NOC's issued from 20th August, 2018 to 14th May, 2024 to respective Zonal offices of CDSCO."

8. In view of the above, it appears that said exporter was supposed to get the NOC either from State Licencing Authority (from 20.08.2018 to 15.05.2024) or from CDSCO (after 15.05.2024) for export purpose before manufacturing of the said goods. In this instance, the Exporter M/s Coral Laboratories Ltd had Licence No. 42/UA/SC/P-2006 issued by Drug Controlling & Licensing Authority, Uttarakhand to manufacture the drug Amoxicillin and Bromhexine Hydrochloride suspension (Moxbro Dry Syrup).

9. Exporter had also attempted to export the same live consignment previously from GDL Logistics, CFS. However due to absence of CDSCO NOC the consignment was not allowed to export. Order in Original No. 309(L)/2025-26/ADC/CEAC/NS-II/CAC/JNCH dated 16.06.2025 was issued to the exporter for back to town of the goods with redemption fine and penalty of Rs. 1,00,000 each.

10. In this matter, it is evident that the exporter M/s. Coral Laboratories Ltd. has neither obtained fresh NOC from concerned CDSCO Zonal Office nor manufacturing license/product permission from state licensing Authority before the manufacturing of said goods attempted to be exported vide Shipping Bill No. 3766710 dt 22.07.2025. The condition that marking as “not for medicinal use” was also not found mentioned on the bottle/packing. It appeared that the manufacturer exporter has not only manufactured an unapproved/banned/new drug without following procedures laid down in Central Government letter dated 30.04.2024 issued vide IMP-12/1/2024 and letter no. 7-5/2018/Misc./034(NOC) dated 02.08.2018, also the labels are not having basic instructions printed as mandated in the NOC granted by the CDSCO. The representative of the said exporter in his statement recorded under Section 108 of the Customs Act, 1962 has also admitted that he has not taken NOC from the CDSCO for the said consignment prior to manufacture of the same. It was also ascertained that the said exporter tried to export said goods vide Shipping Bill No. 9644578 dt 03.04.2025 and Customs detained said consignment and finally case was adjudicated vide Order-In-Original No. 309(L)/2025-26/ADC/CEAC/NS-II/CAC/JNCH dated 16.06.2025 denying for export, allowing the goods for back to town on payment of redemption fine and penalty of Rs. 1,00,000 each which has not been appealed by the said exporter. The said exporter accepted the said Order and also paid fine and penalty. The representative of the exporter has also admitted said facts in his statement. The said exporter, again attempted to export same goods from a different CFS. These facts clearly indicates that exporter was aware that there is no change in facts or consignment or relevant documents, still exporter re-attempted to export the same goods in same conditions, under which the consignment cannot be allowed to export. It is also re-iterated that the consignment containing amoxicillin and bromhexine was prohibited for manufacture for sale, sale and distribution in Indian domestic market. Hence, the consignment can neither be sold in India nor can be exported to abroad. Therefore, it appears that the said exporter has rendered the said goods liable to absolute confiscation under Section 113(d), (ia) & (ja) of the Customs Act, 1962. Hence, the above said goods namely Moxbro Forte Syrup covered under Shipping Bill 3766710 dated 22.07.2025 were Seized vide seizure memo dated 25.08.2025 under the Section 110(1) of the Customs Act, 1962.

11. It has been gathered that during last five years, the said exporter had previously exported item namely MOXBRO Forte Syrup dry suspension containing Amoxicillin + Bromhexine vide shipping bill as detailed in the table below:

Sr No	Shipping Bill No	Dated	Description	Manufacturing date/ Expiry date	FOB Value (Rs.)	Drawback (Rs.)	RoDTEP (Rs.)	IGST (Rs.)
1	869333	16.02.2021	Moxbro Forte Syrup	10/2020 & 09/2022	83636	1087	0	10036
2	3249473	20.07.2021	Moxbro Forte Syrup	06/2021 & 05/2023	2351030	30563	0	282123
3	3524351	31.07.2021	Moxbro Forte Syrup	06/2021 & 05/2023 07/2021 & 06/2023	2513170	32671	0	301580
4	8605680	01.03.2022	Moxbro Forte Syrup	02/2022 & 01/2024	1427520	18558	0	171302
5	1168825	04.05.2022	Moxbro Forte Syrup	03/2022 & 02/2024	1448640	18832	0	173836
6	2600423	04.07.2022	Moxbro Forte Syrup	03/2022 & 02/2024	1483200	19282	0	177984
7	2605495	05.07.2022	Moxbro Forte Syrup	03/2022 & 02/2024	1483200	19282	0	177984

8	51683 52	01.11.20 22	Moxb ro Forte Syrup	09/20 22 & 02/20 25	2038560	26501	0	244627
9	54169 04	12.11.20 22	Moxb ro Forte Syrup	09/20 22 & 08/20 24	246300	3202	0	29556
10	54172 93	12.11.20 22	Moxb ro Forte Syrup	09/20 22 & 08/20 24	246300	3202	0	29556
11	65224 25	29.12.20 22	Moxb ro Forte Syrup	12/20 22 & 05/20 25	2028640	26372	16229	243436
12	25886 18	20.07.20 23	Moxb ro Forte Syrup	06/20 23 & 11/20 25	1794100	23323	14353	215292
13	42542 70	28.09.20 23	Moxb ro Forte Syrup	09/20 23 & 02/20 26	2008120	26106	16065	240974.4
14	57067 61	30.11.20 23	Moxb ro Forte Syrup	11/20 23 & 04/20 26	2012634	24152	16101	243492.4 8
15	89111 07	05.04.20 24	Moxb ro Forte Syrup	03/20 24 & 08/20 26	2344601	28135	18757	280308
16	13414 48	31.05.20 24	Moxb ro Forte Syrup	05/20 24 & 10/20 26	2560910.2 5	30731	20487	307458

17	50453 53	23.10.20 24	Moxb ro Forte Syrup	09/20 24 & 02/20 27	2496000	29952	17472	305510.4
		Total			2,85,66,56 1	3,61,95 1	1,19,46 4	34,35,05 5

Scrutiny of documents submitted by exporter along with said shipping bill in E-Sanchit, it is found that they had not submitted copy of NOC from State licencing Authority for Shipping Bills 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 and NOC from CDSCO for Shipping Bills 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024. It appears that the said exporter was not having mandatory NOC from CDSCO or State licencing Authority as well as permission from State Licensing authority to manufacture said goods for export purpose. Exporter neither obtained fresh NOC from concerned state licencing authority nor manufacturing license/product permission from state licensing Authority before the manufacturing of said goods for the past exports. Here, it appeared that the manufacturer exporter has not only manufactured an unapproved/banned/new drug without following procedures laid down in Central Government letter dated 30.04.2024 issued vide IMP-12/1/2024 and letter no. 7-5/2018/Misc./034(NOC) dated 02.08.2018. The representative of the said exporter in his statement recorded under Section 108 of the Customs Act, 1962 has also admitted that he has not taken NOC from the concerned authority even for past consignment of the said goods. Therefore, it appears that the said exporter has rendered the said goods exported vide said 17 Shipping Bills as discussed at table above having total FOB Rs 2,85,66,561 appears liable for absolute confiscation under Section 113(d), (ia) & (ja) of the Customs Act, 1962, though goods are not available for confiscation.

11.1 As per Rule 14 (1) of the Customs and Central Excise duty drawback Rules, 2017, claim of drawback depends upon permitting clearance for exportation under section 51 of the Customs Act, 1962. However, export clearance of prohibited goods

is not allowed under section 51 of the Act. Hence, claim of drawback can be rejected as per Rule 14(1) of the Customs and Central Excise duty drawback Rules, 2017 read with section 51 of the Customs Act, 1962. In the instant case, the said exporter has claimed drawback amount of Rs 3,61,951/- for the goods exported vide said 17 Shipping Bills as per table above in the past, they had already received said amount which was not due to them. The said amount is recoverable from them under Rule 17 of the Customs and Central Excise duty Drawback Rules, 2017, read with section 75 & 75A of the Customs Act, 1962 alongwith applicable interest under Section 28AA of the Customs Act, 1962.

11.2 The said exporter has availed IGST refund wrongly as said goods exported vide said 17 Shipping Bills as per table above were prohibited for exports and exporter has exported prohibited goods wilfully and knowingly. Section 73 of CGST Act, 2017, “*Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.*” Section 74 of CGST Act, 2017 reads as “*Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of fact*”. The said exporter has wrongly availed IGST refund in violation of Section 73 & 74 of the CGST Act which is recoverable and jurisdictional CGST Commissionerate is being requested to recover the same alongwith applicable interest charges.

11.3 The said exporter has availed RODTEP for the previous 17 export consignments as per table above. Since, export of said goods was prohibited, the exporter is not eligible to claim RoDTEP. Therefore, the regional DGFT authorities may be informed to recover the undue RODTEP benefits availed by the exporter.

12. RELEVANT LEGAL PROVISIONS: The following provisions of law are applicable in the instant case: -

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

(i) 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 there under and the foreign trade policy for the time being in force.*

B. Rule 11 of the Foreign Trade (Regulations), 1993- *Stipulates that on exportation out of any customs port of any goods, whether liable to duty or not, the owner of the such goods shall in the S/bill or any other documents*

prescribed under the Customs Act, 1962, state the value, quantity and description of such goods to the best of his knowledge and belief and certify that the quality and specifications of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a truthful declaration of such statement at the foot of such Shipping bill or any other documents.

C. Customs Act, 1962:-

- (i) **Section 2(22):** "goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;
- (ii) **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;
- (iii) **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;
- (iv) **Section 17: Assessment of duty.** — (1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(2) The proper officer may verify the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary:

Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

(3) For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.]

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

(5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be

(v) 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 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.

(vi) Section 51. Clearance of goods for exportation.—

“(1) Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed

thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation:

Provided that such order may also be made electronically through the customs automated system system on the basis of risk evaluation through appropriate selection criteria:

Provided further that the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules.]

(2) Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent and not exceeding thirty-six per cent per annum, as may be fixed by the Central Government, by notification in the Official Gazette.”

- (vii) Section 75:** *“(1) Where it appears to the Central Government that in respect of goods of any class or description manufactured, processed or on which any operation has been carried out in India, being goods which have been entered for export and in respect of which an order permitting the clearance and loading thereof for exportation has been made under section 51 by the proper officer, or being goods entered for export by post under clause (a) of section 84) and in respect of which an order permitting clearance for exportation has been made by the proper officer, a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the manufacture or processing of such goods or carrying out any operation on such goods, the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2).*

Provided that no drawback shall be allowed under this sub-section in respect of any of the aforesaid goods which the Central Government may, by rules made under sub-section (2), specify, if the export value of such goods or class of goods is less than the value of the imported materials used in the manufacture or processing of such goods or carrying out any operation on such goods or class of goods, or is not more than such percentage of the value of the imported

materials used in the manufacture or i processing of such goods or carrying out any operation on such goods or class of goods as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided further that where any drawback has been allowed on any goods under this sub-section and the sale proceeds in respect of such goods are not received by or on behalf of the exporter in India within the time allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), such drawback shall, 4(except under such circumstances or such conditions as the Central Government may, by rules, specify, be deemed never to have been allowed and the Central Government may, by rules made under sub-section (2), specify the procedure for the recovery or adjustment of the amount of such drawback.

(1A) Where it appears to the Central Government that the quantity of a particular material imported into India is more than the total quantity of like material that has been used in the goods manufactured, processed or on which any operation has been carried out in India and exported outside India, then, the Central Government may, by notification in the Official Gazette, declare that so much of the material as is contained in the goods exported shall, for the purpose of subsection (1), be deemed to be imported material.

(2) The Central Government may make rules for the purpose of carrying out the provisions of sub-section (1) and, in particular, such rules may provide -

(a) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture or processing of the goods or carrying out any operation on the goods or as is specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture or processing of export goods or carrying out any operation on export goods of that class or description either by manufacturers generally or by persons processing or carrying on any operation generally or by any particular manufacturer or particular person carrying on any process or other operation, and interest if any payable thereon;

(aa) for specifying the goods in respect of which no drawback shall be allowed;

(ab) for specifying the procedure for recovery or adjustment of the amount of any drawback which had been allowed under sub-section (1) or interest chargeable thereon;

(b) for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary;

(c) for requiring the manufacturer or the person carrying on any process or other operation to give access to every part of his manufactory to any officer of customs specially authorised in this behalf by the Assistant Commissioner of Customs or Deputy Commissioner of Customs to enable such authorised officer to inspect the processes of manufacture, process or any other operation carried out and to verify by actual check or otherwise the statements made in support of the claim for drawback.

(d) for the manner and the time within which the claim for payment of drawback may be filed;

(3) The power to make rules conferred by sub-section (2) shall include the power to give drawback with retrospective effect from a date not earlier than the date of changes in the rates of duty on inputs used in the export goods."

(viii) Section 75A: *"(1) Where any drawback payable to a claimant under section 74 or section 75 is not paid within a period of one month from the date of filing a claim for payment of such drawback, there shall be paid to that claimant in addition to the amount of drawback, interest at the rate fixed under section 27A from the date after the expiry of the said period of one month till the date of payment of such drawback:*

(2) Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made thereunder, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback."

(ix) 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
- (x) 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.
- (xi) Section 114AA: Penalty for use of false and incorrect material.—**If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.
- (xii) Section 117:** Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [one lakh rupees] [Substituted by Act 18 of 2008, Section 70, for " ten thousand rupees".]
- (xiii) Section 124:** Issue of show cause notice before confiscation of goods, etc.
- No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person-

(a) is given a notice in [writing with the prior approval of the officer of Customs not below the rank of a Deputy Commissioner of Customs, informing] [Substituted by Act 29 of 2006, Section 28, for " writing informing" (w.e.f. 13.7.2006).] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned, be oral. [Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.] [Inserted by Finance Act, 2018 (Act No. 13 of 2018), dated 29.3.2018.]

D. Violations under Drugs and Cosmetics Act, 1940

- (i) Section 26A:** *Powers of Central Government to regulate, restrict or prohibit manufacture, etc., of drug and cosmetic in public interest.—Without prejudice to any other provision contained in this Chapter, if the Central Government is satisfied, that the use of any drug or cosmetic is likely to involve any risk to human beings or animals or that any drug does not have the therapeutic value claimed or purported to be claimed for it or contains ingredients and in such quantity for which there is no therapeutic justification and that in the public interest it is necessary or expedient so to do, then, that Government may, by notification in the Official Gazette, regulate, restrict or prohibit the manufacture, sale or distribution of such drug or cosmetic.*

E. GST/IGST refund & export incentive violation

- (i) Section 73:** *Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.*
- (ii) Section 74:** *Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.*

F. Drawback rules, 2017

(i) Rule 2(a) of the Customs and Central Excise Duty Drawback Rules, 2017

- "drawback in relation to any goods manufactured in India and exported, means the rebate of duty excluding integrated tax leviable under sub-section (7) and compensation cess leviable under sub-section (9) respectively of section 3 of the Customs Tariff Act, 1975(51 of 1975) chargeable on any imported materials or excisable materials used in the manufacture of such goods."

(ii) Rule 14(1) of the Customs and Central Excise Duty Drawback Rules, 2017

Manner and time for claiming drawback on goods exported other than by post.

"14(1). Electronic shipping bill in Electronic Data Interchange (EDI) under the claim of drawback or triplicate copy of the shipping bill for export of goods under a claim of drawback shall be deemed to be a claim for drawback filed on the date on which the proper officer of Customs makes an order permitting clearance and loading of goods for exportation under section 51 and said claim for drawback shall be retained by the proper officer making such order."

(iii) Rule 17 of the Customs and Central Excise Duty Drawback Rules, 2017

-"Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 (52 of 1962)."

(iv) Rule 18 the Customs and Central Excise Duty Drawback Rules, 2017 -

"(1) Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall, except under circumstances or conditions specified in sub-rule (5), be recovered in the manner specified below:

Provided that the time-limit referred to in this sub-rule shall not be applicable to the goods exported from the Domestic Tariff Area to a special economic zone.

(2) *If the exporter fails to produce evidence in respect of realisation of export proceeds within the period allowed under the Foreign Exchange Management Act, 1999, or any extension of the said period by the Reserve Bank of India, the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, as the case may be, shall cause notice to be issued to the exporter for production of evidence of realisation of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce such evidence within the said period of thirty days, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within thirty days of the receipt of the said order:*

Provided that where a part of the sale proceeds has been realised, the amount of drawback to be recovered shall be the amount equal to that portion of the amount of drawback paid which bears the same proportion as the portion of the sale proceeds not realised bears to the total amount of sale proceeds.

(3) *Where the exporter fails to repay the amount under sub-rule (2) within said period of thirty days referred to in sub-rule (2), it shall be recovered in the manner laid down in rule 17.*

(4) *Where the sale proceeds are realised by the exporter after the amount of drawback has been recovered from him under sub-rule (2) or sub-rule (3) and the exporter produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount of drawback so recovered shall be repaid by the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, to the claimant provided the sale proceeds have been realised within the period permitted by the Reserve Bank of India:*

Provided that-

(i) *the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may extend the aforesaid period of three months by a period of*

nine months provided the sale proceeds have been realised within the period permitted by the Reserve Bank of India;

(ii) an application fee equivalent to 1% of the FOB value of exports or one thousand rupees whichever is less, shall be payable for applying for grant of extension by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(5) Where sale proceeds are not realised by an exporter within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but such non-realisation of sale proceeds is compensated by the Export Credit Guarantee Corporation of India Ltd. under an insurance cover and the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits and the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non-recovery of sale proceeds from the buyer, the amount of drawback paid to the exporter or the claimant shall not be recovered."

13. In view of the above, it appears that, the goods covered under the Shipping Bill No. 3766710 dated 22.07.2025, declared as "Moxbro Forte Syrup", having declared FOB value of Rs. 25,53,000/- were attempted to be improperly exported by the Exporter even when the goods are unapproved/banned in nature vide Gazette notification no. CG-DL-E-02062023-246249 dated 02.06.2023 and vide notification no. S.O. 777 (E) published in the Gazette of India, Extraordinary, Part II, Section 3(ii), dated the 10th March, 2016. Further, the No objection certificate issued by the CDSCO for export, also does not seem to be applicable for already manufactured goods as per the laid down procedure. No licence from State Licencing authority after issuance of CDSCO NOC has been issued before manufacturing of the goods and the conditions stipulated in the NOC regarding labelling and packaging are not compiled with, during the manufacturing of the goods. Packages were supposed to be labelled "Not for medicinal use" as per CDSCO NOC. However, these packages did not have any such markings. Further, it is also evident that the Central Government have prohibited the manufacture for sale, sale and distribution for human use of drug fixed dose combination of amoxicillin and bromhexine in India. Hence, the said consignment can neither be sold in India nor can be exported to abroad.

13.1 Further, the scope of definition of "prohibited goods" as specified under Section 2 (33) of the Customs Act, 1962 is no more res-integra in light of Judgement dated 17.06.2021 of Hon'ble Supreme Court in the case of Union of India & Ors Vs

Raj Grow Impex LLP & Ors [CIVIL APPEAL NO(s). 2217-2218 of 2021 (Arising out of SLP(C) Nos. 14633-14634 of 2020)].

It is settled that "prohibition" under the aforesaid provision would include every type of "prohibition" and would include the "restrictions".

Further, in 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 by attempting to export the unapproved/banned drugs without the requisite No Objection Certificate issued by the CDSCO, the exporter has also violated the provisions of section 50 (3) of the Customs Act, 1962 and provisions of section 11 of Foreign Trade (Development and Regulation) Act, 1992. The representative of the said exporter in his statement recorded under Section 108 of the Customs Act, 1962 has also admitted that they do not have mandatory NOC from CDSCO as well as manufacturing permission. The exporter knowingly and deliberately attempted to export said goods even they were aware that these goods cannot be exported and in earlier attempts, they were caught and case was adjudicated. Thus, by these acts of omission and commission, the exporter has rendered the said goods covered under the Shipping Bill No. 3766710 dated 22.07.2025, declared as "Moxbro Forte Syrup", having declared FOB value of Rs. 25,53,000/- liable for confiscation under Section 113(d) of Customs Act, 1962, and the exporter has also claimed drawback and RoDTEP benefits on the improper export of unapproved/banned goods which also makes the goods liable for confiscation under section 113(ia) and 113(ja) respectively of the Customs Act, 1962 and therefore, for attempting to improperly export the goods without the requisite and applicable No Objection Certificate issued by CDSCO and manufacturing license issued by State licensing authority, the exporter appears liable for penal actions under the Customs Act, 1962.

13.2 The said exporter had exported said goods in the past vide Shipping Bills 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024, 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 having total FOB Rs 2,85,66,561/- without having mandatory NOC from CDSCO or State licencing Authority as well as permission from State Licensing authority to

manufacture said goods for export purpose. The representative of the said exporter in his statement recorded under Section 108 of the Customs Act, 1962 has also admitted that he has not taken NOC from the concerned authority even for past consignment of the said goods. Therefore, it appears that the said exporter has rendered the said goods exported vide said 17 Shipping Bills as discussed at table above having total FOB Rs 2,85,66,561 appears liable for absolute confiscation under Section 113(d), (ia) & (ja) of the Customs Act, 1962, though goods are not available for confiscation. Further, the exporter has also claimed drawback, IGST and RoDTEP benefits on the improper export of unapproved/banned goods which also makes the goods liable for confiscation under section 113(ia) and 113(ja) respectively of the Customs Act, 1962 and therefore, for attempting to improperly export the goods without the requisite and applicable No Objection Certificate issued by CDSCO or from State Authority and manufacturing license issued by State licensing authority, the exporter appears liable for penal actions under the Customs Act, 1962.

13.3 Thus by attempting to export the unapproved/banned drugs without the requisite No Objection Certificate issued by the CDSCO, the exporter has also violated the provisions of section 50 (3) of the Customs Act, 1962 and provisions of section 11 of Foreign Trade (Development and Regulation) Act, 1992. The representative of the said exporter in his statement recorded under Section 108 of the Customs Act, 1962 has also admitted that they do not have mandatory NOC from CDSCO as well as manufacturing permission. The exporter knowingly and deliberately attempted to export said goods even they were aware that these goods cannot be exported and in earlier attempts, they were caught and case was adjudicated. The exporter, M/s. Coral Laboratories Ltd. (IEC- 0394033353) for their acts of omission and commission in respect of the subject goods to improperly export the unapproved/banned drugs without requisite and applicable NOC from CDSCO appears to be liable for imposition of penalty under Section 114(i) of the Customs Act, 1962.

13.4 The said exporter while filing said Shipping Bills make a wrong statement and as per sub section 2 of Section 50 of Customs Act, 1962, they, while presenting said Shipping Bills were required to make and subscribe to a declaration as to the truth of its contents. As per Sub Section 3 of Section 50 of Customs Act, 1962, the exporter who presents a shipping bill under this section shall ensure the accuracy and completeness of the information given; the authenticity & validity of any document supporting it and compliance with restriction or prohibition, if any, relating to the

goods under this Act or under any other law for the time being in force. In case of live export shipment, the exporter was required to produce a valid NOC from prescribed agency however, the said exporter intentionally has submitted a invalid NOC to which they were aware of the fact that based on said NOC earlier they were not allowed to export. The said exporter also intentionally exported said goods without having valid mandatory NOC in case of 17 exports made in the past. The said exporter, at the same time, made declaration to the truthiness of declaration made in said Shipping Bills. Therefore, said exporter appears liable for penalty under Section 114AA of the Customs Act, 1962.

14. ISSUANCE OF SCN: On completion of investigation, the Investigating Agency, viz. NSPU R&I had forwarded an Investigation Report depicting the above fact for issuance of SCN to the Exporter. Accordingly on the basis of said Investigation Report a SCN No. 1582/2025-26/ADC/CEAC/NS-II/CAC/JNCH dated 11.12.2025 was issued to the Exporter M/s. Coral Laboratories Ltd. (IEC- 0394033353) having registered address at Plot No. 27/28, Pharma City, Selaqui, Dehradun, Uttarakhand- 248001 whereby they were called upon to show cause to the Additional Commissioner of Customs, CEAC NS-II JNCH having office at Jawaharlal Nehru Custom House, Nhava Sheva, Tal-Uran, Dist- Raigad, Maharashtra within 30 days of receipt of this notice as to why:

- i.** the goods namely Moxbro Forte Syrup attempted to export vide Shipping Bill No 3766710 dated 22.07.2025 having FOB value as Rs 25,53,000/- (Rupees Twenty Five Lakhs Fifty Three Thousands only) should not be held liable to absolute confiscation under Section 113 (d), (ia) & (ja) of the Customs Act, 1962.
- ii.** the goods namely Moxbro Forte Syrup exported vide Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 having total FOB Rs 2,85,66,561/- (Rupees Two Crores Eighty Five Lakhs Sixty Six Thousands Five Hundred Sixty One Only) should not be held liable to confiscation under

Section 113 (d), (ia) & (ja) of the Customs Act, 1962 (though goods are not available).

- iii.** the claim of duty drawback benefit claimed for the goods namely Moxbro Forte Syrup attempted to export vide Shipping Bill No 3766710 dated 22.07.2025 should not be denied under Rule 14 (1) of the Customs and Central Excise duty drawback Rules, 2017, read with section 51 of the Customs Act, 1962.
- iv.** Since, goods namely Moxbro Forte Syrup attempted to export vide Shipping Bill No 3766710 dated 22.07.2025 are being held prohibited for exports, IGST and RoDTEP should not be denied.
- v.** drawback amount Rs. 3,61,951/- (Rs. Three Lakhs Sixty-One Thousand Nine Hundred Fifty-One only) paid towards Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 should not be recovered from them under Rule 17 of the Customs and Central Excise duty Drawback Rules, 2017, read with section 75 & 75A of the Customs Act, 1962 along with interest as per section 28AA of the Customs Act, 1962.
- vi.** the IGST refund amount Rs. 34,35,055/- (Rs. Thirty-Four Lakhs Thirty-Five thousand Fifty-Five only) disbursed to them against Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 should not be recovered from them through the jurisdictional CGST authorities along with applicable interest.
- vii.** the RODTEP Rs. 1,19,464/- (Rs. One Lakh Nineteen Thousand Four Hundred Sixty-Four Only) availed against Shipping Bill No. 8693333 dated 16.02.2021,

3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 should not be recovered along with applicable interest from M/s. Coral Laboratories Ltd. (IEC - 0394033353) in terms of Notification 76/2021- Customs (N.T) dated 23.09.2021 and section 28AAA read along with Section 28AA of Customs Act 1962.

- viii.** penalty should not be imposed on M/s. Coral Laboratories Ltd. (IEC - 0394033353) under section 114 (i) & 114 AA of the Customs Act, 1962.

WRITTEN SUBMISSIONS OF THE EXPORTER

15. The M/s. Coral Laboratories Ltd. submitted reply dated 19.12.2025 to the SCN and submitted, inter alia, as under:

1. "We Coral Laboratories Ltd having Manufacturing Drug License No. 42/UA/SC/P-2006 on Form 28 approved from 13.06.2016 with renewal 07.06.2021 to 06.06.2026. Enclosed herewith Manufacturing License with Renewal Copy. With regards to above Product Approval, we have manufactured product of Moxbro Forte Syrup.

2. The Product was tested in our factory which is GLP (Goods Laboratory Practice) with a positive results same has been confirmed from DYCC JNCH as positive tests dated 11.08.2025 further the samples does not answer positive test for Heroin, Morphine, Ganja, Charas, THC, MDMA, Amphetamine and Diazepam dated 25.08.2025. With regards to above results the Product MOXBRO FORTE SYRUP complies with Standard quality for Human Consumption.

3. We had a Product Permission which was received from SLA (State Licensing Authority) on 29.06.2021 on that basis we have Manufactured the product for Export Purpose.

We were not aware that the product is Banned / Prohibited for Manufacture, Sale & distribution of this Fixed Dose Combination.

4. We came to know the process for Manufacturing & Exporting the product MOXBRO FORTE SYRUP at the time of clearing the goods vide shipping bill no. 9644578 dated 03.04.2025 after that we applied for NOC & received CDSCO No Objection certificate No NOC - NA/NOC-T&A (Exhibit Batches)/2025/000037 Dated: 23.04.2025.

5. We received Order in Original No - 309(LC)/2025-26/ADC/CEAC/NS-II/CAC/JNCH Dated 16.06.2025 goods were allowed for Back to Town with a fine of Rs 1,00,000 & Penalty of Rs 1,00,000 each. With regards to above export process for product MOXBRO FORTE SYRUP We Coral Laboratories Ltd have changed the internal policy to strictly follow the Customs Process for such Banned / Prohibited products as per below: We have Mentioned in our Export Indents copy Export NOC required or not ? & this is strictly handled by Licensing Officers in our factory and Regulatory department. We have started taking CDSCO NOC & fresh Product Permission from State Licensing authority further Manufacture Products for export purpose.. We have followed all the conditions of CDSCO NOC including labels affixed of "For export only - Not for domestic consumption" on Cartons / Packaging.

The above all condition were fulfilled & product MOXBRO FORTE SYRUP was exported to Buyer - M/s. ASAL PHARMA CO., MOGADISHU SOMALIA Vide SB NO 6579215 Date: 31.10.2025 & 5804409 Date: 01.10.2025.

6. We are hereby submitting the Bank Realization Certificate issued by DGFT against the information gathered during last five years of Product MOXBRO FORTE SYRUP mentioned in Show Cause Notice. So we request the adjudicating authority to Not Claim for IGST, RODTEP & DRAWBACK of the same as we have received Foreign Inward Remittance against all the shipments.

7. With regards to current shipment as the Product is already manufactured in March 2025, We cannot get retrospective NOC & Product Permission to fulfill the conditions of Export But we have received the CDSCO NOC on 23.04.2025 April and Fresh Manufacturing License on 18.12.2025. The CDSCO NOC Clause of affixing label of "Not for medicinal use" is imprecise as the Product is Manufactured for Human Consumption as per Somalia Federation Republic. We have follow up same with CDSCO team to correct the term as we received FRESH NOC No NA/NOC-T&A(Exhibit Batches)/2025/000629 dated 20.08.2025 with Term "For export only - Not for domestic consumption" which states to be precise.

8. We Coral Laboratories Ltd have faced financial losses with Fines of Rs 1,00,000, Penalty of Rs 1,00,000, Cargo Storage Charges, Booking Cancellation Charges with addition to shelf life loss of more than 08 Months of our quality product.

9. We will never evade the customs process for exporting Pharma Products & for such process the expenses is bare minimum & always respect the Customs Act & guidelines. We request adjudicating authority to allow export of product MOXBRO FORTE SYRUP Vide SB No 3766710 Dated 22.07.2025 as same will be helpful for Medicinal Human Consumption as in the case of confiscation this will not only be a complete loss to us but even a national loss.

As the earlier exports have gone without any objection and we have realised the payments we request you to please allow us on the received Duty Drawback, RODTEP and IGST refunds”.

15.2 The Exporter also submitted a CDSCO NOC EXP/NOC/2025/46938 dtd 17.04.2025 for the drug Amoxicillin And Bromhexine Hydrochloride Dry Suspension 250 mg/5ml for 50,000 bottle and also submitted a letter dtd 18.12.2025 from Food Safety and Drug Administration which allow manufacturing of drug under manufacturing license 42/UA/Sc/P-2006 for the drug.

15.3 The noticee submitted a copy of e-mail correspondence with CDSCO, North Zone, wherein they sought correction of Condition No. 3 of Export NOC No. NA/NOC-T&A (Exhibit Batches)/2025/000037 dated 23.04.2025, which required labelling “Not for medicinal use”. CDSCO, vide e-mail dated 23.12.2025, clarified that the NOC was auto-generated through the Sugam Portal, that amendment was not possible, and that the said Condition No. 3 **may be ignored**.

RECORD OF PERSONAL HEARING

16. In adherence of the Principles of Natural Justice the Exporter was granted an opportunity to appear before the then Adjudicating Authority for Personal Hearing (PH) for giving oral submissions in their defence. Accordingly, PH Memo 15.12.2025 dated was issued to the exporter requesting to appear for PH on 22.12.2025 before the undersigned.

16.1 The PH was conducted on 22.12.2025 Wherein Director Girish M Dhameja , Ms. Shital and Mr. Mayank appeared for PH and requested to drop the proceeding

and reiterated the written submission and also requested for expediting the proceeding

DISCUSSION AND FINDINGS

17. I have carefully examined the Show Cause Notice issued to M/s Coral Laboratories Ltd. (IEC: 039403353) under Section 124 of the Customs Act, 1962, along with the investigation records, relied upon documents (RUDs), statements recorded under Section 108 of the Customs Act, 1962, the written and oral submissions made by the noticee during the course of personal hearings. The SCN alleges that M/s Coral Laboratories Ltd. (IEC: 039403353) attempted to improperly export goods covered under Shipping Bill No. 3766710 dated 22.07.2025, declared as “Moxbro Forte Syrup” having declared FOB value of Rs. 25,53,000/-, despite the said product being unapproved/banned in nature in terms of Gazette Notification No. CG-DL-E-02062023-246249 dated 02.06.2023 and Notification No. S.O. 777(E) dated 10.03.2016. It is further evident that the No Objection Certificate (NOC) issued by CDSCO was not applicable to already manufactured goods, and that the exporter failed to obtain the mandatory manufacturing licence from the State Licensing Authority after issuance of CDSCO NOC, as required under the prescribed procedure.

17.1 The SCN further brings out that the exporter had earlier exported identical goods through **17 Shipping Bills during the period 2021-2024**, involving a total **FOB value of Rs. 2,85,66,561/-**, without obtaining mandatory NOC from CDSCO or permission from the State Licensing Authority to manufacture such goods for export. The exporter’s authorised representative has admitted that no such permissions were obtained even for past consignments. The legal provisions invoked in the SCN include Sections 113(d), 113(ia), 113(ja) 114(i) and 114AA, of the Customs Act, 1962, read with relevant provisions of the Drugs and Cosmetics Act, 1940, Drugs and Cosmetics Rules, 1945, Foreign Trade (Development & Regulation) Act, 1992, and applicable FTP/ITC(HS) restrictions. The noticee’s defenses, inter alia, claiming bona fide belief, absence of mens rea, and post-facto compliance, are required to be examined in light of the documentary evidence, statutory mandates, and binding regulatory requirements, to determine liability towards confiscation of goods, recovery of ineligible export incentives, imposition of penalties, and other consequential actions, while ensuring adherence to the principles of natural justice.

18. After carefully going through the case records, and the submissions of the notice, I find that the, main issues to be decided in the Case are: -

- (i) Whether the goods namely Moxbro Forte Syrup attempted to export vide Shipping Bill No 3766710 dated 22.07.2025 having FOB value as Rs 25,53,000/- (Rupees Twenty Five Lakhs Fifty Three Thousands only) is liable for absolute confiscation under Section 113 (d), (ia) & (ja) of the Customs Act, 1962.
- ii. Whether the goods namely Moxbro Forte Syrup exported vide Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 having total FOB Rs 2,85,66,561/- (Rupees Two Crores Eighty Five Lakhs Sixty Six Thousands Five Hundred Sixty One Only) are liable for confiscation under Section 113 (d), (ia) & (ja) of the Customs Act, 1962 (though goods are not available).
- iii. Whether the claim of duty drawback benefit claimed for the goods namely Moxbro Forte Syrup attempted to export vide Shipping Bill No 3766710 dated 22.07.2025 should not be denied under Rule 14 (1) of the Customs and Central Excise duty drawback Rules, 2017, read with section 51 of the Customs Act, 1962.
- iv. Whether goods namely Moxbro Forte Syrup attempted to export vide Shipping Bill No 3766710 dated 22.07.2025 are being held prohibited for exports, IGST and RoDTEP should not be denied.
- v. Whether drawback amount Rs. 3,61,951/- (Rs. Three Lakhs Sixty-One Thousand Nine Hundred Fifty-One only) paid towards Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022,

6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 should not be recovered from them under Rule 17 of the Customs and Central Excise duty Drawback Rules, 2017, read with section 75 & 75A of the Customs Act, 1962 along with interest as per section 28AA of the Customs Act, 1962.

- vi.** Whether the IGST refund amount Rs. 34,35,055/- (Rs. Thirty-Four Lakhs Thirty-Five thousand Fifty-Five only) disbursed to them against Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 should not be recovered from them through the jurisdictional CGST authorities along with applicable interest.
- vii.** Whether the RODTEP Rs. 1,19,464/- (Rs. One Lakh Nineteen Thousand Four Hundred Sixty-Four Only) availed against Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 should not be recovered along with applicable interest from M/s. Coral Laboratories Ltd. (IEC - 0394033353) in terms of Notification 76/2021- Customs (N.T) dated 23.09.2021 and section 28AAA read along with Section 28AA of Customs Act 1962.
- viii.** Whether penalty should not be imposed on M/s. Coral Laboratories Ltd. (IEC - 0394033353) under section 114 (i) & 114 AA of the Customs Act, 1962.

19. From the facts discussed above and the records available on file, I find that the goods covered under Shipping Bill No. 3766710 dated 22.07.2025, declared as "Moxbro Forte Syrup" with a declared FOB value of Rs. 25,53,000/-, were attempted

to be exported by the exporter despite the fact that the said goods are unapproved/banned in nature. It is observed that the manufacture for sale, sale and distribution for human use of the fixed dose combination of Amoxicillin and Bromhexine has been prohibited by the Central Government vide Gazette Notification No. CG-DL-E-02062023-246249 dated 02.06.2023 and Notification No. S.O. 777(E) published in the Gazette of India, Extraordinary, Part II, Section 3(ii), dated 10.03.2016.

20. I further find that the No Objection Certificate issued by the Central Drugs Standard Control Organisation (CDSCO) for export of the said product does not appear to be applicable to the subject goods, as the same had already been manufactured prior to the issuance of the said NOC. As per the prescribed procedure, manufacture of such unapproved/banned drugs for export purposes is required to be undertaken only after obtaining the requisite CDSCO permission and corresponding endorsement or licence from the State Licensing Authority. In the present case, no licence or endorsement from the State Licensing Authority was issued after the grant of CDSCO NOC and prior to manufacture of the goods, rendering the manufacture itself non-compliant.

21. I also find that the CDSCO NOC was issued subject to specific conditions, including mandatory requirements relating to labelling and packaging of the goods. One of the conditions explicitly stipulated that the packages shall be labelled with the inscription "Not for medicinal use". However, during examination, it was observed that the packages of the subject consignment did not bear any such markings. Thus, the conditions stipulated in the CDSCO NOC have not been complied with during the manufacturing and packaging of the goods.

22. I have carefully considered the submissions made by the exporter and the documents relied upon by them. At the outset, I find that possession of a general manufacturing licence in Form-28 and testing of the product for quality or absence of narcotic substances does not, by itself, authorise manufacture and export of an unapproved/banned fixed dose combination. The issue involved in the present case is not related to quality of the product but relates to **regulatory compliance for manufacture and export** under the Drugs & Cosmetics Act, 1940. With regard to the exporter's reliance on product permission dated 29.06.2021 issued by the State Licensing Authority, I find that the said permission is subject to the condition that if any product approved falls under the category of banned drugs as per notifications/orders issued by the Government of India from time to time, the

approval shall be treated as cancelled. In the present case, the manufacture for sale, sale and distribution of the fixed dose combination of Amoxicillin and Bromhexine stands prohibited vide Gazette Notifications issued by the Central Government. Therefore, the earlier State Licensing Authority permission cannot override or negate the subsequent statutory prohibition.

23. I further find that the CDSCO NOC dated 23.04.2025 was issued specifically for manufacture of exhibit batches for export purpose and subject to mandatory conditions. It is an admitted fact that the goods covered under Shipping Bill No. 3766710 dated 22.07.2025 were manufactured in March 2025, i.e., **prior to issuance of the CDSCO NOC**. No fresh manufacturing licence or endorsement from the State Licensing Authority incorporating the CDSCO permission was issued prior to manufacture of the subject goods. Hence, the CDSCO NOC cannot be made applicable retrospectively to goods already manufactured.

23.1 Regarding the exporter's contention on labelling requirements, I find that the CDSCO NOC clearly stipulated that the stocks manufactured shall invariably bear the label "Not for medicinal use". During examination, the packages were found not bearing such markings. The email clarification issued by CDSCO dated 23.12.2025 was issued much later and does not have retrospective effect so as to regularise non-compliance at the time of manufacture and export. Compliance with the conditions of NOC is mandatory and any deviation renders the export non-compliant.

24. The exporter's plea of ignorance of the ban cannot be accepted. It is a settled position of law that ignorance of law is not a defence and there is no estoppel against statute. Each export consignment is required to independently comply with the legal provisions applicable at the relevant time. The fact that corrective steps were taken by the exporter for subsequent consignments cannot cure violations committed in respect of the present consignment. Thus, I find that the goods declared as "Moxbro Forte Syrup", covered under Shipping Bill No. 3766710 dated 22.07.2025, having a declared FOB value of Rs. 25,53,000/-, attempted to be exported by M/s. Coral Laboratories Ltd., were manufactured and sought to be exported in contravention of the provisions of the Drugs & Cosmetics Act, 1940 and the Rules made thereunder, without possessing valid and applicable authorisation from the Central Drugs Standard Control Organisation (CDSCO) at the time of manufacture and without complying with the mandatory conditions stipulated in the CDSCO No Objection Certificate. Further, the manufacture for sale, sale and distribution for human use

of the fixed dose combination of Amoxicillin and Bromhexine stands prohibited by the Central Government vide the relevant Gazette Notifications.

It is a well-settled law that any restriction on import or export is to an extent a 'prohibition' and therefore the expression any prohibition in Section 113D of the Customs Act 1962 includes restriction. Restriction is one type of prohibition if a policy condition is not fulfilled or complied with. 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 enforced. Accordingly, I agree with SCN that the said goods were attempted to be improperly exported in violation of the provisions of the Customs Act, 1962 and allied laws, rendering them liable for confiscation under Section 113(d), the the exporter has also claimed drawback, and RoDTEP benefits on the improper export of unapproved/banned goods which also makes the goods liable for confiscation under section 113(ia) and 113(ja) respectively of the Customs Act, 1962.

24.1 Applicability of Section 114(i): Section 114(i) of the Customs Act, 1962 is attracted where any act or omission renders goods liable for confiscation under Section 113. In the present case, the goods declared as "Moxbro Forte Syrup" were manufactured and attempted to be exported in violation of the prohibitory notifications issued by the Central Government and without valid and applicable CDSCO authorisation at the time of manufacture, as well as without complying with the mandatory conditions of the CDSCO NOC. These acts and omissions rendered the goods liable for confiscation under Section 113. Therefore I agree with SCN that the exporter, by such acts and omissions, facilitated the attempted improper export of the said goods, **thereby attracting penalty under Section 114(i) of the Customs Act, 1962.**

24.2 Applicability of Section 114AA: I further find that the present case involves a **second attempt** by the exporter to export the same product. The records clearly show that the exporter had earlier faced intervention by Customs in respect of export of "Moxbro Forte Syrup", pursuant to which the exporter became aware of the regulatory prohibition and the requirement of CDSCO authorisation. Despite such knowledge, the exporter again proceeded to file Shipping Bill No. 3766710 dated 22.07.2025 by using export declarations and documents without disclosing the absence of valid authorisation at the time of manufacture and non-compliance with mandatory regulatory conditions. This repeated conduct establishes that the incorrect declarations and documents were not filed inadvertently but were done

knowingly and intentionally. Accordingly, I agree with SCN the essential ingredients of Section 114AA of the Customs Act, 1962 are clearly satisfied in the present case.

25. I further find that the exporter had exported the same product, namely “Moxbro Forte Syrup”, on as many as Seventeen occasions in the past, during the period when the manufacture for sale, sale and distribution for human use of the fixed dose combination of Amoxicillin and Bromhexine stood prohibited by the Central Government vide Gazette Notification No. CG-DL-E-02062023-246249 dated 02.06.2023 and Notification No. S.O. 777(E) published in the Gazette of India, Extraordinary, Part II, Section 3(ii), dated 10.03.2016. As brought out in the Show Cause Notice, the exporter had exported the said goods earlier vide **Seventeen Shipping Bills** with a **cumulative declared FOB value of Rs. 2,85,66,561/-**.

26. I further find that the above conclusion is also corroborated by the statements recorded under Section 108 of the Customs Act, 1962. In his statement, the authorised representative of the exporter has categorically admitted that, in respect of the aforesaid past exports of “Moxbro Forte Syrup”, the exporter did not obtain any No Objection Certificate from CDSCO prior to manufacture and export of the goods and that no licence or endorsement from the State Licensing Authority was issued after issuance of any such CDSCO permission. The said statement further reveals that the exporter was aware that the product was being exported without the requisite CDSCO authorisation and that the same was done under the belief that export would be allowed as earlier consignments had been cleared. I find that such admission made in the voluntary statement recorded under Section 108 of the Customs Act, 1962 clearly establishes that the past exports were undertaken without valid CDSCO authorisation,

27. The exporter has submitted that foreign inward remittances were realised in respect of the past exports of “Moxbro Forte Syrup” and has pleaded that such past exports should not be viewed adversely. I have carefully considered the said submission but find the same to be devoid of merit. Realisation of export proceeds does not validate or regularise the export of goods which were unapproved/banned in nature at the relevant time. Each export transaction is required to independently comply with the statutory provisions in force. Further, as admitted in the statements recorded under Section 108 of the Customs Act, 1962, the exporter had not obtained CDSCO No Objection Certificate in respect of the past exports. Such admission

clearly establishes that the past exports were undertaken without the requisite regulatory authorisation.

28. In view of the foregoing discussion and findings, I further hold that the goods declared as “Moxbro Forte Syrup”, exported earlier by the exporter under 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024, 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 having total FOB Rs 2,85,66,561/-, were manufactured and exported during the period when the manufacture for sale, sale and distribution for human use of the fixed dose combination of Amoxicillin and Bromhexine stood prohibited by the Central Government. I find that the said goods were exported **without obtaining the requisite No Objection Certificate from the Central Drugs Standard Control Organisation (CDSCO)** and without valid and applicable authorisation at the time of manufacture, as admitted by the exporter in the statements recorded under Section 108 of the Customs Act, 1962. It is a well-settled law that any restriction on import or export is to an extent a ‘prohibition’ and therefore the expression any prohibition in Section 113D of the Customs Act 1962 includes restriction. Restriction is one type of prohibition if a policy condition is not fulfilled or complied with. 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 enforced. Accordingly, I agree with SCN that the goods covered under the aforesaid **Seventeen Shipping Bills**, though not available for physical confiscation, were **liable for confiscation under Section 113(d)**, the exporter had also claimed drawback, and RoDTEP benefits on the improper export of unapproved/banned goods which also makes the goods liable for confiscation under section 113(ia) and 113(ja) respectively of the Customs Act, 1962.

29. I find that, on the basis of the facts and circumstances mentioned herein above, the Exporter have knowingly and deliberately indulged themselves in wilful mis-statement and alleged suppression of facts with regard to past seventeen Shipping Bills mentioned in SCN, with an intent to violate the provisions of Custom Act by their aforesaid acts of omission and commission have rendered the impugned goods liable for confiscation under Section 113 (d), 113 (ia) & 113 (ja) of the Customs Act,

1962. I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

"23. The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularized, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorized by this Act...", brings out the point clearly. The power to impose redemption fine springs from the authorization of confiscation of goods provided for under Section 111 of the Act. When once power of authorization for confiscation of goods gets traced to the said Section III of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing the payment of the redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question No. (i)."

29.2 I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd reported in 2020 (33) G.S.T.L. 513 (Guj.) and the same have not been challenged by any of the parties in operation. Hence, I find that any goods improperly exported as provided in any sub-section of Section 113 of the Customs Act, 1962 are liable to confiscation and merely because the exporter was not caught at the time of clearance of the exported goods, can't be given differential treatment. In view of the above, I find that the decision of the Hon'ble Madras High Court in the case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), which has been passed after observing the decision of Hon'ble Bombay High Court in case of M/s Finesse Creations Inc reported vide 2009 (248) ELT 122 (Bom)-upheld by Hon'ble Supreme Court in 2010(255) ELT A.120(SC), is squarely applicable in the

present case. Accordingly, I observe that the present case also merits the imposition of a Redemption Fine.

29.3 In view of the above, I find that the present case also merits imposition of Redemption Fine under Section 125 of the Customs Act, 1962 in lieu of confiscation.

30. Applicability of Section 114(i) (For Past Exports): Section 114(i) of the Customs Act, 1962 is attracted where any act or omission renders goods liable for confiscation under Section 113. In the present case, the goods declared as “Moxbro Forte Syrup” were manufactured and exported in violation of the prohibitory notifications issued by the Central Government and without valid and applicable CDSCO authorisation at the time of manufacture, as well as without complying with the mandatory conditions of the CDSCO NOC. These acts and omissions rendered the goods liable for confiscation under Section 113. v I agree with SCN that the exporter, by such acts and omissions, facilitated the attempted improper export of the said goods, thereby attracting penalty under Section 114(i) of the Customs Act, 1962.

30.1 Applicability of Section 114(AA) (For Past Exports): The exporter has submitted that foreign inward remittances were realised in respect of the past exports of “Moxbro Forte Syrup” and has pleaded that no adverse view should be taken in respect of such exports. I have carefully considered the said submission but find the same to be untenable. Section 114AA of the Customs Act, 1962 is attracted where any person knowingly or intentionally makes, signs or uses false or incorrect declarations or documents in the transaction of export business. In the present case, I find that the exporter had exported the same goods earlier under **seventeen Shipping Bills**, as detailed in the Show Cause Notice, without obtaining the requisite No Objection Certificate from the Central Drugs Standard Control Organisation (CDSCO) and without valid regulatory authorisation at the time of manufacture. Further, as admitted in the statements recorded under Section 108 of the Customs Act, 1962, the exporter was aware that no CDSCO NOC had been obtained for the said past exports. Despite such knowledge, the exporter filed Shipping Bills and export documents without disclosing the absence of mandatory authorisation. Mere realisation of export proceeds does not cure the defect of intentional non-disclosure of material facts. Accordingly, I agree with SCN that the past exports were effected by knowingly and intentionally using incorrect declarations and documents, thereby attracting penalty under **Section 114AA of the Customs Act, 1962.**

31 . I also find that the exporter has availed IGST refund wrongly as said goods exported vide said 17 Shipping Bills were prohibited for exports and exporter has exported prohibited goods wilfully and knowingly. Section 73 of CGST Act, 2017, “Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts. Section 74 of CGST Act, 2017 reads as “Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of fact”. The exporter has wrongly availed IGST refund in violation of Section 73 & 74 of the CGST Act which is recoverable and jurisdictional CGST Commissionerate is being requested to recover the same along with applicable interest charges.

32. I also agree with the SCN that drawback amount Rs. 3,61,951/- (Rs. Three Lakhs Sixty-One Thousand Nine Hundred Fifty-One only) paid towards Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 should be recovered from M/s Coral Laboratories Ltd. (IEC - 0394033353) under Rule 17 of the Customs and Central Excise duty Drawback Rules, 2017, read with section 75 & 75A of the Customs Act, 1962 along with interest as per section 28AA of the Customs Act, 1962.

33. I also agree that the RODTEP Rs. 1,19,464/- (Rs. One Lakh Nineteen Thousand Four Hundred Sixty-Four Only) availed against Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 should be recovered along with applicable interest from M/s. Coral Laboratories Ltd. (IEC - 0394033353) in terms of Notification 76/2021- Customs (N.T) dated 23.09.2021 and section 28AAA read along with Section 28AA of Customs Act 1962 through jurisdictional DGFT authorities.

34. In view of the above discussions, I pass the following order.

ORDER

34(i). I order absolute confiscation of the goods namely Moxbro Forte Syrup attempted to be exported vide Shipping Bill No 3766710 dated 22.07.2025 having FOB value as Rs 25,53,000/- (Rupees Twenty-Five Lakhs Fifty-Three Thousands only) under Section 113 (d), (ia) & (ja) of the Customs Act, 1962.

34(ii). I Order confiscation of the goods namely Moxbro Forte Syrup exported vide Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024, 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 having total FOB Rs 2,85,66,561/- (Rupees Two Crores Eighty Five Lakhs Sixty Six Thousands Five Hundred Sixty One Only) under Section 113 (d), (ia) & (ja) of the Customs Act, 1962. However, being the goods has already been exported, I impose Redemption Fine of Rs.10,00,000 on the Exporter, M/s Coral Laboratories Ltd. (IEC- 0394033353) under the provisions of Section 125 of the Customs Act, 1962, in lieu of confiscation.

34(iii). I deny the claim of duty drawback benefit claimed for the goods namely Moxbro Forte Syrup attempted to export vide Shipping Bill No 3766710 dated 22.07.2025 under Rule 14 (1) of the Customs and Central Excise duty drawback Rules, 2017, read with section 51 of the Customs Act, 1962.

34(iv). I deny IGST and RODTEP as goods namely Moxbro Forte Syrup attempted to be exported vide Shipping Bill No 3766710 dated 22.07.2025 are being held prohibited and not exported.

34(v). I order to recover the drawback amount Rs. 3,61,951/- (Rs. Three Lakhs Sixty-One Thousand Nine Hundred Fifty-One only) paid towards Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270

dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 from M/s Coral Laboratories Ltd. (IEC- 0394033353) under Rule 17 of the Customs and Central Excise duty Drawback Rules, 2017, read with section 75 & 75A of the Customs Act, 1962 along with interest as per section 28AA of the Customs Act, 1962.

34(vi). I order to recover the IGST refund amount Rs. 34,35,055/- (Rs. Thirty-Four Lakhs Thirty-Five thousand Fifty-Five only) disbursed to them against Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 from M/s Coral Laboratories Ltd. (IEC- 0394033353) through the jurisdictional CGST authorities along with applicable interest.

34(vii). I order to recover the RODTEP Rs. 1,19,464/- (Rs. One Lakh Nineteen Thousand Four Hundred Sixty-Four Only) availed against Shipping Bill No. 8693333 dated 16.02.2021, 3249473 dated 20.07.2021, 3524351 dated 31.07.2021, 8605680 dated 01.03.2022, 1168825 dated 04.05.2022, 2600423 dated 05.07.2022, 2605495 dated 05.07.2022, 5168352 dated 01.11.2022, 5416904 dated 12.11.2022, 5417293 dated 12.11.2022, 6522425 dated 29.12.2022, 2588618 dated 20.07.2023, 4254270 dated 28.09.2023, 5706761 dated 30.11.2023, 8911107 dated 05.04.2024 1341448 dated 31.05.2024 & 5045353 dated 23.10.2024 along with applicable interest from M/s. Coral Laboratories Ltd. (IEC - 0394033353) in terms of Notification 76/2021-Customs (N.T) dated 23.09.2021 and section 28AAA read along with Section 28AA of Customs Act 1962. The Regional Authority, DGFT, Dehradun is requested to take necessary action for recovering the RODTEP amount of 1,19,464/- (Rs. One Lakh Nineteen Thousand Four Hundred Sixty-Four Only) from the exporter M/s Coral Laboratories Ltd. (IEC- 0394033353) in respect of the aforesaid past Seventeen Shipping Bills.

34(viii). I impose penalty of Rs. 500,000 on M/s. Coral Laboratories Ltd. (IEC - 0394033353) under section 114 (i) of the Customs Act, 1962.

34(ix). I impose penalty of Rs.500,000 on M/s. Coral Laboratories Ltd. (IEC - 0394033353) under section 114 AA of the Customs Act, 1962.

35. This order is issued without prejudice to any other action that may be taken in respect of the goods in question and/or against the persons concerned or any other person, if found involved, under the provisions of the Customs Act, 1962, and/or any other law for the time being in force in the Republic of India.

R.K.B. 09/01/26.

(Raghu Kiran B.)

Commissioner of Customs, (In-Situ)
CEAC (NS-II), JNCH.

To

1. M/s. Coral Laboratories Ltd. (IEC- 0394033353)
Plot No. 27/28, Pharma City, Selaqui
Dehradun, Uttarakhand- 248001

Copy to:

1. The Commissioner of Customs, NS-II, JNCH, Nhava Sheva.
2. The Dy. Director DGFT Directorate of Industries office Building, Industrial Area, Patel Nagar Dehradun-248001 (Uttarakhand)
3. The Asst. Commissioner of GST, Office of the Asst. Commissioner Shree Tower Near Rispana Bridge, Haridwar Road, Dehradun, Nehru Colony
4. The Dy. Commissioner of Customs, NSPU R&I.
5. The Dy. Commissioner of Customs, CRAC, JNCH, Nhava Sheva.
6. The Dy. Commissioner of Customs, CRRC, JNCH, Nhava Sheva
7. Notice Board.