

	<p align="center"><b>सीमाशुल्क आयुक्त का कार्यालय, एनएस-II</b>  OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II  <b>केंद्रीकृत निर्यात आकलन कक्ष, जवाहरलाल नेहरू सीमाशुल्क भवन</b>  CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL NEHRU  CUSTOM HOUSE,  <b>न्हावा शेवा, तालुका -उरण, जिला- रायगढ़, महाराष्ट्र -400 707</b>  NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707</p>
	<p align="center">F. No.- CUS/ASS/AMND/714/2025-CEAC</p>

DIN: 20260278NT00006656C8	
आदेश की तिथि Date of Order	: 10.02.2026
जारी किए जाने की तिथि Date of Issue	: 12.02.2026
आदेश सं. Order No.	386 /2025-26/ आयुक्त/सीईएसी/एनएस-II/सीएसी/जेएनसीएच 386 /2025-26/Commissioner/CEAC/NS-II/CAC/JNCH
पारितकर्ता Passed by	श्री गिरिधर जी. पई Sh. Giridhar G. Pai : आयुक्त, सीमाशुल्क (एनएस-II), जेएनसीएच, न्हावाशेवा Commissioner of Customs (NS-II), JNCH, Nhava Sheva
पक्षकार (पार्टी)/नोटिसी का नाम Name of Party/Noticee	मै. रेसिफार्म फार्मासर्विसेज प्राइवेट लिमिटेड (आईईसी नंबर 0716925125) M/s. Recipharm Pharmservices Private Limited (IEC NO. 0716925125)

**मूल आदेश**

**ORDER-IN-ORIGINAL**

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

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

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम, १९६२ की धारा १२९ए के तहत इस आदेश के विरुद्ध सी ई एस टी ए टी, पश्चिमी प्रादेशिक न्यायपीठ (वेस्ट रीजनल बेंच, ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

## 3. अपील दाखिल करने संबंधी मुख्य मुद्दे:-

Main points in relation to filing an appeal: -

<b>फार्म Form</b>	:	फार्म नं. सीए-३, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए)  Form No. CA-3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy)
<b>समय सीमा Time Limit</b>	:	इस आदेश की सूचना की तारीख से तीन महीने के भीतर Within 3 months from the date of communication of this order.
<b>फीस Fee</b>	:	(क) एक हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पाँच लाख रुपये या उस से कम है। (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less. (ख) पाँच हजार रुपये— जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पाँच लाख रुपये से अधिक परंतु पचास लाख रुपये से कम है। (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh (ग) दस हजार रुपये—जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम पचास लाख रुपये से अधिक है। (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.
<b>भुगतान की रीति Mode of Payment</b>	:	क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सी ई एस टी ए टी, मुंबई के पक्षमें जारी किया गया हो तथा मुंबई में देय हो। A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.
<b>सामान्य General</b>	:	विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९६२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवा कर अपील अधिकरण (प्रक्रिया) नियम, १९८२ का संदर्भ लिया जाए। For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

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

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

**Sub: - Request for Conversion of Shipping Bills from Scheme-Drawback (Scheme Code-19) to Scheme- Drawback & Advance Authorization (Scheme code-03) by M/s. Recipharm Pharmservices Private Limited - Reg.**

M/s. Recipharm Pharmservices Private Limited, IEC No. 0716925125, located at 34TH KM TUMKUR ROAD, TEPPADA BEGUR VILLAGE, NELAMANGALA, BANGALORE, BENGALURU RURAL 562123 (hereinafter referred to as "the exporter") has requested for conversion of one (01) Shipping Bill from Scheme-Drawback & RODTEP (Scheme Code - 19) to Scheme - Advance Authorization (Scheme code-03), vide their letter dated 03.05.2024 (received in this office on 28.05.2024), details of which are tabulated below:

**TABLE I**

<b>Sl. No.</b>	<b>Shipping Bill No. and Date</b>	<b>LEO Date</b>	<b>Scheme in which SB filed</b>	<b>Scheme Code to which conversion sought</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>
1.	6237633 dated 22.12.2023	28.12.2023	Drawback & RODTEP (Scheme Code-19)	Advance Authorization No: 0711007530 dated 09.05.2023 (Scheme Code-03)

2. The exporter vide their letter dated 03.05.2024 (received in this office on 28.05.2024), requested for conversion of above-mentioned Shipping Bill from Scheme- Drawback & RODTEP (Scheme Code-19) to Scheme- Advance Authorization (Scheme code-03), but the said Shipping bill was filed under Drawback Scheme along with claim of RoDTEP. In the said letter they have inter-alia stated that: they have mistakenly filed under Drawback wherein the shipment was under Advance Licence and have requested for amendment in Scheme code from Scheme-Drawback & RODTEP (Scheme Code - 19) to Scheme - Advance Authorization (Scheme code-03).

3. Following the principles of natural justice, personal hearing was granted on 30.01.2026. Shri Aruldoss Samathanam, General Manager-SCM, M/s. Recipharm Pharmservices Private Limited, appeared before me and sought to rely on the earlier submissions made by the exporter vide mail dated 28.05.2024. He further submitted that the intent to export the goods under the said Shipping Bill under Advance Authorization was made clear in the invoice related to the said Shipping Bill by mentioning the details of the said Authorization.

**DISCUSSIONS AND FINDINGS**

4. I have carefully gone through the requests made by the exporter vide their letter dated 03.05.2024 (received in this office on 28.05.2024) for amendment in above

mentioned Shipping Bill (Table-I), by way of conversion of Shipping Bills from Scheme-Drawback & RODTEP (Scheme Code - 19) to Scheme - Advance Authorization (Scheme code-03), all the submissions made by the exporter and the relevant provisions of the Customs Act, 1962, which govern the conversion of Shipping Bills.

5. In the instant case, the exporter has filed Shipping Bill No. 6237633 dated 22.12.2023, under Scheme-Drawback (Scheme Code-19). However, the exporter, vide their letter dated 03.05.2024 (received in this office on 28.05.2024), has requested for conversion from Scheme-Drawback (Scheme Code-19) to Scheme-Advance Authorization (Scheme Code-03). Now, the issue to be decided is whether the exporter is eligible for amendment sought by them for conversion of said shipping bill for which Let Export Order was granted on 28.12.2023, from Scheme-Drawback (Scheme Code-19) to Scheme- Advance Authorization (Scheme code-03).

6. Conversion of shipping bill is governed by Section 149 of the Customs Act, 1962. In the instant case, the shipping bill was filed on 01.06.2022. Therefore, Section 149 of the Customs Act with effect from 01.08.2019 is reproduced as under:

**Section 149. Amendment of documents-** *Save as otherwise provided in section 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed:*

*Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorized to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be"*

7. Further I find that the Government has issued the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022 notified vide Notification No. 11/2022- Customs (N.T.) dated 22.02.2022 for regulating conversion from one scheme to another. The regulation defines 'conversion' in regulation 2(1)(b) of the Regulation as -

*"Conversion" means amendment of the declaration made in the shipping bill or bill of export to any other one or more instrument based scheme, after the export goods have been exported.*

7.1 Further instrument-based scheme is defined under 2(1)(c) of the Regulation as follows-

*"Instrument based scheme" means a scheme involving utilization of instrument referred to in explanation 1 to sub-section (1) of section 28AAA of the Act.*

**7.2** Explanation 1 of Section 28AAA of the Customs Act, 1962 defines instrument-scheme as

**Explanation 1** : *For the purpose of this sub-section, "instrument" means any scrip or authorization or license or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal benefits, which may be utilized under the provisions of this act or the rules made on notifications issued thereunder".*

**7.3** In view of the words "to any **other** one or more instrument based scheme" mentioned under Regulation 2(a) of the Notification cited Supra, it appears that the Regulations, 2022 supra may include conversion of only those shipping bills which have been filed in relation to instrument based scheme and the conversion is being sought from one or more instrument based scheme to one or more instrument based schemes. Further, in view of Explanation 1 of section 28AAA of the Act, Instrument based scheme includes Advance License, EPCG, RoDTEP, RoSCTL etc. but, perusal of the Regulation 2(1)(b) & 2(1)(c) of the Notification ibid read with explanation I of Section 28AAA of the Customs Act, 1962 reveals that Drawback appears to be out of the ambit of instrument-based scheme and Notification cited supra appears to be not applicable to Conversion from Drawback to instrument based scheme and vice versa. Further, as Drawback is not instrument based scheme, conversion of shipping bill cases involving drawback appear to be governed by Board's Circular No. 36/2010 Customs dated 23.9.2010.

**8.** I further find that Board has issued Circular No. 36/2010-Customs dated 23.09.2010 which prescribes the conditions for conversion of shipping bill from one scheme to another. The relevant paras 3 to 5 of Board's Circular read as follows-

**3.** *The issue has been re-examined in light of the above. It is clarified that Commissioner of Customs may allow conversion of shipping bills from schemes involving more rigorous examination to schemes involving less rigorous examination (for example, from Advance Authorization/DFIA scheme to Drawback/DEPB scheme) or within the schemes involving same level of examination (for example from Drawback scheme to DEPB scheme or vice versa) irrespective of whether the benefit of an export promotion scheme claimed by the exporter was denied to him by DGFT/DOC or Customs due to any dispute or not. The conversion may be permitted in accordance with the provisions of section 149 of the Customs Act, 1962 on a case to case basis on merits provided the Commissioner of Customs is satisfied, on the basis of documentary evidence which was in existence at the time the goods were exported, that the goods were eligible for the export promotion scheme to which conversion has been requested. Conversion of shipping bills shall also be subject to conditions as may be specified by the DGFT/MOC. The conversion may be allowed subject to the following further*

conditions:

- a) *The request for conversion is made by the exporter within three months from the date of the Let Export Order (LEO).*
  - b) *On the basis of available export documents etc., the fact of use of inputs is satisfactorily proved in the resultant export product.*
  - c) *The examination report and other endorsements made on the shipping bill/export documents prove the fact of export and the export product is clearly covered under relevant SION and or DEPB/Drawback Schedule as the case may be.*
  - d) *On the basis of S/Bill/export documents, the exporter has fulfilled all conditions of the export promotion scheme to which he is seeking conversion.*
  - e) *The exporter has not availed benefit of the export promotion scheme under which the goods were exported and no fraud/misdeclaration /manipulation has been noticed or investigation initiated against him in respect of such exports.*
4. *Free shipping bills (shipping bills not filed under any export promotion scheme) are subject to 'nil' examination norms. Conversion of free shipping bills into EP scheme shipping bills (advance authorization, DFIA, DEPB, reward schemes etc.) should not be allowed. However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill, without conversion of such free shipping bill to Drawback Scheme shipping bill, in terms of the proviso to rule 12(1) (a) of the Customs, Central Excise and Service Tax Drawback Rules, 1995.*
5. *Due care may be taken while allowing conversion to ensure that the exporter does not take benefit of both the schemes i.e., the scheme to which conversion is sought and the scheme from which conversion is sought. Whenever conversion of a shipping bill is allowed, the same should be informed to DGFT so that they may also ensure that the exporter does not take benefit of both the schemes.*

9. A harmonious reading of Section 149 of the Customs Act, 1962 and the Circular No. 36/2010 dated 23.09.2010 clearly establishes that the following criteria should be met for post-export conversion of a shipping bill-

- A. Conversion of shipping bills should be allowed from schemes involving more rigorous examination to schemes involving less rigorous examination or within the schemes involving same level of examination
- B. The conversion may be permitted in accordance with the provisions of Section 149 of the Customs Act, 1962 on a case-to-case basis on merits provided the Commissioner of Customs is satisfied, on the basis of documentary evidence which was in existence at the time the goods were exported, that the goods were eligible for the export promotion scheme to which conversion has been requested.
- C. The request for conversion is made by the exporter within three months from the date of the Let Export Order (LEO).
- D. On the basis of available export documents etc., the fact of use of inputs is satisfactorily proved in the resultant export product.

- E. The examination report and other endorsements made on the shipping bill/export documents prove the fact of export and the export product is clearly covered under relevant SION and or DEPB/Drawback Schedule as the case may be.
  - F. On the basis of S/Bill/export documents, the exporter has fulfilled all conditions of the export promotion scheme to which he is seeking conversion.
  - G. The exporter has not availed benefit of the export promotion scheme under which the goods were exported and no fraud/misdeclaration /manipulation has been noticed or investigation initiated against him in respect of such exports.
  - H. Conversion of free shipping bills into EP scheme shipping bills (advance authorization, DFIA, DEPB, reward schemes etc.) should not be allowed. However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill.
  - I. Exporter should not be allowed to take the benefit of both the schemes, i.e. the scheme to which conversion is sought and the scheme from which conversion is sought. The same should be informed to DGFT so that they may also ensure that the exporter does not take benefit of both the schemes.
10. I proceed to examine the present case in terms of each of the criteria as given above.

#### **A. Examination Norms**

(a). The exporter has requested for conversion of shipping bill from Scheme-Drawback (Scheme code- 19) to Scheme- Advance Authorization (Scheme code- 03). The Indian Customs Risk Management System ('RMS') provides instructions regarding examination norms based on the risk profile of the Consignment/export incentive declared in the shipping bills by the exporter. In the instant case, examination instructions given are verified for the said shipping bill from the ICES System and the same is found as "*Inspect the packages and check Marks and Nos as per SB/Invoice*". As the exporter has not declared Scheme- Advance Authorization (Scheme code- 03) in Shipping bill, it is possible that the examination order could have been different as the nature and extent of the export promotions scheme/incentives may change the level of examination, including physical verification of goods.

#### **B. Documentary evidence in existence at the time of export**

(a). From the plain reading of Section 149 of the Customs Act, 1962, it may be seen that the exporter cannot be allowed to claim amendment by way of conversion in a routine and as a matter of right. Depending on the conversion sought, the physical verification and examination of goods in addition to verification of documents is required to be done as the conversion can change the entire nature and character of the shipping bill. Relying solely on the documentary evidence which was in

existence at the time the goods were cleared, the request of the exporter for conversion cannot be allowed. Needless to mention that it is now well-settled that conversion from one scheme to another is not an amendment simpliciter. It is therefore necessary that the request for conversion needs to be examined carefully on case-to-case basis solely on merit.

(b) On perusal of the details of export benefits claimed from the ICES 1.5 system, it is evident that the exporter had filed the shipping bill under Scheme-Drawback (Scheme Code-19) at the item level. Now, the exporter has requested for conversion of the said shipping bill from Scheme-Drawback (Scheme Code-19) to Scheme-Advance Authorization (Scheme Code-03).

(c) In this regard, I observe that the Shipping Bill and Bill of Exports (Forms) Regulations, 2017 requires the exporter to declare the correct scheme code under which export is being made while filing the shipping bill. Filing the correct scheme code is important because it helps the government to monitor the export promotion schemes and to ensure that the benefits are being availed by the eligible exporters only. Additionally, it is the exporter's responsibility to declare the correct scheme code during the filing of shipping bill. However, the exporter failed to furnish the following requisite information in the shipping bill as required as per the regulation cited supra;

A. Advance Authorisation/DFIA [Scheme Code] [details of inputs used for the manufacture of export goods]:							
Item Sl. No. in the Shipping Bill	Authorization No. and Date	Description of the Export Goods and the Sl. No. in the Authorization	Export Quantity	Name and Description of the inputs consumed in the manufacturing of Export goods and the Sl. No. in the Authorization	Quantity of the inputs consumed	Whether imported or indigenous	SIO N

(d) Further, on detailed scrutiny of documents uploaded on e-Sanchit viz. Custom Invoice, Packing List and Shipping Bill copy respectively, it is evident that the exporter has nowhere mentioned or shown their intention that the consignment was covered under Advance Authorisation. A snapshot of the Invoice, Packing List

and SB copy of the said Shipping Bill uploaded on e-sanchit is being reproduced for ready reference:-

## EXPORT INVOICE

Page No 1 of 3

Sl. No.	Description of Goods	Marks & Nos./ Container No.	Quantity	Rate (USD)	Amount (USD)
10	DOXYL SUCC/PYRID HCL DR TAB 10/10MG 100S Batch : DMA23001 No. & Kind of Pkgs : 186 SHIPPERS 186 SHIPPERS X 24 X 100's HSN Code : 3004 90 99	NDC 89452-208-20	4,464	7.14	31,872.88
20	DOXYL SUCC/PYRID HCL DR TAB 10/10MG 100S Batch : DMA23002 No. & Kind of Pkgs : 594 SHIPPERS 594 SHIPPERS X 24 X 100's	NDC 89452-208-20	14,256	7.14	101,787.84

  

<b>IRN:</b> <b>Exporter :</b> RECIPHARM PHARMASERVICES PVT LTD 34th KM, TUMKUR ROAD (NH4), T.BEGUR NELAMANGALA TALUK, BANGALORE-562123 Phone: +918039285450 Fax : +918039285452 GSTIN: 29AAFCD5616H1ZK	<b>EWAY:</b> Invoice No.: 2304000275 Date : 12/18/2023 Buyer's Order No.: 4500004788 Date : 04/14/2023 I.E Code : 0716925125	<b>Exporter's Ref.:</b> 7010018531 Date : 12/05/2023 Other Ref.(s): 8170008888 Other Ref.Date: 12/18/2023 PAN No.: AAFCD5616H	
<b>Consignee :</b> R & S Solutions 96 American Drive, Suite 100A, Jackson TENNESSEE-38301	<b>Buyer (if other than consignee) :</b> BIONPHARMA INC. 400 ALEXANDER PARK, SUITE 2-4B PRINCETON NEW JERSEY-08540		
<b>Pre-Carriage By :</b> BY ROAD	<b>Place of Receipt by Pre-Carrier</b> BANGALORE	<b>Country of Origin of Goods :</b> India	<b>Country of final Destination :</b> USA
<b>Vessel / Flight No.:</b>	<b>Port of Loading :</b> NHAVA SHEVA	<b>Terms of Delivery &amp; Payment :</b> EXW - EX Works 75 DAYS CREDIT <b>Bankers :</b>	
<b>Port of Discharge :</b> SAVANNAH	<b>Final Destination :</b> USA		

  

We declare that this Invoice shows the actual price of the goods described and that all particulars are true and correct. We have packed and sealed with bearing "RPPL-01" under my supervision.	For RECIPHARM PHARMASERVICES PVT LTD  _____ Authorised Signatory
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Registered Office : 34th KM, TUMKUR ROAD (NH4), T.BEGUR, NELAMANGALA TALUK, BANGALORE-562123

CIN:U24230KA2015PTC084997

# PACKING LIST

Page No 1 of 2

<b>Exporter :</b> RECI PHARM PHARMASERVICES PVT LTD 34th KM,TUMKUR ROAD (NH4),T.BEGUR NELAMANGALA TALUK, BANGALORE-562123 Phone: +918039285450, Fax: +918039285452 GSTIN: 29AAFCD5616H1ZK		<b>Invoice No.:</b> 2304000275	<b>Exporter's Ref.:</b> 7010018531	
		<b>Date :</b> 12/18/2023	<b>Date :</b> 12/05/2023	
		<b>Buyer's Order No.:</b> 4500004788	<b>Other Ref.(s):</b> 8170008888 / 12/18/2023	
		<b>Date :</b> 04/14/2023	<b>IE Code :</b> 0716925125 <b>PAN No. :</b> AAFCD5616H	
<b>Consignee :</b> R & S Solutions 96 American Drive,Suite 100A, Jackson TENNESSEE-38301		<b>Buyer (if other than consignee) :</b> BIONPHARMA INC. 400 ALEXANDER PARK, SUITE 2-4B PRINCETON NEW JERSEY-08540		
<b>Pre-Carriage By :</b> BY ROAD	<b>Place of Receipt by Pre-Carrier</b> BANGALORE	<b>Country of Origin of Goods :</b> India	<b>Country of final Destination :</b> USA	
<b>Vessel / Flight No.:</b>	<b>Port of Loading :</b> NHAVA SHEVA	<b>Terms of Delivery &amp; Payment :</b> EXW - EX Works 75 DAYS CREDIT <b>Bankers :</b>		
<b>Port of Discharge :</b> SAVANNAH	<b>Final Destination :</b> USA			
Sl. No.	Description of Goods	Marks & Nos./ Container No.	Quantity	Remarks
10	DOXYL SUCC/PYRID HCL DR TAB 10/10MG 100S  Batch : DMA23001 , Mfg.Dt.: OCT 2023, Exp.Dt.: SEP 2025  No. & Kind of pkgs 186 SHIPPERS 186 SHIPPERS X 24 X 100's	NDC 69452-206-20	4,464	02 WOODEN PALLETS
20	DOXYL SUCC/PYRID HCL DR TAB 10/10MG 100S  Batch : DMA23002 , Mfg.Dt.: NOV 2023, Exp.Dt.: OCT 2025  No. & Kind of pkgs 594 SHIPPERS 594 SHIPPERS X 24 X 100's	NDC 69452-206-20	14,256	05 WOODEN PALLETS
30	DOXYL SUCC/PYRID HCL DR TAB 10/10MG 100S  Batch : DMA23003 , Mfg.Dt.: NOV 2023, Exp.Dt.: OCT 2025	NDC 69452-206-20	14,250	05 WOODEN PALLETS
<b>Note :</b> 01 ENVELOPS CONTAINS 02 DATA LOGGERS PLACED IN PALLET NO 02 OF BATCH NO DMA23001				
				For RECI PHARM PHARMASERVICES PVT LTD  Authorised Signatory

 Registered Office : 34th KM,TUMKUR ROAD (NH4),T.BEGUR, NELAMANGALA TALUK,  
 BANGALORE-562123

CIN:U24230KA2015PTC084997

 <b>INDIAN CUSTOMS EDI SYSTEM</b> CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA		Port Code	SB No	SB Date								
		INNSA1	6237633	22-DEC-23								
		IEC/Br	0716925125	0								
		GSTIN/TYPE	29AAFCD5616H1ZK GSN									
		CB CODE	AAQFT8963KCH001									
		TYPE	INV	ITEM	CONT							
		Nos	1	3	0							
		PKG	12	G.WT	KGS 2252							
JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707					*SB21221220231701							
PART - I - SHIPPING BILL SUMMARY												
A STATUS	1.MODE	2.ASSESS	3.EXMN	4.JOBGING	5.MEIS	6.DBK	7.RODTP	8.LICENCE	9.DFRC	10.RE-EXP	11.LUT	
	SEA	N	N	N	Y	Y	Y	N	N		Y	
B DECLAR DETAILS	12.PORT OF LOADING INNSA1 (Jawaharlal Nehru (Nh)					13.COUNTRY OF FINALDESTINATION UNITED STATES						
	14.STATE OF ORIGIN Karnataka					15.PORT OF FINAL DESTINATION USCHS (Charleston)						
C VALU SUMMA	16.PORT OF DISCHARGE USCHS (Charleston)					17.COUNTRY OF DISCHARGE UNITED STATES						
	1.EXPORTER'S NAME & ADDRESS RECIPHARM PHARMASERVICES PRIVATE LIMITED 34TH KM TUMKUR ROAD, TEPPADA BEGUR NELAMANGALA, BANGALORE Contact No: BANGALORE 2.Type Private					7.CONSIGNEE NAME & ADDRESS R & S SOLUTIONS 96. AMERICAN DRIVE, SUITE 100A JACK SON TENNESSEE-38301 . US						
D EXPR.	3. AD CODE: 6500114					8. GSTIN / TYPE 29AAFCD5616H1ZK GSN						
	4.RBI WAIVER NO.& DT					9.FOREX BANK A/C NO. 07X-XXXXXX-001						
E MANIFEST DETAILS	5.CB NAME TAS CLEARING AND FORWARDING LLP					10.DBK BANK A/C NO. 07XXXXXXXX001						
	6.AEO					11. IFSC NO. HSB0560002						
F INVOICE SUMMARY	1.FOB VALUE	2.FREIGHT	3.INSURANC	4.DISCOU	5.COM	1.DBK CLAIM		2.IGST AMT		3.CESS AMT		
	19468059.66	0	0	0	0	233617		155744		0		
G EQUIPMENT DETAILS	6.DEDUCTIONS		7.P/C		8.DUTY		9.CESS		4.IGST VALUE		6.ROSCAL AMT	
	0		0		0		0		4.IGST VALUE		6.ROSCAL AMT	
H CHALLAN DETAILS	1.MAWB NO.	2.MAWB DT	3.HAWB NO.	4.HAWB DT	N.O.C.	1.SNO	2.INV NO.	3. INV AMT.	4.CURRENC			
						1	2304000275	235405.8	USD			
I ANNEX DETAILS	4. CIN NO.		5. CIN DT.		6. CIN SITE ID							
	1.CONTAINER		2.SEAL		3.DATE		4.S No		1SR.NO 2.CHALLAN NO 3.PAYMT DT 4.AMOUNT			
1 ANNEX DETAILS	1.SEAL TYPE		2.NATURE OF CARGO			3.NO. OF PACKETS		4.NO. OF CONTAINERS		5.LOOSE PACKETS		
			CONTAINERISED			12		0				
1 ANNEX DETAILS	6.MARKS & NUMBERS					AS PER INVOICE Tax Invoice no:2304000275 DT.18.12.2023.(ARN# AD2903230372556 dt: 30.03.2023.)? WE INTEND TO CLAIM UNDER RODTEP."						
1 ANNEX DETAILS	1.EVENT		2.DATE		3.TIME		4.LEO NO.					

(e) Further, on perusal of documents submitted by the exporter, it is evident that they were in possession of the Advance Authorisation No. 0711007530 dated 09.05.2023 prior to the export of goods covered under the said shipping bill and the description of the exported goods aligns with the description of goods to be exported as per the above-said Advance Authorization.

(f) Further, I find that by opting for Scheme-Drawback (Scheme Code-19), the exporter has clearly shown their intention that they did not want to avail the benefit of Advance Authorisation, although they were in possession of Advance Authorisation. It is pertinent to mention that afterwards they cannot take the plea that it was because to an unintentional mistake or human error that the shipping bill was filed under a wrong scheme. Further, by filing the shipping bill under Scheme-Drawback (Scheme Code-19), the exporter has failed to comply with the provisions of Section 149 of the Customs Act, 1962. The proviso to Section 149 reads as follows- *Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorized to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of*

*documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be”*

*[Emphasis supplied]*

In this case it is clear that at the time of export not only no such documentary evidence existed; but the exporter also lacked in intention.

(g) I also find that at this stage it cannot be ensured that the raw material which was imported under the above said Advance Authorisation has been used only in the manufacturing of the final product and that final product has actually been exported under the above-mentioned shipping bill. Hence, the request of the exporter for conversion of shipping bill cannot be allowed as the physical verification and examination of goods in addition to verification of documents is required to be done, based on the RMS instructions. In the era of self-assessment, it is the exporter's responsibility to declare the correct scheme under which the export is being made. However, during the filing of the shipping bill, the exporter failed to declare Export Promotions Scheme/Scheme Code for which they have applied for conversion of the shipping bill. However, there are a plethora of opportunities to examine and verify documents before submitting them while filing the shipping bill. Therefore, not declaring the correct scheme code/export promotion scheme cannot be considered a typographical error or inadvertent mistake or human error.

(h) Further, I rely upon the judgment of the Hon'ble High Court of Madras in the matter of Commr. of Cus. (Seaport-Export), Chennai Versus Suzlon Energy Ltd. (Civil Miscellaneous Appeal No. 2566 of 2012, decided on 14-3-2013) where the exporter requested for conversion of the Shipping Bills from Drawback and EPCG Scheme to EPCG, Drawback and DEEC Scheme, but the Commissioner of Customs, Seaport-Export, Chennai rejected their request for the same. Aggrieved by the said order, the exporter preferred to appeal before the Customs, Excise and Service Tax Appellate Tribunal (for short "CESTAT"). By the order dated 30-5-2011, the CESTAT allowed the request for conversion claimed by the exporter. Further, the department filed an appeal against the CESTAT Order in the Hon'ble High Court of Madras and the Hon'ble Court passed the following order: -

*“18. A similar issue was considered by the Division Bench of Delhi High Court in the matter of M/s. Terra Films Pvt. Ltd. v. Commissioner of Customs [2011 (268) E.L.T. 443 (Del.)]. In the above decision, the Delhi High Court has considered the scope of Section 149 of Customs Act and found that the discretion vested in the Proper Officer to permit amendment in any document after the same has been presented in the Customs house has to be though exercised judicially, it was qualified with the proviso that the amendment could be allowed only if it was based on the documentary evidence in existence at the time the goods were exported. It is further observed therein that the request was made for conversion from one Scheme to another is a case of request for conversion and not of an amendment inasmuch as by converting from one Scheme to another, it was not only addition of certain word, but change of entire status and*

*character of the documents. Thus, the Delhi High Court observed that the Proper Officer may not be in a possession of the documents sought to be amended particularly, when the goods already stood exported. For enabling an exporter to draw the benefits of any scheme, not only physical verification of documents would be required, but also verification of the goods of export and their examination by the Customs was necessarily required to be done. By observing so, the Delhi High Court upheld the rejection of the request of the exporter seeking for conversion of the Shipping Bill from one Scheme to another.*

*19. We are in full agreement with the reasonings given by the Delhi High Court in the above said case and by following the said decision [2011 (268) E.L.T. 443 (Del.)], we find that the 1st Respondent's claim seeking conversion is not maintainable and the same has been rightly rejected by the Commissioner of Customs. The Tribunal has not gone into any of these aspect in detail, even though it happens to be a final fact finding authority. It has simply allowed the conversion by resorting to the provision under Section 149 of Customs Act as if, it is a simple request for amendment. Therefore, we find that the order passed by the Tribunal cannot be sustained and accordingly, the same is set aside and the appeal filed by the Department is allowed. The questions of law raised in the appeal are answered in favour of the Department. No costs".*

(i) In a similar case of Anil Sharma and 1 vs. Union of India and 3 [SPECIAL CIVIL APPLICATION NO. 17991 of 2016, Order dated - January 9, 2017], the Hon'ble High Court of Gujarat has dismissed the appeal stating the respondents have not committed any error and/or illegality in rejecting the application of the petitioner considering the Board Circular No. 36 of 2010. The Hon'ble High Court has observed as under;

*"7.0 The contention on behalf of the petitioner that as the case would fall under Section 149 of the Customs Act which does not prescribe any time limit and therefore, on the basis of material on record, which was available at the time of export, it could have been verified whether final goods manufactured from the raw material imported has been exported or not, can be verified is concerned, as such, as observed herein above Section 149 of the Customs Act will not be applicable. Even otherwise, it is required to be noted that what is considered at the time of DEEC, the appropriate inquiry would be limited to the extent to satisfy the authority whether raw material which was imported has been used in manufacturing final product or not. So far as Advance Authorization Scheme is concerned, the appropriate authority is required to consider after holding appropriate inquiry that the raw material which was imported has only been used in the manufacture of final product and that final product has been actually exported."*

(j) I also rely upon the judgement of Hon'ble CESTAT, Ahmadabad in the case of M/s. Stallion Laboratories Pvt. Ltd. Versus C.C., wherein Hon'ble CESTAT finds that once drawback benefit was availed then there was no scope for seeking conversion to any other scheme "And" in relation to mis-declaration clause in 3(e) of

the Board Circular 36/2010 dated 23.09.2010 above being disjunctive as in case later proposition of mis-declaration, manipulation etc., coming into play, the exporter even if has been precluded from availment can still be denied conversion. The Hon'ble CESTAT, Ahmadabad vide Final Order No. A/10667/2024 dated 22.03.2024 has ordered as under:

*".... This court finds validity of condition 3(e) of the aforesaid Circular survives and therefore holds that once a benefit under which shipping bill was filed has been availed, the conversion to any other scheme cannot be allowed. It is thus clear that the same has a bigger objective of atleast giving finality to some extent to decisions earlier taken while exporting, as is the case of the appellants in this matter. This court therefore, finds that once drawback benefit was availed then there was no scope for seeking conversion to any other scheme "And" in relation to mis-declaration clause in 3(e) above being disjunctive as in case later proposition of mis-declaration, manipulation etc., coming into play, the exporter even if has been precluded from availment can still be denied conversion. As facts stated by the learned consultant for the appellants bring out on record that they had availed drawback scheme and offered to pay back the benefit with interest, this court finds that matter falls within the ambit of para 3(e) of the above Circular and the conversion request after having enjoyed the benefit of drawback scheme, and after availing the same, cannot be allowed. Appeal is therefore, dismissed accordingly."*

### **C. Time limit of filing of the conversion application**

(i) The Board Circular as per para 3(a) provides a time limit of 03 months for filing of application for conversion of shipping bills from one scheme to another. However, it is now settled through various judicial pronouncements that while the period of three months is not statutorily provided in the Customs Act, 1962, a reasonable time limit may be considered.

(ii) In this regard, the Board vide Notification No. 11/2022-Cus (N.T.) dated 22.02.2022 has issued "The Shipping Bill (Post Export Conversion in Relation to the Instrument Based Scheme) Regulations, 2022" (hereinafter referred to as the Regulation) incorporating the manner and time limit for applying for post export conversion of shipping bills. The Regulation 3 of the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022, is reproduced below-

*Regulation 3. Manner and time limit for applying for post export conversion of Shipping Bill in certain cases. – (1) The application for conversion shall be filed in writing within a period of one year from the date of order for clearance of goods under sub-section (1) of section 51 or section 69 of the Act, as the case may be:*

*Provided that the jurisdictional Commissioner of Customs, having regard to the circumstance under which the exporter was prevented from applying within the said period of one year, may consider and decide, for reasons to be recorded in writing, to extend the aforesaid period of one year by a further period of six months:*

*Provided further that the jurisdictional Chief Commissioner of Customs, having regard to the circumstances under which the exporter was prevented from applying within the said period of one year and six months, may consider and decide, for reasons to be recorded in writing, to extend the said period of one year and six months by a further period of six months.*

Although, these regulations are not squarely applicable to the shipping bills in question for the reasons as explained herein above, reference to this regulation is being drawn to properly understand the legislative intent in respect of 'reasonable time' which can be allowed in conversion of shipping bill cases.

(iii) In this case, I find that Let Export Order (LEO) has been granted on 28.12.2023 for the said shipping bill, whereas the exporter has made the request for conversion of the said shipping bill vide their letter dated 03.05.2024 (received in this office on 28.05.2024). Thus, the request for conversion of the said shipping bill has been made after 05 months from the date of the Let Export Order (LEO), which is within the reasonable period of one year.

#### **D. The fact of use of inputs is satisfactorily proved in the resultant export product**

As discussed in previous paras, the exporter has to file a DEEC declaration to the effect that what are the raw materials used in the manufacture of the final product during filing a shipping bill. In the present case, on perusal of export documents i.e., Custom Invoice, packing list, Tax invoice & Shipping Bill submitted by the exporter as well as uploaded on e-Sanchit. I find that the exporter has not filed any DEEC declaration to the effect that the raw materials which have been imported under the concerned Advance Authorisation, were used in the manufacture of the final product. Therefore, it was not verified since the shipping bill was not filed under the DEEC scheme. Also, no supporting documentary evidence has been submitted by the exporter to enable verification. Therefore, the exporter did not fulfill this condition.

#### **E. Examination report proves the fact of export and the export product is covered under relevant SION and or Drawback Schedule**

The examination report has been perused in ICES 1.5 system and no adverse comment by the examining officer has been observed against the said shipping bill. The export product is covered under the relevant Drawback Schedule under Drawback Sr. No. 3004B.

#### **F. Exporter has fulfilled all conditions of the scheme to which he is seeking conversion.**

As discussed in previous paras, the exporter requested for conversion of the said shipping bill into Scheme- Advance Authorization (Scheme Code- 03). I find that the DEEC Scheme (Duty Exemption Entitlement Certificate Scheme) is an export

promotion initiative aimed at boosting Indian exports by allowing duty-free import of inputs required for manufacturing export products. The DGFT (Directorate General of Foreign Trade) issues Advance Licenses to manufacturers and merchant exporters under the DEEC Scheme, enabling them to import inputs at zero customs duty. The License holders are required to fulfill a specific export obligation within a stipulated time frame, ensuring that the duty-free inputs are used solely for manufacturing export products. In this regard, the Exporter has to file a DEEC declaration to the effect that what are the raw materials used in the manufacture of the final product during filing a shipping bill. It is submitted that at the time of execution of goods materials given in the declaration will be verified. However, in the present case, on perusal of export documents i.e., Custom Invoice, Packing List & Tax Invoice as uploaded on e-Sanchit, I find that the exporter has not filed any DEEC declaration to the effect that the raw materials which have been imported under the concerned Advance License, were used in the manufacture of the final product. Therefore, it was not verified since the shipping bill was not filed under the DEEC scheme and now the verification is not possible as the materials are not available. The exporter has not fulfilled all conditions of the scheme to which he is seeking conversion. Hence, the exporter has failed to fulfilled this condition.

**G. Non-availment of benefit of scheme under which the goods were exported and no fraud/mis-declaration/manipulation having been noticed or investigation initiated in respect of such exports.**

The exporter has filed shipping bill, detailed in Table-I above under Scheme-Drawback (Scheme Code-19). Further, from the ICES 1.5 system (under comment tab), I find that nothing adverse has been mentioned against the said shipping bill.

**H. Conversion of free shipping bills into EP scheme shipping bills should not be allowed**

I find that this condition is not applicable in the present case as the conversion is sought from Scheme-Drawback (Scheme Code-19) to Scheme-Advance Authorization (Scheme code-03).

**I. Exporter not to be allowed to take benefit of both the schemes**

This condition is relevant only if conversion is being allowed. In the event conversion is allowed from Scheme-Drawback (Scheme Code-19) to Scheme-Advance Authorization (Scheme code-03), the exporter shall have to surrender the export benefits availed prior to conversion with interest.

**11.** In view of the above discussions, I hold that the application of conversion from Scheme-Drawback & RoDTEP (Scheme Code-19) to Scheme- Advance Authorization (Scheme code-03) may be rejected. Accordingly, I pass the following order:-

**ORDER**

I reject the conversion of Shipping Bill No. 6237633 dated 22.12.2023 as detailed in Table-I above, from Scheme-Drawback & RoDTEP (Scheme Code-19) to Scheme-Advance Authorization (Scheme code - 03).

**(Giridhar G. Pai)**  
**Commissioner of Customs, NS-II**  
**JNCH, Nhava Sheva**

**To,**

M/s. Recipharm Pharmservices Private Limited, IEC No. 0716925125,  
34TH KM TUMKUR ROAD, TEPPADA BEGUR VILLAGE,  
NELAMANGALA, BANGALORE 562123

**Copy to:**

- (i) The Deputy Commissioner of Customs, CCO, JNCH, Nhava Sheva,
- (ii) The Assistant Commissioner, CEAC, JNCH,
- (iii) EDI Section, for uploading on website.
- (iv) Office copy