



OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, NS-I
सीमाशुल्क प्रधान आयुक्त का कार्यालय, एनएस-आई
CENTRALIZED ADJUDICATION CELL (NS-V), JAWAHARLAL NEHRU
CUSTOM HOUSE,
केंद्रीकृत अधिनियन प्रक्रिया विभाग, जवाहरलाल नेहरू सीमाशुल्क भवन,
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA 400707
न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -400 707

Date of Order : 05.01.2026

आदेश की तिथि : 05.01.2026

Date of Issue: 06.01.2026

जारी किए जाने की तिथि: 06.01.2026

DIN : 20260178NW000000AF1E

F. No. S/10-645/24-25/Commr/Gr. I/CAC/JNCH

SCN No. 1072/2024-25/Commr./Gr. I/NS-I/CAC/JNCH dated 09.09.2024

Passed by: Shri Yashodhan Wanage

पारितकर्ता: श्री यशोधन वानागे

Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva

प्रधानआयक्त, सीमाश्लक (एनएस-1), जेएनसीएच, न्हावाशेवा

Order No.: 337/2025-26 /Pr. Commr./NS-I /CAC /JNCH

आदेशांसं. : 337/2025-26/प्र. आयक्त/एनएस-1/ सीएसी/जेएनसीएच

Name of Party/Noticee: M/s K.P. Manish Global Ingredients Pvt. Ltd.

(IEC-0407031693)

पक्षकार (पार्टी) नोटिसीकानामः मेसर्स के पी मनीष ग्लोबल इंगेजिएंट्स प्राइवेट लिमिटेड

(आईटीसी-0407031693)

ORDER-IN-ORIGINAL

मुलाहादेश

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

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

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

2.इस आदेश से व्यक्ति कोई भी व्यक्ति सीमाशुल्क अधिनियम १९६२ की धारा १२९ (ए) के तहत इस आदेश के विरुद्ध सीईएसटीएटी, पश्चिमीप्रादेशिकन्यायपीठ (वेस्टरीज़नलबेंच), ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९को अपील कर सकता है, जो उक्तअधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

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

3 अपील दाखिल करने संबंधी मरव्यमहे:-

Form - Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy).

फार्म - फार्मन. सीए३, चारप्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गयी है (इन चार प्रतियों में से कम से कम एक प्रति प्रमाणित होनी चाहिए).

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

समयसीमा- इसआदेशकीसूचनाकीतारीखसे ३महीनेकेभीतर

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

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

(b) Rs. Five Thousand - Where amount of duty & Page 2 of 2

interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh.

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

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

(ग) (दसहजाररुपये-जहाँ माँगे गये शुल्क एवं ब्याज की तथा लगायी गयी शास्ति की रकम ५० लाख रुपये से अधिक है।

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

भुगतान की रीति- क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीय कृत बैंक द्वारा सहायक रजिस्ट्रार, सीईएसटीएटी, मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

General - For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य - विधि के उपबंधों के लिए तथा ऊपर यथा संदर्भित एवं अन्य संबंधित मामलों के लिए, सीमाशुल्क अधिनियम, १९९२, सीमाशुल्क (अपील) नियम, १९८२ सीमाशुल्क, उत्पादन शुल्क एवं सेवाकर अपील अधिकरण (प्रक्रिया) नियम, १९८२का संदर्भ लिया जाए।

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

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति अपील अनिर्णीत रहने तक उसमें माँगे गये शुल्क अथवा उद्गृहीतशास्ति का ७.५ % जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा, ऐसान किये जाने पर अपील सीमाशुल्क अधिनियम, १९६२ की धारा १२८ के उपबंधों की अनुपालना न किये जाने के लिए नामंजूर किये जाने की दायी होगी।

1. BRIEF FACTS OF THE CASE

1.1 During Premise Based Audit conducted by the officers of Chennai Customs, Audit Commissionerate of M/s. K.P. MANISH GLOBAL PVT. LTD. (IEC No.0407031693), they were found to have imported goods declared -as "CAPRYLIC / CAPRIC TRIGLYCERIDE" and "PALMESTER 3585 CAPRILIC/CAPRIC TRIGLYCERIDE MEDIUM CHAIN TRIGLYCERIDE" vide Bills of Entry as detailed in Annexure-A to the notice. During scrutiny of the Bills of Entry it was observed that the said have been classified under CTH 15162091 wherein the importer has paid BCD@45%, SWS@10% and IGST@5%. CTH 15162091 includes other types of "EDIBLE GRADE" items falling under the heading "Animal. *Vegetable Or Microbial Fats And Oils And Their Fractions, Partly Or Wholly Hydrogenated. Inter-Esterified, ReEsterified Or Elaidinised, Whether or Not Refined, But Not Further Prepared."

1.2 It was found that the imported item declared as "CAPRYLIC/CAPRIC TRIGLYCERIDE" and "PALMESTER 3585 CAPRYLIC/CAPRIC TRIGLYCERIDE, is not specified as Edible grade by the importer. Further it was also seen that caprylic triglyceride is an ingredient used as conditioning agent/Emollient in soaps, Shampoos, Skin cleansers, creams, lotions and cosmetics. The importer submitted a list of clients to which the importer was supplying the subject imported goods. On perusal of the said list, it was found that the clients such as Abhishek Pharmaceuticals, Aryanveda Cosmeceuticals, Oriflame India Pvt Ltd. etc. are into manufacturing of cosmetic products such as sunscreen cream, shaving cream, skin cream, hair care products, makeup products etc. which clearly indicates that the imported items are of Non-Edible Grade. Accordingly, it was found that the imported item PALMESTER 3585 CAPRYLIC/ CAPRIC TRIGLYCERIDE, MEDIUM CHAIN TRIGLYCERIDE" is of "NON-EDIBLE GRADE" and is rightly classifiable under heading 15162099 which attracts BCD@ 80%, SWS@10% and IGST@5%, total effective duty of 97.40%. It was found that the Importer had willfully mis-classified the imported item "CAPRYLIC / CAPRIC TRIGLYCERIDE" and PALMESTER 3565 under heading CTH 15162091 to evade the higher rate of Duty. This mis-declaration led to short payment of duty to the tune of Rs. 22,46,02,302/- (Rupees Twenty-Two Crores Forty-Six Lakhs Two Thousand Three Hundred Two Only) demandable under Section 28 of the Customs Act, 1962.

1.3 In view of the above, as per Rule 3A of General Interpretive Rules, "the heading which provides the most specific description shall be preferred to headings providing a more general description". The item Caprylic/ Capric triglyceride and palmester 3585 caprylic triglyceride, medium chain triglyceride" should be declared under CTH 15162099 which includes all other types other Edible Grade, which is generic in nature.

1.4 Accordingly, Show Cause Notice bearing no. 1072/2024-25/Commr./Gr.I/NS-1/CAC/JNCH dated 09.09.2024 was issued to M/s. K.P. Manish Global Ingredients Pvt. Ltd. seeking from them as to why:

1.4.1 the self-assessments in the classification of goods imported under CTH 15162091 declared by the importer M/s. K.P. Manish Global Ingredients Pvt. Ltd. at the time of import in respect of Bills of Entry as mentioned in Annexure-A should not be rejected as not in order

and instead be classified under tariff item CTH 15162099 of the Customs Tariff and that Customs duty on the subject goods should not be levied at applicable rates corresponding to the tariff item 15162099;

1.4.2 the differential duty amounting to Rs. 22,46,02,302/- on the impugned goods, should not be demanded and recovered from them under Section 28(4) of the Customs Act, 1962;

1.4.3 the applicable interest should not be recovered from them on the said differential duty as at 1.4.2 above, under Section 28AA of the Customs Act, 1962;

1.4.4 The subject goods covered under said Bills of Entry should not be confiscated under Section 111(m) of the Customs Act, 1962;

1.4.5 The penalty under Section 112(a)/114A of the Customs Act, 1962 should not be imposed on the importer;

1.4.6 The penalty under Section 114AA of the Customs Act, 1962 should not be imposed on the importer.

2. WRITTEN SUBMISSIONS

2. M/s. K.P. Manish Global Ingredients (I) Pvt. Ltd. made a written submissions vide their letter dated 10.12.2024 and *inter-alia* submitted as below:

2.1 The SCN is based on the premise that the impugned goods are not of edible grade because they were sold to the pharma companies and cosmetic manufacturers. In this regard they submitted that the imported goods are supplied not only to Pharmaceutical companies and Cosmetics manufacturers but also to manufacturers of food items such as M/s DDS-TPM Flavors Pvt Ltd, M/s Priyal Food Ingredients, M/s Applied Nutrition Sciences, M/s Kerry ingredients Pvt Ltd, M/s Scope Ingredients Pvt Ltd, M/s Taste Masters Flavours Pvt Ltd, M/s VKL Seasonings Pvt Ltd, M/s Walpar Nutritions Pvt Ltd, M/s Symega Savoury Tech Pvt Ltd, M/s Charotar Casein Company, M/s Nutricore Biosciences Pvt Ltd, M/s TS.R & Co, M/s Biostar Nutri Care Ltd., M/s Stonefield Flavours Pvt Ltd, M/s Vintage Nutrition LLP., M/s Nutriti Ingredients Pvt Ltd., M/s Alpine Fragrances and Flavours Ltd. Even in the case of sales to pharmaceutical companies, if the goods are not edible grade they cannot be used as an ingredient in the drugs consumed orally by human beings.

2.2 The imports of 'CAPRYLIC / CAPRIC TRIGLYCERIDE and PALMSTER 3585 CAPRYLIC / CAPRIC TRIGLYCERIDE MEDIUM CHAIN TRIGLYCERIDE' were investigated by the DRI in the year 2017 and a SCN No. DRI / AZU / 29-Enq 12/2017 dated 25th June, 2018 was issued to the them asking them to show cause as to why the classification under headings 3824 and 2905 should not be rejected and why the goods should not be classified under 1516 20 91 of the Customs Tariff. Accordingly, they accepted the classification under the CTI 1516 20 91 and settled the matter at the Settlement Commission, Chennai by paying the differential duty of Rs.1,58,75,497/- along with interest of Rs 56,28,686/-, fine of Rs. 1,25,000 and penalty of Rs 4,50,000/-. From then onwards, the goods have been cleared under the CTI 1516 20 91 as suggested by the DRI and settled by the Settlement Commission, Chennai.

2.3 During investigation by DRI the samples of "Palmester 3585/3595 caprylic / capric triglyceride" were forwarded to FSSAI in 2016 vide test memo dated 19/07/2016 and the

FSSAI opined that the samples conform to the FSSAI Act,2006 and the Rules and Regulations made thereunder. It was further revealed in the investigation that the CRCL Vadodara test report stated as under:

" the sample consists of medium chain triglycerides including Caprylic (C8 >> that is having 8 Carbon atoms >> Octanoic) and Capric (C10: Decanoic >>> that is having 10 Carbon atoms) generally produced by hydrolysis of Coconut or Palm Kernel Oil, filtration and re-esterification."

2.4 During the course of investigation, A letter No DRI/AZU/CI/INT/12-2017 dated 21.12.2017 was sent to the Food Analyst, Public Health Laboratory, Ahmedabad by DRI seeking their opinion. In response to the said letter, they informed that the samples conform to the Regulation 2.12 (Proprietary Food) of the FSSAI Regulations,2011 and found to conform to the standards specified therein"

2.5 It was also revealed during investigation that Palmester 3585 has been used by M/s FDC Limited, Baddi, HP as excipient (carrier for a drug) in the manufacture of drugs and that it met the standards for European Pharmacopoeia and as per the analysis certificate issued by the manufacturer, which are also standard for the edible grade. DRI report also found that Palmester 3585 is used by the M/s Raptakos Brett and Co Ltd, Thane for manufacture of specialized infant food formulation (Milk substitute) and since infant food is fit for human consumption and therefore the DRI investigation report concluded that the product Palmester 3585 imported by M/s KP Manish Global Ingredients Pvt Ltd is of edible grade only.

2.6 In view of the fact that the imported goods are used in pharma industry as well as food ingredients industry and as found by the premier investigation agency DRI, the imported goods are correctly classifiable under the Customs Tariff Item 1516 20 91.

2.7 Once the Department has decided that the goods are correctly classifiable under the CTI 1516 20 91, it cannot change its stand and redetermine the classification elsewhere. For their this stand they relied upon the decision of the High Court of Delhi in the case of CIT vs Om Prakash Khaitan. In the instant case also the terms of Customs Tariff headings 1516 20 91 or 1516 20 99 have not changed since 2017 in which the case of 'CAPRYLIC / CAPRIC TRIGLYCERIDE and PALMSTER 3585 CAPRYLIC / CAPRIC TRIGLYCERIDE MEDIUM CHAIN TRIGLYCERIDE' was investigated and the Department decided the classification of the impugned goods under CTI 1516 20 91 and consistently being followed by the importer. Therefore, the Department cannot come up with a new tariff heading to just because it is chargeable to a higher rate of duty. The noticee relied upon the judgment of Hon'ble Supreme Court in Principal Commissioner of Income Tax, New Delhi Vs Maruti Suzuki India Ltd [(2019) 107 com 375 (SC)] wherein Hon'ble court emphasized the importance of promoting the ' principle of consistency and certainty' in tax matters. They further relied upon the judgment of Hon'ble Bombay High Court in the case of Commissioner of Income Tax Vs Smt. Datta Mahendra Shah, wherein it Court held that department cannot take different stand on identical matters merely because the officers dealing with the two files are different.

2.8 The Department is well aware of the classification of goods under 1516 20 91 declared by the Noticee. When the Department itself has decided that the classification should be under Tariff heading 15162091 and when the Department is fully aware of these facts that there is no change in terms of headings in heading 1516 20 91 or 1516 20 99 of the

Customs Tariff, it would be a total absurdity and abuse of power to invoke the charge of misdeclaration and misclassification by suggesting a change to 1516 20 99 subsequently, after five years have passed. In imputing the mis-classification and misdeclaration charges in the instant case, the Department is acting in a self-contradictory and illegal manner. They relied upon the judgment in case of M/s Shah Foils Ltd., Shri Kartik Ramesh Shah, Suncity Sheets Pvt Ltd, Mukesh Agarwal Versus C.C. – Mundra, wherein it was found that the claim of classification or claim of exemption cannot be treated as mis-declaration as the issue relates to interpretation of law. They relied upon the judgments in case of Daxen Agritech India Pvt. Ltd. 2023 (12) TMI 1080 (Tri. Del.), Commissioner of Customs Hyderabad vs Riddhi Siddhi Bullions Ltd. 2017 (355) ELT 585 (Tri. Hyd.), Granite India Limited 1997 (92) ELT 84 (Tri. Mad.).

2.9 In the instant case the classification of goods is known to the Department. As mentioned in the earlier paras, it was the Department that has indicated the classification and accepted and adopted by the Noticee. When the facts are known to both the parties, no suppression of facts, willful mis-statement can be attributed to the other party. They relied upon judgment in case of Pushpam Pharmaceutical Company Vs Collector of Central Excise [1995 (3) TMI 100 SC], Uniworth Textiles Ltd Vs Commissioner of Central Excise Raipur [2013 (1) TMI 616 SC].

2.10 In the instant case, there is neither misdeclaration of description of goods nor there is any misstatement. The noticee has changed the classification from chapter 29 to Chapter 15 and to the tariff line / CTI 1516 20 91 only at the behest of the Department. The Department having suggested a classification under a particular tariff line and the Noticee having accepted such classification, there is no justification whatsoever to invoke the charge of misdeclaration under the Section 111(m) of the Customs Act, 1962. They placed reliance of on the judgment in case of Northern Plastic Ltd. 1998 (101) E.L.T. 549, Sutures India Pvt. Ltd. vs. CC, Bangalore, 2009 (245) ELT 596 (Tri.-Bang.), Commissioner of Customs Vs Gaurav Enterprises, 2006 (193) ELT 532 (Bom), Kirti Sales Corp. vs. Commissioner of Customs, Faridabad, 2008 (232) ELT 151 (Tri.-Del.), Commissioner of Customs, Bangalore V/s. A. Mehes Raj reported in 2006 (195) ELT 261.

2.11 The imposition of penalty is not sustainable in the instant case as there was no intention to evade any customs duty. As per the settled decisions of the Hon'ble Supreme Court, various High Courts and Tribunals, penalty cannot be imposed on the noticee in the absence of mens rea on the part of the noticee. They relied upon judgment in case of Hindustan Steel Ltd. V/s. State of Orissa reported in 1978(2) ELT (J-159). Also, penalty under Section 112 of the Customs Act, 1962 can be imposed only on a person who does or omits to do any act, or abets the doing or omission of such an act or person who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111. SCN is bereft of any findings on abetment, as there is no evidence that the said Noticee was involved in any act or omission that would render goods liable for confiscation under Section 111 of the Act. Therefore, penalty is not leviable on the basis of mere suspicion. It is settled proposition of law that suspicion, however grave, cannot take place of an evidence. They relied upon the judgment in case of State of Rajasthan Vs. Basant Agrotech (I) Ltd.-2014 (302) ELT 3 (SC), DP Industries vs. CCE-2007 (218) ELT 242 (Tri.-Del.).

2.12 The said Noticee has acted not on his own will or volition but on the advice of the Department to classify goods under 1516 20 91. The SCN failed to point out which fact was suppressed and with whom the noticee has colluded. Therefore, the SCN is bereft of legal realties and it is nothing more than abuse of powers vested in Revenue authorities.

2.13 The SCN has not brought out on record as which document or declaration was false or incorrect in the imports made by the notice. It is merely mechanical invocation of the Section 114AA without producing any evidence that the noticee made, signed or used any false document or declaration. In order to invoke Section 114AA, it is to be proved that the notice had submitted/signed/ used incorrect or false declaration/ statement/ document intentionally or knowing that they were false or incorrect. The SCN has not stated as to what was the incorrect/ wrong document/ declaration, which the noticee had submitted knowingly or intentionally. Classification of goods or claiming a notification benefit by Importer cannot be equated with making declaration or making statement or submitting incorrect document by an importer. In the instant case the notice has not presented or submitted any forged or incorrect document or statement. Therefore, no penalty is imposable under Section 114 AA of the Customs Act 1962. They relied upon judgment in case of Chloride Metals Ltd. Vs Commissioner of Customs (CESTAT Chennai), Hindustan Steel Ltd. - 1978 (2) ELT J159 (SC), Commissioner of Customs Vs. Sri Krishna Sounds and Lightings - 2019(370) BLT 595 (Tri. Chennai).

3. RECORDS OF PERSONAL HEARING

3. Personal hearing in the matter was conducted on 05.08.2025 and Shri Bochu Timothy Satyanandam, Advocate and authorized representative of M/s. K.P. Manish Global Ingredients Pvt. Ltd. appeared for the hearing. During the personal hearing, he *inter-alia* submitted as below:

3.1 The allegation in the SCN that the goods should be classified under heading 1516 2099 is completely erroneous. The goods are also used as an ingredient in various nutraceutical products and hence rightly classified under 1516 20 91 as edible grade item. He submitted various invoices raised by the importers evidencing supply of the imported goods to various nutraceuticals manufacturers such as M/s FDC Ltd, M/s Raptakos Brett & Co Ltd, (Manufacturers of Infant Food formulations) M/s Sundyota Numandis Probiotics Pvt.Ltd, Hexagon Nutrition Ltd etc. If the imported goods are not of edible grade, the impugned cannot be used as an ingredient in such nutraceutical preparations.

3.2 During 2014 to 2016, the importer used to classify the imported item 'Palmester 3585 CAPRYLIC / CAPRIC TRIGLYCERIDE MEDIUM CHAIN TRIGLYCERIDE' in headings 2905 and 3824. But the DRI, Ahmedabad zonal unit conducted rigorous investigation into this import product, and after subjecting the goods to testing in Public Health Laboratory, Ahmedabad, CRCL Vadodara and on the basis of FSSAI reports received from Group 2 JNCH and also admission by the buyers of the imported goods that the goods are of edible grade only, the DRI has concluded that the impugned goods are of "edible grade" only. He has drawn the attention of the Adjudicating authority to Paras 3.6, 3.7, 3.12, 7.5, 7.6, 8.3, 9.5.3, 9.5.4, 9.5.4 of the DRI SCN dated 25th June 2018 on the very same product imported from the same supplier which indicate that the goods are of 'edible grade' only. On the basis of the investigation and subsequent SCN issued by DRI, they accepted the classification, paid the differential duty,

interest and approached the Settlement Commission for settlement of the case. The Settlement Commission Chennai has allowed the importers' application and in compliance of the Settlement order the importer paid the differential duty of Rs. 1,58,75,497/- and interest of Rs. 56,28,686/-, fine of Rs. 1,25,000 and penalty of Rs. 4,50,000/- as ordered by the Settlement Commission. Thereafter, the importer has been clearing the goods under the said CTI 1516 20 91.

3.3 All the consignments imported have been cleared only after testing by the FSSAI which certified that the goods met the food safety standards, which testifies to the fact that the imported goods are edible grade only. The Supreme Court in a recent judgement UOI Vs Marico Industries (2024), ruled that once the goods have been tested and certified the goods to have met the food safety standards, the goods should be treated as edible grade only.

3.4 The Audit contention that the importer did not provide any document to prove that the product is of edible grade is totally false. The audit did not acknowledge the documents provided by the importer. In fact, the Audit did not provide the facility of mandatory pre-consultancy notice to the importer to bring on record the documents relating to DRI investigation, SCN issued by the DRI to classify the goods under 1516 20 91, FSSAI reports sent to DRI from JNCH and Invoices on supplies made to nutraceutical manufacturers.

3.5 He submitted that the Department, having once decided the classification and advised the importer to classify the goods under a certain heading, cannot change its stand and come up with a new classification just because the tariff item now attracts higher rate of duty. He relied on the following case laws in support of their view: CIT vs Om Prakash Khaitan (2015), Principal Commissioner of Income Tax, New Delhi Vs Maruti Suzuki India Ltd. [(2019) 107 com 375 (SC)] Commissioner of Income Tax Vs Smt. Datta Mahendra Shah. Thus, he requested to drop the proceedings.

4. DISCUSSION AND FINDINGS

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

4.2 The adjudicating authority has to take the submissions/views/objections of the noticee on board and consider the same before passing the order. In the instant case, the personal hearing was granted to the noticee which was attended by the respective Authorised representative of M/s. K.P. Manish Global Ingredients Pvt. Ltd. During the hearing, the noticee gave their submissions which have been duly taken on record as detailed in preceding paras. In the instant case, as per Section 28(9) of the Customs Act, 1962 the last date to adjudicate the matter was 08.09.2025 which was extended by the Chief Commissioner of Customs in terms of first proviso to Section 28(9) of the Act *ibid* up to 08.01.2026 vide orders dated 03.09.2025 and 01.10.2025. Therefore, the case has been taken up by me for adjudication proceedings within the time limit.

4.3 In terms of principle of natural justice, opportunity for personal hearing was granted to the noticee on 05.08.2025 which was duly attended by the authorised representative of the noticee. Accordingly, I find that in compliance to the provisions of Section 28(8) and Section 122A of the Customs Act, 1962 and in terms of the principles of natural justice, opportunities for Personal Hearing (PH) were granted to the Noticee. Thus, the principles of natural justice

have been followed during the adjudication proceedings. Having complied with the requirement of the principle of natural justice, I proceed to decide the case on merits, bearing in mind the allegations made in the SCN as well as the submissions / contentions made by the Noticee.

4.4 I find that Premise Based Audit (PBA) of M/s. K.P. Manish Global Ingredients Pvt. Ltd. was conducted by the officers of Chennai Customs, Audit Commissionerate. During the audit, they observed that the noticee had imported item "Caprylic/Capric Triglyceride" and Palmester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride" under heading 15162091. It was further found that the goods were not declared as 'Edible grade' in the description of the Bills of Entry. It was also noticed by the officers that the impugned imported item is being sold to companies which deal in manufacturing of cosmetics products and therefore, the said goods are of 'Non-Edible' grade and classifiable under heading 15162099. Accordingly, Show Cause Notice dated 09.09.2024 was issued to the importer demanding differential duty to the tune of Rs. 22,46,02,302/- under Section 28(4) of the Customs Act, 1962 along with consequential penalties. In response to the aforementioned Notice, the importer gave oral and written submissions and stated that the goods are classified by them as per the investigation conducted by DRI wherein the investigating agency concluded that the goods are of 'Edible grade' and are appropriately classified under CTH 15162091. Subsequent to DRI's investigation, SCN was issued by DRI proposing classification under heading 15162091 and demanding duty & consequential penalties. It was submitted by the noticee that the said SCN of DRI was settled by them before Settlement Commission, Chennai bench and since then they had been classifying the goods under heading 15162091.

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

- (A) Whether the goods viz. Caprylic/Capric Triglyceride and Plamester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride, imported by the Noticee, are classifiable under CTH 15162091 as per the Importer, or CTH 15162099 as alleged in the SCN ?
- (B) Whether the differential duty amounting to Rs. 22,46,02,302/- as detailed in Annexure-A to the notice, should be recovered from M/s. K.P. Manish Global Ingredients Pvt. Ltd. along with applicable interest or otherwise?
- (C) Whether the goods imported vide Bills of Entry as detailed in Annexure-A to the notice should be held liable for confiscation or otherwise?
- (D) Whether penalty under Section 112(a)/114A and Section 114AA of the Customs Act 1962 should be imposed on the noticee or otherwise.

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

(A) Whether the goods viz. Caprylic/Capric Triglyceride and Plamester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride are classifiable under Heading 15162091 as per the Importer, or CTH 15162099 as alleged in the SCN?

5.1 I find that the noticee has imported goods Caprylic/Capric Triglyceride and Plamester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride under Chapter Tariff Item (CTI) 15162091 and the notice proposes to change the classification of the impugned goods to CTI 15162099. The two competing entries are as below:

1516	ANIMAL, VEGETABLE OR MICROBIAL FATS AND OILS AND THEIR FRACTIONS, PARTLY OR WHOLLY HYDROGENATED, INTER-ESTERIFIED, RE-ESTERIFIED OR ELAIDINISED, WHETHER OR NOT REFINED, BUT NOT FURTHER PREPARED
151620	- Vegetable fats and oils and their fractions:

15162091	---- Edible grade
15162099	---- Other

I find that there is no dispute in classification up to six digits and only dispute is whether the goods are of Edible grade or of non-Edible grade. SCN has concluded that the impugned goods are an ingredient used as conditioning agent/emollients in soaps, shampoos, skin cleansers, creams and other cosmetic products. Also, it is alleged in the notice that the goods are being sold to various companies which are involved into the manufacturing of cosmetic products such as sunscreen, shaving cream, skin cream, hair care products etc. and therefore, it was concluded in the Notice that the goods are of Non-Edible grade and merits classification under heading 15162099. In response to the Notice, the importer gave written submissions as detailed in Paras *supra* and has heavily relied upon the investigation conducted by Directorate of Revenue Intelligence (DRI), Ahmedabad against them in the year 2018. They submitted that on the basis of the investigation and conclusion made by DRI, they started classifying the goods under heading 15162091 as the goods were found to be of Edible grade. I find that the noticee submitted that the goods imported by them are also supplied to the companies manufacturing food items as well as the pharmaceuticals companies and accordingly the same are of Edible grade.

5.2 I find that in the year 2017, a consignment of Palmester 3595 Caprylic/Capric Triglyceride was examined by DRI as the same was classified by the Noticee under Chapter 38. Representative samples were drawn from the said consignment and were forwarded to CRCL, Vadodara. The testing laboratory gave report mentioning that the goods consist of medium chain saturated triglycerides including caprylic/Caprylic Triglyceride derived from Coconut Oil. It was further stated in the report that the medium chain triglyceride oils are generally produced by hydrolysis of coconut or palm Kernel Oil, filtration of medium chain fatty acids and subsequent re-esterification. I find that on the basis of this test report and various other evidences, it was concluded by DRI that the subject goods were classifiable under sub-heading 151620. I further find that, to verify whether the impugned goods are of Edible Grade or Non-Edible grade, DRI forwarded the samples to the Laboratory officer and Food Analyst, Public Health Laboratory, Ahmedabad. In response to the same, the Food Analyst and Laboratory Officer confirmed that **the samples were found to fall under**

Regulation 2.12 (Proprietary food) of the Food Safety and Standards (Food Product Standards and Food Additive) Regulation, 20211 and were found to confirming with the standards mentioned therein. I also find that the samples of Palmester 3585/3595, imported by the Noticee during that period, were also forwarded by Chennai Customs to Food and Safety Standards Authority of India (FSSAI) and **FSSAI had conveyed that the samples conform to specifications under FSS Act.** I further find that it is specifically mentioned in Para 9.5.4 of the SCN issued by DRI that they had requested Nhava Sheva Customs also to provide any available test report in respect of consignments of Palmester 3585/3595 to which Nhava Sheva Customs had also provided a copy of report wherein **FSSAI had given clearance of the impugned goods as the same were found to be conforming specifications prescribed under Food Safety and Standards Act, 2006.**

5.3 I find that during the course of their investigation, DRI recorded statements of representatives of various companies to which the noticee sold their goods viz. Kerry Ingredients India Pvt. Ltd., Oriflame India Pvt. Ltd., FDC Limited, Raptakos Brett & Co. Ltd. etc. It is pertinent to mention here that the names of these companies are reflecting in the list of customers mentioned as RUD-II in the instant case also. Further, I find that name of M/s. Oriflame India Pvt. Ltd. has been specifically mentioned in the body of this Show Cause Notice dated 09.09.2024, as one of the pharma companies because of which it was concluded in the instant Notice that the goods are of Non-Edible grade. Representatives of these companies had divulged information during the investigation conducted by DRI in the identical matter against the noticee:

5.3.1 Representative of M/s. Oriflame India Pvt. Ltd., Noida stated that they purchased Palmester 3585 from the noticee as the same were matching with the specification required for making their final product. She further submitted that there were no physical, allergen, chemical or biological contamination in Palmester 3585. She informed that since Palmester 3585 was used by them for manufacture of cosmetic product, they did not get the product tested for edible grade

5.3.2 Representative of M/s. Kerry Ingredients India Pvt. Ltd. informed that their company was into the manufacturing of food flavours. They purchased Palmester 3595 from the noticee and mixed the same in combination with other minor ingredients & solvents which ultimately became a part of their final product which **was fit for human consumption.**

5.3.3 Representative of M/s FDC Limited informed that they were indulged in manufacturing of pharmaceutical products. They bought Palmester 3585 from the noticee as the same was used as an excipient (carrier for the drugs) in combination with other active pharmaceutical ingredients. He informed that the product Palmester 3585 was tested in-house as per European Pharmacopedia standards. He confirmed that Palmester 3585 purchased from M/s. K.P. Manish Global ingredients Pvt. Ltd. **was found of edible grade and fit for human consumption.**

5.3.4 Representative of M/s Raptakos, Brett & Co. Ltd., Thane informed that they purchased Palmester 3585 for their specialized infant food formulation. They manufactured milk formulations as per BIS standards and since their final product i.e. infant milk substitutes was fit for human consumption, **the ingredients used in the manufacture of the final product had to be fit for human consumption i.e. Edible grade.** The specifications

used for the product Palmester 3585 could be tested by them at their in-house laboratory and accordingly, they confirmed that the **product Palmester 3585 was of Edible Grade only.**

5.4 I find that during investigation of identical item by DRI against the same company which is the noticee in the case at hand, samples were forwarded to various laboratories which **confirmed that the product Palmester 3585/3595 are of standards conforming the FSS Act and Regulations.** I also find that various buyers of the said product have also done in-house testing confirming that the said product is of Edible grade. On the basis of the investigation conducted by DRI, statements deposed by various representatives of the buyers of M/s. K.P. Manish Global Ingredients Pvt. Ltd., **DRI concluded that the items imported by them were of Edible Grade.** I find that on the basis this investigation, DRI issued Show Cause Notice to M/s. K.P. Manish Global Ingredients Pvt. Ltd. I find that **the noticee accepted the classification proposed by DRI i.e. 15162091** & approached Settlement Commission, Chennai to settle the case. Settlement Commission vide Final Order no. 14-15/2020 Cus dated 07.07.2020 concluded the matter and appropriated the demanded differential duty and interest along with imposing consequential penalties on the concerned noticees.

5.5 I find that the Settlement Commission vide its aforementioned order had imposed fine and penalty on the noticee and accordingly, the noticee was requested to provide the proof evidencing the payments. In response to the same, the noticee M/s. K.P. Manish Global Ingredients Pvt. Ltd. vide their letter dated 29.09.2025 provided the copies of the Challans evidencing payment of fine and penalty. I find that the noticee had paid fine and penalty and the matter before the Hon'ble Settlement Commission regarding classification of the impugned goods under 15162091 as directed by DRI through SCN, had attained finality.

5.5 I find that the goods covered under the investigation conducted by DRI are identical to the goods covered under the Show Cause Notice at hand and therefore, the same reasoning applies to the instant case also. I find that the goods viz. 'Caprylic/Capric Triglyceride and Plamester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride' have been imported by the noticee and initially they classified the goods under Chapter 38. However, after initiation of investigation by DRI, they admitted that the impugned goods are more appropriately classifiable under heading 15162091 and since then, they had been classifying the goods under heading 15162091 (Edible Grade). I find that the Audit officers during Premises Based Audit observed that the said goods are being sold to various pharmaceutical companies and therefore, it was concluded that the said goods are of Non-Edible grade and are classifiable under heading 15162099 (Non-Edible Grade). However, I find that nowhere in the notice it is appearing that the samples from the impugned goods were forwarded for testing purposes by the officers of Chennai Customs. I find that no reasoning has been brought on record in the Notice that for the purpose of manufacturing of pharmaceutical and Cosmetic products, edible grade products cannot be used. **I find that merely because the impugned goods are used by the companies manufacturing pharmaceutical & cosmetic products, the same do not become of Non-Edible grade.** Rather, I find that, in the investigation conducted by DRI, Ahmedabad, it has been clearly brought out that even though the impugned goods are being used by various companies manufacturing pharmaceutical products and cosmetic products, still the impugned goods were found to be of Edible Grade. Further, I find that it had also been admitted by the representative of various companies that the goods are of Edible grade.

5.6 I find that in the instant case, the notice has merely mentioned that the goods are being sold to the companies dealing in the manufacturing of cosmetic products. However, as detailed in paras *supra* the noticee has provided numerous invoices as evidence that the impugned goods are being sold to various nutraceutical companies and to the companies dealing in manufacturing of food items also. I find that in the instant case, one of the companies viz. M/s. Oriflame India Pvt. Ltd. has been specifically mentioned in the Notice to whom the goods were sold and the said company is manufacturing cosmetic products and on the basis of which, it was implied in the notice that the imported goods are of Non-Edible grade. However, I find that during the course of investigation by DRI against the same noticee, DRI had recorded statement of the representative of M/s. Oriflame India Pvt. Ltd. who categorically stated that they never got the impugned goods tested for Non-Edible grade as the same were of non-hazardous category and they tested only color, odour appearance, refractive index etc. She further informed that there were no physical, allergen, chemical or biological contamination in Palmester 3585. Therefore, I find that based on above statement, it cannot be concluded that the impugned goods are of non-edible grade. Rather, the DRI has categorically investigated and concluded that the goods are of Edible Grade. Furthermore, various testing laboratories have also concluded that the goods in question conform to the standards specified in the FSSAI Regulations, 2011.

5.7 I find that in case of Commissioner Of Central Excise, Salem Versus Madhan Agro Industries (India) Pvt. Ltd. {(2024) 25 Centax 269 (S.C.)}, **Hon'ble Supreme Court** while deciding the classification whether pure coconut oil, packaged and sold in small quantities ranging from 5 ml to 2 litres would be classifiable as 'edible oil' under Heading 1513 or as 'hair oil' under Heading 3305, held as under:

“.....41. The mere fact that coconut oil is also capable of being put to use as a cosmetic or toilet preparation, by itself, would not be sufficient to exclude such oil from the ambit of 'coconut oil' and subject it to classification as 'hair oil'.....”

42. Shanti Coconut Oil, produced and marketed by Madhan Agro Industries (India) Pvt. Ltd., bore 'Agmark' certification from the concerned authorities to qualify as a Grade-I coconut oil, fit for human consumption. The fact that such edible coconut oil was sold in smaller containers would not, by itself, be indicative of it being packaging of a kind fit for use as 'hair oil'. One may choose to buy one's cooking oil in small quantities, be it for economic or for health reasons or due to the inclination to use fresh oil in one's food preparation, and the smaller size of the packaging of such oil cannot be taken to mean that it is to be used as 'hair oil' without any pointer to that effect, be it by way of a label or literature or by any other indication that it is to be used as 'hair oil'.....”

From the above, it has been made completely clear by the Hon'ble court that even if the goods are being sold and used for different purposes, but that doesn't exclude itself from the main classification it was intended to. I find that the goods in question i.e. Caprylic/Capric Triglyceride and Palmester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride has already been tested by various laboratories and the same were found to be compliant with Rules & Regulations framed under FSS Act, 2006, therefore, the said goods shall be classified under heading 15162091. I find that the noticee had also submitted copies of the test reports conducted by National Food Laboratory, Nhava Sheva evidencing that the item Palmester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride conforms to the

standards laid down under Food Safety and Standards (Food Product standard and Food Additives) Regulations, 2011.

5.8 I further find that the department has investigated the impugned goods and determined the classification under heading 15162091 and thereafter, the Noticee went to Settlement Commission, wherein again the department re-confirmed the classification of the goods under the same heading. Therefore, I find that the department has already confirmed the classification and unless there are changes in facts of the case or change in law, the same heading shall prevail. In this regard, I follow the legal doctrine of 'stare decisis' according to which, the litigation has to be decided according to the established legal precedent. The principle of consistency in law requires that similar cases be treated similarly and that legal rules and interpretations be applied predictably and fairly over time and across different contexts. The doctrine of stare decisis is expressed in the maxim "*Stare decisis et non quieta movere*" which means "to stand by decisions and not to disturb what is settled". The guiding philosophy is that a view which has held the field for a long time should not be disturbed only because another view is possible. In the instant case, the department had determined and admitted the classification of the goods under heading 15162091, the same cannot be changed without any change in the facts or law. In this regard, I rely upon the judgment of Hon'ble Supreme Court in case of Manganese Ore (India) Ltd. Vs Regional Asst. CST, {(1976) 4 SCC 124}, it was opined that the doctrine of stare decisis is a very valuable principle of precedent which cannot be departed from unless there are extraordinary or special reasons to do so.

5.9 I also find that the subject SCN does not give any clear reason or evidence to support its allegations that the imported goods are eligible for classification under heading 15162099 and not under heading 15162091. I find that the allegation in the Show Cause Notice is based merely on the end-use of the goods by some of the buyers, without any supporting technical or evidentiary basis. It is evident from the records that no test reports have been brought on record to establish that the goods are of non-edible grade. Further, no statements of any technical expert, laboratory authority, buyer or any other person have been mentioned in the notice to substantiate the allegation that the impugned goods are non-edible in nature. In the absence of any chemical examination, laboratory analysis, expert opinion or any corroborative evidence, the allegation made by the Show Cause Notice that the goods are of non-edible grade is purely presumptive and unsupported by facts, and therefore cannot be sustained. I find that the SCN has failed to give any clear reason or evidence to support its allegations that the imported goods are eligible for classification under heading 15162099 and not under heading 15162091.

5.10 Therefore, in view of the discussions and findings as detailed in paras *supra*, I am of the considered opinion that the impugned goods viz. Caprylic/Capric Triglyceride and Plamester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride are of Edible grade and the said goods are more appropriately classifiable under heading 15162091. In view of the above, I find that the differential duty amounting to Rs. 22,46,02,302/- demanded in the aforementioned Show Cause Notice is not liable to be recovered from the importer as the noticee has rightly classified the goods under heading 15162091 and there is no short-levy or short-payment of duty by the importer. As the demand of differential duty is not sustainable, therefore, the interest on duty also cannot be demanded.

5.11 In view of the aforesaid discussions and findings, as the noticee has rightly classified the goods under heading 15162091, therefore, I find that there is no mis-declaration on part of the noticee in that regard and the goods are not found to be liable for confiscation under Section 111(m) of the Customs Act, 1962 as proposed in the notice.

5.12 I find that the importer has rightly classified the goods and there has been no shortfall of duty and the goods are also not liable for confiscation. Therefore, penalty under Section 112, 114A and/or 114AA of the Customs Act, 1962 proposed on the importer are not justifiable and are liable to be set aside.

6. In view of the facts of the case, the documentary evidences on record and findings as detailed above, I pass the following order:

ORDER

6.1 I hold that the goods viz. Caprylic/Capric Triglyceride and Plamester 3585 Caprylic/Capric Triglyceride Medium Chain Triglyceride are appropriately classifiable under heading 15162091.

6.2 I drop the demand of differential duty amounting to Rs. 22,46,02,302/- (Rupees Twenty Two Crore Forty Six Lakh Two Thousand Three Hundred Two Only) from the importer M/s. K.P. Manish Global Ingredients Pvt. Ltd. and as the demand of differential duty is not sustainable, therefore, the interest on duty also cannot be demanded.

6.3 I hold that the impugned goods imported vide Bills of Entry as detailed in Annexure-A to the SCN as not liable for confiscation.

6.4 I refrain from imposing penalty on M/s. K. P. Manish Global Ingredients Pvt. Ltd. under Section 112(a), 114A or 114AA of the Customs Act, 1962.

6.5 I order that the Show Cause Notice No. 1072/2024-25/Commr./Gr. I/NS-I/CAC/JNCH dated 09.09.2024 is hereby dropped in entirety.

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

Digitally signed by
Yashodhan Arvind Wanage
Date: 05-01-2026
16:30:52

(यशोधनवणे /Yashodhan Wanage)
प्रधानआयुक्त, सीमाशुल्क/ Pr. Commissioner of Customs
एनएस-आयुक्त, जेनसीएच / NS-I, JNCH

To,
M/s. K.P. Manish Global Ingredients Pvt. Ltd.
No. 41, Raghunayakulu Street,
Showcarpet, Chennai- 600 003.

Copy to:

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