OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, NS-I
सीमाशुल्क प्रधानआयुक्त का कार्यालय, एनएस-**I**
CENTRALIZED ADJUDICATION CELL (NS-V), JAWAHARLAL NEHRU CUSTOM HOUSE,
केंद्रीकृतअधिनिर्णयनप्रकोष्ठ **(**एनएस-**v),** जवाहरलालनेहरूसीमाशुल्कभवन,
NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA 400707
न्हावाशेवा, तालुका-उरण, जिला- रायगढ़, महाराष्ट्र -**400707**

Date of Order: 21.01.2026 **Date of Issue: 21.01.2026**
आदेश की तिथि **:21.01.2026** जारी किए जाने कीतिथि**: 21.01.2026**

DIN 20260178NW000000A6AF
F. No. S/10-175/2024-25/CC/Gr. II(A-B)/NS-I/CAC/JNCH
SCN No. 1642/2024-25/Commr./Gr. II(A-B)/NS-I/CAC/JNCH dtd 23.01.2025

Passed by: Shri Yashodhan Wanage
पारितकर्ता**:** श्री यशोधन वनगे

Principal Commissioner of Customs (NS-I), JNCH, Nhava Sheva
प्रधानआयुक्त, सीमाशुल्क **(**एनएस**-1),** जेएनसीएच, न्हावाशेवा

Order No.: 363/2025-26 /Pr. Commr./NS-I /CAC /JNCH
आदेशसं. : **363/2025-26**/प्र. आयुक्त/एनएस-1/ सीएसी/जेएनसीएच

Name of Party/Noticee: M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979)
पक्षकार (पार्टी)/ नोटिसी का नाम**:** चैंपियन कमर्शियल कंपनी लिमिटेड, मुंबई (आईईसी-0288008979)

ORDER-IN-ORIGINAL
मूलआदेश

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

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

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

2.इस आदेश से व्यथित कोई भी व्यक्ति सीमाशुल्क अधिनियम१९६२ 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 मुख्यमुद्दे:-

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- इसआदेशकीसूचनाकीतारीखसे३महीनेकेभीतर

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 1interest 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।

F.No. S/10-175/2024-25/CC/Gr. II(A-B)/NS-I/CAC/JNCH
SCN No. 1642/2024-25/Commr./Gr. II(A-B)/NS-I/CAC/JNCH dtd 23.01.2025

Subject: Wrongful availment of Free Trade Agreement benefit vide Notification No. 46/2011 dated 01.06.2011 in the import of Antimony Trioxide by M/s Champion Commercial Co. Ltd (IEC-0288008979)-reg.

1. BRIEF FACTS OF THE CASE:

1.1. Inputs received by the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit (MZU), indicated that M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) was engaged in the import of *Antimony Trioxide* from a Thailand-based supplier M/s. Thai Unipet Industries Co. Ltd. and M/s. Youngsun Chemicals Co. Ltd, China, and was wrongly availing Country of Origin preferential tariff benefit under Notification No. 46/2011-Customs dated 01.06.2011, by claiming the Country of Origin as Thailand even when the import of goods did not qualify as goods originating from Thailand, in terms of the prescribed criteria.

1.2. Country Of Origin Preferential Tariff Benefit

1.2.1 Notification No. 46/2011-Customs dated 01.06.2011 (as amended), issued in supersession of Notification No. 153/2009-Customs dt 31.12.09, prescribes the effective rate of duty for specified goods imported from ASEAN countries, if the goods in respect of which such benefit of exemption is claimed are proven to be of origin of the country specified in Appendix to the Notification, in accordance with the Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India) Rules, 2009. AIFTA refers to the ASEAN India Free Trade Area under the Framework Agreement. The ASEAN comprises Brunei Darussalam, Kingdom of Cambodia, Republic of Indonesia, Lao Peoples Democratic Republic (Laos), Malaysia, Union of Myanmar, Republic of Philippines, Republic of Singapore, Kingdom of Thailand and Socialist Republic of Vietnam.

1.2.2 Customs Tariff [Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India] Rules, 2009 (hereinafter referred to as "Rules of Origin"] were notified vide Notification No. 189/2009-Cus. (N.T.) dated 31-12-2009, as amended.

1.2.3 In terms of Rule-5 read with Rule-3 of the said "Rules of Origin" for the products not wholly produced or obtained in the exporting party (of the Agreement), to qualify for the preferential tariff under the said Preferential Tariff Agreement, the goods must have at least 35% Regional value content (RVC) and non-originating materials must have undergone processing to warrant change in CTSH level (6 digit) with final process of manufacture within territory of export. Rule-3 and Rule-5 of the said "Rules of Origin" read as follows:-

Rule 3. Origin criteria. -

The products imported by a party which are consigned directly under rule 8, shall be deemed to be originating and eligible for preferential tariff treatment if they conform to the origin requirements under any one of the following. -

a. products which are wholly obtained or produced in the exporting party as specified in rule 4, or

b. products not wholly produced or Obtained in the exporting party provided that the said products are eligible under rule 5 or 6

Rule 5. Not wholly produced or obtained products. For the purpose of clause (b) rule 3, a product shall be deemed to be originating, if-

i. the AIFTA content is not less than 35 percent of the FOB value - and

ii. the non-originating materials have undergone at least a change in tariff sub-heading (CTSH) level i.e. at six digit of the Harmonized System.

1.2.4 Rule 13 of the Customs Tariff (ASEAN-India) Rules, 2009, has laid down that 'Any claim that a product shall be accepted as eligible for preferential tariff treatment shall be supported by a Certificate of Origin as per the specimen in the Attachment to the Operational Certification Procedures, issued by a Government authority designated by the exporting party and notified to the other parties in accordance with the Operational Certification Procedures as set out in Annexure III of these Rules.

1.3. <u>Enquiry Into Imports:</u>

1.3.1 During the investigation of M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979), located at 305, Embassy Centre, Nariman Point, Mumbai, Maharashtra-400021 (hereinafter referred to as 'the importer'), it was found that the importer had imported Antimony Trioxide from the supplier M/s Thai Unipet Industries Co. Ltd., Thailand, and M/s. Youngsun Chemicals Co. Ltd, China. However, the supplier M/s. Youngsun Chemicals Co. Ltd, China had purchased the goods from M/s Thai Unipet Industries Co. Ltd., Thailand and then sold it to M/s Champion Commercial Co. Ltd in which the invoice was raised by M/s. Youngsun Chemicals Co. Ltd and the goods were directly shipped by M/s.Thai Unipet Industries Co. Ltd., Thailand to M/s Champion Commercial Co. Ltd to avail the benefit under Notification No. 46/2011- Customs dated 01.06.2011.

1.3.2 The goods have been classified under CTH 28258000, which carries a tariff rate of BCD @7.5% in terms of the First Schedule of the Customs Tariff Act, 1975. Further, in terms of Sr No. 230(1) of Notification No. 46/2011 dated 01.06.2011 all goods originating in Thailand and falling under Chapter 28, including Antimony Trioxide falling under Customs Tariff Heading 28258000, are completely exempt from BCD. Accordingly, the importer had claimed the benefit of Notification No. 46/2011 dt 01.06.2011 and cleared the said goods on payment of Nil BCD, Nil SWS & IGST @18%.

1.3.3 Since the intelligence indicated that the benefit of Notification No. 46/2011 dt 01.06.2011 had been inappropriately claimed by M/s. Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) about the goods supplied by M/s. Thai Unipet Industries Co. Ltd., Thailand, inquiry was initiated about the said imports.

1.3.4 During the course of the inquiry records were obtained from the importer, documents were scrutinized, and statements were recorded under Section 108 of the Customs Act, 1962.

1.3.5 M/s. Champion Commercial Co. Ltd, Mumbai (IEC-0288008979), vide letter da 12.03.2024, submitted documents relating to the import of Antimony Trioxide from M/s. The Unipet Industries Co. Ltd., Thailand and M/s. Youngsun Chemicals Co. Ltd, China

1.3.6 In response to summons dated 29.07.2024 issued under the provisions of section 108 of the Customs Act, 1962, Shri. Sushil Singhania, Director of M/s. Champion Commercial Co. Ltd. appeared in the DRI office on 12,08,2024 and his statement was recorded **(RUD-01)** under Section 108 of the Customs Act, 1962. In his statement, Shri. Sushil Singhania, inter-alia, stated that:

a. M/s. Champion Commercial Co. Ltd started in the year 1982 and is in the business of trading Chemicals which are imported from other countries as well as locally procured from the domestic market.;

b. They mainly sell the goods to the end users only such as BASF India, Pidilite, Kansai Paints, Nippon Paints etc;

c. The overseas suppliers are Thai Unipet Industries Co. Ltd., Minmetals Trading Ltd. China, Naniya Chemicals, Taiwan ete;

d. They have imported some Antimony Trioxide under the benefits of the Country of origin from Thailand as per the ASEAN-India FTA. Further M/s. Thai Unipet Industries Co. Ltd was an overseas supplier from whom Antimony Trioxide was imported only for the period 2020 to 2021;

e. M/s. Thai Unipet Industries Co. Ltd supplier had approached them and due to COVID there was no availability of raw materials;

f. They have started importing Antimony trioxide from M/s. Thai Unipet Industries Co. Ltd for approx. 10 months only. However, they have been importing Antimony trioxide since 2002 from China by paying all the Customs duties;

g. The communication with the supplier was majorly done through E-mail and normal phone calls and all the orders were placed through E-mail only:

h. As most of the importers were importing from M/s. Thai Unipet Industries Co. Ltd therefore, it means that the company is into existence and the goods were also cleared by the

customs on the basis of that and hence, they have also started importing the goods and no other extra measures were taken;

i. They have filed 8 Bills of entry and during the time of import, the customs had cleared the goods without any customs duty and also accepted and defaced the certificate of origin which was submitted at the time of filing Bill of entry. Therefore they thought that the COO's are genuine and they continue importing products from the same company. However, after the COVID they stopped the business from the said supplier.

1.3.7 Scrutiny of the documents submitted by the importer confirmed that the consignments of Antimony Trioxide shipped from Thailand to the said importer were supplied by M/s. Thai Unipet Industries Co. Ltd., Thailand. The goods were imported through the Nhava Sheva Port (INNSA1) and the benefit of Notification No. 46/2011-Cus (Sr No. 230(I)) dated 01.06.2011 had been availed on the strength of Certificates of Origin indicating the goods to be originating in Thailand.

1.4. <u>The Evidence Regarding The Certificates Of Country Of Origin</u>:

1.4.1 The details of the Country of Origin Certificate **(RUD-02)** submitted by the importer for the consignment under investigation are as under:-

<u>TABLE-1</u>

Sr No	Bill on Entry No & Date	COO No & Date	Consignor / Manufacturer as per COO
1	7859617 dt.09-06-2020	AI2020-0020569 dt. 27.05.2020	*Thai Unipet Industries Co. Ltd*
2	8118193 dt. 09-07-2020	AI2020-0022495 dt. 22.07.2020	*Thai Unipet Industries Co. Ltd*
3	8420032 dt. 10-08-2020	AI2020-0026085 dt. 30.07.2020	*Thai Unipet Industries Co. Ltd*
4	8639573 dt. 29-08-2020	AI2020-0027613 dt. 11.08.2020	*Thai Unipet Industries Co. Ltd*
5	9301456 dt. 24-10-2020	AI2020-0035332 dt. 06.10.2020	*Thai Unipet Industries Co. Ltd*
6	9992760 dt. 17-12-2020	AI2020-0041564 dt. 12.11.2020	*Thai Unipet Industries Co. Ltd*
7	3052773 dt. 08-03-2021	AI2020-0005576 dt. 02.02.2021	*Thai Unipet Industries Co. Ltd*
8	3415938 dt. 03-04-2021	AI2020-0014854 dt.	*Thai Unipet Industries Co.*

		19.03.2021	*Ltd*

1.4.2 The verification of the above-mentioned COOs in Table-1 was caused by the authorities of Thailand. The verification report No.0307.07/682 of the above-mentioned Certificate of Origin form Al dated, was received on 28.10.2024 and stated that **(RUD-03)**:

"(1) the above-mentioned certificates of Origin Form Al were authentically issued by the Department of Foreign Trade.

(2) as the exporter, THAI UNIPET INDUSTRIES CO. LTD, Failed to declare the questionnaire with in the stipulated time frame, we therefore, are not in a position to recognize that the goods covered by the above-mentioned Form Al were qualified for the origin claim under ASEAN-INDIA FTA. In accordance with the Thai domestic law and regulations, if the exporter is unable to prove the origin of the goods in the form by the importing party requested, the DFT will revoke the form. We hence have already revoked these Forms Al issued for the exporter"

1.4.3 The above-mentioned verification reports No.0307.07/682 received on 28.10.2024 from the authorities in Thailand indicate that in above mentioned COOs where verification had been caused under the provisions of Rule 6(2) of CAROTAR, 2020 regarding the product Antimony Trioxide, exported/sold by M/s Thai Unipet Industries Co. ltd., Thai authorities had revoked the said product from the COOs after making the necessary enquiries with the said exporter/ seller as the supplier failed to declare the questionnaire to the Thailand authorities within the stipulated time frame. Based on the above, it is apparent the said product exported/ sold by M/s Thai Unipet Industries Co. Ltd., Thailand did not satisfy the criteria required for qualifying as originating goods in terms of Determination of Origin of goods under the Preferential trade agreement between Government of ASEAN & India Rules, 2009 (Notification No. 189/2009-Customs (NT) dated 31.12.2009) and hence their claim of duty benefits is wrong.

1.5. LEGAL PROVISIONS APPLICABLE IN THE CASE UNDER THE CUSTOMS ACT, 1962

a. **Section 2**.
b. **Section 2(16)**.
c. **Section 17**.
d. **Section 28(4)**.
e. **Section 28AA**.
f. **Section 46(1)**.
g. **Section 46(4)**.
h. **Section 111**.
i. **Section 112**.
j **Section 114A**.
k. **Circular No. 17/2011-** Customs dated 8 April, 2011.

1.6. Invocation of Extended Period For Demand Of Duty:

1.6.1 The subject Bills of Entry as mentioned in Table-1 filed by the said importer, had been self-assessed. Vide Finance Act, 2011, "Self-Assessment" has been introduced w.e.f. from 08.04.2011 under the Customs Act, 1962. Section 17 of the said Act provides for self-assessment of duty on import and export goods by the importer or exporter himself by filing a Bill of Entry or Shipping Bill as the case may be, in the eléctronic form, as per Section 46 or 50 respectively. Thus, under self- assessment, it is the responsibility of the importer or exporter to ensure that he declares the correct classification, the applicable rate of duty, value, benefit, or exemption notification claimed, if any in respect of the imported/exported goods while presenting Bill of Entry or Shipping Bill.

1.6.2 By not self-assessing the subject goods properly, it appears that the importer willfully evaded Customs duty on the impugned goods by wrongly availing the benefit of exemption Notification based on Country of Origin Certificates when the goods did not qualify as originating goods. Further, Section 46(4) of the Customs Act, 1962, specifies that the importer while presenting a Bill of Entry shall at the foot thereof make and subscribe to a declaration as to the truth of the content of such Bill of Entry and shall, in support of such declaration, produced to the proper officer the invoice, if any, and such other documents relating to the imported goods. From the verification report discussed above, it appears that the importer has suppressed the relevant facts relating to the Country of Origin of the goods and intentionally evaded Customs duty on the impugned goods. The importer hence, appears to have contravened the provisions of section 46 of the Customs Act, 1962.

1.6.3 It appears that the importer had knowingly and deliberately availed the exemption Notification on the goods purportedly manufactured by M/s. Thai Unipet Industries Co. Ltd and supplied by M/s. Thai Unipet Industries Co. Ltd., Thailand. It is thus seen that the importer has suppressed the fact regarding the Country of Origin of the goods from the Customs authorities and made a wilful misstatement in the Customs declarations in the Bill of Entry's filed at JNCH in order to illegally avail duty exemption benefit under Notification No. 46/2011 dated 01.06.2011. This appears to render the importer liable to pay the differential duty under Section 28(4) of the Customs Act, 1962, by invoking the extended period.

1.6.4 It also appears that the COO's, based on which exemption was availed in this case, were ab-initio void. Hence, the importer cannot be allowed to take the benefit of the same, as found vitiates everything.

1.7. Differential Duty

1.7.1 Evidently the importer has wrongly availed the benefit of Notification No. 46/2011-Cus dated 01.06.2011 (Sr No 230(I)), as amended, on the goods imported at Nhava Sheva Port vide bill of entries mentioned below and consequently short paid the Customs duties to

the extent of **Rs. 51,59,472/- (Rupees Fifty One Lakhs Fifty Nine Thousand Four Hundred and Seventy Two Only)** as summarized below:

TABLE-2 (Summary of duty involvement)

Sr. No	Bill of Entry No & Date	COO No	Assessable Value	BCD foregone (7.5%)	SWS foregone (10%)	Applicable IGST	IGST Paid at time of import	IGST Foregone	Total differential duty payable
	1	2	3	4	5	6	7	8	9=(4+5+8)
1	7859617 dt.09-06-2020	AI2020-0020569	3650488	273787	27379	711298	657088	54210	355375
2	8118193 dt. 09-07-2020	AI2020-0022495	5363280	402246	40225	1045035	965390	79645	522115
3	8420032 dt. 10-08-2020	AI2020-0026085	5431275	407346	40735	1058284	977630	80654	528735
4	8639573 dt. 29-08-2020	AI2020-0027613	7240860	543065	54306	1410882	1303355	107527	704898
5	9301456 dt. 24-10-2020	AI2020-0035332	5802638	435198	43520	1130644	1044475	86169	564887
6	9992760 dt. 17-12-2020	AI2020-0041564	6207570	465568	46557	1209545	1117363	92182	604307
7	3052773 dt. 08-03-2021	AI2020-0005576	7127655	534574	53457	1388824	1282978	105846	693877
8	3415938 dt. 03-04-2021	AI2020-0014854	12175430	913157	91316	2372383	2191577	180805	1185278
TOTAL			**52999196**	**3974940**	**397494**	**10326893**	**9539855**	**787038**	**5159472**

1.8. Summary Of Investigation

1.8.1 For the imported goods to be eligible for preferential tariff under Notification No. 46/2011 dated 01.06.2011 (as amended), the said consignment should be supported by a Certificate of Origin issued by a Government authority designated by the Exporting country and notified to the Country of Import in accordance with Rule 13 of the Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India) Rules, 2009, read with the Operational Certification Procedures as set out in Annexure-III of the said Rules which stipulates in Point-1 (Authorities) that 'The AIFTA Certificate of Origin shall be issued by the Government authorities (issuing authority) of the exporting party (country)'.

1.8.2 On the basis of scrutiny of the statement recorded, scrutiny of documents and verification carried out, it appears that the Certificates of Origin as mentioned in Table-1, used for the import of goods i.e. Antimony Trioxide from the suppliers M/s. Thai Unipet Industries Co. Ltd., Thailand had been issued incorrectly as the goods did not qualify as goods originating in Thailand. In view of the same the benefit of FTA tariff Notification No. 46/2011-Customs dated 01.06.2011 (Sr. No. 230(I) for exemption from Basie Customs Duty (BCD) does not appears to be admissible to the said imports.

1.8.3 The above-mentioned verification reports No.0307.07/682 dated 11.09.2024 received on 28.10.2024 from the authorities in Thailand indicate that in above mentioned COOs where verification had been caused under the provisions of Rule 6(2) of CAROTAR, 2020 regarding the product Antimony Trioxide, exported/ sold by M/s Thai Unipet Industries Co. Ltd., Thai authorities had revoked the said product from the COOs after making the necessary enquiries with the said exporter/ seller as the supplier failed to declare the questionnaire to the Thailand authorities within the stipulated time frame. Based on the above, it is apparent the said product exported/ sold by M/s Thai Unipet Industries Co. Ltd., Thailand does not satisfy the criteria required for qualifying as originating goods in terms of Determination of Origin of goods under the Preferential trade agreement between Government of ASEAN & India Rules, 2009 (Notification No. 189/2009-Customs (NT) dated 31.12.2009).

1.9. <u>It therefore appears that</u>

(a) The Certificates of Origin listed in Table-1 above, submitted by M/s Champion Commercial Co. Ltd, for the supply of Antimony Trioxide by M/s. Thai Unipet Industries Co. Ltd., Thailand, and M/s. Youngsun Chemicals Co. Ltd, China at the Nhava Sheva Port (INNSA1), has been revoked by Thailand authorities.

(b) The importer M/s Champion Commercial Co. Ltd is not eligible to avail the duty exemption benefit of Notification No. 46/2011-Customs dated 01.06.2011 (SR No. 230(I)) (as amended), against the import of goods under Bills of Entry listed in Table-1.

(c) The goods under Bills of Entry listed in Table-1 appear liable to confiscation under the provisions of section 111(q) of the Customs Act, 1962, and consequently the importer appears liable for imposition of penalty in terms of section 112 (a) of the Customs Act, 1962.

(d) The differential duty amounting to Rs. **51,59,472/- (Rupees Fifty One Lakhs Fifty Nine Thousand Four Hundred and Seventy Two Only)** as detailed in Table-2, short-levied as a result of availment of the ineligible benefit of BCD exemption Notification No. 46/2011-Customs dated 01.06.2011 (as amended) appears liable to be demanded and recovered from the importer under Section 28(4) of the Customs Act, 1962, along with applicable interest thereof under Section 28AA of the Customs Act, 1962. The importer also appears liable to penalty under Section 114A of the Customs Act, 1962.

1.10. Therefore, in terms of Section 28(4) of the Customs Act, 1962, a Show Cause Notice **No. 1642/2024-25/COMMR./Gr.II(A-B)/NS-i/CAC/JNCH dated 23.01.2025** was issued to M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) and was called upon to show cause to the Commissioner of Customs, Group 2(A-B), JNCH, Nhava Sheva, Taluka - Uran, District - Raigad, Maharashtra – 400707, within 30 days of the receipt of the notice, as to why:

(1). Free Trade Agreement (FTA) benefit vide notification No. 46/2011 dated 01.06.2011 availed by the Importer M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) for the subject Bills of Entry as mentioned in Table-2 of this notice, should not be rejected.

(2) Differential duty amount of **Rs. 51,59,472/- (Rupees Fifty One Lakhs Fifty Nine Thousand Four Hundred and Seventy Two Only)** with respect to the items covered under Bill of entry as mentioned in Table-2 of this notice, should not be demanded under Section 28 (4) of the Customs Act, 1962 along with applicable interest as per Section 28AA of the Customs Act, 1962.

(3) The subject goods imported vide Bills of Entry as mentioned in Table-2 of this notice, having a total assessable value of **Rs. 5,29,99,196/-(Rupees Five Crore Twenty Nine Lakhs Ninety Nine Thousands One Hundred Ninety Six Only)** should not be held liable for confiscation under Section 111(m) and 111(q) of the Customs Act, 1962.

(4) Penalty should not be imposed on the importer under Section 112(a) and/or 114A of the Customs Act, 1962.

1.11. In the said show cause notice, it was also advised that the Importer may avail the benefit of reduced penalty @15% of duty and interest so specified in this notice in terms of Section 28(5) of the Customs Act, 1962 by payment of duty and interest within 30 days of receipt of this notice, failing which Importer may be subject to higher penalty equal to the duty and interest so determined.

2. WRITTEN SUBMISSIONS OF NOTICEES:

2.1 On behalf of noticee i.e. M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979), their Advocate Anil Balani vide letter dated 06.03.2025 have furnished interim reply to the SCN dated 23.01.2025, wherein they informed as under that,

"My clients M/s. Champion Commercial Co. Ltd., have placed in my hands the above notice with instructions to reply thereto.

The Notice demands differential duty of Rs.51,59,472/- for eight consignments of Antimony Trioxide imported by my clients from Thailand in the period 09.06.2020 up to 03.04.2021, under Section 28(4) of the Customs Act, 1962 with interest under Section 28AA.

The Notice relies upon the Verification Reports dated 11.09.2024 received from Thailand revoking the product from the COO Form.

Benefit of Notification No.46/2011-Cus. dated 01.06.2011 is sought to be denied. Confiscation under Sections 111(m) and 111(q) and penalties under Sections 112(a) and/or 114A of the Customs Act are also proposed.

In this connection kindly note the following:-

(1) Para 3.1 of the Notice inter-alia states as under:

i. Supplier M/s. Youngsun Chemicals, China purchased the goods from M/s.Thai Unipet, Thailand and sold the same to my clients.

ii. The goods were directly shipped from M/s. Thai Unipet to my clients.

(2) Para 3.7 of the Notice admits that the goods were shipped from Thailand.

(3) In the verification report the Thai authorities have also confirmed that the COO Forms were authentic.

(4) However, the forms were revoked only because the supplier failed to respond to the questionnaire in time.

(5) It must be appreciated that reference was made to the Thai authorities in April, 2024. The imports are of 2020-2021. If the supplier does not respond within time after 4 years my clients cannot be punished.

(6) It is reconfirmed that the Certificates of Origin are authentic and genuine.

(7) Further, the Notice itself certifies that the shipments were directly from Thailand.

(8) In the circumstances, there is no justification for the demand.

(9) Without prejudice to the above, the extended period of limitation under Section 28(4) is not available to the Department because there is admittedly no suppression with intent to evade duty.

(10) My clients did not commit any act rendering the goods liable for confiscation. Hence, they are not liable for penalty under Sections 112(a) and/or 114A of the Customs Act.

(11) In the circumstances it is prayed that the proceedings against my clients kindly be dropped.

(12) A detailed reply will be filed in due course."

2.2 Further, Advocate Anil Balani, on behalf of noticee – Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) vide letter dated 30.12.2025 have submitted written submission in reply to the SCN dated 23.01.2025, wherein they submitted *that,*

"Further to submissions contained in my Interim Reply dated 06.03.2025, kindly note the following:

(1) By relying on a Verification Report dated 11/09/2024 allegedly caused under the provisions of Rule 6(2) of CAROTAR, 2020 the SCN seeks to reject FTA benefit under Notification 46/2011-Cus. dated 1.6.2011 availed by my clients on 8

*consignments of Antimony Trioxide imported under 8 Bills of Entry of the period **9/6/2020 upto 3/4/2021**. Differential duty of Rs. Rs.51,59,472/- is demanded under Section 28(4) of the Customs Act, 1962 with interest under Section 28AA. Confiscation under Sections 111(m) & (q) and penalty under Sections 112(a) and/or 114A are also proposed.*

(2) *Para 7(c) (under Annexure III) r/w Rule 13 of Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement Between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India) Rules, 2009 reads as under:*

> *"In case where an AIFTA Certificate of Origin is not accepted by the Customs Authority of the importing party, such AIFTA Certificate of Origin shall be marked accordingly in box 4 and the original AIFTA Certificate of Origin shall be returned to the Issuing Authority **within a reasonable period but not to exceed two months**. The Issuing Authority shall be duly notified of the grounds for the denial of preferential tariff treatment."*

(3) *As per Para 16(a) (of Annexure III) of the said Customs Tariff (DOGPTA Between ASEAN & India) Rules, 2009, the importing party may request for retroactive check at random and/or **when it has reasonable doubt** as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or certain parts thereof. As per para 16(a)(ii), the Issuing Authority shall respond to the request promptly and reply **within three months** after receipt of the request for retroactive check. As per para 16(a)(iv), the retroactive check process, including the actual process and the determination of whether the subject goods is originating or not, should be completed and the result communicated to the Issuing Authority **within six months**.*

(4) *As per Para 18(a) of the said Customs Tariff (DOGPTA Between ASEAN & India) Rules, 2009, the Application for AIFTA Certificates of Origin and all documents related to such application shall be retained by the Issuing Authorities upto **two years** from the date of issuance.*

(5) *As per Rule 5 of Customs (Administration of Rules of Origin under Trade Agreements) Rules 2020 [CAROTAR 2020], where the Proper Officer has **reason to believe** that origin criteria prescribed in the respective Rules of Origin have not been met, he may seek necessary information and supporting documents from the importer in terms of Rule 4 to ascertain correctness of the claim and the importer shall provide the same to the proper officer within **ten working days**. Where the proper officer is satisfied with the origin criteria, he shall accept the claim and inform the importer in writing within **fifteen days** from the date of receipt of said information and documents. Where the importer fails to provide requisite information and documents, the proper officer shall forward a verification proposal in terms of Rule 6 to the nodal officer nominated for this purpose.*

(6) *As per proviso to Rule 6(1), a verification request in terms of clause (b) may be made **only where the importer fails to provide the requisite information sought under Rule 5 by the prescribed due date** or the information provided by importer is found to be insufficient.*

(7) *However, in the instant case, the FTA benefit under Notification 46/2011 was extended to the imported goods only after the Certificates of Origin (COOs) submitted by my clients were found to be genuine and authentic by the Proper Officer of Customs. No doubt or objection about the said COOs was raised by the Customs Authorities at the time of clearance of the goods or a reasonable time thereafter.*

(8) *The said Verification Report dated 11.09.2024 was obtained by the department after a long gap of over 3 to 4 years from the date of imports. That too behind the back of the importer.*

(9) *The said Verification Report was obtained by the department without following the mandatory procedures and timelines as stipulated under the Customs Tariff (DOGPTA Between ASEAN & India) Rules, 2009 and CAROTAR 2020.*

(10) *In the case of **M/s. Harshad Ajmera, Pritibala H Ajmera Proprietress of M/s. Divine Carrying Versus Commr. of Customs (Airport), Kolkata 2025 (12) TMI 249 -CESTAT KOLKATA**, the CESTAT held that the importer was entitled to exemption from basic customs duty under the relevant FTA notification based on Certificates of Origin issued by the designated Thailand Authority. It found the certificates to be genuine and duly verified by Indian Customs at the time of import, with no allegation of forgery or concrete evidence to discredit their contents. After about 2 years, a vague communication from Thai authorities about non-compliance with an unspecified time-frame could not retrospectively negate preferential treatment.*

(11) *In the case of **Hyundai Motors India Ltd. Versus Commissioner of Customs, Chennai II Commissionerate And Commissioner of Customs Chennai II Commissionerate Versus Hyundai Motors India Ltd. [2025 (6) TMI 608 - CESTAT CHENNAI]** , the Hon'ble CESTAT held that in case the AIFTA Certificate of Origin is not accepted by the Customs Authority of the importing party it shall be returned to the Issuing Authority **within a reasonable period but not exceeding two months,** duly notifying the grounds for the denial of preferential tariff treatment. As per para 16 the importing party may request a retroactive check at random and/or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof. In case of **reasonable doubt as to the authenticity or accuracy of the document**, the Customs Authority of the importing party may suspend provision of preferential tariff treatment while awaiting the result of verification. As per Para 17 if the importing party is not satisfied with the outcome of the retroactive check, it may, under exceptional circumstances, request verification visits to the exporting party.*

(12) *In the case of **Ansell India Protective Products Private Limited Versus Commissioner of Customs, Nhava Sheva-I, Maharashtra [2025 (11) TMI 1363 - CESTAT MUMBAI]** the Hon'ble CESTAT held that if the Customs authorities at the importing country have to deny FTA duty concession, they need to verify the origin of goods based on the rules on COO and the procedure for co-operation as provided in Rules of Origin, has to be followed even with the issue of third party invoicing, and ensure that the goods meet the criteria under the relevant FTA.*

(13) My clients also rely upon the following judgements as per which the FTA benefit cannot be denied without following the procedures under the relevant Rules of Origin and CAROTAR 2020:-

(a) Calpro Specialities Pvt. Ltd. - (2024) 19 Centax 315 (Bom.)

(b) Nature Coffee Curing and Processing - (2024) 15 Centax 258 (Ker.

(c) Aabis International - 2021 (377) E.L.T. 479 (Mad.);

(d) R.K. Digital Solutions – 2020 (373) ELT 670 (Telangana);

(e) N and N Traders - 2023 (386) E.L.T. 513 (Mad.).

(13) There is no allegation that the COOCs in question were fake or forged. Even the Verification Report relied upon in the SCN, states that all the COOCs were authentic and issued by the designated authority.

(14) As the COOCs were all genuine and valid and further the same were accepted by the Proper Officer, the FTA benefit under Notification 46/2011 cannot be rejected to the goods covered by the said COOCs.

(15) Only because, several years after the exports, the exporter M/s. Thai Unipet Industries Co. Ltd. in Thailand allegedly failed to answer the questionnaire within the stipulated time frame, the said COOs cannot be revoked illegally and without following the procedures and timelines under the relevant Rules and the Laws. Such a revocation will not justify a demand under Section 28(4) of the Customs Act.

(16) Copy of letter dated 8.4.2024 and the full correspondence exchanged by the department and the designated Authorities in Thailand must be supplied in as much as the department has failed to follow the procedures and timelines under Customs Tariff (DOGPTA Between ASEAN & India) Rules, 2009 and CAROTAR 2020.

(17) Without prejudice to the above, in the period 2020-2021 many importers have imported the same goods from the same manufacturer/supplier of Thailand. The proceedings against all such importers must be shared so that they can collectively file a response.

(18) Section 28(4) cannot be invoked in this case in the absence of any collusion or wilful misstatement or suppression of facts by my clients.

(19) The goods are not liable for confiscation under Section 111(m) as there is no misdeclaration of value or any other particulars of the goods.

(20) The goods are also not liable for confiscation under Section 111(q) as there is no contravention of any provisions of Chapter VAA or any rule made thereunder.

(21) As the goods are not liable for confiscation under Section 111 and further my clients have not committed any act rendering the goods liable to confiscation under Section 111, they are not liable for penalty under Section 112(a).

(22) My clients are also not liable for penalty under Section 114A in as much as the Notice under Section 28(4) itself is not sustainable for the reasons stated above.

(23) In the circumstances, it is prayed that the Notice be withdrawn and the proceedings against my clients kindly be dropped."

3. RECORDS OF PERSONAL HEARING

3.1 The opportunity of personal hearing in the matter was accorded to the noticee on 30.12.2025 for putting up their case before adjudicating authority. Shri Anil Balani, the

authorized representative, on behalf of the Noticee appeared for Personal Hearing in virtual mode before the Adjudicating Authority i.e. Principal Commissioner of Customs, NS-I, JNCH on the aforementioned date and made the following submissions during the course of the personal hearing:

(1) He reiterated the submissions contained in his Interim Reply dated 6.3.2025 and written submissions dated 30.12.2025.

(2) He prayed that the proceedings against the Noticee be dropped on the basis of the submissions made.

4. DISCUSSIONS AND FINDINGS:

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

4.2 I find that in terms of the principle of natural justice, opportunity for PH was granted to the Noticee i.e. M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) on 30.12.2025. The said personal hearing was attended by Shri Anil Balani, Advocate, on behalf of noticee through Virtual Mode. I note that the adjudicating authority has to take the views/objections of the noticee(s) on board and consider before passing the order.

4.3 In the instant case, I find that the noticees had submitted interim reply dated 06.03.2025 and written submissions dated 30.112.2025 through their Advocate. The personal hearing fixed on 30.12.2025 was attended by the notice through their Advocate. Accordingly, I find that the noticee had got the opportunity of personal hearing and had also got ample time for submission of their defense reply against the SCN.

4.4 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, opportunity for Personal Hearing (PH) was 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.

4.5 It was alleged in the SCN that the importer, M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) was engaged in the import of Antimony Trioxide from a Thailand-based supplier M/s. Thai Unipet Industries Co. Ltd. and M/s. Youngsun Chemicals Co. Ltd, China. The goods were classified under CTH 28258000, which carries a tariff rate of BCD @7.5% in terms of the First Schedule of the Customs Tariff Act, 1975. Further, in terms of Sr No. 230(1) of Notification No. 46/2011 dated 01.06.2011 all goods originating in Thailand and falling under Chapter 28, including Antimony Trioxide falling under Customs Tariff Heading 28258000, are completely exempt from BCD. The importer was wrongly availed Country of Origin preferential tariff benefit under Notification No. 46/2011-Customs dated 01.06.2011, by claiming the Country of Origin as Thailand even when the import of goods did not qualify as goods originating from Thailand, in terms of the prescribed criteria

and cleared the said goods on payment of Nil BCD, Nil SWS & IGST @18%. The attempt to evade duty by misusing an international trade agreement constitutes willful mis-statement and suppression of facts.

4.6 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 or not, the Certificates of Origin listed in Table-1 above, relied upon by the importer to claim COO benefit, are revoked by Thailand authorities, thereby disentitling the importer from AIFTA benefit;

(b) Whether or not, differential duty of Rs.51,59,472/- is recoverable under Section 28(4) of the Customs Act 1962 along with applicable interest under Section 28AA *ibid*, from the importer M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979);

(c) Whether or not, the goods imported vide bill of entries as listed in Table-1 are liable to confiscation under Sections 111(m), and 111(q), even though the said goods are no longer available for confiscation; and

(d) Whether or not, penalties under Sections 112(a) and /or 114A of the Customs Act, are imposable on the importer M/s Champion Commercial Co. Ltd, Mumbai (IEC- 0288008979).

4.7 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, provisions 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 or not, the Certificates of Origin listed in Table-1 above, relied upon by the importer to claim COO benefit, are revoked by Thailand authorities, thereby disentitling the importer from AIFTA benefit.

4.7.1 I find that the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit (MZU), on the basis of Intelligence/Inputs received that 'M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) was engaged in the import of Antimony Trioxide from a Thailand-based supplier M/s. Thai Unipet Industries Co. Ltd. and M/s. Youngsun Chemicals Co. Ltd, China, and was wrongly availing Country of Origin preferential tariff benefit under Notification No. 46/2011-Customs dated 01.06.2011, by claiming the Country of Origin as Thailand even when the import of goods did not qualify as goods originating from Thailand, in terms of the prescribed criteria.' had initiated inquiry in the matter.

4.7.2 I further find that, during the investigation by DRI of M/s Champion Commercial Co. Ltd, Mumbai (IEC- 0288008979), located at 305, Embassy Centre, Nariman Point, Mumbai, Maharashtra-400021 (hereinafter referred to as 'the importer'), it was found that the importer had imported Antimony Trioxide from the supplier M/s Thai Unipet Industries Co. Ltd., Thailand, and M/s. Youngsun Chemicals Co. Ltd, China. However, the supplier M/s.

Youngsun Chemicals Co. Ltd, China had purchased the goods from M/s Thai Unipet Industries Co. Ltd., Thailand and then sold it to M/s Champion Commercial Co. Ltd in which the invoice was raised by M/s. Youngsun Chemicals Co. Ltd and the goods were directly shipped by M/s Thai Unipet Industries Co. Ltd., Thailand to M/s Champion Commercial Co. Ltd to avail the benefit under Notification No. 46/2011- Customs dated 01.06.2011.

4.7.3 I find that, the goods have been classified under CTH 28258000, which carries a tariff rate of BCD @7.5% in terms of the First Schedule of the Customs Tariff Act, 1975. Further, in terms of Sr No. 230(1) of Notification No. 46/2011 dated 01.06.2011 all goods originating in Thailand and falling under Chapter 28, including Antimony Trioxide falling under Customs Tariff Heading 28258000, are completely exempt from BCD. Accordingly, the importer had claimed the benefit of Notification No. 46/2011 dt 01.06.2011 and cleared the said goods on payment of Nil BCD, Nil SWS & IGST @18%.

4.7.4 I find that, since the intelligence indicated that the benefit of Notification No. 46/2011 dt 01.06.2011 had been inappropriately claimed by M/s. Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) about the goods supplied by M/s. Thai Unipet Industries Co. Ltd., Thailand, inquiry was initiated about the said imports.

During the course of the inquiry records were obtained from the importer, documents were scrutinized, and statements were recorded under Section 108 of the Customs Act, 1962.

4.7.5 M/s. Champion Commercial Co. Ltd, Mumbai (IEC-0288008979), vide letter dated 12.03.2024, submitted documents relating to the import of Antimony Trioxide from M/s. The Unipet Industries Co. Ltd., Thailand and M/s. Youngsun Chemicals Co. Ltd, China

4.7.6 In response to summons dated 29.07.2024 issued under the provisions of section 108 of the Customs Act, 1962, Shri. Sushil Singhania, Director of M/s. Champion Commercial Co. Ltd. appeared in the DRI office on 12,08,2024 and his statement was recorded under Section 108 of the Customs Act, 1962 wherein Shri. Sushil Singhania, in his statement, informed that:

M/s Champion Commercial Co. Ltd., established in 1982, is engaged in the trading of chemicals sourced from both domestic and overseas markets and supplies primarily to reputed end users such as BASF India, Pidilite, Kansai Paints, and Nippon Paints. The company has long been importing Antimony Trioxide since 2002 from China on payment of applicable Customs duties; however, during the COVID-19 period (2020–2021), it imported the product for a limited period of about ten months from M/s. Thai Unipet Industries Co. Ltd., Thailand, under the preferential benefit of the ASEAN-India FTA, based on Certificates of Origin provided by the supplier. The supplier had approached the company citing raw material shortages during the pandemic, and all transactions were conducted through normal commercial channels, primarily via email and telephone. The company filed eight Bills of Entry, and the goods were assessed and cleared by Customs without levy of duty after acceptance and defacement of the Certificates of Origin, leading the company to bona fide believe the documents to be genuine. Considering that several other importers were also sourcing from the same supplier and Customs had consistently cleared the consignments, no

additional verification was undertaken, and the company subsequently discontinued imports from the said supplier after the COVID period.

4.7.7 Scrutiny of the documents submitted by the importer confirmed that the consignments of Antimony Trioxide shipped from Thailand to the said importer were supplied by M/s. Thai Unipet Industries Co. Ltd., Thailand. The goods were imported through the Nhava Sheva Port (INNSA1) and the benefit of Notification No. 46/2011-Cus (Sr No. 230(I)) dated 01.06.2011 had been availed on the strength of Certificates of Origin indicating the goods to be originating in Thailand.

4.7.8 I further find that, the details of the Country of Origin Certificate submitted by the importer for the consignment under investigation were summarized in the **Table-1** of para **1.4.1** of brief facts and are reproduced as under: -

TABLE-1

Sr No	Bill on Entry No & Date	COO No & Date	Consignor / Manufacturer as per COO
1	7859617 dt.09-06-2020	AI2020-0020569 dt. 27.05.2020	Thai Unipet Industries Co. Ltd
2	8118193 dt. 09-07-2020	AI2020-0022495 dt. 22.07.2020	Thai Unipet Industries Co. Ltd
3	8420032 dt. 10-08-2020	AI2020-0026085 dt. 30.07.2020	Thai Unipet Industries Co. Ltd
4	8639573 dt. 29-08-2020	AI2020-0027613 dt. 11.08.2020	Thai Unipet Industries Co. Ltd
5	9301456 dt. 24-10-2020	AI2020-0035332 dt. 06.10.2020	Thai Unipet Industries Co. Ltd
6	9992760 dt. 17-12-2020	AI2020-0041564 dt. 12.11.2020	Thai Unipet Industries Co. Ltd
7	3052773 dt. 08-03-2021	AI2020-0005576 dt. 02.02.2021	Thai Unipet Industries Co. Ltd
8	3415938 dt. 03-04-2021	AI2020-0014854 dt. 19.03.2021	Thai Unipet Industries Co. Ltd

4.7.9 I also find that the verification of COO Certificates mentioned in Table-1 was caused by the authorities of Thailand. The verification report No.0307.07/682 of the above-mentioned Certificates of Origin form AI dated, was received on 28.10.2024 and stated that:
"(1) the above-mentioned certificates of Origin Form Al were authentically issued by the Department of Foreign Trade.
(2) as the exporter, THAI UNIPET INDUSTRIES CO. LTD, failed to declare the questionnaire with in the stipulated time frame, we therefore, are not in a position to recognize that the goods covered by the above-mentioned Form Al were qualified for the origin claim under ASEAN-INDIA FTA. In accordance with the Thai domestic law and regulations, if the exporter is unable to prove the origin of the goods in the form by the

importing party requested, the DFT will revoke the form. We hence have already revoked these Forms Al issued for the exporter"

4.7.10 I find that the verification reports No.0307.07/682 dtd. 11th September, 2024 from the Director of Import Administration And Origin Certification Division, Department of Foreign Trade, Thailand indicates that in above mentioned COOs where verification had been caused regarding the product Antimony Trioxide, exported/sold by M/s Thai Unipet Industries Co. ltd., Thai authorities had revoked the said product from the COOs after making the necessary enquiries with the said exporter/ seller as the supplier failed to declare the questionnaire to the Thailand authorities within the stipulated time frame. Based on the above, it is apparent the said product exported/ sold by M/s Thai Unipet Industries Co. Ltd., Thailand did not satisfy the criteria required for qualifying as originating goods in terms of Determination of Origin of goods under the Preferential trade agreement between Government of ASEAN & India Rules, 2009 (Notification No. 189/2009-Customs (NT) dated 31.12.2009) and hence their claim of duty benefits is wrong.

4.7.11 I find that the, noticee through their advocate had filed reply to the SCN, wherein they submitted that:

The Show Cause Notice seeks to deny ASEAN–India FTA benefit under Notification No. 46/2011-Cus. on eight consignments of Antimony Trioxide imported during 2020–2021 by relying on a Verification Report dated 11.09.2024, and proposes demand of differential duty with interest, confiscation, and penalties; however, the denial is legally unsustainable as the Certificates of Origin (COOs) were genuine, issued by the designated Thai authority, accepted and defaced by Customs at the time of import, and no doubt or objection was raised contemporaneously. The Verification Report was obtained after an inordinate delay of 3–4 years, behind the importer's back, without following the mandatory procedures and timelines prescribed under the ASEAN–India Rules of Origin, 2009 and CAROTAR 2020, including requirements for timely retroactive checks, communication with the issuing authority, and opportunity to the importer. There is no allegation of forged or fake COOs, no suppression, misstatement, or collusion by the importer, and even the Verification Report admits the authenticity of the COOs; mere alleged non-response by the exporter after several years cannot retrospectively negate the FTA benefit or justify invocation of Section 28(4). Consistent judicial precedents have held that FTA benefits cannot be denied without strict adherence to the prescribed verification procedures. Consequently, the proposed demand, confiscation under Sections 111(m) and (q), and penalties under Sections 112(a) and 114A are untenable, and the proceedings deserve to be dropped.

(i) In support of their above claim they have relied upon following case laws, however they have not supplied the copies of said judgments:

- ***(a)*** *M/s. Harshad Ajmera, Pritibala H Ajmera Proprietress of M/s.Divine Carrying Versus Commr. of Customs (Airport), Kolkata 2025 (12) TMI 249 -CESTAT KOLKATA,*
- ***(b)*** *Hyundai Motors India Ltd. Versus Commissioner of Customs, Chennai II Commissionerate And Commissioner of Customs Chennai II Commissionerate Versus Hyundai Motors India Ltd. [2025 (6) TMI 608 - CESTAT CHENNAI] ,*

(c) *Ansell India Protective Products Private Limited Versus Commissioner of Customs, Nhava Sheva-I, Maharashtra [2025 (11) TMI 1363 - CESTAT MUMBAI].*

(ii) I also find that the noticee relied upon the following judgments as per which the FTA benefit cannot be denied without following the procedures under the relevant Rules of Origin and CAROTAR 2020:-

(a) Calpro Specialities Pvt. Ltd. - (2024) 19 Centax 315 (Bom.)
(b) Nature Coffee Curing and Processing - (2024) 15 Centax 258 (Ker.
(c) Aabis International - 2021 (377) E.L.T. 479 (Mad.);
(d) R.K. Digital Solutions – 2020 (373) ELT 670 (Telangana);
(e) N and N Traders - 2023 (386) E.L.T. 513 (Mad.).

In view of above I find that, the importer contended that COO certificates were genuine and accepted by Customs at the time of import, and that the delay in verification violates procedural timelines. However, procedural delay does not negate the substantive requirement of origin under the FTA. The importer's reliance on judicial precedents is misplaced, as these cases emphasize proper verification and due diligence by the importer, which is lacking here.

4.7.12 In this connection, I also notice that the noticee has not supplied the copies of above referred judgment and the same are not found in the internet as well as the departmental subscription of 'Centax online portal', therefore I cannot comment on their applicability in instant case. However, I find that the Commissioner of Customs (Airport and ACC) had filed an appeal against the parties quoted by noticee i.e. M/s. Harshad Ajmera, Pritibala H Ajmera Proprietress of M/s. Divine Carrying, before Hon'ble Calcutta High Court vide Appeal Nos. CUSTA/74/2025 and CUSTA/75/2025. As such, these judgements have not reached finality.

In this regard I take note that, the noticee in its written submission has placed reliance upon various judicial pronouncements of Tribunals, High Courts and Apex Court, however, I find that:

(i) the Hon'ble Supreme Court of India in case of *Ambica Quarry Works vs. State of Gujarat & Others [1987(l) S.C. C. 213]* observed that "the ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides and not what logically follows from it."

(ii) Further in the case of *Bhavnagar University vs. Palitana Sugar Mills (P) Ltd. 2003 (2) SCC 111*, the Hon'ble Apex Court observed "It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision."

(iii) In the decision of the Hon'ble Supreme Court in *Ispat Industries vs. Commissioner of Customs, Mumbai [2004 (202) ELT 56C (SC)],* wherein, the Hon'ble Court has quoted Lord Denning and ordered as under:

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly reliance on a

decision is not proper. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

In view of above, I find that every case is different and ratio applied to one case cannot be similar to another case, hence cannot be relied upon. Therefore, I will go issue wise and applicability of any particular case laws therein. Accordingly, I proceed to decide the issue before me.

4.7.13 I also find from the submission of noticee that, the objection with regard to CCO certificates can be raised by following due procedure as per FTA Rules, 2009 and CAROTAR 2020; they stated that they were not acquainted for such verification as prescribed under the said rules, hence the action initiated is not justified after passing of more than 4 year, such action shall be initiated within two years only. However, I find that as per FTA rules the *Para 18(a) emphasisess the keeping of record related to the Application for AIFTA Certificates of Origin and all documents related to such application shall be retained by the Issuing Authorities up to* ***two years*** *from the date of issuance.*

The Rules have not barred any authority from enquiry after 4 years. Moreover, the Rules have made a specific procedure for such retrospective check and completion of procedure within six months. In this regard, Para 16(a) (of Annexure III) of the said Customs Tariff (DOGPTA Between ASEAN & India) Rules, 2009, may be reads as under: *the importing party may request for retroactive check at random and/or* ***when it has reasonable doubt*** *as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or certain parts thereof. As per para 16(a) (ii), the Issuing Authority shall respond to the request promptly and reply* ***within three months*** *after receipt of the request for retroactive check. As per para 16(a)(iv), the retroactive check process, including the actual process and the determination of whether the subject goods is originating or not, should be completed and the result communicated to the Issuing Authority* ***within six months****.*

4.7.14 I further find that, since the Customs authority at the time of clearance of goods, did not express any doubt in the COO Certificates issued by Department of Foreign Trade, Thailand, therefore they did not initiate retroactive checks of COO Certificates. Further, I find that the DRI had initiated Investigation of COO Certificates, only after they got Intelligence pertaining to wrongful claim of duty exemption under Notification no. 46/2011 regarding goods supplied by M/s Thai Unipet Industries Co. Ltd.

In this regard, I am of the view that information relating to any wrongdoing may be obtained either immediately at the time of its occurrence or after a lapse of time. Therefore, an investigation may be initiated subsequently at later time. Consequently, the demand for

duty that has not been levied, or short-levied, or erroneously refunded can be raised by following the due procedure prescribed under Section 28 of the Customs Act, 1962.

4.7.15 In this case, I find that, for the imported goods to be eligible for preferential tariff under Notification No. 46/2011 dated 01.06.2011 (as amended), the said consignment should be supported by a valid Certificate of Origin issued by a Government authority designated by the Exporting country and notified to the Country of Import in accordance with Rule 13 of the Customs Tariff (Determination of Origin of Goods under the Preferential Trade Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India) Rules, 2009, read with the Operational Certification Procedures as set out in Annexure-III of the said Rules which stipulates in Point-1 (Authorities) that 'The AIFTA Certificate of Origin shall be issued by the Government authorities (issuing authority) of the exporting party (country)'.

4.7.16 In this connection, on the basis of scrutiny of the statement recorded, scrutiny of documents and verification carried out, I find that that the Certificates of Origin as mentioned in Table-1, used for the import of the impugned goods i.e. Antimony Trioxide from the suppliers M/s. Thai Unipet Industries Co. Ltd., Thailand had been issued incorrectly as the impugned goods did not qualify as goods originating in Thailand. In view of the same, the benefit of FTA tariff Notification No. 46/2011-Customs dated 01.06.2011 (Sr. No. 230(I) for exemption from Basic Customs Duty (BCD) is not admissible to the said imports.

4.7.17 It is observed that verification reports No. 0307.07/682 dated 11.09.2024, received on 28.10.2024 from the Competent Authority in Thailand, reveal that verification of the Certificates of Origin (COOs) in respect of the product *Antimony Trioxide*, exported/sold by M/s Thai Unipet Industries Co. Ltd., was carried out under the provisions of Rule 6(2) of CAROTAR, 2020.

The said verification reports indicate that, upon conducting necessary enquiries with the exporter/seller, the Thai authorities revoked COO Certificate to the impugned goods, as the supplier failed to submit the prescribed questionnaire to the issuing authority within the stipulated time frame.

In view of the above revocation of the product from the COOs by the issuing authority itself, the said COOs cease to be valid for the purpose of claiming preferential tariff benefits. Consequently, the product *Antimony Trioxide* exported/sold by M/s Thai Unipet Industries Co. Ltd., Thailand, does not satisfy the criteria prescribed for qualifying as originating goods under the *Determination of Origin of Goods under the Preferential Trade Agreement between ASEAN and India Rules, 2009*, notified vide Notification No. 189/2009-Customs (NT) dated 31.12.2009.

Accordingly, the benefit of preferential rate of duty claimed under the ASEAN–India Free Trade Agreement is not admissible, and the subject imports are liable to be assessed at the applicable rate of customs duty.

4.8 I now proceed to examine next issue for detailed analysis, viz:

(b) Whether or not, differential duty of Rs. 51,59,472/- is recoverable under Section 28(4) of the Customs Act 1962 along with applicable interest under Section 28AA *ibid*, from the importer M/s Champion Commercial Co. Ltd, Mumbai (IEC- 0288008979);

After having determined that the benefits of exemption notification are not admissible to the subject goods, it is imperative to determine whether the demand of differential Customs duty as per the provisions of Section 28(4) of the Customs Act, 1962, in the subject SCN is sustainable or otherwise. The relevant legal provision is as under:

SECTION 28(4) of the Customs Act, 1962.

Recovery of duties not levied or not paid or short-levied or short- paid or erroneously refunded. *–*

(4) Where any duty has not been [levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -

(a) collusion; or

(b) ***any wilful mis-statement****; or*

(c) ***suppression of facts****,*

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

Section 28AA *- (I) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.*

4.8.1 I find that the verification reports No. 0307.07/682 dated 11.09.2024, received on 28.10.2024 from the authorities in Thailand, conclusively establish that, in respect of the above-mentioned Certificates of Origin (COOs), verification was carried out under Rule 6(2) of CAROTAR, 2020 for the product Antimony Trioxide exported/sold by M/s Thai Unipet Industries Co. Ltd. The Thai authorities, after due enquiry with the exporter/seller, revoked the said product from the COOs on account of the supplier's failure to submit the prescribed questionnaire within the stipulated time frame.

In view of the above, it stands clearly established that the said product does not satisfy the conditions prescribed for qualification as originating goods under the Determination of Origin of Goods Rules notified under the Preferential Trade Agreement between the Governments of ASEAN and India, 2009 (Notification No. 189/2009-Customs (N.T.) dated 31.12.2009). Consequently, the preferential rate of duty availed on the basis of the said COOs was wrongly claimed and is not admissible**.**

Accordingly, the differential customs duty arising on account of denial of the preferential tariff benefit has been short-paid at the time of import. The said short payment of duty is directly attributable to the incorrect claim of originating status and consequent wrongful availment of exemption. Therefore, the differential duty so short-paid is liable to be demanded and recovered from the importer under the provisions of Section 28 of the Customs Act, 1962, along with applicable interest as provided under Section 28AA of the said Act.

4.8.2 Consequent upon amendment to the Section 17 of the Customs Act, 1962 vide Finance Act, 2011, 'Self-assessment' has been introduced in Customs clearance. ***Under self-assessment, it is the importer who has to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry.*** Thus, with the introduction of self-assessment by amendments to Section 17, it is the added and enhanced responsibility of the importer, to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods. In the instant case, as explained in paras supra, the importer has willfully mis-stated in the Customs declarations in the Bills of Entry at JNCH and availed undue Country of Origin preferential tariff benefit under Notification No. 46/2011-Customs dated 01.06.2011, by claiming the Country of Origin as Thailand even when the import of goods did not qualify as goods originating from Thailand, in terms of the prescribed criteria, thereby evading payment of applicable duty resulting in a loss of Government revenue and in turn accruing monetary benefit to the importer. Since the importer has willfully mis-stated and suppressed the facts with an intention to evade applicable duty, provisions of Section 28(4) are invokable in this case and the duty, so evaded, is recoverable under Section 28(4) of the Customs Act, 1962.

4.8.3 In view of the foregoing, I find that, due to deliberate/wilful mis-declaration of origin of goods, duty demand against the Noticee has been correctly proposed under Section 28(4) of the Customs Act, 1962 by invoking the extended period of limitation. In support of my stand of invoking extended period, I rely upon the following court decisions:

(a) 2013(294) E.L.T.222(Tri.-LB): Union Quality Plastic Ltd. Versus Commissioner of C.E. & S.T., Vapi [Misc. Order Nos. M/12671-12676/2013-WZB/AHD, dated 18.06.2013 in Appeal Nos. E/1762-1765/2004 and E/635- 636/2008]

In case of non-levy or short-levy of duty with intention to evade payment of duty, or any of circumstances enumerated in proviso ibid, where suppression or wilful omission was either admitted or demonstrated, invocation of extended period of limitation was justified.

(b) 2013(290) E.L.T.322 (Guj.): Salasar Dyeing & Printing Mills (P) Ltd. Versus C.C.E. & C., Surat-I; Tax Appeal No. 132 of 2011, decided on 27.01.2012.

Demand - Limitation - Fraud, collusion, wilful misstatement, etc. - Extended period can be invoked up to five years anterior to date of service of notice - Assessee's plea that in such case, only one year was available for service of notice, which should be

reckoned from date of knowledge of department about fraud, collusion, wilful misstatement, etc., rejected as it would lead to strange and anomalous results;

(c) 2005 (191) E.L.T. 1051 (Tri. - Mumbai): Winner Systems Versus Commissioner of Central Excise & Customs, Pune: Final Order Nos. A/1022-1023/2005-WZB/C-I, dated 19-7-2005 in Appeal Nos. E/3653/98 & E/1966/2005-Mum.

Demand - Limitation - Blind belief cannot be a substitute for bona fide belief - Section 11A of Central Excise Act, 1944. [para 5]

(d) 2006 (198) E.L.T. 275 - Interscape v. CCE, Mumbai-I.

It has been held by the Tribunal that a bona fide belief is not blind belief. A belief can be said to be bona fide only when it is formed after all the reasonable considerations are taken into account;

4.8.4.a I find that the short payment of customs duty in the present case did not arise due to a mere clerical or interpretational error, but was the direct result of an incorrect declaration of originating status of the imported goods and the consequential wrongful availment of preferential tariff benefit under the ASEAN–India Free Trade Agreement.

4.8.4.b The importer declared the goods as originating in Thailand and claimed exemption from Basic Customs Duty on the strength of Certificates of Origin which have subsequently been revoked by the competent issuing authority of Thailand after verification under Rule 6(2) of CAROTAR, 2020. The revocation of the product *Antimony Trioxide* from the Certificates of Origin establishes that the goods never satisfied the prescribed origin criteria. The importer, being the claimant of the preferential benefit, was under a statutory obligation to ensure that the conditions governing the claim of origin and preferential tariff were duly fulfilled.

4.8.4.c By declaring the goods as originating goods and availing concessional duty without ensuring compliance with the Determination of Origin of Goods Rules, 2009, the importer suppressed material facts relating to eligibility of the goods for preferential treatment. The mis-declaration of origin is a material misstatement having a direct bearing on the assessment of duty and resulted in short payment of customs duty.

4.8.d. I therefore hold that the short payment of duty occurred by reason of suppression of facts and mis-statement with intent to avail inadmissible exemption. Accordingly, the extended period of limitation as provided under Section 28(4) of the Customs Act, 1962 has been correctly invoked in the present case for recovery of the differential duty.

Accordingly, the differential duty resulting from denial of the preferential tariff benefit and imposing duty as per the Customs Tariff, as proposed in the subject Show Cause Notice, is recoverable from M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) under extended period in terms of the provisions of Section 28(4) of the Customs Act, 1962.

4.8.e Consequent upon denial of the benefit of Notification No. 46/2011-Customs dated 01.06.2011 (as amended), the impugned imports are liable to reassessment at the applicable rate of Basic Customs Duty. Accordingly, the differential customs duty payable in respect of the imports of *Antimony Trioxide* covered under the Bills of Entry mentioned in Table-2 below has been worked out as under:

TABLE-2 (Summary of duty involvement)

Sr. No.	Bill of Entry No. & Date	COO No	Assessable Value	BCD forgone (7.5%)	SWS forgone (10%)	Applicable IGST	IGST Paid at time of import	IGST Forgone	Total differential duty payable
	1	2	3	4	5	6	7	8	9=(4+5+8)
1	7859617 dt. 09-06-2020	AI2020-0020569	3650488	273787	27379	711298	657088	54210	355375
2	8118193 dt. 09-07-2020	AI2020-0022495	5363280	402246	40225	1045035	965390	79645	522115
3	8420032 dt. 10-08-2020	AI2020-0026085	5431275	407346	40735	1058284	977630	80654	528735
4	8639573 dt. 29-08-2020	AI2020-0027613	7240860	543065	54306	1410882	1303355	107527	704898
5	9301456 dt. 24-10-2020	AI2020-0035332	5802638	435198	43520	1130644	1044475	86169	564887
6	9992760 dt. 17-12-2020	AI2020-0041564	6207570	465568	46557	1209545	1117363	92182	604307
7	3052773 dt. 08-03-2021	AI2020-0005576	7127655	534574	53457	1388824	1282978	105846	693877
8	3415938 dt. 03-04-2021	AI2020-0014854	12175430	913157	91316	2372383	2191577	180805	1185278
TOTAL			**52999196**	**397494 0**	**397494**	**10326893**	**9539855**	**787038**	**5159472**

(Note: The above calculation excludes interest, which is payable separately as per law.)

4.8.f Accordingly, the differential Basic Customs Duty amounting to **Rs.51,59,472/- (Rupees Fifty One Lakhs Fifty Nine Thousand Four Hundred Seventy Two Only)**, as detailed above, is liable to be demanded and recovered from the importer under the provisions of Section 28 of the Customs Act, 1962, along with applicable interest under Section 28AA of the said Act, from the date of clearance of the goods till the date of payment.

4.8.5 As per Section 28AA of the Customs Act, 1962, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2) of Section 28AA, whether such payment is made voluntarily or after determination of the duty under that section. From the above provisions it is evident that regarding demand of interest, Section 28AA of the Customs Act, 1962 is unambiguous and mandates that where there is a short payment of duty, the same along with interest shall be recovered from the person who is liable to pay duty. The interest under the Customs Act, 1962 is payable once demand of duty is upheld and such liability arises automatically by operation of law. In an umpteen number of judicial pronouncements, it has been held that payment of interest is a civil liability and interest liability is automatically attracted under Section 28AA of the Customs Act, 1962. Interest is always accessory to the demand of duty as held in case of Pratibha Processors Vs UOI [1996 (88) ELT 12 (SC)].

4.8.6 I have already held in the above paras that the differential duty amount of **Rs.51,59,472/- (Rupees Fifty One Lakhs Fifty Nine Thousand Four Hundred Seventy Two Only)** should be demanded and recovered from M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period. Therefore, in terms of the provisions of Section 28AA of the Customs Act, 1962, interest on the aforesaid amount of differential duty is also liable to be recovered from M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979).

4.8.7 In view of the above, I find that the importer had imported the impugned goods vide Bills of Entry, as listed in Table-1 of SCN as mentioned above, by mis-statement in the Customs declarations in the Bills of Entry at JNCH had availed Country of Origin preferential tariff benefit under Notification No. 46/2011-Customs dated 01.06.2011, by claiming the Country of Origin as Thailand even when the import of goods did not qualify as goods originating from Thailand, in terms of the prescribed criteria and the importer has availed duty exemption by claiming ineligible benefit under Sr. No.230 (I) of Notification. No. 46/2011 dt 01.06.2011(as amended). Therefore, the importer, M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) is liable to **pay the differential duty amount of Rs.51,59,472/- (Rupees Fifty One Lakhs Fifty Nine Thousand Four Hundred Seventy Two Only)** under the provisions of Section 28(4) of the Customs Act, 1962 by invoking extended period along with the applicable interest under Section 28AA of the Customs Act, 1962.

4.9 I now proceed to examine next issues for detailed analysis, viz:

(c) Whether or not, the goods imported vide bill of entries as listed in Table-1 are liable to confiscation under Sections 111(m), and 111(q), even though the said goods are no longer available for confiscation;

4.9.1 I find that the importer, M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979), had subscribed to a declaration as to the truthfulness of the contents of the Bills of Entry in terms of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018 in all their import declarations. Thus, under the scheme of self-assessment, it is the importer who has to doubly

ensure that he declares the correct description of the imported goods, its correct classification, the applicable rate of duty, value, benefit of exemption notification claimed, if any, in respect of the imported goods when presenting the bill of entry. Thus, with the introduction of self-assessment by amendment to Section 17, w.e.f. 8th April, 2011, there is an added and enhanced responsibility of the importer to declare the correct description, value, notification, etc. and to correctly classify, determine and pay the duty applicable in respect of the imported goods.

4.9.2 I also find that, it is very clear that w.e.f. 08.04.2011, the importer must self-assess the duty under Section 17 read with Section 2(2) of the Act, and since 2018 the scope of assessment was widened. Under the self-assessment regime, it was statutorily incumbent upon the Noticee to correctly self-assess the goods in respect of classification, valuation, claimed exemption notification and other particulars. With effect from 29.03.2018, the term 'assessment', which includes provisional assessment also, the importer is obligated to not only establish the correct classification but also to ascertain the eligibility of the imported goods for any duty exemptions. From the facts of the case as detailed above, it is evident that the importer, M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979), has deliberately failed to discharge this statutory responsibility cast upon them.

4.9.3 Besides, as indicated above, in terms of the provisions of Section 46(4) of the Customs Act, 1962 and Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018, the importer while presenting a Bill of Entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry. In terms of the provisions of Section 47 of the Customs Act, 1962, the importer shall pay the appropriate duty payable on imported goods and then clear the same for home consumption. However, in the subject case, the importer while filing the bill of entry has resorted to deliberate suppression of fact relating to the Country of Origin of the goods and intentionally evaded Customs duty on the impugned goods by wrongly availing the benefit of exemption Notification based on Country of Origin Certificates when the goods did not qualify as originating goods.

4.9.4 I find that the importer had wrongly availed Country of Origin preferential tariff benefit for the imported goods under Notification No. 46/2011-Customs dated 01.06.2011, by claiming the Country of Origin as Thailand even when the import of goods did not qualify as goods originating from Thailand and claimed ineligible exemption notification. As already elucidated in the foregoing paragraphs, the impugned imported goods do not qualify for preferential tariff benefit. Therefore, it is apparent that the importer has not made the true and correct disclosure with regard to the applicability of duty exemption to the imported goods in respective Bills of Entry leading to suppression of facts. From the above discussions and findings, I find that the importer has done deliberate suppression of facts and willful wrong claim of notification benefit to the imported goods and has submitted misleading declaration under Section 46(4) of the Customs Act, 1962 with an intent to evade Customs duty on the impugned goods, even though they did know that the goods do not qualify for country of origin benefit. Due to this deliberate suppression of facts and wilful mis-declaration of country of origin, the importer has not paid the correctly leviable duty on the imported goods resulting in loss to the government exchequer.

4.9.5 I find that the SCN proposes confiscation of goods under the provisions of Section 111(m) and 111(q) of the Customs Act, 1962. Provisions of these Sections of the Act, are re-produced herein below:

"SECTION 111. Confiscation of improperly imported goods, *etc. — The following goods brought from a place outside India shall be liable to confiscation:*

(m) [any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3 [in respect thereof, or in the case of goods under trans-shipment, with the declaration for trans-shipment referred to in the proviso to sub-section (1) of section 54];

[(q) any goods imported on a claim of preferential rate of duty which contravenes any provision of Chapter VAA or any rule made thereunder.]

4.9.6 I find that Section 111(m) provides for confiscation of goods in cases where any goods do not correspond in respect of value or any other particular with the entry made under the Customs Act, 1962. I also find that the Section 111(q) provides for confiscation of goods in cases where goods imported do not correspond in respect of preferential rate of duty. I have already held in foregoing paras that the impugned goods imported by M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979), were failed to correctly discharge the duty liability. The importer was very well aware of that the imported goods does not qualify as goods originating from Thailand. However, they deliberately suppressed this fact and claimed ineligible preferential tariff benefit. Further, the importer wrongly availed benefits under Sr. No. 230 (I) of Notification. No. 46/2011 (as amended). As discussed in foregoing paras, it is evident that the importer deliberately suppressed the imported goods does not qualify as goods originating from Thailand and wilfully mis-declared the country of origin of imported goods as Thailand and claimed ineligible preferential rate of duty under notification 46/2011, resulting in short levy of duty. ***This wilful mis-declaration of goods originating from Thailand and claim of ineligible notification benefit resorted to by the importer, therefore, renders the impugned goods liable for confiscation under the provisions of Section 111(m) and 111(q) of the Customs Act, 1962.***

4.9.7 As the importer, through wilful mis-declaration the country of origin of imported goods as Thailand and claimed ineligible notification benefit while filing Bills of Entry (as mentioned in Table-1) with an intent to evade the applicable Customs duty, resulting in short levy and short payment of duty, I find that the confiscation of the imported goods under Section 111(m) and 111(q) is justified & sustainable in law. ***However, I find that the goods imported vide Bills of Entry as listed in the Table-1 to the impugned SCN are not available for confiscation.*** In this regard, I find that the confiscability of goods and imposition of redemption fine are governed by the provisions of law i.e. Section 111 and 125 of the Customs Act, 1962, respectively, regardless of the availability of goods at the time of the detection of the offence. I rely upon the order of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited [reported in 2018 (9) G.S.T.L. 142 (Mad.)] wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

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

4.9.7.a I further find that the above view of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.), has been cited by Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.).

4.9.7.b I also find that the decision of Hon'ble Madras High Court in case of M/s Visteon Automotive Systems India Limited reported in 2018 (9) G.S.T.L. 142 (Mad.) and the decision of Hon'ble Gujarat High Court in case of M/s Synergy Fertichem Pvt. Ltd. reported in 2020 (33) G.S.T.L. 513 (Guj.) have not been challenged by any of the parties and are in operation.

4.9.8 I find that the declaration under Section 46(4) of the Customs Act, 1962 made by the importer at the time of filing Bills of Entry is to be considered as an undertaking which appears as good as conditional release. I further find that there are various orders passed by the Hon'ble CESTAT, High Court and Supreme Court, wherein it is held that the goods cleared on execution of Undertaking/ Bond are liable for confiscation under Section 111 of the Customs Act, 1962 and Redemption Fine is imposable on them under provisions of Section 125 of the Customs Act, 1962. A few such cases are detailed below:

- **a.** M/s Dadha Pharma h/t. Ltd. Vs. Secretary to the Govt. of India, as in 2000 (126) ELT 535 (Chennai High Court);
- **b.** M/s Sangeeta Metals (India) Vs. Commissioner of Customs (Import) Sheva, as reported in 2015 (315) ELT 74 (Tri-Mumbai);
- **c.** M/s SacchaSaudhaPedhi Vs. Commissioner of Customs (Import), Mumbai reported in 2015 (328) ELT 609 (Tri-Mumbai);

d. M/s Unimark Remedies Ltd. Versus. Commissioner of Customs (Export Promotion), Mumbai reported in 2017(335) ELT (193) (Bom)

e. M/s Weston Components Ltd. Vs. Commissioner of Customs, New Delhi reported in 2000 (115) ELT 278 (S.C.) wherein it has been held that:

"if subsequent to release of goods import was found not valid or that there was any other irregularity which would entitle the customs authorities to confiscate the said goods - Section 125 of Customs Act, 1962, then the mere fact that the goods were released on the bond would not take away the power of the Customs Authorities to levy redemption fine."

f. Commissioner of Customs, Chennai Vs. M/s Madras Petrochem Ltd. as reported in 2020 (372) E.L.T. 652 (Mad.) wherein it has been held as under:

"We find from the aforesaid observation of the Learned Tribunal as quoted above that the Learned Tribunal has erred in holding that the cited case of the Hon'ble Supreme Court in the case of Weston Components, referred to above is distinguishable. This observation written by hand by the Learned Members of the Tribunal, bearing their initials, appears to be made without giving any reasons and details. The said observation of the Learned Tribunal, with great respect, is in conflict with the observation of the Hon'ble Supreme Court in the case of Weston Components."

4.9.9 In view of above, I find that any goods improperly imported as provided in any sub-section of the Section 111 of the Customs Act, 1962, become liable for confiscation.

4.9.10 Once, the imported goods are held liable for confiscation under Section 111(m) and 111(q) of the Customs Act, 1962, they cannot have differential treatment in regard to imposition of redemption fine, merely because they are not available, as the fraud could not be detected at the time of clearance. ***In view of the above, I hold that the present case also merits the imposition of a Redemption Fine, having held that the impugned goods are liable for confiscation under Section 111(m) and 111(q) of the Customs Act, 1962.***

4.10 I now proceed to examine next issues for detailed analysis, viz:

(d) Whether or not, penalties under Sections 112(a) and /or 114A of the Customs Act, are imposable on the importer, M/s Champion Commercial Co. Ltd.

4.10.1 The Show Cause Notice has proposed imposition of penalties on the importer, M/S Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) under the provisions of Section 112(a) and / or 114A of the Customs Act, 1962.

The said section is reproduced as under: -

Section 112 - Penalty for improper importation of goods, etc. *Any person, - (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, 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, shall be liable, to penalty.*

> ***SECTION 114A. Penalty for short-levy or non-levy of duty in certain cases.*** *– Where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (2) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined:*

4.10.2 I find that in the present case, the elements necessary to establish *mens rea* are clearly present. The importer consciously declared the impugned goods as originating goods of Thailand and claimed preferential tariff benefit under Notification No. 46/2011-Customs dated 01.06.2011, despite the fact that the eligibility of the goods under the Determination of Origin of Goods Rules, 2009 was neither verified nor ensured. The claim of preferential treatment was thus made in disregard of the mandatory conditions governing origin certification.

4.10.3 The preferential benefit under a Free Trade Agreement is not automatic and can be availed only upon strict compliance with the prescribed origin criteria. The importer, being fully aware that the concessional rate of duty was dependent entirely upon the correctness of the declared origin, nevertheless proceeded to claim the benefit on the basis of Certificates of Origin which were subsequently revoked by the competent issuing authorities of Thailand following verification under Rule 6(2) of CAROTAR, 2020. Such revocation conclusively establishes that the origin claim was incorrect *ab-initio.*

4.10.4 I further find that the importer failed to exercise due diligence expected of a prudent importer while availing substantial fiscal benefits under a preferential trade agreement. The omission to ensure compliance with origin requirements and the continued availment of exemption on the basis of invalid Certificates of Origin cannot be treated as a bona fide error. On the contrary, it demonstrates a deliberate act and conscious conduct aimed at availing an inadmissible exemption, resulting in short payment of customs duty.

4.10.5 In the instant case, I find that the importer had mis-declared the country of origin of the imported goods with malafide intent, despite being fully aware that the goods did not qualify as goods originating from Thailand. I have already elaborated in the foregoing paras that the importer has wilfully suppressed the facts with regard to mis-declaration of country of origin as Thailand and claimed ineligible notification benefit, with an intent to evade the applicable BCD. I find that in the self-assessment regime, it is the bounden duty of the importer to correctly assess the duty on the imported goods. In the instant case, the wilful mis-declaration of Country of Origin as Thailand and suppression of fact that the goods did not qualify as goods originating from Thailand by the importer tantamount to suppression of material facts and wilful mis-statement. Thus, wilfully mis-declaring Country of Origin of the goods amply points towards the “mens rea” of the Noticee to evade the payment of legitimate duty. The wilful and deliberate acts of the Noticee to evade payment of legitimate duty, clearly brings out their ‘mens rea’ in this case. Once the ‘mens rea’ is established, the

extended period of limitation, as well as confiscation and penal provision will automatically get attracted.

4.10.6 It is a settled law that fraud and justice never dwell together (*Frauset Jus nunquam cohabitant*). Lord Denning had observed that "*no judgement of a court, no order of a minister can be allowed to stand if it has been obtained by fraud, for, fraud unravels everything*".

There are numerous judicial pronouncements wherein it has been held that no court would allow getting any advantage which was obtained by fraud. The Hon'ble Supreme Court in case of *CC, Kandla vs. Essar Oils Ltd.* reported as *2004 (172) ELT 433 SC* at paras 31 and 32 held as follows:

> *"31. ''Fraud'' as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letter or words, which includes the other person or authority to take a definite determinative stand as a response to the conduct of the former either by words or letter.* ***It is also well settled that misrepresentation itself amounts to fraud.*** *Indeed, innocent misrepresentation may also give reason to claim relief against fraud.* ***A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood.*** *It is a fraud in law if a party makes representations, which he knows to be false, although the motive from which the representations proceeded may not have been bad. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. (Ram Chandra Singh v. Savitri Devi and Ors.[2003 (8) SCC 319].*
>
> *32. "Fraud" and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. Principle Bench of Tribunal at New Delhi extensively dealt with the issue of Fraud while delivering judgment in Samsung Electronics India Ltd. Vs Commissioner of Customs, New Delhi reported in 2014(307)ELT 160(Tri. Del). In Samsung case, Hon'ble Tribunal held as under.*
>
> *"If a party makes representations which he knows to be false and injury ensues there from although the motive from which the representations proceeded may not have been bad is considered to be fraud in the eyes of law. It is also well settled that misrepresentation itself amounts to fraud when that results in deceiving and leading a man into damage by wilfully or recklessly causing him to believe on falsehood. Of course, innocent misrepresentation may give reason to claim relief against fraud. In the case of Commissioner of Customs, Kandla vs. Essar Oil Ltd. - 2004 (172) E.L.T. 433 (S.C.) it has been held that by "fraud" is meant an intention to deceive; whether it is from any expectation of advantage to the party himself or from the ill-will towards the other is immaterial. "Fraud" involves two elements, deceit and injury to the deceived.*

Undue advantage obtained by the deceiver will almost always cause loss or detriment to the deceived. Similarly, a "fraud" is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. (Ref: S.P. Changalvaraya Naidu v. Jagannath [1994 (1) SCC 1: AIR 1994 S.C. 853]. It is said to be made when it appears that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly and carelessly whether it be true or false [Ref :RoshanDeenv. PreetiLal [(2002) 1 SCC 100], Ram Preeti Yadav v. U.P. Board of High School and Intermediate Education [(2003) 8 SCC 311], Ram Chandra Singh's case (supra) and Ashok Leyland Ltd. v. State of T.N. and Another [(2004) 3 SCC 1].

Suppression of a material fact would also amount to a fraud on the court [(Ref: Gowrishankarv. Joshi Amha Shankar Family Trust, (1996) 3 SCC 310 and S.P. Chengalvaraya Naidu's case (AIR 1994 S.C. 853)]. No judgment of a Court can be allowed to stand if it has been obtained by fraud. Fraud unravels everything and fraud vitiates all transactions known to the law of however high a degree of solemnity. When fraud is established that unravels all. [Ref: UOI v. Jain Shudh Vanaspati Ltd. - 1996 (86) E.L.T. 460 (S.C.) and in Delhi Development Authority v. Skipper Construction Company (P) Ltd. - AIR 1996 SC 2005]. Any undue gain made at the cost of Revenue is to be restored back to the treasury since fraud committed against Revenue voids all judicial acts, ecclesiastical or temporal and DEPB scrip obtained playing fraud against the public authorities are non est. So also no Court in this country can allow any benefit of fraud to be enjoyed by anybody as is held by Apex Court in the case of Chengalvaraya Naidu reported in (1994) 1 SCC I : AIR 1994 SC 853. Ram Preeti Yadav v. U.P. Board High School and Inter Mediate Education (2003) 8 SCC 311.

A person whose case is based on falsehood has no right to seek relief in equity [Ref: S.P. Chengalvaraya Naidu v. Jagannath, AIR 1994 S.C. 853]. It is a fraud in law if a party makes representations, which he knows to be false, and injury ensues there from although the motive from which the representations proceeded may not have been bad. [Ref: Commissioner of Customs v. Essar Oil Ltd., (2004) 11 SCC 364 = 2004 (172) E.L.T. 433 (S.C.)].

When material evidence establishes fraud against Revenue, white collar crimes committed under absolute secrecy shall not be exonerated as has been held by Apex Court judgment in the case of K.I. Pavunnyv.AC, Cochin - 1997 (90) E.L.T. 241 (S.C.). No adjudication is barred under Section 28 of the Customs Act, 1962 if Revenue is defrauded for the reason that enactments like Customs Act, 1962, and Customs Tariff Act, 1975 are not merely taxing statutes but are also potent instruments in the hands of the Government to safeguard interest of the economy. One of its measures is to prevent deceptive practices of undue claim of fiscal incentives.

It is a cardinal principle of law enshrined in Section 17 of Limitation Act that fraud nullifies everything for which plea of time bar is untenable following the ratio laid

down by Apex Court in the case of CC. v. Candid Enterprises - 2001 (130) E.L.T. 404 (S.C.). Non est instruments at all times are void and void instrument in the eyes of law are no instruments. Unlawful gain is thus debarred."

4.10.7 I find that the instant case is not a simple case of wrongly claim of duty exemption on bonafide belief, as claimed by the importer. From the facts of the case, it is very much evident that the importer was well aware that the goods do not qualify as originating from Thailand. Despite the above factual position, they deliberately suppressed the fact and willfully chose to mis-declare the Country of Origin of the impugned imported goods to claim ineligible notification benefit and pay lower rate of duty. This willful and deliberate suppression of facts and mis-declaration clearly establishes the *'mens rea'* in this case. Due to this, the case merits demand of short levied duty invoking extended period of limitation as well as confiscation of offending goods. Accordingly, I hold that the short payment of duty in the present case occurred by reason of wilful misstatement and suppression of material facts with intent to evade payment of duty. The necessary *'mens-rea'* for invoking penal provisions is therefore clearly established.

4.10.8 Thus, I find that the extended period of limitation under Section 28(4) of the Customs Act, 1962 for the demand of duty is rightly invoked in the present case. Therefore, penalty under Section 114A is rightly imposable on the importer, M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979). Accordingly, the importer is liable for a penalty under Section 114A of the Customs Act, 1962 for wilful mis-statement and suppression of facts, with an intent to evade duty. In view of the above findings, penalty under Section 114A of the Customs Act, 1962, equal to the amount of duty determined under Section 28(4), is imposable on the importer.

4.10.9 In view of the above stated mis-declaration, the importer, M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) has evaded payment of Customs duty aggregating to **Rs. 51,59,472/- (Rupees Fifty One Lakhs Fifty Nine Thousand Four Hundred Seventy Two Only) (as detailed in Table-2 of the SCN),** and the same is to be recovered under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA ibid.

4.10.10 As I have already held above that by their acts of omission and commission, the importer has rendered the impugned goods liable for confiscation under Section 111(m) and 111(q) of the Customs Act, 1962, making them liable for a penalty under Section 114A of Customs Act, 1962. However, in view of fifth proviso to Section 114A, penalty cannot be imposed simultaneously on the importer under Section 112(a) & (b) and Section 114A ibid.

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

ORDER

5.1 As the issuing Authority of Thailand has revoked the COO Certificates (as detailed in Table-1 of para 1.4), I deny the consequential benefits of preferential tariff treatment under Sr. No. 230 (I) of the Notification No. 46/2011-Customs dated 01.06.2011 (as amended).

5.2 I confirm the demand of differential Customs duty aggregating to **Rs. 51,59,472/- (Rupees Fifty One Lakhs Fifty Nine Thousand Four Hundred Seventy Two Only)** in respect of Bills of Entry as listed in Table-1 of the Show Cause Notice, under Section 28(4) of the Customs Act, 1962 and order that the same shall be recovered from the importer, M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979), along with applicable interest thereon under Section 28AA of the Customs Act, 1962.

5.3 Even though the goods are not available, I hold the impugned goods imported vide the Bills of Entry (as listed in **Table-1**) having total declared assessable value of **Rs. 5,29,99,196/- (Rupees Five Crore Twenty-Nine Lakhs Ninety-Nine Thousand One Hundred Ninety-Six Only)** (as detailed at **Table-2**) liable for confiscation under Section 111(m) of the Customs Act, 1962. However, I impose a redemption fine of **Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only)** on M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) in lieu of confiscation under Section 125(1) of the Customs Act, 1962.

5.4 I impose a penalty of **Rs. 51,59,472/- (Rupees Fifty-One Lakhs Fifty-Nine Thousand Four Hundred Seventy-Two Only),** equal to differential duty**,** along with the applicable interest thereon, on the importer, M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979) under Section 114A of the Customs Act, 1962.

If duty and interest is paid within thirty days from the date of the communication of this order, the amount of penalty liable to be paid shall be twenty-five per cent of the duty and interest, subject to the condition that the amount of penalty is also paid within the period of thirty days of communication of this order.

6. This Order is issued without prejudice to any other action(s) that may be taken in respect of the goods in question and /or against the importer or any other persons, if found involved at appropriate stage as per the Customs Act, 1962 or the Rules and Regulations made there under and / or any other law for the time being in force in the Union of India. Further this Order is limited to the issue of import of goods as enumerated above.

Digitally signed by
Yashodhan Arvind Wanage
Date: 21-01-2026
11:44:04

(यशोधन वनगे **/Yashodhan Wanage)**

प्रधान आयुक्त**,** सीमा शुल्क**/ Pr. Commissioner of Customs,**

एनएस**-I,** जेएनसीएच **/ NS-I, JNCH**

To,
M/s Champion Commercial Co. Ltd, Mumbai (IEC-0288008979)
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Mumbai, Maharashtra,400021
Email: Madhuri.Parab@Singhaniagroup.com; sushil@singhaniagroup.com

Copy To:

1. The Joint Director, DRI, Mumbai Zonal Unit
2. The Additional Commissioner of Customs, Gr. II(A-B), JNCH
3. AC/DC, Chief Commissioner's Office, JNCH
4. AC/DC, Centralized Revenue Recovery Cell, JNCH
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