

5/10-1032/202526/Adj/JC/4-REC-F)NS-I/CAC/JNCH

 सत्यमेव जयते	सीमा शुल्क आयुक्त का कार्यालय, (एनएस-1), OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I), जवाहरलाल नेहरू कस्टम हाउस, न्हावा शेवा, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA, तालुका उरण, जिला रायगड, महाराष्ट्र- 400 707 TALUKA URAN, DIST. RAIGAD, MAHARASHTRA-400 707	7-2 30-10-2025
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F. NO. S/26-MISC-21/2025-26/Gr.II C-F) Date: 30-10-2025
SCN No. 1239/2025-26/JC/NS-I/Gr.II C-F/CAC/JNCH
DIN: 20251178NW0000666FAE

Show Cause Notice on the basis of Investigation Report issued by SIIB regarding seized goods covered under Bills of Entry No. 3010158 dated 27.04.2019 and 3247444 dated 15.05.2019 imported by M/s. Goldripe International Private Ltd. (IEC: AAHCG1175G)

The importer, M/s. Goldripe International Private Ltd. (IEC: AAHCG1175G) having registered address at Plot No. 150, Ground Floor, Mayfair Estate Colony, Bhagpat Road, Meerut, Uttar Pradesh - 250 002, filed two Bills of Entry No. 3010158 dated 27.04.2019 (Container No. CLHU 3616711, 20 feet) and 3247444 dated 15.05.2019 (Container No. DFSU 2115743, 20 feet) (**RUD - 01**) for clearance of goods declared as "Ethylene Ripener" under CTH 3824 9990. Each container was declared to contain 22 tons (22,000 kg) of the goods, totaling 44 tons (44,000 kg). The goods were identified as Ethephon at 20% concentration (as per the Certificate of Analysis submitted), a plant growth regulator used for early ripening of fruits. The total declared assessable value of the goods was USD 44,000 (equivalent to Rs. 30, 98, 700/- at the exchange rate of 1 USD = Rs. 70.4), with declared Basic Customs Duty (BCD) at 7.5% amounting to Rs. 2,32,402.5/-. The country of origin is China.

2. The consignments were examined by the officers of SIIB (I), JNCH, and samples were drawn under Panchnama. The importer failed to submit a Registration Certificate with Central Insecticide Board (CIB) which is mandated under Insecticides Act, 1968. Hence the goods were liable for confiscation under Section 111(d). As a result, the goods were seized under Section 110 of the Customs Act, 1962, vide Seizure Memo dated 12.06.2019 on grounds of violations detailed below.

3. Violations Identified During Investigation:

3.1. Violation of Insecticides Act, 1968 (Non-submission of CIB Registration Certificate): Ethephon (commonly known as Ethrel) is explicitly listed in the Schedule to the Insecticides Act, 1968, under Section 3(e)(i), which defines "insecticide" to include any substance or preparation intended for regulating plant growth, preventing, destroying, repelling, or mitigating pests (including weeds, fungi, rodents, or other harmful organisms). As per Section 9 of the Insecticides Act, 1968, no insecticide can be imported without a registration certificate from the

Central Insecticides Board & Registration Committee (CIB & RC). **The importer failed to furnish any such registration** thus making the goods liable for confiscation under Section 111(d) of Customs Act, 1962.

3.2 Misclassification under Section 111(m) of Customs Act, 1962: The goods were misdeclared under CTH 3824 9990 (miscellaneous chemical products, BCD 7.5%). Ethephon, as a PGR/insecticide, is correctly classifiable under CTH 3808 9340 (plant growth regulators, BCD 10%). This misdeclaration led to short-levy of BCD.

3.3 Undervaluation under Section 111(m) of Customs Act, 1962: The declared value was USD 1 per kg (Rs. 70.4 per kg). Contemporary import data from the customs database showed the lowest value at Rs. 117 per kg (USD 1.66 per kg). This undervaluation appears intentional to evade duty, leading to short-levy.

4. Importer's Sumissions

Summons dated 30.04.2019, 27.05.2019, and 28.05.2019 (**RUD - 02**) were issued to the importer to record his statement under Section 108 of the Customs Act, 1962.

The importer vide his letters dated 03.05.2019, and 13.05.2019 (**RUD - 03**) claimed that:

- i. Ethephon is not an insecticide, but only a plant growth regulator (PGR) used in lower concentrations for fruit ripening. Ethylene ripener is derived from Ethephon and is much safer than other artificial fruit ripeners like carbide.
- ii. Invoked Section 38(1) exemption of the Insecticides Act, 1968 (which exempts substances used for purposes other than pest control) arguing that the product is not intended for pest control.
- iii. Referred to FSSAI guidelines (August 2018) permitting use of ethephon for artificial ripening, to support non-hazardous nature.

5. Provisional Release of the goods

The importer requested provisional release vide letter dated 17.06.2019. SIIB Import sent a letter dt. 03.07.2019 (**RUD- 04**) vide which an NOC was given for the provisional release of the goods under the Bills of Entry No. 3010158 dated 27.04.2019 and 3247444 dated 15.05.2019 subject to the conditions as laid down in CBIC Circular No. 35 of 2017-Cus dated 16.08.2017. Thereafter, the goods were released provisionally under Section 110A of the Customs Act, 1962, after reassessment of the Bills of Entry (**RUD -05**) subject to:

- i. Reclassification under CTH 3808 9340 with BCD at 10%.
- ii. Revaluation at Rs. 117 per kg, resulting in revised assessable value of Rs. 51, 48, 000/-.
- iii. Differential duty: Rs. 2, 82, 446/- (BCD differential) plus applicable IGST on enhanced value to be paid.

6. Revised Duty Liability Calculation:

- i. As described in above sections, the applicable rate of BCD is 10%
- ii. The value was reassessed at Rs. 117 per KG at the time of provisional release based on the contemporary data
- iii. Weight of the goods was declared correctly and hence does not change

	BE No. 3010158 dt. 27.04.2019		BE No. 3247444 dt. 15.05.2019	
Parameter	Declared	Reassessed	Declared	Reassessed
Quantity	22,000 kg	22,000 kg	22,000 kg	22,000 kg
Value per kg	Rs. 70.4 (USD 1)	Rs. 117 (USD 1.662)	Rs. 70.45 (USD 1)	Rs. 117 (USD 1.661)
Assessable Value	Rs. 15,48,800	Rs. 25,74,105.6	Rs. 15,49,900	Rs. 25,74,383.9
BCD Rate	7.5%	10%	7.5%	10%
BCD Amount	Rs. 1,16,160	Rs. 2,57,410.6	Rs. 1,16,242.5	Rs. 2,57,438.4
SWS Amount	Rs. 11,616	Rs. 25,741.1	Rs. 11,624.3	Rs. 25,743.8
IGST @ 18%	Rs. 3,01,783.69	Rs. 5,14,306.31	Rs. 3,01,998	Rs. 5,14,361.91
Total Duty (BCD + SWS + IGST)	Rs. 4,29,559.7	Rs. 7,97,458	Rs. 4,29,865	Rs. 7,97,544.1
Differential Duty	Rs. 3,67,898.3		Rs. 3,67,679.1	
Total Differential Duty	Rs. 7,35,577 (Rupees Seven Lakh Thirty-Five Thousand Five Hundred Seventy-Seven only)			

7. Relevant Provisions of Law

7.1 Under the Customs Act, 1962:

A. **Section 46: Entry of goods on importation. -**

- (1) *The importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically*

on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed.

...

(4) The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, and such other documents relating to the imported goods as may be prescribed

(4A) The importer who presents a bill of entry shall ensure the following, namely:-

therein; (a) the accuracy and completeness of the information given

and (b) the authenticity and validity of any document supporting it;

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

B. **Section 110 of the Customs Act, 1962**, provides for Seizure of goods, documents and things. - (1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

C. **Section 111: Confiscation of improperly imported goods, etc.-**

The following goods brought from a place outside India shall be liable to confiscation:

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(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 in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section(1) of Section 54;

D. **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,

- i. in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;
- ii. in the case of dutiable goods, other than prohibited goods, subject to the provisions of Section 114A, to a penalty not exceeding ten per cent of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-Section (8) of Section 28 and the interest payable thereon under Section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this Section shall be twenty-five per cent of the penalty so determined;

E. 114AA. Penalty for use of false and incorrect material

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

F. Section 124: Issue of show cause notice before confiscation of goods, etc.

No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person –

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

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

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

G. Section 125: - Option to pay fine in lieu of confiscation

Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not

known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit: Provided that, without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1) the owner of such goods or the person referred to in sub-section (1) shall, in addition, be liable to any duty and charges payable in respect of such goods.

7.2 Under the Insecticides Acts, 1968

A. **Section 3 (e). Definitions.** In this Act, unless the context otherwise requires,

“insecticide” means—

(i) any substance specified in the Schedule; or

(ii) such other substances (including fungicides and weedicides) as the Central Government may, after consultation with the Board, by notification in the Official Gazette, include in the Schedule from time to time; or

(iii) any preparation containing any one or more of such substances;

B. **Section 9. Registration of insecticides.**

(1) Any person desiring to import or manufacture any insecticide may apply to the Registration Committee for the registration of such insecticide and there shall be a separate application for each such insecticide.

C. **Section 17. Prohibition of import and manufacture of certain insecticides.**

(1) No person shall, himself or by any person on his behalf, import or manufacture—

(a) any misbranded insecticide;

(b) any insecticide the sale, distribution or use of which is for the time being prohibited under section 27;

(c) any insecticide except in accordance with the conditions on which it was registered;

(d) any insecticide in contravention of any other provision of this Act or of any rule made thereunder.

8. Findings of Investigation:

8.1 Acts of Omissions & Commissions:

- i. Importer declared the goods incorrectly as “Ethylene Ripener” under CTH 3824 9990 instead of “Ethephon – plant growth regulator” under

3808 9340.

- ii. The goods were undervalued at USD 1/kg instead of contemporaneous price USD 1.66/kg.
- iii. Importer failed to furnish mandatory RC registration under Insecticides Act, 1968, rendering the import prohibited.
- iv. Misclassification and undervaluation led to short payment of duty.
- v. Importer's defense relying on FSSAI guidelines is untenable as FSSAI regulates food safety standards, not import of insecticides.

8.2 Judicial Precedents

The importer claimed in their letter dated 03.05.2019 and 13.05.2019 (**RUD - 03**) that the goods are not an insecticide but a plant growth regulator (PGR) used in lower concentrations for fruit ripening, exempt under Section 38(1)(b) of the Insecticides Act, 1968 (which exempts substances used for purposes other than pest control). They cited FSSAI guidelines dated August, 2018 allowing Ethephon for artificial ripening of fruits with maximum residue limits (MRL) of 0.5-1 mg/kg, arguing its non-harmful nature. However, subsequent judicial rulings have upheld the department's position that Ethephon falls under the broad definition of insecticide, requiring mandatory CIB & RC registration for import, regardless of claimed use as a ripener.

Key judicial precedents include:

- i. *M/S. M.M. Traders vs. Commissioner of Customs & Ors.* (Delhi High Court, W.P.(C) 7268/2022, decided on 01.06.2022, where the court rejected the exemption under Section 38(1)(b), holding that **Ethephon's function as a PGR aligns with the Act's regulated activities and import without registration renders it prohibited.** Section 38(1)(b) exemption does not apply, as ripening is a regulated "plant growth" activity under the Act; FSSAI guidelines govern residues in food, not import controls.
- ii. Recent rulings: This same importer lost a similar case in the case of *M/s. Gold Ripe International Pvt. Ltd. Vs. DRI*, in WRIT TAX No. 495 of 2021 (Order date: 15.09.2023), wherein the Allahabad High Court confirmed that no exemption for Ethephon used as ripener under Section 38(1) of Insecticide Act, 1968;
- iii. No appeals overturning these judgments have been reported as of September, 2025.
- iv. Thus, the import without CIB & RC registration violates Section 24 of the Insecticides Act, 1968 (prohibiting import of unregistered insecticides), making the goods prohibited under Section 111(d) of the Customs Act, 1962.

9. Conclusions:

From the foregoing facts and findings, it is evident that M/s. Goldripe International Pvt. Ltd. has imported consignments of *Ethephon* (20% concentration) misdeclared as *Ethylene Ripener* in contravention of the provisions of the Insecticides Act, 1968, the Customs Act, 1962, and allied

import policy requirements. The importer neither produced the mandatory Registration Certificate from the Central Insecticide Board under Section 9 of the Insecticides Act nor classified and valued the goods correctly.

Import of unregistered insecticides (Ethephon being listed under the Schedule to Section 3(e) of the Insecticides Act) makes the goods *prohibited for import*, thereby rendering them liable for confiscation under Section 111(d) of the Customs Act, 1962.

By declaring the goods as "Ethylene Ripener" under incorrect tariff heading 3824 9990 instead of the correct heading 3808 9340, the importer mis-declared the description/classification to avail a lower rate of duty. This renders the goods liable for confiscation under Section 111(m) of the Customs Act, 1962. In addition, goods were declared at USD 1/kg while contemporaneous import data showed a minimum of Rs. 117/kg (USD 1.66/kg). This deliberate undervaluation also makes the goods liable for confiscation under Section 111(m).

By attempting to import prohibited goods without mandatory registration and by mis-declaring classification and value, the importer has rendered himself liable for penal action under Section 112(a) of the Customs Act, 1962. Further, the importer, by furnishing incorrect particulars in the Bills of Entry and misdescribing the goods, is also liable for penal action under Section 114AA of the Customs Act, 1962.

In terms of Section 125 of the Customs Act, 1962, the seized goods, though liable for confiscation, may be allowed to be redeemed on payment of fine as may be adjudged by the competent authority, in addition to payment of differential duty, subject to production of valid registration/authorizations from the competent authority.

10. Now therefore, M/s Goldripe International Private Ltd. (IEC: AAHCG1175G) having its registered address at Plot No. 150, Ground Floor, Mayfair Estate Colony, Bhagpat Road, Meerut, Uttar Pradesh - 250 002, is hereby called upon to show cause to the Joint Commissioner of Customs, Group 2(C-F) (NS-I), having office at Jawaharlal Nehru Customs House, Raigad, Maharashtra, as to why:

- I. The classification of the imported goods, declared as "Ethylene Ripener" under Customs Tariff Heading (CTH) 3824 9990, should not be rejected and re-classified under CTH 3808 9340 as "Plant Growth Regulators".
- II. The declared assessable value of ₹ 30,98,700/- (**Rupees Thirty Lakh Ninety-Eight Thousand Seven Hundred only**) (for 44,000 kg at ₹70.4/kg) should not be rejected and re-determined as ₹ **51,48,000/- (Rupees Fifty-One Lakh Forty-Eight Thousand only)** (for 44,000 kg at ₹117/kg) under the provisions of Section 14 of the Customs Act, 1962, read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
- III. The duty provisionally assessed at ₹8,59,425/- (**Rupees Eight Lakh Fifty-Nine Thousand Four Hundred Twenty-Five only**) should not be finally assessed at ₹15,95,002/- (**Rupees Fifteen Lakh Ninety-**

Five Thousand Two only) under Section 18(2) of the Customs Act, 1962, after the re-classification of the goods under the correct tariff heading and re-determination of their value in terms of Section 14 of the Act read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.00

- IV. The differential customs duty amounting to **₹ 7,35,577/- (Rupees Seven Lakh Thirty-Five Thousand Five Hundred Seventy-Seven only)**, which was short-levied on account of misclassification and undervaluation, should not be demanded and recovered from them under the relevant provisions of the Customs Act, 1962, and why the amount paid during the provisional release should not be appropriated against this demand.
 - V. The imported goods should not be held liable for confiscation under section 111(d) and 111(m) of the Act.
 - VI. Penalty should not be imposed upon M/s Goldripe International Private Ltd. under Section 112(a) and Section 114AA in respect of the imported goods
20. Any representation, oral or written, against this notice shall be made to the Joint Commissioner of Customs, Group 2(C-F), NS-I, Jawaharlal Nehru Customs House, Raigad, Maharashtra. The aforesaid noticee is required to submit their reply, written or otherwise, himself/themselves or through his/their authorized representative within a period of 30 days of receipt of this Notice. He/they should mention in their written reply whether he/they wish to be heard in person before the case is adjudicated. They should note that if no cause is shown within the time limit stipulated in this notice or if the noticee do not appear before the adjudicating authority as and when the case is posted for hearing, the case will be decided ex-parte on the basis of evidence available on record without any further reference to them.
21. The noticees have an option to make an application under Section 127B of the Act prior to adjudication of this notice, to the Settlement Commission to have the same settled, in such form and in such manner, as specified in the Rules or exercise option of concluding the proceeding under Section 28 (5) of the Act by making payment of the differential duty liability, as detailed supra, along with interest and fifteen percent penalty.
22. This notice is issued without prejudice to any other action that may be taken against the noticees or any other person, in this regard, under the Act or under any other law for the time being in force in the Republic of India.
23. This show cause notice is issued without any prejudice to the right of the department to modify and/or amend the show cause notice and disclose additional evidence in support of the allegations, before the adjudication of the case.
24. The list of the relied upon documents (RUDs) and all the RUDs are enclosed with this SCN.

The Department reserves its right to amend, modify or supplement this notice at any time prior to the adjudication of the case.

Digitally signed by
K Mahipal Chandra
Date: 30-10-2025
23:27:12

(K.Mahipal Chandra)

Joint Commissioner of Customs,
Group II (C-F), NS-I, JNCH

Enclosure: -

1. RUDs as per list.

TO,

M/s. Goldripe International Private Ltd. (IEC: AAHCG1175G)
Plot No. 150, Ground Floor,
Mayfair Estate Colony, Bhagpat Road
Meerut, Uttar Pradesh – 250 002

Copy to: -

1. The Dy./Asstt. Commissioner of Customs, SIIB(I), JNCH.
2. The Dy./Asstt. Commissioner of Customs, Adjudication Cell(I), JNCH.
3. The Dy./Asstt. Commissioner of Customs, EDI, JNCH.
4. Notice Board.
5. Office Copy.

List of RUDs:

Sr. No.	RUD No.	Title of relied upon documents
1	RUD-1	Bills of Entry No. 3010158 dated 27.04.2019 and 3247444 dated 15.05.2019 as filed originally along with Bill of Lading, Invoice, CO, Packing List & CoA (18 pages)
2	RUD-2	Summons dated 30.04.2019, 27.05.2019, and 28.05.2019 (03 pages)
3	RUD-3	The importer's letters dated 03.05.2019, and 13.05.2019 (04 pages)

4	RUD-4	NOC letter for Provisional release by SIIB Import dt. 03.07.2019 (02 pages)
5	RUD-5	Reassessed copies of Bills of Entry No. 3010158 dated 27.04.2019 and 3247444 dated 15.05.2019 (06 pages)