



भारतसरकार



एक राष्ट्र एक परिवार
ONE NATION - ONE FAMILY - ONE FUTURE

भारतसरकार / Government of India

वित्तमंत्रालय / Ministry of Finance

सीमाशुल्कप्रधानआयुक्तकाकार्यालय (एनएस- I), मुंबईसीमाशुल्कजोन-II

जवाहरलालनेहरूकस्टमहाउस, पोस्ट: शेवा, तालुका: उरण, जिला: रायगढ़, महाराष्ट्र-4007007

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-I), MUMBAI CUSTOMS ZONE-II

JAWAHARLAL NEHRU CUSTOM HOUSE, Post: Sheva, Taluka: Uran,

Dist: Raigad, Maharastra-400707.

ईमेल Email:group2cf-jnch@gov.in

CUS/APR/BE/MISC/1258/2025 -Gr 2(C-F)-O/o Commr-CUS-Nhava Sheva-I

Dated: 20.06.2025

SCN No. 329 /2025-26/Commr/NS-I/Gr.II C-F/CAC/JNCH

CUS/1636/2025-NSPU-R and I-O/o Pr Commr-Cus-Prev-Mumbai-Part(2)

DIN:- 20250678NW0000324574

Show Cause Notice under section 124 of Customs Act, 1962 read with Section 28(4) in respect of goods imported by M/s Spectrum Chemicals (IEC- 300068964) under various Bills of Entry -reg.

Whereas, an investigation was initiated by the officers of NSPU, R&I, New Customs House Mumbai against M/s Spectrum Chemicals (hereinafter referred to as 'the Noticee') having their registered address at A-1004, Business Suites 9, Near Dynasty Restaurant, S. V. Road, Santacruz (W), Mumbai - 400054 regarding the classification of the imported goods declared as 'Morwet D-425' imported under various Bills of Entry during the period from 19.06.2020 to 17.12.2021; and whereas the said imports were found to have been declared under the Customs Tariff Headings 3817, while the investigation revealed that the goods merit classification under CTH 3824 and whereas based on the Investigation Report dated 17.06.2025 submitted by NSPU, R&I, New Customs House, Mumbai, it appears that the said misclassification has resulted in short-payment of Customs duty and consequent violation of provisions of the Customs Act, 1962.

2. The data in respect of M/s Spectrum Chemicals pertaining to the imports of Morwet D 425 made for the previous imports by M/s Spectrum Chemicals under respective CTH is tabulated below:

Sr. No.	Importer	No of Bill of Entry	Under CTH	BCD rate
1.	M/s Spectrum Chemicals	26	3817	7.5%

The duty structure of all above mentioned CTH is a below:

CTH	BCD %	SWS %	IGST %
3817	7.5	10	18

3. In pursuance of the above, letter dated 07.05.2024 was written to M/s Spectrum Chemicals for providing documents related to import of Morwet D- 425. Wherein, it is mentioned that M/s Spectrum Chemicals was importing Morwet D-425 under CTH 3817. (RUD 1).

In this regard, last 05-year data of import of Morwet D-425 by M/s Spectrum Chemicals as obtained from ICES is as follows:

Table-I

Sr. no.	BE No	BE Date	IEC	Supplier Name	CTH	Item Desc	BCD Rate %
1	7949329	19/06/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D425 PWD SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISC CHRG INCLDDIFF BTWNIMP INV&ULT SALE INV 8135026676/24.04.2020)	7.5
2	8150440	13/07/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D425 PWD SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISC CHRG INCLDDIFF BTWNIMP INV&ULT SALE INV 8135026779/15.05.2020)	7.5
3	8153270	13/07/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D425 PWD SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISC CHRG INCLD DIFF BTWNIMP INV&ULT SALE INV 8135026778/15.05.2020)	7.5
4	8598049	26/08/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRG INCLD DIFFBTWNIMP INV&ULT SALE INV 8135026967/09.06.20)	7.5
5	8837572	16/09/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRGINCLDDIFFBTWNIMP INV&ULT SALEINV 8135027032 DT.18.6.20)	7.5

6	8906371	22/09/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRGINCLDDIFBTWIMPINV&U LTSALE INV 8135027258 DT.09.07.2020)	7.5
7	8906371	22/09/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRGINCLDDIFBTWIMPINV&U LTSALE INV 8135027258 DT.09.07.2020)	7.5
8	9250976	20/10/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRGINCLDIFBTWNIMPINV&U LTSALE INV NO.8135027756/27.08.2020)	7.5
9	9613756	18/11/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRG INCLD DIFF BTWNIMP INV&ULT SALE INV 8135027886/08.09.20	7.5
10	9615044	18/11/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRGINCLD DIFF BTWNIMP INV&ULT SALEINV 8135028050/18.09.20	7.5
11	9932184	12/12/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRG INCLDDIFFBTWNIMP INV&ULT SALE INV 8135028503/23.10.20)	7.5
12	9932675	12/12/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCCHRG INCLDDIFF BTWNIMP INV&ULTSALE INV 8135028464/22.10.20)	7.5

13	9933149	12/12/2020	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLDDIFFBTWNIMP SALE INV NO.8135028526/26.10.20)	7.5
14	2667072	08/02/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135028908/24.11.20)	7.5
15	3099233	11/03/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135029637/21.01.21)	7.5
16	3175781	17/03/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135029642/25.01.21)	7.5
17	3310629	26/03/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135029821/05.02.21)	7.5
18	3515346	10/04/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135029851/08.02.21)	7.5
19	3565136	14/04/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX (MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135030244/05.03.21)	7.5
				NOURYON SURFACE		MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG	

20	4042779	22/05/2021	300068964	CHEMISTRY LLC	38170020	INCLD DIFF BTWN IMP INV&ULTSALEINV 8135030351/15.03.21	7.5
21	4434122	24/06/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135030718/07.04.21)	7.5
22	4495216	29/06/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135031018/03.05.21	7.5
23	4496155	29/06/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV 8135031054/07.05.21)	7.5
24	4823981	27/07/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV8135031137 DT17.05.21	7.5
25	6722029	17/12/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV8135031599DT.23.06.2 1	7.5
26	6722029	17/12/2021	300068964	NOURYON SURFACE CHEMISTRY LLC	38170020	MORWET D-425 POWDER SODIUM ALKYLNAPHTHALENE SULFONATE MIX(MISCHRG INCLD DIFF BTWN IMP INV&ULTSALEINV8135031599DT.23.06.2 1	7.5

On perusal of TABLE- I above, it is observed that M/s Spectrum Chemicals had imported Morwet D 425 from period 19.06.2020 till 17.12.2021 from NOURYON SURFACE CHEMISTRY LLC classifying them under heading 3817. Further, data corroborated from ICES regarding the bills of entries filed by M/s Spectrum Chemicals for import of Morwet D 425 with the corresponding bill of lading/invoice, as available in ICES is as follows:

Table-II

Sr. no.	BE No	BE Date	CTH mentioned in Bill of Entry	Sup Name	CTH mentioned in Bill of lading	CTH mentioned in Invoice
1	7949329	19-06-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
2	8150440	13-07-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
3	8153270	13-07-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
4	8598049	26-08-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	382499
5	8837572	16-09-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
6	8906371	22-09-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
7	8906371	22-09-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
8	9250976	20-10-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
9	9613756	18-11-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
10	9615044	18-11-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
11	9932184	12-12-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
12	9932675	12-12-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
13	9933149	12-12-2020	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
14	2667072	08-02-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
15	3099233	11-03-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
16	3175781	17-03-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
17	3310629	26-03-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
18	3515346	10-04-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
19				NOURYON SURFACE		

	3565136	14-04-2021	38170020	CHEMISTRY LLC	3824992890	382499
20	4042779	22-05-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
21	4434122	24-06-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
22	4495216	29-06-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	382499
23	4496155	29-06-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	382499
24	4823981	27-07-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	Not Mentioned
25	6722029	17-12-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890
26	6722029	17-12-2021	38170020	NOURYON SURFACE CHEMISTRY LLC	3824992890	3824992890

From TABLE-II, it is observed that for the period 19.06.2020 till 17.12.2021, the importer M/s Spectrum Chemicals had imported Morwet D 425 under CTI 38170020 although the Bills of Lading and Invoices of the corresponding imports mention CTI 3824992890/382499. In case of import of said item vide Bill of Entry No 4823981 dated 27.07.2021, CTH was not found declared in invoice concerned. During the said period of consideration, the supplier was Nouryon Surface Chemistry LLC, USA. Thus, it appears the importer has misclassified goods during the period 19.06.2020 till 17.12.2021.

4. In this regard, letter dt. 07.05.2024 was written to M/s Nouryon chemicals India Pvt Ltd, Indian subsidiary of M/s Nouryon Surface chemistry USA for providing import data, technical literature, correct composition related to the goods.

5. M/s Spectrum Chemicals, vide letter dated 27.05.2024 **(RUD-2)**, submitted the following documents:

- a. Letter dated 12.02.2020 to Group 2F, Assistant Commissioner, JNCH **(RUD-3)** regarding amendment in HSN Code & Notification wherein it is inter-alia mentioned that they have paid duty for importing Morwet D425 under CTH 3817 due to the fact that they had imported one container of the product vide BOE no. 6712644 dated 31st January 2020 **(RUD-4)** wherein the product was classified under CTH 38249900 attracting 10% BCD and was filed under the same (BoE no. 6712644 under CTH 3824). Subsequently, they felt the need to change the CTH to 3817 due to chemical composition of the product appearing similar to description of heading CTH 3817 (mixed Alkylnaphthalenes).
- b. Chemical Composition of Morwet D-425
- c. IUPAC Name
- d. Material Safety Data Sheet

e. Product Data Sheet

Further, excerpts of the above submissions are placed below:

a) Letter dated 12.02.2020 to Group 2F, Assistant Commissioner JNCH Mumbai Customs Zone II:

"With reference to the above subject, we would like to inform you that Product Morwet D-425 is Manufactured by Nouryon Chemicals in USA, it is a basically Brown Colour powder and a mixture of base product is Alkyl naphthalenes which react along with Sulphonic acid, formaldehyde and sodium salt which will give stable product for Agro formulation production

Further, we have filled documents as per HS code mentioned by supplier 38249928, but as per manufacturer MSDS the said item is Sodium alkyl naphthalenesulfonate, formaldehyde condensate which is Mixed alkyl naphthalenes fall under specific custom tariff heading 38170020.

Further we request you to kindly amend as below:

From	To
HS CODE: 38249900	HS CODE: 38170020
Basic Duty 10%	BASIC DUTY 7.50 %
	NOTIFICATION NO 050/2017 SR. NO. 250

b) Chemical Composition of Morwet D-425

Name of Ingredients	CAS- No.	% By Weight
Sodium Alkyl naphthalenesulfonate, formaldehyde condensate	68425-94-5	>88
Sulfuric Acid disodium salt	7757-82-6	<12
Water	7732-18-5	<2
Napthalene	91-20-3	<0.002

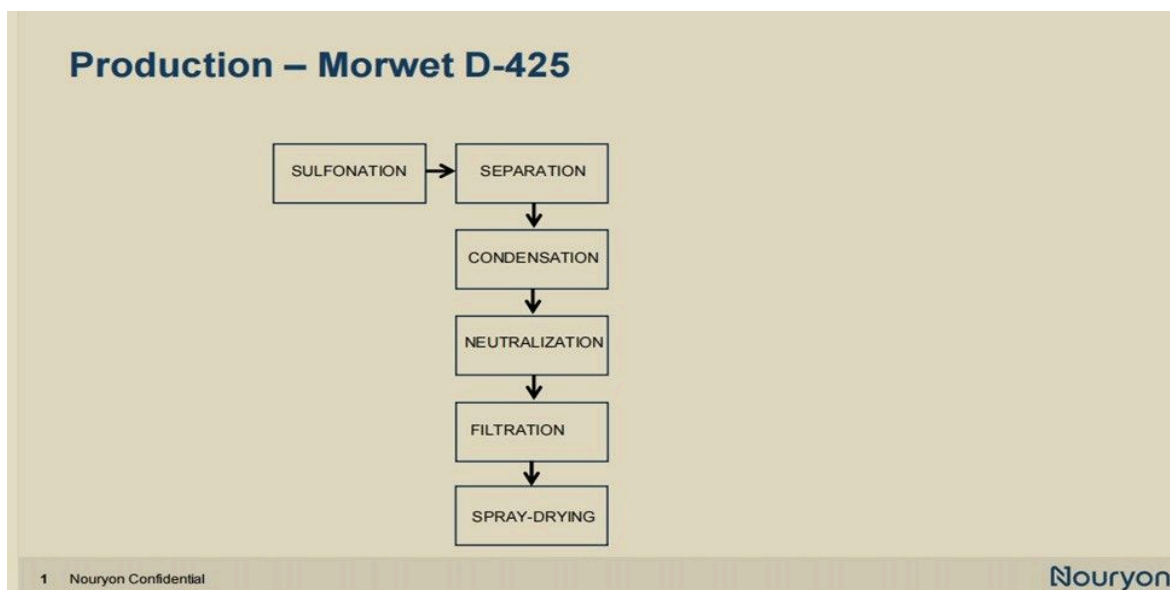
c) **IUPAC Name-** Residues (petroleum), catalytic reformer fractionator, sulfonated, polymers with formaldehyde, sodium salts

d) **Safety data sheet (attached below):** On perusal of the said document, it is mentioned that the data mentioned therein is as per global Harmonised system. The Parent company is Nouryon Surface chemistry AB, Sweden. □

e) **Product data sheet (attached below):** On perusal of Product data sheet, it is mentioned that Morwet is a trademark registered product; specifically, Morwet D -425 is:

- generally described as Alkyl naphthalene sulphonate condensate,
- it has anionic active component more than 87%.
- Foam Height according to Ross Miller: initial 40 mm after 5 min 30 mm, 25°C, 0.05% in standard water D| intial 70 mm; after 5 min: 25 mm; 25°C, 0.05% in de-ionised water.,
- Surface tension according to Du Nouy, 25°C, 0.1% DIN 53914: 60 mN/m

6. On perusal of the documents submitted above it appears that the documents submitted above are actually provided by the supplier of Morwet D-425 i.e. M/s Nouryon surface chemistry USA/ M/s Nouryon Chemical USA.
7. Vide this office Letter dt. 07.05.2024, 15.05.2024, 22.05.2024, M/s Nouryon were requested to provide import documents in respect of import of Morwet D-425. They vide mail dt 23.05.2024 submitted process chart, HS Rational, Complete literature (product chemistry) information of Morwet D-425 etc. These are as under:
 - **Process flow chart.** The entire production process is illustrated in flow diagram.



- Complete literature (product chemistry) information of Morwet D-425.

May 21, 2024

Morwet D-425 Powder Composition

The following information provided is considered confidential and proprietary. Contents of this document may not be disclosed to a third party without prior written authorization and/or consent from Nouryon Chemicals.

Substance name	CAS No	Concentration [%]
Sodium alkyl/naphthalene sulfonate, formaldehyde condensate	68425-94-5	87 - 100
Chemical Name of Residuals		
Salt (as Sodium sulfate)	7757-82-6	7 - 10
Water	7732-18-5	≤ 4

This document is valid without signature
On behalf of Nouryon Surface Chemistry AB

- **End Use** (Specific end use of this product) applications: In agriculture products.
- **Final structure of product postproduction:** Morwet D-425 Powder is a sodium salt of naphthalene sulfonate condensate (NSC)
- **MSDS / SDS and PDS.**
- **HS rationale. (RUD 5):** Nouryon vide letter dated 16.05.2023 has explained its rationale for classifying Morwet D 425 under CTH 3824.

Nouryon Chemicals India Pvt Limited

Nouryon

TO WHOMSOEVER IT MAY CONCERN

Classification Of Morwet D-425 Powder in HS Heading 382499

We ruled out chapter 34 based on our detailed response previously. Then we moved to chapter 35.

This is how we finished at chapter 38 based on the nature of the product.

Chapter 35

Harmonized System Codes of Chapter Albuminoidal substances; modified starches; glues; enzymes. :

Albuminoidal substances; modified starches; glues; enzymes.

Our product does not fall under this chapter as it is not a modified starch.

Chapter 36 - Tariff Classification of - Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations.

Our product does not fall under this chapter as it is not classified as an explosive.

Chapter 37 - Tariff Classification of - Photographic or cinematographic goods.

Our product does not fall under this chapter as it is not classified as a photographic good.

Chapter 38 miscellaneous chemical products seems to fit because we make chemical products.

Subheading 3824 (con.) Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included (con.): Mixtures containing halogenated derivatives of methane, ethane or propane:
Is suitable.

3824 (con.) Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included (con.): Mixtures and preparations containing oxirane (ethylene oxide), polybrominated biphenyls (PBBs), polychlorinated biphenyls (PCBs), polychlorinated terphenyls.
Not suitable.

M/s. Nouryon India submitted that HS 38249900 is appropriate and accurate for their material Morwet D 425 and that as Morwet D-425 does not meet surface tension requirements to be classified under heading 3402. Therefore, Nouryon classifies Morwet D 425 under HS 3824990.

7.1 Further vide e-mail dt. 09.04.2025 (**RUD 6**) M/s Nouryon India has explained HS rationale for import of Morwet D 425. Wherein they have submitted detailed explanation for the rationale of classifying Morwet D 425 under CTH 3824. The screenshot of the e-mail and the said explanation is attached below:

3824 (con.) Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included (con.):

Morwet D-425 meets this subheading.....

3824999397Other

Unit No. NB 801, 8th Floor,
Empire Tower, Cloud City Campus,
Off Thane Belapur Road,
Airoli, Navi Mumbai - 400708
Maharashtra, India

T +91 22 6842 6700
www.nouryon.com



Registered Office: Timeless Building, 2nd Floor, 209/1B/1A, Range Hills, Pune 411020, Maharashtra, India

Nouryon Chemicals India Pvt Limited

Nouryon

• ... Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:

3824.99 Other: (con.) (con.) Other: Mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substances:

And continuing down the subheading table you arrive at
3824999397Other
As none of the stat suffixes from 10 through 86 covers our product.
See diagram attached below.

3824.99.93	Other	
	Mixtures of acyclic, monohydric, unsubstituted alcohols:	
	Containing C ₁₂ or lower alcohols only.....	kg
	Containing C ₁₂ or higher alcohols only.....	kg
	Other.....	kg
	Mixtures consisting mainly of chemicals containing a phosphorus atom to which is bonded one methyl, ethyl, n-propyl or isopropyl group, but no other carbon atoms.....	kg
	Mixtures of a kind containing magnesium used as a desulfurization reagent.....	kg
	Other ²²	kg
10		
20		
30		
61		
86		
97		

For Nouryon Chemicals India Pvt. Ltd,

Keshav Patil, Manager IMPEX.



From the above, it appears that manufacturer has gone through all headings from heading 3402 to 3824 and thereafter, they had reached to the conclusion that item is correctly classifiable under heading 382499. On perusal of the above explanation, it appears that CTI being referred to is 3824999397, to be the Custom Tariff Item (CTI) number as per US Customs classification. It is pertinent to mention that starting 06 digit of CTI are universal as per Harmonised System Nomenclature (HSN). The Harmonized System of Nomenclature (HSN) is an internationally recognized system developed by the World Customs Organization (WCO) for classifying goods in trade.

8. Mr. Atul Sudhakar Jewalikar, director in M/s Nouryon Chemical India Pvt Ltd., tendered statement on 21.06.2024 (**RUD 07**) under section 108 of Customs Act 1962 in response to Summons CBIC din 202406790C000000E2BD. He stated that:

- He is CFO and full-time director and finance head in M/s Nouryon chemical India pvt ltd.
- He has knowledge about product but not technical knowledge about Morwet D 425. He does not know the procedure of its formation.
- Morwet D 425 works as a Dispersant, is used in agrochemical formulations.
- The chemical is produced by M/s Nouryon USA LLC, and this is USA originated & manufactured in USA only.
- M/s Nouryon is the only producer of Morwet D 425. There are other available brands present in the market.
- He is aware of the classification (HSN 3824999397) of Morwet D 425 and the classification is decided by trade agreement and classification department in USA. Selling this product for many years and they have used this classification for Morwet D 425.
- M/s Nouryon chemical India pvt ltd has submitted letter dt. 16.05.2023, they agree to the classification of Morwet D 425 in HSN 38249900. Morwet D 425 is not classifiable under CTH 3402. And in future also they will classify under HSN 3824999397 because they sell this product in whole world not just in India.
- As the product is a proprietary goods, they do not want to disclose its composition.
- As the product is a proprietary goods, they do not want to disclose its chemical formula.
- As the product is a proprietary goods, they do not want to disclose its process of formation.
- Both, sodium alkylnaphthalene sulphonate mentioned in MSDS dt. 28.03.2024 and alkylnaphthalene sulphonic acid, polymer with formaldehyde, sodium salt mentioned in 18.04.2024, are same product. They keep revising the MSDS.
- M/s Nouryon or its subsidiary do not mention any CTH other than 3824 chapter heading for Morwet D 425. They are correctly classifying Morwet D 425 and in future also will classify the goods in HSN 3824999397.
- Morwet D 425 is not mixed alkylnaphthalene. Their product is alkylnaphthalenesulphonic acid, polymer with formaldehyde sodium salt 80 percent.

8.1 As part of further investigation summons dt. 10.06.2024 CBIC-DIN - 202406790C000000D353 was issued to M/s. Spectrum Chemicals to record statement **on 20.06.2024** under section 108 of Customs Act, 1962. Mr. Pravin D. Paliwal, authorised person in M/s. Spectrum Chemicals appeared in response to the summons dt 10.06.2024 CBIC-DIN -202406790C000000D353 **(RUD- 8)** wherein he stated that:

- He is the manager in M/s Spectrum Chemicals and has complete responsibility of all the work related to the firm.
- He does have knowledge about the product but not deep technical knowledge.
- Morwet is a dispersing agent. It is generally used in insecticide and pesticides.
- The chemical is produced by M/s Nouryon USA LLC and this product is USA originated
- The reason for importing Morwet D-425 in CTH 38170020 was that the product is mixed alkylnaphthalene, which falls under CTH 38170020. Letter dated 12.02.2020 for Bill of Entry 6712644 dated 31.01.2020 to Group 2F/ Assistant Commissioner, was also submitted wherein it was requested to amend the HS code from 38249900 to 38170020 for

product Morwet D-425 and it.

- Mixed alkyl naphthalene and alkyl naphthalene sulphonic acid are different products and no tests were conducted to verify that the product Morwet D-425 is mixed alkyl naphthalene and is not mentioned in MSDS, COA, Product data sheet
- No clarification was asked from M/s Nouryon USA LLC on whether the product is mixed alkyl naphthalene or not.
- Parindu Chandrakant Mehta (Partner in Spectrum Chemicals) approved that the product is rightly classifiable in CTH 38170020.
- CTH 3817 is for mixed alkyl naphthalenes obtained by alkylation of naphthalene
- Morwet D-425 was imported under different HSN code by M/s Spectrum Chemicals i.e., 38170020, 38249900, 38249917, 38249990, 34021190, 29121990 etc as they were confused about the HSN classification and later started filing the document for import of Morwet D-425 in 38170020. It was believed that the HSN mentioned by supplier is wrong.
- Mr Parindu Chandrakant Mehta is the responsible person who finalized the documents for import and had finalised the HSN code for Morwet D-425 after discussion with other people He was aware of CTH mentioned in Bill of Lading and invoices issued by M/s Nouryon is 3824999397 code but willingly chose different HSN. Later he was sure that the correct CTH is 38170020.
- Accepts that the MSDS, COA and PDS provided by the supplier are correct. But do not accept that HSN Code provided by the supplier is correct.
- As there is no mention of alkyl naphthalene In CTH 38249900, the product was not declared in the said CTH.
- BCD 7.5% applicable for imports under CTH 38170020 and BCD 17.5% applicable for imports under CTH 38249900; had no intention to cause to government revenue.

8.2 Further, summons dt. 03.07.2024 CBIC-DIN -20240770C0000024472 was issued to M/s. Spectrum Chemicals to record statement on 10.07.2024 under section 108 of Customs Act, 1962. Mr. Parindu Chandrakant Mehta, Partner in M/s. Spectrum Chemicals appeared in response to the summons dt. 03.07.2024 CBIC-DIN -20240770C0000024472 **(RUD-9)** wherein he stated that:

- He is one of the partners in M/s Spectrum Chemicals and has complete responsibility of all the work related to the firm including work related to import
- He has basic knowledge about the product but is not a chemical expert
- Morwet D-425 is used as a Primary dispersant. It is Industry benchmark to achieve short milling time and low viscosity premix. It brings electrostatic stabilization and makes the formulation stable towards temperature changes
- Felt the supplier has mentioned wrong CTH code 3824 on Bill of Ladings and invoices and thus changed the HSN code for morwet D-425. Accordingly, a letter dated 12.02.2020 for BE no. 6712644 dated 31.01.2020 to Group 2F/ Assistant commissioner, wherein they requested to amend the HS code from 38249900 to 38170020 for product Morwet D- 425 and they have also informed in the letter that the product is mixed alkyl naphthalenes, which fall under specific Customs tariff heading 38170020 and accordingly department has amended the HSN from 38249900 to 38170020.
- He stated that as per explanatory notes, Mixed alkyl naphthalene and alkyl naphthalene sulphonic acid maybe different products.

- CTH code 3817 is only for mixed alkyl naphthalenes obtained by alkylation of naphthalene.
- They were aware that HSN codes mentioned in Bill of Ladings and invoices issued by M/s Nouryon is 3824999397. The documents were filed in 38170020 or in other HSN willingly, after discussing with the technical team.
- They were confused about the classification of the product and hence has classified in several HSN codes. Later the product was classified in 38170020 only. It is classified as per the best of their knowledge and accepts the possibility of 38170020 being also wrong.
- He accepts that product Morwet D-425 does not classify in CTH 3402.
- No explanation or clarification received from M/s Nouryon or any other supplier about the product Morwet D-425.
- As there is no mention of Alkyl naphthalene in CTH 38249900, they had not declared in the said CTH.
- BCD 7.5% applicable for imports under CTH 38170020 and BCD 17.5% applicable for imports under CTH 38249900; had no intention to cause to government revenue.

8.3 In response to summons dt. 18.07.2024 CBIC-DIN - 20240770C0000555A23 Customs Broker of M/s Spectrum Chemicals, M/s. Jet Cargo Movers, recorded statement on 22.07.2024 under section 108 of Customs Act, 1962. Mr. Kiran Arvind Bhanusahali, Propreitor in M/s. Jet Cargo Movers appeared in response to the summons dt. 18.07.2024 CBIC-DIN - 20240770C0000555A23 (**RUD- 10**) wherein he stated that:

- He did all the required KYC of Importer M/s Spectrum Chemicals
- The product is produced by M/s Nouryon USA LLC only and is USA originated. He does not have any knowledge about this product.
- He was aware that documents were filed in different CTH than those mentioned by the supplier M/s Nouryon on Bill of ladings and invoices. M/s Spectrum chemicals has always decided the HSN Code and documents were filed after their approval only through email.
- In Feb 2020, initially documents were filed the documents in HSN Code 38249900, But M/s Spectrum Chemicals vide letter dated 12.02.2020 requested to amend the HSN Code in bill of Entry 6712644 dated 31.01.2020 from HSN Code 38249900 to HSN Code 38170020.
- Earlier bill of entry was filed for the product was filed under CTH 3402 as earlier it was supplied by M/s Azkonobel. At the time CTH 3402 was mentioned on Bill of Ladings and invoices issued by the supplier. Later vide letter dated 10.07.2018 M/s Azkonobel informed that they have assumed that Morwet D-425 is a surface-active agent which meets the requirement of Chapter 34. It was later informed that it does not fulfil the surface tension criteria for CTH 3402 and after CTH 3824 started mentioning on BLs and invoices.
- M/s Azkonobel was taken over by M/s Nouryon and after receiving the letter dated 10.07.2018 wherein the reason for change in HS Code for Morwet D-425 to CTH 3824.99 was stated, the documents were filed in CTH 3824 only.
- After 2018, foreign supplier started mentioning CTH 3824 on Bill of Lading and invoice, but the documents continued to be filed in CTH 3402 as the importer informed that this product is a surfactant which is also mentioned in MSDS and informed us to continue with CTH 3402 as at the time duty was higher in 3402 as compared to 3824.
- He did not receive letter dated 16.05.2023 from M/s Nouryon USA LLC

wherein it is informed that the correct classification of Morwet D-425 is 38249900. Only letter dated 10.07.2018 from M/s Azkonobel was received.

- BCD 7.5% applicable for imports under CTH 38170020 and BCD 17.5% applicable for imports under CTH 38249900; had no intention to cause to government revenue.

8.4 From the document dated 10.07.2018 (**RUD- 11**) as discussed by Mr. Kiran Arvind Bhanusahali, Propreitor in M/s. Jet Cargo Movers in his above statement, appears to be issued by M/s Azkonobel, it is found that they have provided the reasons for change in HS Code for Morwet D-425 to CTH 3824.99. It discusses as under:

"The HS Code originally assigned (34029030) was based on the assumption that morwet D-425 is a surface-active agent which meets the requirements of HTS Chapter 34.

Note 3 to HTS Chapter 34 (Surface-Active Agents"& Preparations) states:

"For the purposes of Heading 3402, 'organic surface-active agents' are products which when mixed with water at a concentration of 0.5% at 20°C and left to stand for one hour at the same temperature:

(a). Give a transparent or translucent liquid or stable emulsion without separation of insoluble matter; and

(b). Reduce the surface tension of water to 4.5×10^2 N/m (45 dyne/cm) or less."

A 0.5% solution of Morwet D-425 Powder only reduces the surface tension of water to roughly 5.3×10^2 N/m, not to 4.5×10^2 N/m or less as required of a surface-active agent. Therefore, Morwet D-425 cannot be considered a surface-active agent by operation of Note 3 to HTS Chapter 34.

The new HS code with first six digits 3824.99 refers to "Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, other"

Later on, it was found that name of company M/s Akzo Noble Chemicals India Pvt Ltd was changed to M/s Nouryon Chemical India Pvt Ltd as per Certificate of Incorporation No CIN: U24100PN2018PTC174373.

9. Vide Letter dated 22.07.2024, M/s Jet Cargo Movers (RUD- 12) submitted the documents relating to imports of Morwet D-425 by importer M/s Spectrum Chemicals wherein it is stated that:

"On behalf of Spectrum Chemicals clearance of Morwet was undertaken since November 2017, the shippers were AKZO NOBEL SURFACE CHEMISTRY LLC (now NOURYON SURFACE CHEMISTRY LLC). The claim of CTH 34.02 for import shipments @ 10% Basic Duty was made and check lists were sent for approval to

Spectrum Chemicals & after their approval Check List was uploaded.

3.1. *Thereafter until 24-01-2020, with an explanation/clarification of Shipper to Spectrum Chemicals classification under CTH 38.24 @ 7.5% was to be claimed.*

3.2. *In 2020, during Customs clearance of "Morwet 425" by Spectrum Chemicals under Custom Tariff Heading (CTH) 38.24 claimed for assessment in the Check List and Self assessed and was later subjected to verification by Customs.*

3.3. *After presentation of Bill of Entry and before Customs clearance of shipment, the Importer, Spectrum Chemicals, represented before Customs claiming CTH 38.17 and claimed classification with reassessment of Bill of Entry with CTH 38.17 was later approved.*

3.4. *Under File No: S/26-MISC-2253/2020 GR II A-F JNCH Dated 12-02-2020 the classification of Morwet D-425 under HS CODE 38.17, was re-assessed to duty and Bill of Entry of Spectrum Chemicals & Azelis (India) Pvt Ltd.*

3.5. *Thereafter, since 12-02-2020 in all import clearances of Morwet D-425, the Check List were presented and classification under HS CODE 38.17 was claimed for assessments. Before being uploaded in the ICEGATE System, those Checklists were also communicated to importers.*

10. During investigation, this office had drawn representative sample under Panchnama dated 24.03.2025 for the goods namely Morwet D 425 imported vide Bill of Entry No 8710283 dated 05.03.2025 (by other importer) and forwarded for testing to DYCC JNCH for testing purposes. The lab vide its report Lab no. 145/R&I Mumbai dt 24/03/2025 (**RUD 13**) has stated that: ".....It has characteristics of sodium salt of Alkyl Aryl sulfonate. Based on the instrumental analysis it can be inferred that that the sample u/r is not mixed alkyl naphthalene".

The said report, report Lab no. 145/R&I Mumbai dt 24/03/2025, is placed below:

Lab No. 145 / R&I Mumbai dt 24/03/25

B.E. NO: 8710283 dt 05/03/2025.

Report:

The sample as received is in the form of brownish powder. It has the characteristics of sodium salt of Alkyl Aryl sulfonate. Based on the instrumental analysis, it can be inferred that the sample u/r is not mixed alkyl naphthalene.

Sealed Remnants returned.

N. P. — dt 22/04/2025

एन. पोन्नसामी / N. PONNUSAMY
असिस्टेंट रसायन परीक्षक
Assistant Chemical Examiner

Dr. JANARDHAN GADDAM
रसायन परीक्षक ग्रेड-1 / Chemical Examiner Grade-I
जवाहरलाल नेहरू सीमा शुल्क भवन प्रयोगशाला
Jawaharlal Nehru Custom House Laboratory
मुम्बई शेवा / Nhava Sheva

The observations made in the above-mentioned report, report Lab no. 145/R&I Mumbai dt 24/03/2025, which mentions that the sample u/r is not mixed alkyl naphthalene. In this regard, it is pertinent to inform that CTI 38170020

refers to Mixed Alkyl naphthalenes. Thus, CTH 3817 can be conclusively ruled out for classification of Morwet D 425. The importer vide letter dated 12.02.2020 submitted before Customs as discussed above, has stated that *"Further, we have filled documents as per HS code mentioned by supplier 38249928, but as per manufacturer MSDS the said item is Sodium alkyl naphthalenesulfonate, formaldehyde condensate which is Mixed alkyl naphthalenes fall under specific custom tariff heading 38170020.* In view of above test report No. 145, the contention of the importer that the product is mixed alkyl naphthalene, is not correct.

11. Analysis/ observations:

a. It is observed from the past imports of Morwet D 425 by various importers that said goods were previously imported under 03 different tariff heads namely: 3402, 3817 and 3824. The effective rate of BCD against each tariff head is different i.e. 10%, 7.5% and 17.5% respectively as per Customs Tariff Act, 1975. In the extant case of imports of Morwet D 425 by M/s Spectrum Chemicals it is observed that M/s Spectrum chemicals imported Morwet D 425 under tariff head 3817. The same is corroborated from ICES data (Table 1). From TABLE- II, it is observed that for the period 19.06.2020 till 17.12.2021, the importer M/s Spectrum Chemicals imported Morwet D 425 under CTI 38170020 although the Bills of Lading and Invoices (except for Bill of Entry No 4823981 dated 27.07.2021) of the corresponding imports mention CTI 3824992890/382499. During the said period of consideration, the supplier was Nouryon Surface Chemistry LLC. Thus, it appears the said importer has misclassified the said goods by mis representing the technical details of said goods and suppressing actual specification, during the period 19.06.2020 till 17.12.2021.

b. Excerpts of CTH 3817 are placed below:

3817	MIXED ALKYL BENZENES AND MIXED ALKYL NAPHTHALENES , OTHER THAN THOSE OF HEADING 2707 OR 2902			
381700	- Mixed alkylbenzenes and mixed alkyl naphthalenes , other than those of heading 2707 or 2902 :			
	--- Mixed alkylbenzenes :			
38170011	--- Linear alkylbenzenes	kg.	7.5%	-
-				
38170019	--- Other	kg.	7.5%	-
-				
38170020	--- Mixed alkyl naphthalenes	kg.	7.5%	-

The heading 3817 covers mixed alkyl benzenes and mixed alkyl naphthalenes, other than those of heading 2707 or 2902. As discussed in foregoing para above, the DYCC test report Lab no. 145/R&I Mumbai dt 24/03/2025 mentions that the representative sample is not mixed alkyl naphthalene. In this regard, it is pertinent to inform that CTI 38170020 refers to Mixed Alkyl naphthalenes. The lab vide its report Lab no. 145/R&I Mumbai dt 24/03/2025 has stated that: *".....It has characteristics of sodium salt of Alkyl Aryl sulfonate. Based on the instrumental analysis it can be inferred that that the sample u/r is not mixed alkyl naphthalene"*.

Further, as Morwet D 425 is a proprietary product, also it is manufactured by sole manufacturer i.e. M/s Nouryon Chemicals, USA. The test results mention by Dy CC in Test Report Lab No 145/R&I Mumbai dated 24.03.2025 applies to all imports made in India sourced from M/s Nouryon, USA being sole manufacturer. Hence, as mentioned in the aforementioned test report, as Morwet D 425 is not mixed alkyl naphthalene, therefore CTH 3817 is ruled out

for classification Morwet D-425.

12. CLASSIFICATION OF THE IMPORTED GOODS

12.1. The classification of any product under Customs Tariff is governed by chapter Notes, Explanatory Notes and the principles contained in Rule 1 to Rule 6 of the General Rules for the Interpretation (GIR).

THE GENERAL RULES FOR THE INTERPRETATION OF IMPORT TARIFF -

Classification of goods in this Schedule shall be governed by the following principles:

Rule 1: The titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions

Rule 2: (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

Rule 3: When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

Rule 4: Goods which cannot be classified in accordance with the above Rules

shall be classified under the heading appropriate to the goods to which they are most akin.

Rule 5: In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein :

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This Rule does not, however, apply to containers which give the whole its essential character;

(b) Subject to the provisions of Rule 5 (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.

Rule 6: For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, mutatis mutandis, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

12.2 Excerpts of CTH 3817 are reproduced below:

Heading 3817 of the Customs Tariff Act, 1975: -

3817		MIXED ALKYL BENZENES AND MIXED ALKYL NAPHTHALENES, OTHER THAN THOSE OF HEADING 2707 OR 2902
3817 00	-	Mixed alkylbenzenes and mixed alkylnaphthalenes, other than those of heading 2707 or 2902:
	---	Mixed alkylbenzenes:
3817 00 11	----	Linear alkylbenzenes
3817 00 19	----	Other
3817 00 20	-----	Mixed alkylnaphthalenes

12.3 Explanatory notes to CTH 3817: -

This heading covers mixed alkylbenzenes and mixed alkylnaphthalenes obtained by alkylation on of benzene and naphthalene. They have fairly long side-chains and are not of the kind mentioned in the second part of the text of heading 27.07. Mixed alkylbenzenes are used, inter alia, as solvents, and in the manufacture of surface-active agents, lubricants and insulating oils. Mixed alkylnaphthalenes are mainly used for the manufacture of alkylnaphthalene sulphonic acids and their salts. The heading excludes mixtures of isomers of heading 29.02.

12.4 Thus, from reading of the Explanatory notes and description mentioned in heading 3817, it is clear that heading 3817 covers the goods namely mixed alkylbenzenes and mixed alkylnaphthalenes. The test result of test report, Lab no. 145/R&I Mumbai dt 24/03/2025 pertaining to representative sample of Morwet D 425 mentioned that, "... sample u/r *is not mixed alkyl naphthalene*". Hence, Morwet D 425 does not appear classifiable under heading CTH 3817.

12.5 Further, on the basis of HSN Rationals given by M/s Nouryon vide letter dated 16.05.2023 and mail dated 09.04.2025 it has been clearly mentioned that the product is precisely classifiable under CTI 38249900.

Heading 3824 of the Customs Tariff Act, 1975: -

3824		PREPARED BINDERS FOR FOUNDRY MOULDS OR CORES; CHEMICAL PRODUCTS AND PREPARATIONS OF THE CHEMICAL OR ALLIED INDUSTRIES (INCLUDING THOSE CONSISTING OF MIXTURES OF NATURAL PRODUCTS), NOT ELSEWHERE SPECIFIED OR INCLUDED
38241000	-	Prepared binders for foundry moulds or cores
38243000	-	Non-agglomerated metal carbides mixed together or with metallic binders
382440	-	Prepared additives for cements, mortars or concretes:
38244010	---	Damp proof or water proof compounds
38244090	---	Other
382450	-	Non-refractory mortars and concretes:
38245010	---	Concretes ready to use known as "Ready-mix concrete (RMC)"
38245090	---	Other
382460	-	Sorbitol other than that of sub-heading 2905 44:
38246010	---	In aqueous solution

38246090	---	Other
	-	Goods specified in Sub-heading Note 3 to this Chapter:
38248100	--	Containing oxirane (ethylene oxide)
38248200	--	Containing polychlorinated biphenls (PCBs), polychlorinated terphenyls(PCTs) or polybrominated biphenyls (PBBs)
38248300	--	Containing tris (2,3-dibromopropyl) phosphate
382484		
38248400	--	Containing aldrin (ISO), camphechlor (ISO) (toxaphene), chlordane (ISO), chlordecone (ISO), DDT (ISO) (clofenotane (INN), 1, 1, 1-trichloro-2, 2- bis(p-chlorophenyl)ethane), dieldrin (ISO, INN), endosulfan (ISO), endrin (ISO), heptachlor (ISO) or mirex (ISO)
382485		
38248500	--	Containing 1, 2, 3, 4, 5, 6- hexachlorocyclohexane (HCH (ISO)), including lindane (ISO, INN)
382486		
38248600	--	Containing pentachlorobenzene (ISO) or hexachlorobenzene (ISO)
382487		
38248700	--	Containing perfluorooctane sulphonic acid, its salts, perfluorooctane sulphonamides, or perfluorooctane sulphonyl fluoride
382488		
38248800	--	Containing tetra-, penta-, hexa-, hepta- or octabromodiphenyl ethers
38248900	--	Containing short-chain chlorinated paraffins
382491		
38249100	--	Mixtures and preparations consisting mainly of (5-ethyl-2-methyl-2- oxido-1, 3, 2-dioxaphosphinan-5-yl)methyl methyl methylphosphonate and bis[(5-ethyl-2-methyl-2-oxido-1, 3, 2- dioxaphosphinan-5-yl) methyl] methylphosphonate:
38249200	--	Polyglycol esters of methylphosphonic acid
38249900	-	Other:

12.6. On the basis of DYCC test report Lab No. 145/R&I Mumbai dated 24.03.2025 Morwet D-425 is not mixed alkylnapthalene and heading 3817 covers goods as mixed alkylnapthalene, classification of Morwet D 425 under heading 3817 is not correct. The manufacture supplier are classifying said goods under heading 3817. In view of , as per Rule 4 of General rules of Interpretation, said goods appears to fall in a miscellaneous heading 3824 precisely under Custom Tariff Item (CTI) 38249900.

12.7 Thus, from the discussions above, the imports of Morwet D 425 under CTH 3817 appears to be misclassified, hence the said goods detailed in Table III appear to be liable for confiscation. Therefore, differential duty for imports made during 19.06.2020 to 17.12.2021 appears to be recoverable alongwith applicable interest.

12.8 From the aforesaid discussions and findings, the declared classification and the correct classification is detailed below:

Sr no	Imported goods	Declared CTH	Duty structure in declared CTH	Correct CTI	Duty structure in correct CTI
1	Morwet D 425	3817	3817: BCD- 7.5%, IGST- 18%	38249900	BCD: 17.5% (for imports from USA), IGST- 18%

13. LEGAL PROVISIONS:

M/s Spectrum Chemicals has resorted to mis-declaration of technical specification by way of suppressing actual specification and mis-classification with the intent to evade payment of Customs duties. The various provisions of law/ rules relevant to the import of goods in general, liability of goods to confiscation and liability to penalty for improper importation of goods, are summarized below

Section 2(2) of the Customs Act, 1962: *"assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any under this Act or under the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to-*

- a. *the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act.*
- b. *the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act*
- (c) *exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefore under this Act or under the Customs Tariff Act or under any other law for the time being in force*
- (d) *the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods,*
- (e) *the origin of such goods determined in accordance with the provision of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other same is affected by the origin of such good,*
- (f) *any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment, self-assessment, assessment and any assessment in which the duty assessed is nil*

- **Section 2(14) of the Customs Act, 1962:** *"dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;*

- **Section 2(16) of the Customs Act, 1962:** *"entry" in relation to*

goods means an entry made in a bill of entry, shipping bill or bill of export and includes the entry made under the regulations made under Section 84.

- **Section 11 A (a) of the Customs Act, 1962:** *"illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.*

- **Section 17 of the Customs Act, 1962:**

(1) *An importer entering any imported goods under section 46 or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods*

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

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

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

- **Section 28 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 willful 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 of the Customs Act, 1962: Interest on delayed payment of Duty:**

1. *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.*
- (2) *Interest at such rate not below ten per cent, and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix. shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be up to the date of payment of such duty*

◦ **Section 46 of the Customs Act, 1962:**

- 1) *The importer of any goods, other than goods intended for transit or transshipment, shall make an 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*
- (2) *Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor*
- (3) *The importer while presenting a bill of entry shall make and subscribe to 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.*
- (4) *The importer who presents a bill of entry shall ensure the following namely: -*
 - (a) *the accuracy and completeness of the information given therein.*
 - (b) *the authenticity and validity of any document supporting it, and*
 - (c) *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force*

◦ **Section 111 of the Customs Act, 1962: 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 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.

Section 112(a) in The Customs Act, 1962

(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 ...

Section 114A of the Customs Act, 1962: *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 willful 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 (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined: Provided that where such duty or interest, as the case may be, 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 the 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 duty or interest, as the case may be, so determined:*

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the duty or interest determined to be payable is Increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section 28AA and twenty-five percent of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

Provided also that, where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.

13.1 With the introduction of self-assessment and consequent upon amendments to Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was obligatory on the part of the importer, M/s Spectrum Chemicals, to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods. Therefore, by not disclosing the true and correct facts to the proper officer, at the time of clearance of imported goods, the importer appears to have indulged in mis-classifying by way of wilfully mis-declaring and mis-classification of the imported goods with intent to evade the payment of applicable Custom duties. Thus, the importer, M/s Spectrum Chemicals appears to have contravened the provisions of Section 46(4) & 46(4A) of the Customs Act, 1962, in-as-much as they have mis-classified and mis-declared the goods imported by them, suppressed actual technical specification of the goods imported by them, while filing the declaration seeking clearance at the time of importation of impugned goods

13.2 Section 17(1) & Section 2(2) of the Customs Act, 1962 read with CBIC Circular No. 17/2011- Customs dated 08.04.2011 cast a heightened responsibility and onus on the importer to determine duty, classification etc, by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declares the correct classification as per technical details, rate of duty, value, benefit of exemption notifications claimed, if any applicable, in respect of the imported goods while presenting the Bill of Entry.

14. **Summary of investigation:**

a. M/s Spectrum Chemicals was engaged in import of MORWET D-425 Powder under CTI 38170020; Whereas, as MORWET D-425 Powder is correctly classifiable under CTI 38249900 of CTA. This is evident from the explanatory Notes to the Harmonized Commodity Description and Coding System (Harmonized System Nomenclature) for CTH 3817 of the CTA and and DYCC test reports Lab no. 145/R&I Mumbai dt 24/03/2025. The said goods cannot be classified under Customs Tariff Item 38170020 which is for 'MIXED ALKYL BENZENES AND MIXED ALKYL NAPHTHALENES.

b. The partner in M/s Spectrum Chemicals in his statement dt. 10.07.2024 has stated that the product Morwet D-425 was classified under CTI 38170020 under the reasonable belief that the product is mixed alkylnaphthalene.

c. M/s Spectrum Chemicals has imported Morwet D 425 from M/s Nouryon surface chemistry LLC USA, i.e., manufacturer of Morwet D 425. In case of imports from the aforementioned supplier, the Bill of lading/ invoice indicates CTH of Morwet D 425 to be 3824. In his statement dated 20.06.2024 authorized representative of M/s Spectrum Chemicals stated that M/s Spectrum

Chemicals has never sought clarifications from supplier regarding product Morwet D 425 nor tested the product to verify the appropriate classification under CTH 3817. Further, the partner of firm, in his statement dt. 10.07.2024 has stated that they were aware that Bill of lading and Invoices issued by M/s Nouryon had HSN mentioned 3824999397. They had willingly filed in 38170020, after discussing with the technical team.

d. The said importer had classified MORWET D-425 Powder under Customs Tariff item (CTI) 38170020 since 2020 after Letter dated 12.02.2020 was written to Group 2F, Assistant Commissioner, JNCH, Mumbai Customs Zone II, by the importer regarding amendment in HS Code & Notification. The importer initially classified the product under CTH 38249900 attracting 10% BCD and filed under the same (BoE no. 6712644 under CTH 3824). Subsequently, they felt the need to change the CTH to 3817 which is for MIXED ALKYL BENZENES AND MIXED ALKYL NAPHTHALENES and paid BCD at the rate of 7.5%. However, the item MORWET D-425 Powder is a chemical products and preparations of the chemical correctly classifiable under CTI 38249900 of CTA with applicable BCD rate of 17.5%.

e. Therefore, it is established that M/s Spectrum Chemicals was engaged in evasion of customs duty by way of misdeclaration technical specification as mixed alkyl naphthalene to mis classify with intent to evade the payment of applicable Customs duties as discussed in detail in the paras supra, therefore, notice for duty demand for extended period under Section 28(4) of the Customs Act, 1962 appears applicable in the present case.

f. By the above acts of omission and commission, M/s Spectrum Chemicals appears to have contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, since they had not disclosed the correct classification of the imported goods before the proper officer while filing the Bills of Entry for the clearance of the imported goods. The same was done with the sole intention to evade the payment of applicable duty leviable thereon. This has resulted in short payment of Customs duty for the goods cleared as worked out in Table III below. By the act of mis-declaration and mis classification of the subject goods, M/s Spectrum Chemicals has rendered the said goods totally valued at **Rs. 11,75,68,585/- (Rupees Eleven crore Seventy-Five lakh Sixty-Eight Thousand Five hundred and Eighty-Five only)** (as worked out in Table III below), liable to confiscation under Sections 111(m) of the Customs Act, 1962. This has resulted in short payment of Customs duty by way of mis-classifying the subject goods under CTI 38170020 instead of correct CTI 38249900 by resorting to willful mis-statement and it appears that the same should be demanded under Section 28(4) of the Customs Act, 1962.

g. In view of the above stated mis-declaration of technical facts, mis-classification, willful mis-statement, M/s Spectrum Chemicals has evaded payment of Customs duty aggregating to **Rs. 1,52,60,405/- (Rupees One Crore Fifty-Two Lakh Sixty Thousand Four Hundred and Five only)** as worked out in Table III below, appears liable to be recovered from M/s Spectrum Chemicals under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA *ibid*.

h. Further the duty was short paid due to misclassification of facts by M/s Spectrum Chemicals as discussed in Para above, M/s Spectrum Chemicals appears liable for penalty under Section 112a or 114A of the Customs Act, 1962.

15. The gist of the import of the said goods made by M/s Spectrum Chemicals and the differential duty payable is as under: -

The differential duty is **Rs. 1,52,60,405/- (Rupees One Crore Fifty-Two Lakh Sixty Thousand Four Hundred and Five only)** along with interest and penalty is applicable (Table III below)

TABLE -III

BE No	BE Date	Assess Val	Duty	BCD Amt	BCD at 17.5 %	Total Duty Payable	BCD 7.5%	Total Duty Paid	Differential Duty
7949329	19-06-2020	4989600	1009646	0	873180	2031516	374220	1383866	647650
8150440	13-07-2020	4989600	1009646	0	873180	2031516	374220	1383866	647650
8153270	13-07-2020	4989600	1009646	0	873180	2031516	374220	1383866	647650
8598049	26-08-2020	4989600	1009646	0	873180	2031516	374220	1383866	647650
8837572	16-09-2020	4989600	1009646	0	873180	2031516	374220	1383866	647650
8906371	22-09-2020	4960489	1003755	0	868085	2019663	372037	1375791	643871
8906371	22-09-2020	29112	8074	2183	5095	11853	2183	8074	3779
9250976	20-10-2020	4365900	883440	0	764032	1777576	327442	1210882	566694
9613756	18-11-2020	4989600	1383866	374220	873180	2031516	374220	1383866	647650
9615044	18-11-2020	4989600	1383866	374220	873180	2031516	374220	1383866	647650

9932184	12-12-2020	4989600	1383866	374220	873180	2031516	374220	1383866	647650
9932675	12-12-2020	4989600	1383866	374220	873180	2031516	374220	1383866	647650
9933149	12-12-2020	4989600	1383866	374220	873180	2031516	374220	1383866	647650
2667072	08-02-2021	4917024	1363737	368777	860479	2001966	368777	1363737	638230
3099233	11-03-2021	4898880	1358704	367416	857304	1994579	367416	1358704	635875
3175781	17-03-2021	4898880	1358704	367416	857304	1994579	367416	1358704	635875
3310629	26-03-2021	4898880	1358704	367416	857304	1994579	367416	1358704	635875
3515346	10-04-2021	4898880	1358704	367416	857304	1994579	367416	1358704	635875
3565136	14-04-2021	4917024	1363737	368777	860479	2001966	368777	1363737	638230
4042779	22-05-2021	4917024	1363737	368777	860479	2001966	368777	1363737	638230
4434122	24-06-2021	4917024	1363737	368777	860479	2001966	368777	1363737	638230
4495216	29-06-2021	4302396	1193270	322680	752919	1751721	322680	1193270	558451
4496155	29-06-2021	4917024	1363737	368777	860479	2001966	368777	1363737	638230
4823981	27-07-2021	4917024	1363737	368777	860479	2001966	368777	1363737	638230
6722029	17-12-2021	4890081	989508	0	855764	1990997	366756	1356264	634733
6722029	17-12-2021	26943	7473	2021	4715	10970	2021	7473	3497
Total		117568585							15260405

16. Now, therefore in terms of Section 124 read with Section 28(4) of the Customs Act, 1962, M/s Spectrum Chemicals having their registered address at A-1004, Business Suites 9, Near Dynasty Restaurant, S. V. Road, Santacruz (W), Mumbai – 400054, is hereby called upon to Show Cause to the **Pr. Commissioner of Customs, N.S.-I, JNCH**, Nhava-Sheva, Taluka-Uran, District-Raigad, Maharashtra-400707, within 30 days of receipt of this notice, as to why: -

- (i) The classification of the goods namely Morwet D-425 under CTI 38170020 imported vide Bills of entry as mentioned in Table III should not be rejected and the said goods should not be reclassified correctly under CTI 38249900 for the purpose of levy of duty.
- (ii) The goods imported under Bill of entry as mentioned in table III totally valued at Rs. 11,75,68,585/- (Rupees Eleven Crore Seventy-Five Lakhs Sixty-Eight Thousand Five Hundred and Eighty-Five only) should not be liable to confiscation under section

111(m) of Customs Act 1962.

- (iii) Differential duty amounting to Rs. 1,52,60,405/- (Rupees One crore Fifty-Two Lakhs Sixty Thousand Four Hundred and Five only) against the goods imported vide Bill of entry as mentioned in table III should not be demanded and recovered under section 28 (4) of the Customs Act 1962 alongwith applicable interest under section 28 AA of the Customs Act 1962
- (iv) For the Act of Omission and Commission, M/s Spectrum Chemicals should not be liable for penalty under section 112(a) or 114A of Customs Act 1962.

17. Any representation oral or in writing against this notice with necessary documentary evidence about the correctness of their stand should be made to the **Pr. Commissioner of Customs, NS-I, JNCH, Nhava-Sheva**, Taluka-Uran, District-Raigad, Maharashtra-400707. If no representation is received within the period aforesaid, it will be presumed that you have admitted to the correctness of the demand.

18. Noticee is required to send their written reply to the aforesaid adjudicating authority within 30 days from the receipt of this notice. They are required to state in their reply as to whether they wish to be heard in person before the case is adjudicated. In case no reply is received within the prescribed time, or if they fail to appear before the adjudicating authority when the case is posted for hearing, the case will be decided on the basis of evidence already available on record without further reference to the noticee.

19. This Show Cause Notice is issued without prejudice to any other action that may be taken against aforesaid goods and notices or any other persons concerned under the Customs Act, 1962 or Rules made there under and any other law for the time being in force in the Union of India. Further this Show Cause Notice is limited to the issue of import of goods as enumerated above. 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
Yashodhan Arvind Wanage
Date: 20-06-2025
17:33:40

(Yashodhan A. Wanage)
Pr. Commissioner of Customs (NS-I)
JNCH, Mumbai Zone-II.

Encl: The list of Relied Upon Documents (RUDs) as contained in Annexure-I

To,

M/s Spectrum Chemicals
A-1004, Business Suites 9, Near Dynasty Restaurant,
S. V. Road, Santacruz (W), Mumbai - 400054

Copy To:

1. The Dy./Asstt. Commissioner of Customs, Adjudication Cell(I), JNCH, Nhava Sheva
2. The Dy./Asstt. Commissioner of Customs, NSPU, R& I, New Customs House, Mumbai
3. The Dy./Asstt. Commissioner of Customs, CHS, JNCH, JNCH, Nhava Sheva (For displaying on Notice Board)
4. Office Copy

Annexure- I**(LIST OF RELIED UPON DOCUMENTS)**

1. Letter dt. 07.05.2024 to M/s Spectrum Chemicals for providing documents related to import of Morwet D- 425.
2. M/s Spectrum Chemicals letter dated 27.05.2024
3. Letter dated 12.02.2020 to Group 2F, Assistant Commissioner, JNCH regarding amendment in HSN Code & Notification
4. BOE no. 6712644 dated 31st January 2020
5. HS rationale: letter dated 16.05.2023 submitted by M/s Nouryon
6. HS rationale: e-mail dt. 09.04.2025 from M/s Nouryon
7. Mr. Atul Sudhakar Jewalikar, director in M/s Nouryon Chemical India pvt ltd, statement on 21.06.2024
8. Mr. Pravin D. Paliwal, authorised person in M/s. Spectrum Chemicals statement
9. Mr. Parindu Chandrakant Mehta, Partner in M/s. Spectrum Chemicals statement
10. Mr. Kiran Arvind Bhanusahali, Propreitor in M/s. Jet Cargo Movers statement
11. M/s Azkonobel, supplier letter dated 10.07.2018 stating the reason for change in HS Code for Morwet D-425 to CTH 3824.99.
12. Letter dated 22.07.2024 from Jet Cargo Movers
13. DYCC, JNCH report Lab no. 145/R&I Mumbai dt 24/03/2025