


DIN – 20200271MO00002X0425

	OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 Phone No.02838-271165/66/67/68 FAX.No.02838-271169/62
A. File No.	: F. No. VIII/48-15/Adj./ADC/MCH/2018-19
B. Order-in- Original No.	: MCH/ADC/AK/ 113/2019-20
C. Passed by	: Shri Ajay Kumar Additional Commissioner of Customs, Custom House, AP & SEZ, Mundra.
D. Date of order /Date of issue	: 20.02.2020/20.02.2020
E. Show Cause Notice No. & Date	: S/15-32/Enquiry/SIIB/CHM/Calcite Powder/2017-18 Dated 09.07.2018
F. Noticee(s)/Party/ Importer	: M/s Ram Prasad Traders, 13A/ 390A, Shahdara, Nunhai Road, Agra – 282 006, Uttar Pradesh (IEC No.0614900379)

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 128 A के अंतर्गत प्रपत्र सीए- 1- में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

**“ सीमा शुल्क आयुक्त (अपील), कांडला
7 वीं मंजिल, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़, अहमदाबाद -380 009”
“THE COMMISSIONER OF CUSTOMS (APPEALS), KANDLA
Having his office at 7th Floor, Mridul Tower, Behind Times of India,
Ashram Road, Ahmedabad-380 009.”**

3. उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।

Appeal shall be filed within sixty days from the date of communication of this order.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by –

(i) उक्त अपील की एक प्रति और

A copy of the appeal, and

(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं०-6 में निर्धारित 5/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।

This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।

Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.

6. अपील प्रस्तुत करते समय, सीमा शुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

Subject:- Show Cause Notice F.No. S/15-32/Enquiry/SIIB/CHM/Calcite Powder/2017-18 Dated

09.07.2018 issued to M/s Ram Prasad Traders, 13A/ 390A, Shahdara, Nunhai Road, Agra - 282 006, Uttar Pradesh(IEC No.0614900379).

BRIEF FACTS OF THE CASE

An Intelligence gathered by SIIB, Custom House, Mundra revealed that M/s Ram Prasad Traders, 13A/390A, Shahdara, Nunhai, Agra, Uttar Pradesh (herein after referred to as "the Importer"/"the Noticee") having IEC No. 0614900379 is engaged in import of Calcium Carbonate (Coated or precipitated) classifiable under CTH-28365000 by declaring it as Natural/uncoated Calcite Powder and clearing the goods under CTH-25309030 @ Nil rate of BCD showing the goods of Vietnam Origin. The CTH-25309030 attracts Basic Custom Duty @ 5%, IGST @ 5%. Further, the importer has claimed benefit of Zero duty BCD under Notification No. 046/2011, Sr. No 200 (i) under AIFTA COO Certificate.

1.1 The Duty structure for the two CTH is as under:-

Description of Goods Declared	CTH	BCD	IGST	AIFTA Benefit under Noti. No. 046/2011 available or not
Calcite Powder	25309030	5%	5%	Available
Calcium Carbonate (Coated or Precipitated)	28365000	7.5%	18%	Available

1.2 Based on intelligence, two live consignments imported by the Importer under Bill of Entry No. 3015748/28.08.2017 & 3015749/28.08.2017 were taken up for investigation and testing. The Bills of Entry were facilitated by system under RMS wherein no assessment and examination has been prescribed. Accordingly, with due approval of competent authority, the goods were examined by Officers of SIIB and Panchnamas were drawn on 11/12/13.09.2017. The details of the consignments are as under:

Name & address of Importer	: M/s Ram Prasad Traders
IEC	: 0614900379
Bill of Entry No	: 3015748/28.08.2017 & 3015749/28.08.2017
Name of CB	: M/s Kaushli International
Description of goods (declared)	: Natural Calcite Powder
Country of origin (declared)	: Vietnam
Supplier Name	: M/s Yen Bai Industry Mineral Joint Stock Company, Vietnam
Total Gross weight (declared)	: 270000 Kgs & 270000 Kgs
Invoice No.	: 10 & 11/RAM-YBM/2017 dtd 12.07.17
Declared Assessable Value	: Rs. 1379857/- & RS. 1379857/-
IGM No. & date	: 2172907/24.08.17 & 2172579/22.08.17
B/L No. & date	: AP1707261/26.07.17 & AP1707282/28.07.17

1.3 The cargo were examined on 12/13.09.2017, under Panchnama drawn at Saurashtra & Hind CFS respectively in presence of CFS Staff & representative of CB & two independent Panchas and representative samples were drawn and forwarded to CRCL, Kandla (jurisdictional laboratory) for testing vide Test Memo No. 20/12.09.2017 and 21/13.09.2017 .

1.4 The above said representative samples were got tested at Customs laboratory, Kandla under said test memo, it is revealed from the Test report No. 183/21.09.2017 (BE - 3015749/28.08.2017) and 184/21.09.2017 (BE - 3015748/28.08.2017) that **“Samples are composed of precipitated Calcium Carbonate and content of CaCo3 = 98.40% and 98.20 % respectively.”**

1.5 Importer M/s. Ram Prasad Traders vide letter dated 09.10.2017 requested for provisional assessment of Bill of Entry and requested for re-testing of goods as per **Board Circular No. 30/2017 dated 18.07.2017**. Further, Importer M/s. Ram Prasad Traders again vide letter dated 27.10.2017 had requested that they are ready to provide provisional assessment Bond and Bank Guarantee subject to re-testing of their sample with another Custom approved Laboratory as per Board Circular No. 30/2017 dated 18.07.2017.

1.6 In light of Board Circular No. 30/2017 dated 18.07.2017, after considering the importer's request for re-testing, remnant samples of goods were forwarded vide **Test Memo No. 41** (BE - 3015748/28.08.2017) & **42** (BE - 3015749/28.08.2017) **both dated 15.11.2017** to CRCL, New Delhi for re-testing after due approval from competent authority.

1.7 Test Reports issued by CRCL, New Delhi under F .No. 25-Cus/C-11/2017-18 dated 19.02.2018 was received in this office on 27.02.2018. The CRCL, New Delhi vide their Test Report had informed that the goods are **“Precipitated Calcium Carbonate” with content of CaCo3 (% by Mass) = 98.2% & 98.6% respectively**. Copy of test report was forwarded to Importer vide Customs letter dated 27.02.2018 by post as well on email – rptagra@gmail.com and thorough their CB M/s Kaushali International, Gandhidham too.

1.8 The Importer M/s. Ram Prasad Traders vide their letter dated 21.11.2017 & 02.01.2018 had requested to send samples to other laboratory as per Board Circular No. 43/2017-Customs dated 16.11.2017. However, before that the remnant samples were already sent to CRCL, New Delhi vide Test Memo No. 41 & 42 dated 15.11.2017 and Test Report was awaited at that time and same facts had already been informed to the Importer vide letter dated 28.12.2017, even though considering importers request, letters were issued to Laboratories as specified under Board Circular No. 43/2017-Customs dated 16.11.2017 regarding testing of “Natural Calcite Powder Grade AAA-03” imported under Bill of Entry No. 3015748 & 3015749 both dated 28.08.2017 on the parameters **1. Nature & % of CaCo3 Content & Chemical Composition of Sample 2. Whether chemically activated 3. Whether roasted/calcined/processed and 4. Whether Coated /precipitated Calcium Carbonate**, who vide their letter/email, stated that “required analysis do not come under the domain of their laboratory and their lab is not having facilities for such analysis”, details are as under;

Sr. No	Laboratory specified under Board Circular No. 43/2017-Customs dated 16.11.2017	Remark/compliance
1	The Controller General (I/c), Indian Bureau of Mines, 2 nd Floor, Indira Bhawan, Civil Lines, Nagpur – 440001	They can determine only the chemical composition and other parameters cannot be analysed at their end.
2	The Additional Director General & HOD, Western Region, Geological Survey of India, GSI Complex,	Only % of oxides can be identified & no separate test available for

	Khanij Bhawan, 15-16, Jalana Dungri, Jaipur - 302004	rest of the parameters.
3	The Additional Director General & HOD, Southern Region, Geological Survey of India, GSI Complex, Bandlaguda, Hyderabad -500068 (Andhra Pradesh)	Required analysis do not come under the domain of their laboratory and their lab is not having facilities for such analysis
4	Dr. S. Subarao, Scientist-in-Charge, National Metallurgical Laboratory (NML), Madras Centre, CSIR Complex, Taramani, Chennai -600113	Their lab is not having facilities for such analysis
5	Dr. Ratnakar Singh, Scientist G & Head, Mineral Processing Division, National Metallurgical Laboratory (NML), CSIR-NML, Near Tata Steel Gate No.-1, Burma Mines, Jamshedpur, Jharkhand-831007	Tests are not in their domain.

1.9 As per explanatory notes to Chapter Heading 2836 "Precipitated Calcium Carbonate – Precipitated Calcium Carbonate (CaCO₃) included in this heading results from the treatment of solutions of calcium salts with carbon dioxide. Used as an extender, in the preparation of toothpastes and face-powder in medicine (treatment of rickets) etc."

1.10 Thus taking into account the test results of samples drawn and as per explanation to CTH 28365000 it appeared that the said goods are appropriately classifiable under the CTH-28365000 and not under CTH 25309030 as declared by the said importer.

1.11 Further as provided in Note 1 mentioned Customs Tariff 2013-14, Section V for Mineral Products, Chapter 25 for Salt, Sulphur, Earths Sand Stone, Plastering Materials, Lime and Cement explained as under:

*"Except where their context or Note 4 to this Chapter otherwise requires, the headings of this Chapter cover only products which are in the crude state or which have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened concentrated by floatation, magnetic separation or other mechanical or physical process (except crystallization), **but not products that have been roasted, calcined obtained by mixing or subjected to processing beyond that mentioned in each heading.***

The products of this Chapter may contain an added anti-dusting agent, provided that such addition does not render the product particularly suitable for specific use rather than for general use."

1.12 The product in dispute Precipitated Calcium Carbonate is a chemically defined inorganic compound. Hawley's Condensed Chemical Dictionary, 11th Edition, Page 202 describes two methods of deviation of Calcium Carbonate (i) Mined from natural surface deposits (b) precipitated (Synthetic) by reaction of Calcium Chloride and Sodium Carbonate in water solution or by passing carbon dioxide through a suspension of hydrated lime Ca(OH₂) in water.

1.13 The Encyclopaedia of Chemical Technology by Kirk Othmer, Third Edition Volume 4, at page 427, sets out that "Calcium Carbonate CaCO₃ Mol. Wt 100.09 is the major constituent of limestone which is used in the manufacture of quicklime or hydrated lime. Calcium Carbonate occurs naturally in the form of Marble, Chalk and Coral. Powdered Calcium Carbonate is

produced by either chemical methods or by the mechanical treatment of the natural materials. The term **Precipitated Calcium Carbonate** applies to the commercial types of the compound produced chemically in a precipitation process". The precipitated products are distinguished by a finer, more uniform particle size, a narrower size range, and a higher degree of chemical purity. The Precipitated Calcium Carbonate being a product derived synthetically from the mineral form (Lime stone) cannot be considered as mineral in its own right but only as a chemical. From the said extracts it further gets clarified that Precipitated Calcium Carbonate is not a product which either occurring in nature or processed by application of physical processes but is produced by a process of chemical transformation resulting in a separate product commercially.

1.14 In view of above facts and as per test Reports of CRCL, Kandla & New Delh, it is evident that goods imported by M/s. Ram Prasad Traders, are Calcium Carbonate (Precipitated); correctly classifiable under CTH 28365000 (in terms of HSN explanatory notes for Chapter Heading 2836) instead of their declaration under CTH-25309030; the importer has mis-declared and mis-classified their goods with intend to evade duty. Further, the importer has already been informed to furnish requisite Bond and Bank Guarantee for provisional assessment of Bills of Entry No. 3015748/28.08.2017 & 3015749/28.08.2017 for the clearance of goods.

1.15 Details of earlier Bills of Entry of M/s Ram Prasad Traders wherein goods by declaring as Natural Calcite Powder and cleared under CTH – 25309030 are as under-

S r. N o	BE No.	Date	Importer	Country of Origin	Description of goods	Declared CTH	Qty in Kgs	Assessable value
1	2464738	15-07-2017	RAM PRASAD TRADERS	VIETNAM	Natural Calcite Powder	25309030	137500	735173.32
2	2481735	17-07-2017				25309030	137500	735173.32
3	2588955	25-07-2017				25309030	137500	700500.65
4	2606788	26-07-2017				25309030	137500	720256.25
5	2842531	14-08-2017				25309030	135000	696613.92
6	2842532	14-08-2017				25309030	135000	712260.84
TOTAL								42,99,978/-

1.16 The Importer M/s Ram Prasad Traders, Uttar Pradesh had imported same Goods under aforesaid B/Es mentioned at Sr. No. 1 to 6 from the same supplier i.e. M/s Yen Bai Industry Mineral Joint Stock Company, Vietnam and classified the same under CTH-25309030 instead of CTH-28365000.

1.17 It appeared that importer M/s Ram Prasad Traders have mis-declared the classification of Precipitated Calcium Carbonate under CTH 25309030 by willful suppression of facts to evade payment of duty which were liable to be classified and assessed under CTH 28365000. The said act of suppression and mis-declaration renders the goods liable for confiscation under Section 111(m) of the Customs Act, 1962 and, thereby, the said importer rendered themselves liable for penalty under Section 112(a) and/or 114A of the Customs Act, 1962. The differential Customs Duty amounting to Rs. 5,58,997/- (Five Lakhs Fifty Eight Thousand Nine Hundred Ninety Seven Only) in respect of the goods covered under 6 Bills of Entry, as detailed in Annexure A (Sr. No.

1 to 6) to the SCN stands recoverable from M/s Ram Prasad Traders under Section 28 of the Customs Act, 1962 along with the appropriate interest at the rate prescribed in terms of Section 28AA of the Customs Act, 1962 for reasons as discussed above and penalty is imposable under Section 112(a) and/or 114A of the Customs Act, 1962.

2. Therefore, a Show Cause Notice F.No. S/15-32/Enquiry/SIIB/CHM/Calcite Powder/17-18 dated 09.07.2018, was issued whereby the importer M/s Ram Prasad Traders, 13A/390A, Shahdara, Nunhai, Agra, Uttar Pradesh were called upon to Show Cause in writing to the Additional Commissioner of Customs, Custom House, Mundra, as to why:

- (i) The classification of goods declared as Natural Calcite Powder covered under Bills of Entry No. 2464738/15.07.17, 2481735/17.07.17, 2588955/ 25.07.17, 2606788/ 26.07.17, 2842531/14.08.17 & 2842532/14.08.17 classified under CTH-25309030 should not be rejected and why the same should not be classified under CTH-28365000.
- (ii) The Bill of Entry No. 3015748/28.08.17 & 3015749/28.08.17, should not be re-assessed under Section 17 of the Customs Act, 1962 to duty amounting to **Rs. 4,96,749/-** on the imported goods as detailed at Sr. No. 7 & 8 in Annexure- A to the Show Cause Notice.
- (iii) Custom Duty of amount of **Rs. 5,58,997/- (Five Lakhs Fifty Eight Thousand Nine Hundred Ninety Seven Only)** (the differential duty as detailed in Annexure-A {Sr. No. 1 to 6} to the SCN) leviable on the impugned goods should not be demanded and recovered in terms of Section 28 of the Customs Act,1962; along with applicable interest under Section 28AA of the Customs Act,1962;
- (iv) The goods valued at Rs. 70,59,693/- (Seventy Lakhs Fifty Nine Thousand Six Hundred Ninety Three only) covered under Bills of Entry No. 3015748/28.08.17, 3015749/ 28.08.17, 2464738/15.07.17, 2481735/17.07.17, 2588955/25.07.17, 2606788/ 26.07.17, 2842531/14.08.17 & 2842532/14.08.17 should not be held liable for confiscation under the provision of Section 111(m) of the Customs Act,1962
- (v) Penalty should not be imposed under Section 112(a) and/or 114A of the Customs Act, 1962.

PERSONAL HEARING

3. The Personal Hearing in the case matter was fixed on 22.05.2019 or 23.05.2019 or 24.05.2019. In this regard, the Noticee vide their letter dated 17.05.2019, received on 21.05.2019, to the department, requested to adjourn the scheduled personal hearing and further requested for retesting of their goods by a competent laboratory in view of Hon'ble Gujarat High Court order dated 10.08.2018 in SCA No.9295 of 2018 for M/s Ram Prasad Traders. In view of such a request made by the Noticee, this office vide letter as well as e-mail

both dated 27.05.2019 informed them the next date of Personal Hearing fixed on 04.06.2019, stating that in view of the Hon'ble High Court Order dated 10.08.2018 it is open for them to make a request for re-testing of the sample during the course of personal hearing before the adjudicating authority. Further, the Noticee vide letter dated 03.06.2019 requested to grant some more time in order to present their case before the adjudicating authority on the subject matter. Thereafter, the next dates of personal hearing were fixed on 11.06.2019, 04.07.2019 and 18.07.2019, however nobody appeared for the same on above scheduled hearings and every time they requested in writing for adjournment either on bad health ground or due to some prior legal appointment. Considering their request, the next date of personal hearing was fixed on 22.07.2019 or 23.07.2019. In response of the same, Shri Shantanu Singh, the Proprietor of M/s Ram Prasad Traders attended the personal hearing on 22.07.2019. During the course of personal hearing, he made oral submissions as well as submitted a written defence reply and also requested for retesting of the sample by a properly equipped laboratory in view of Hon'ble Gujarat High Court order dated 10.08.2018 in SCA No.9295 of 2018 for M/s Ram Prasad Traders. He referred to the Board's Circular No.43/2017-Customs dated 16.11.2017 wherein it is mentioned that CRCL Laboratories are in the process of up-gradation and hence till that time the sample may be got tested in the Laboratories mentioned in the Annexure to this Circular. The Calcite Powder (Natural) is at Sr. No. 9 of the said Annexure. Hence, Shri Shantanu Singh stated that the sample may be got tested in those laboratories mentioned in the Annexure to the Circular No.43/2017-Customs dated 16.11.2017. He also referred to and relied upon various case laws mentioned in his written submission. Further, due to change of adjudicating authority, the personal hearing was fixed on 06.02.2020, however, Shri Shantanu Singh, the Proprietor of M/s Ram Prasad Traders vide his letter dated 02.02.2020 stated that he has already submitted his reply and all the requisite documents on 22.07.2019 and requested to consider the same as their reply towards the matter and decide the case.

DEFENCE SUBMISSION

4. The Noticee in their defence reply, inter-alia, denied all the allegations and averments as made in the aforesaid Show Cause Notice and requested to drop the show cause notice in its entirety on the grounds stated herein below:

4.1 They had imported the goods in powder form and even the description of the goods in the Bills of Entry No. 3015748 and 3015749 both dated 28.08. 2017 is "Natural Calcite Powder Grade AAA-03". The classification was thus, rightly made under CTH 25309030 which attracted IGST at the rate of 5% only and not the rate of 18% under CTH 28365000.

4.2 The Department only relying upon the Test Reports of CRCL Kandla and New Delhi, declared that the goods to be "precipitated" which in itself is not the proper authority and more importantly not equipped to test such samples as specified under Circular No. 43/2017.

4.3 The stand of the respondent is erroneous in as much as there have had been prior imports of the same goods by them, from the same supplier and from the same country of origin which were not disputed by the Department. They had previously cleared the same imported goods (at Mundra, Jaipur and Vishakhapatnam) when provisional assessment was conducted by a national authority formed specifically for this purpose and which should have more authority and applicability on the present issue i.e. National Test House, Jaipur on 09.05.2017 which clarified that the goods are "Calcite Powder". Therefore, the sample needs to be retested by the proper authorities like National Test house or other certified authorities.

4.4 It is a trite law that where an exact and specific description already exists then it shall always prevail over the others. The CTH 25309030 has specifically included "Calcite" under it, therefore, while importing such product of Natural Calcite Powder, the same should be classified under it and not doing the same should be considered as misclassification. Hence, the clarification proposed by the Department is unwarranted.

4.5 The imported goods have all qualities, characteristics and specifications of Calcite and should be classified under CTH 25309030.

4.6 The website of them clearly mentioned that the Natural Calcite Powder is being used in industrial and thermoplastic applications whereas Calcium Carbonate is used under food or pharmaceutical purposes or for production of marble. Therefore, both the products have different uses and characteristics.

4.7 There is no monetary benefit for the misclassification of imported goods as they will simply have to debit the differential amount of duty therefore, this clarifies that there exists no ground to establish a mala fide intention to skip and/or to evade any Customs Duty on the part of them so that any misclassification could be resorted to.

4.8 The CRCL is not a competent authority to determine the characteristics of the goods as they do not possess the requisite equipment to test the said samples it can be verified under the item mentioned on Sr. No. 6 of the Circular No. 43/2017 dated 16 November, 2017 issued by the Central Board of Excise and Customs.

4.9 They placed reliance on the various case laws/judgments/decisions such as (i) Hon'ble CESTAT, Regional Bench Allahabad in the case of C.C. & C.E. & S.T. Noida Vs Manikya Creations Pvt. Ltd. 2019 (365) ELT 130 held that:

"Customs dated 16.11.2017, clarifying- that CRCL has shortlisted the items whose samples cannot be tested in their Laboratories at present and also identified the Lab, where such samples could be tested. Natural Calcite Powder is one of the specified products which CRCL Lab is unable to test."

(ii) The Hon'ble CESTAT, Principal Bench New Delhi in the case of Rathi Enterprises Vs C.C. & C.E. & S.T. Noida 2015 (2) TMI 81 held that:

"7..... The test report of CRCL has been objected by the appellant. It was also revealed from the records that CRCL has of equipment to test the represented samples of the appellant. Therefore, the test report given by CRCL is in doubt. The appellant is having right to ask retest of the samples from any other laboratory other than CRCL when the CRCL is not having equipment to examine required product. In these circumstances, the test report of CRCL IS not acceptable.

8. Therefore, the impugned order is set aside. Accordingly, the adjudicating authority is directed to get the samples retested from any laboratory other than CRCL and thereafter to pass an appropriate order in accordance with law. The adjudicating authority is also directed till finalization of the adjudication in this matter the bank guarantee furnished by the appellant shall not be encashed."

(iii) That the Hon'ble CESTAT, Allahabad in the case of M/s Pavas Polychem Pvt. Ltd. Vs Commissioner of Customs, Kanpur 2018 (2) TMI 1573 held that:

"...we find that in so far as confirmation of demand, re-classification, enhancement of value, confiscation, imposition of penalty and redemption fine on past clearances in the impugned Order-in-Original is concerned the same set aside. In so far as, the Order-in-Order in respect of the said two Bills of Entry dated 25/09/2014 & 30/09/2014 is concerned, we find that the said Circular dated 16/11/2017 clearly indicates that National Metallurgical Laboratory (NML), Jamshedpur & Chennai were identified as designated laboratory for testing of Natural Calcite Powder. We find that in the case of M/s Rathi Enterprises the right of the importer to get the samples re-tested was upheld and therefore, the confirmation demand to the extent of 6,80,859/- is not sustainable since re-testing of samples in the laboratory other than CRCL was not allowed. Therefore, the related confiscation and imposition of penalty and re-determination of value of consignments related to Bills of Entry filed on 25/09/2014 & 30/09/2014 is not sustainable."

4.10 The goods are imported under the ASEAN Free Trade Area Agreement (AFTA) because of which the same has nil Basic Customs Duty applicable to it, but the Department has forced them to pay Basic Customs Duty at the rate of 5% in order to release the goods thereby, violating the AFTA Agreement and this just goes to show the erroneous application of the prevalent law.

4.11 In the present issue, they had filed a writ petition under a Special Civil Application No. 9295 before the Hon'ble High Court of Gujarat for provisional release of the goods which was kindly ordered by them under order dated 10.08.2018 by executing a bank guarantee of 25% of the differential IGST amount which was duly submitted by them and the court further held that:

"6. We record the contention of the counsel for the petitioner that the substance should be tested laboratory necessary equipment and technical know-how. It will be open for the petitioner to make such a request during the course of the adjudication proceedings of the show cause notice which is already issued."

4.12 There is no corroborative evidence to establish that the goods imported were misclassified. The whole and sole basis of the issuance of Show Cause Notice was that the test reports of CRCL Kandla and New Delhi which showed the product to be precipitated and not Calcite which led to issuance of notice to them that the goods were wrongly classified by them.

4.13 They had no mala fide intention of classifying the said imported goods as the same is clearly Calcite powder and when the CTH 25309030 includes Calcite, there exists no reason to believe that they had misclassified the said product.

4.14 They have without any delay paid the unreasonable Basic Customs Duty at the rate of 5% demanded by the department because of the urgency of release in order to avoid further losses to them which clearly show that they had no issue financially to pay any duty which they were otherwise liable to pay. Therefore, they had already paid all the customs duty and IGST he was liable to pay under CTH 25309030.

4.15 That the Hon'ble Supreme Court in the case of Commissioner of Customs v. Phoenix International Ltd. & Anr. (2007) 10 SCC 114 has held that:

"When there is an allegation of subterfuge, the court has to examine the circumstances surrounding the import to ascertain whether the importer had entered into fictitious arrangement to evade customs duty. The intention behind the act of importation has to be probed."

4.16 On the issue of proposal for imposition of penalty under Section 114A and/or Section 112(a) of the Customs Act, 1962, they submitted that the department have relied upon the invalid test reports of the CRCL Kandla and New Delhi and they cannot be considered as conclusive evidences of mis-classification. They further stated that when there exists no intention of customs duty evasion and the applicable rates of duty is been paid by them, there exists no reason to impose penalty under any of the two provisions of the Customs Act, 1962.

DISCUSSION AND FINDING

5. I have carefully gone through the Show Cause Notice dated 09.07.2018, the written submission made at the time of personal hearing on 22.07.2019 as well as the available records of the case. I find that they have been given opportunity to appear before the Adjudicating Authority on 06.02.2020, however nobody appeared for Personal Hearing, rather through a letter dated 02.02.2020, received on 10.02.2020, they intimated that they have already submitted a written reply dated 22.07.2019 and same be considered as final reply. Hence, I find

that the natural justice as prescribed under Section 122A of the Customs Act, 1962 is completed. I further find that the Chief Commissioner of Customs (Insitu), Custom House, Mundra extended the period by one year further to adjudicate the Show Cause Notice from the stipulated period of one year in terms of Section 28(9) of the Customs Act, 1962. I find that the following main issues are involved in the subject Show Cause Notice, which are required to be decided-

- (i) Whether the declared classification under Customs Tariff heading-25309030 of goods declared as Natural Calcite Powder covered under Bills of Entry as detailed in Annexure-A to the SCN is liable to rejection and the said goods covered are classifiable under Customs tariff heading -28365000.
- (ii) Whether the Bill of Entry No. 3015748/28.08.17 & 3015749/28.08.17, are liable for re-assessment under Section 17 of the Customs Act, 1962 to duty amounting to **Rs. 4,96,749/-** on the imported goods as detailed at Sr. No. 7 & 8 in Annexure- A to the Show Cause Notice.
- (iii) Whether Customs Duty amounting to Rs.5,58,997/- (Rupees Five Lakh Fifty Eight Thousand Nine Hundred Ninety Seven Only) (the differential duty as detailed in Annexure-A {Sr. No. 1 to 6} to the SCN) is required to be demanded and recovered from the importer in terms of Section 28 of the Customs Act,1962; along with applicable interest under Section 28AA of the Customs Act,1962;
- (iv) Whether the goods valued at Rs. 70,59,693/- (Rupees Seventy Lakh Fifty Nine Thousand Six Hundred Ninety Three only) covered under Bills of Entry as detailed in Annexure-A to the Show Cause Notice are liable for confiscation under the provisions of Section 111(m) of the Customs Act,1962
- (v) Whether the importer is liable for penalty under Section 112(a) and/or 114A of the Customs Act, 1962.

5.1 The foremost issue before me to decide in this case is as to whether the goods imported by M/s Ram Prasad Traders by declaring the same as "Natural Calcite Powder" are classifiable under CTH 25309030 or under CTH 28365000 of Customs Tariff Act, 1975 as claimed by the department in the Show Cause Notice. I find that an Intelligence gathered by the department revealed that M/s Ram Prasad Traders (IEC No. 0614900379) were engaged in import of Calcium Carbonate (Coated or precipitated) classifiable under CTH-28365000 and clearing the said goods by declaring it as Natural/uncoated Calcite Powder under CTH-25309030 @ Nil rate of BCD showing the goods of Vietnam Origin and are claiming the benefit of Zero duty BCD under Notification No. 046/2011, Sr. No 200 (i) under AIFTA COO Certificate. Based on intelligence, two live consignments imported by the Importer under Bills of Entry No. 3015748 & 3015749 both dated 28.08.2017 were taken up for investigation and testing. Since the said two Bills of Entry were facilitated by system under RMS wherein no assessment and examination were prescribed, accordingly, with due approval of competent authority, the goods were examined by Officers of SIIB, Custom House, Mundra under Panchnamas drawn on

11/12/13.09.2017 at Saurashtra & Hind CFS respectively. The representative samples were drawn and forwarded to the jurisdictional laboratory i.e. CRCL, Kandla for testing vide Test Memo No. 20/12.09.2017 and 21/13.09.2017, who vide their Test report No. 183/21.09.2017 (BE - 3015749/28.08.2017) and 184/21.09.2017 (BE - 3015748/28.08.2017) reported that **"Samples are composed of precipitated Calcium Carbonate and content of CaCo3 = 98.40% and 98.20 % respectively."** Further as per request of M/s. Ram Prasad Traders vide letter dated 09.10.2017 and 21.10.2017 for provisional assessment of Bills of Entry and re-testing of their sample with another Custom approved Laboratory as per Board Circular No. 30/2017 dated 18.07.2017, remnant samples of goods were forwarded vide Test Memo No. 41 (BE - 3015748/28.08.2017) & 42 (BE - 3015749/28.08.2017) both dated 15.11.2017 to CRCL, New Delhi for re-testing after due approval from competent authority. The CRCL, New Delhi vide their test report under F.No. 25-Cus/C-11/2017-18 dated 19.02.2018, received in this office on 27.02.2018 had informed that the goods are **"Precipitated Calcium Carbonate" with content of CaCo3 (% by Mass) = 98.2% & 98.6% respectively.** Copy of test report was forwarded to Importer vide Customs letter dated 27.02.2018 by post as well on email – rptagra@gmail.com and through their Customs Broker M/s Kaushali International, Gandhidham. Again, M/s. Ram Prasad Traders vide their letter dated 21.11.2017 & 02.01.2018 requested to send samples to other laboratory as per Board Circular No. 43/2017-Customs dated 16.11.2017, however, before that the remnant samples were already sent to CRCL, New Delhi vide Test Memo No. 41 & 42 dated 15.11.2017 and test Reports were awaited at that time and same facts had already been informed to the Importer vide letter dated 28.12.2017, even though considering importers request, letters were issued to Laboratories (specified under Board Circular No. 43/2017-Customs dated 16.11.2017) regarding testing of "Natural Calcite Powder Grade AAA-03" imported under Bills of Entry No. 3015748 & 3015749 both dated 28.08.2017 on the following parameters:

1. Nature & % of CaCo3 Content & Chemical Composition of Sample;
2. Whether chemically activated;
3. Whether roasted/calcined/processed and
4. Whether Coated /precipitated Calcium Carbonate;

In response of which the Geological Survey of India, Jaipur vide e-mail-gsiwrtcs@gmail.com dated 10.05.2018, Geological Survey of India, Hyderabad vide letter no. 920/Chem. Div/GSI/SR/2017-18 dated 06.05.2018 and National Metallurgical Laboratory, Chennai vide letter no. NML/MC/04-G/2018-19 dated 01.05.2018, stated that **"required analysis do not come under the domain of their laboratory and their laboratory is not having facilities for such analysis"**. I also find that in respect of request made by the Noticee at the time of personal hearing on 22.07.2019 for re-testing of their goods, the department had written letters for testing of samples to some other laboratories also viz. Indian Bureau of Mines at Ajmer and Bangalore, and Geological Survey of India at Kolkata, Pune, Faridabad, Chennai and Nagpur. All letters were also mailed to the laboratories on their respective mail-ids. I find that in this

regard Indian Bureau of Mines, Ajmer vide their e-mail no.rmpl.ajmer@ibm.gov.in dated 04.09.2019, Indian Bureau of Mines, Bangalore vide letter F.No. K24011/1/2016-17/BNG-OD dated 10.10.2019, Geological Survey of India, Kolkata vide letter F.No.4162/CCL/CHQ/Payment samples/2019 dated 27.09.2019, Geological Survey of India, Chennai vide letter no. 2314/TC/SUTNP/2019 dated 18.10.2019 and Geological Survey of India, Pune vide their letter no.769/TC/SUMP/GSI/2019 dated 19.12.2019 have submitted their reply wherein they have

and crushing, is also subjected to the process of calcination, hydration and carbonation to obtain Calcium Carbonate confirming to standard specification. In view of the above, I find that the character of the raw material such as limestone which is a Mineral product has changed as the final product "Precipitated Calcium Carbonate" which is a separate chemically defined compound. Therefore, in view of the above and taking into account the Note 1 to Chapter 25 for Mineral Products for Salt, Sulphur, Earths Sand Stone, Plastering Materials, Lime and Cement, I find that the product namely Precipitated Calcium Carbonate is not a mineral product falling for classification under heading 285309030 as claimed by the importer. I also find that the use of precipitated calcium carbonate is also different as it is used in cosmetic industry in the manufacture of toothpaste, tooth powder, face powder and talcum powder. For the cosmetic industry, it is necessary that Precipitated Calcium Carbonate is free from abrasive impurities since their presence will cause damage to the skin and to the tooth enamel. Only a synthetically processed items can satisfy the above requirements, a mineral product processed naturally will not be able to fulfil these requirements. Thus the Precipitated Calcium Carbonate cannot be treated as a mineral substance falling for classification under CTH 25309030 of Customs Tariff Act, 1975.

5.1.4 Also as per the available technical literature, I find that Hawley's Condensed Chemical Dictionary, 11th Edition, at Page 202 describes two methods of deviation of Calcium Carbonate (i) Mined from natural surface deposits (b) precipitated (Synthetic) by reaction of Calcium Chloride and Sodium Carbonate in water solution or by passing carbon dioxide through a suspension of hydrated lime Ca(OH)_2 in water. Further, the Encyclopaedia of Chemical Technology by Kirk Othmer, Third Edition Volume 4, at page 427, sets out that "Calcium Carbonate CaCO_3 Mol. Wt 100.09 is the major constituent of limestone which is used in the manufacture of quicklime or hydrated lime. Calcium Carbonate occurs naturally in the form of Marble, Chalk and Coral. Powdered Calcium Carbonate is produced by either chemical methods or by the mechanical treatment of the natural materials. **The term Precipitated Calcium Carbonate applies to the commercial types of the compound produced chemically in a precipitation process**". The precipitated products are distinguished by a finer, more uniform particle size, a narrower size range, and a higher degree of chemical purity. The Precipitated Calcium Carbonate being a product derived synthetically from the mineral form (Lime stone) cannot be considered as mineral in its own right but only as a chemical. **From the said extracts, it is clear that Precipitated Calcium Carbonate is not a product which either occurring in nature or processed by application of physical processes but is produced by a process of chemical transformation resulting in a separate commercially defined compound.**

5.1.5 I find that in their written defence reply submitted on 22.07.2019, the importer have just merely stated that the classification was rightly made by them under CTH 25309030 which attracted IGST at the rate of 5% only and not the rate of 18% under CTH 28365000. They have not submitted any corroborative evidence to counter the allegation of mis-declaration and

under CTH 25309030. I also relied upon the Hon'ble Supreme Court order dated 04.11.2004 in case of M/s Gulshan Sugar and Chemical Works V/s Collector of C.Ex. Meerut, reported at [2005(179) E.L.T. A 205(S.C.)] wherein the Hon'ble Supreme court has dismissed the party's Civil Appeal No.1443 of 1999 filed against CEGAT, New Delhi Order No. 1242/98-C dated 10.12.1998. The Appellate Tribunal, New Delhi in its Final order dated 10.12.1998 reported at 2002(150) E.L.T.890(Tri.-Del) had held that uncoated variety of precipitated calcium carbonate is classifiable under sub-heading 2836.90 of Central Excise Tariff Act, 1985 and coated variety is covered under sub-heading 3823.00 ibid and not under Heading 2505.90 ibid by virtue of Note 2 ibid. The said order of the Tribunal is upheld by the Hon'ble Supreme Court [2005(179) E.L.T. A 205(S.C.)]. While dismissing the appeal, the Hon'ble Supreme Court passed the following order:

"This appeal is against the order of the Customs, Excise and Gold (Control) Appellate (in short "CEGAT"), New Delhi dated 10th December, 1988, Both the adjudicating authority as well as Tribunal have, after considering the process involved, come to the conclusion that the product manufactured by them cannot fall under Tariff Item 2505.90 by virtue of Chapter Note 2 to Chapter 25. It is settled law that where technical processes are concerned, findings of the Tribunal are ordinarily not to be disturbed. In this case nothing has been shown to us to arrive at a different conclusion.

We, therefore, see no reason to interfere. The Appeal stands dismissed. There will be no order as to costs."

5.1.6 Thus, in view of the facts discussed in the preceding paragraphs i.e. the said test results of CRCL, Kandla and New Delhi, explanatory notes to CTH 25309030 and 28365000, Note 1 mentioned in Section V for Mineral Products of Chapter 25 for Salt, Sulphur, Earths Sand Stone, Plastering Materials, Lime and Cement, process of manufacture of precipitated Calcium Carbonate and technical literatures viz. Hawley's Condensed Chemical Dictionary, 11th Edition and the Encyclopaedia of Chemical Technology by Kirk Othmer (Third Edition Volume 4), the Hon'ble Supreme Court order against Gulshan Sugar and Chemical Works V/s Collector of C.Ex. Meerut, I find that the **goods imported by M/s. Ram Prasad Traders, are Calcium Carbonate (Precipitated); correctly classifiable under CTH 28365000 and not under CTH 25309030 as declared by them.** Thus as discussed above, the classification of the goods imported by the noticee by mis-declaring the same as "Natural Calcite Powder" under CTH 25309030 is liable for rejection and I hold that it should be re-classified as "Precipitated Calcium Carbonate" under tariff item 28365000 under the first schedule to the Customs Tariff Act, 1975 and should be re-assessed accordingly.

5.2 Further, I find that with the introduction of self-assessment and consequent upon amendments to Section 17, since 8th April, 2011, it is the responsibility of the importer to declare the correct description, value, notification etc and to correctly classify, determine and pay the duty applicable in respect of the imported goods. The importer failed to discharge the legal and statutory obligation in correct determination of description & classification of imported goods and duty payable. I find that the Bills of Entry No. 3015748 and 3015749 both dated 28.08.2017 were assessed provisionally against Bond for full amount of value supported

by requisite Bank Guarantee of differential duty on the basis of mis-declaration of the goods as "Natural Calcite Powder" and mis-classification under CTH 25309030. Thus I find that the aforesaid two Bills of Entry both dated 28.08.2017 are required to be re-assessed under Section 17 of the Customs Act, 1962 to duty amounting to Rs. 4,96,749/- . I further find that the importer is required to pay IGST(@18%) amounting to Rs.7,73,996/-, whereas they have paid IGST(@5%) amounting to Rs. 2,14,999/- at the time of clearance of the goods mentioned at Sr. No. 1 to 6 of Annexure-A to the SCN. Thus, I hold that the differential duty worked out to be Rs.5,58,997/- is required to be recovered from the importer under the provisions of Section 28 of the Customs Act,1962 along with interest thereupon under the provisions of Section 28AA of the Customs Act, 1962.

5.3 After deciding appropriate classification and demand of duty, I proceed further to decide the issue of confiscation of the imported goods, valued at Rs.70,59,693/- under the provisions of Section 111(m) of the Customs Act, 1962.

In this connection, I find that In terms of Section 46 (4) of Customs Act, 1962, the importer is required to make a declaration as to truth of the contents of the bill of entry submitted for assessment of Customs duty. The said importer had wrongly declared the goods imported by them as 'Natural Calcite Powder' under CTH 25309030 instead of correct classification under CTH 28365000 in as much as they were fully aware that the said goods do not fall under their declared classification. Thus I find that the said importer has contravened the provisions of sub section (4) of Section 46 of the Customs Act, 1962 in as much as they had intentionally mis-declared the description of their imported product as 'Natural Calcite Powder' under CTH 25309030 instead of correct classification under CTH 28365000 as "Precipitated Calcium Carbonate", thereby suppressing the correct description and classification of the imported goods, while filing the declaration, seeking clearance at the time of the importation of the impugned goods. Accordingly, for the said act on the part of the importer, the said imported goods are liable to confiscation under Section 111(m) of the Customs Act, 1962.

5.4 As discussed above, the impugned goods are liable for confiscation under Section 111(m) of the Customs Act, 1962. Since the impugned imported goods are not prohibited/restricted goods, an option of redeeming the goods is required to be granted to the noticee, against the order of confiscation by paying redemption fine as provided under Section 125 of the Customs Act, 1962. I find that as provided under Section 125(2) ibid, the noticee will have to pay the above mentioned amount of differential duty along with the redemption fine while exercising option to redeem the confiscated goods for home consumption. Thus, in view of these provisions, I hold that the differential duty can be recovered along with redemption fine if the noticee chooses to exercise the option to redeem the confiscated goods. I find that since the goods were provisionally assessed on execution of Bond for full amount of value supported by a requisite Bank Guarantee of differential duty, I hold that the Bond is required to be enforced and the Bank Guarantee is required to be encashed towards all the amounts held recoverable from the importer .

5.5 Now, I proceed to consider the proposal of penalty under Section 114A of the Customs Act, 1962 against the importer. I find that demand of differential Customs duty amounting to Rs. 5,58,997/- has been made under Section 28 of the Customs Act, 1962, which provides for demand of duty not levied or short levied by reason of collusion or willful mis-statement or suppression of facts. Hence as a natural corollary penalty is imposable on the Noticee under Section 114A of the Customs Act, 1962, which provides for penalty equal to duty plus interest in cases *where the duty has not been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts*. In the instant case, the ingredient of wilful mis-statement or suppression of facts by the importer has been clearly established as discussed in the foregoing paras and hence, I find that this is a fit case for imposition of quantum of penalty equal to the amount of duty plus interest in terms of Section 114A *ibid*.

5.6 Further, penalty has also been proposed on the Noticee under Section 112 (a) of the Customs Act, 1962. In this regard, I find that fifth proviso to Section 114 A stipulates that *"where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114."* Hence, I refrain from imposing penalty on the importer/Noticee under Section 112 (a) of the Customs Act, 1962 on the goods valued of Rs. 42,99,978.00. However, as the goods of valued of Rs.27,59,715.00 are to be redeemed, the penalty under Section 112(a) is imposable on the Importer M/s Ram Prasad Traders, 13A/ 390A, Shahdara, Nunhai Road, Agra, Uttar Pradesh.

6. In view of the forgoing discussions and findings, I pass the following order:-

ORDER

- (i) I reject the declared classification under Customs Tariff heading-25309030 of goods declared as Natural Calcite Powder covered under Bills of Entry, as detailed at Sr. No. 1 to 6 in Annexure-A to the Show Cause Notice, and order the same to re-classify under Custom tariff heading -28365000 of Customs tariff Act,1975.
- (ii) I order to classify the goods covered under Bills of Entry No. 3015748 & 3015749 both dated 28.08.17 under Customs tariff heading 28365000 and to re-assess accordingly under Section 17 of the Customs Act, 1962 to duty amounting to **Rs. 4,96,749/-** (Rupees Four Lakh Ninety Six Thousand Seven Hundred Forty Nine only) on the imported goods as detailed at Sr. No. 7 & 8 in Annexure- A to the Show Cause Notice.
- (iii) I confirm and order to recover the differential Customs Duty amounting to Rs. 5,58,997/- (Five Lakh Fifty Eight Thousand Nine Hundred Ninety Seven Only) {as detailed in Annexure-A (Sr. No. 1 to 6) to the SCN} from the importer M/s Ram Prasad Traders, 13A/390A, Shahdara, Nunhai Road, Agra, Uttar Pradesh, in terms of Section 28 of the Customs Act,1962.

- (iv) I order to charge and recover interest from the importer M/s Ram Prasad Traders, 13A/390A, Shahdara, Nunhai Road, Agra, Uttar Pradesh, on the confirmed duty at Sr. No. (iii) above under section 28AA of the Customs Act, 1962.
- (v) I hold the imported goods valued at Rs. 70,59,693/- (Seventy Lakh Fifty Nine Thousand Six Hundred Ninety Three only) covered under Bills of Entry, as detailed in Annexure-A to the Show Cause Notice, liable for confiscation under the provisions of Section 111(m) of the Customs Act, 1962. Since goods valued at Rs.42,99,978/- (detailed at Sr. No. 1 to 6 of the Annexure-A to the SCN) are not physically available, therefore, I refrain from imposing redemption fine in lieu of confiscation. However, since the goods, valued at Rs.27,59,715/- in respect of two Bills of Entry (detailed at Sr. No. 7 & 8 of the Annexure-A to the SCN) were provisionally assessed on execution of Bond for full amount of value supported by requisite Bank Guarantee of differential duty, I hereby impose redemption fine of Rs. 3,00,000.00 (Rupees Three lakh only) in lieu of confiscation under Section 125 of the Customs Act, 1962.
- (vi) I impose penalty of Rs. 5,58,997/- (Five Lakh Fifty Eight Thousand Nine Hundred Ninety Seven Only) on the importer M/s Ram Prasad Traders, 13A/390A, Shahdara, Nunhai Road, Agra, Uttar Pradesh, under Section 114A of the Customs Act, 1962. However, I give an option, under proviso to Section 114A, to the Noticee, to pay 25% of the amount of total penalty imposed at (v) above, subject to payment of total amount of duty and interest confirmed at (iii) and (iv) above, and the amount of 25% of penalty imposed at (vi) above within 30 days of receipt of this order.
- (vii) I refrain from imposing penalty on the importer M/s Ram Prasad Traders, 13A/390A, Shahdara, Nunhai Road, Agra, Uttar Pradesh, under Section 112 (a) of the Customs Act, 1962 for the goods valued of Rs. 42,99,978.00.
- (viii) I impose penalty of Rs. 1,50,000.00 (Rupees One Lakh Fifty Thousand only) under Section 112(a) of Customs Act, 1962 on the Importer M/s Ram Prasad Traders, 13A/390A, Shahdara, Nunhai Road, Agra, Uttar Pradesh for the goods valued of Rs. 27,59,715.00.
- (ix) I order to enforce Provisional Duty Bond and encash the Bank guarantee to recover the amounts.

7. This order is issued without prejudice to any other action which may be contemplated against the importer or any other person under provisions of the Customs Act, 1962 and rules/regulations framed thereunder or any other law for the time being in force in the Republic of India.


(AJAY KUMAR)

Additional Commissioner
Custom House, Mundra

F. No. VIII/48-15/Adj./ADC/MCH/2018-19

Date: 20.02.2020

BY SPEED POST

To,

M/s Ram Prasad Traders,

13A/390A, Shahdara, Nunhai Road,
Agra, Uttar Pradesh

Copy to:-

1. The Chief Commissioner (In Situ), Custom House, Mundra
2. The Deputy Commissioner (SIIB), Custom House Mundra
3. The Deputy Commissioner(RRA), Custom House, Mundra
4. The Deputy Commissioner(TRC), Custom House, Mundra
- ✓ 5. The Deputy Commissioner(EDI), Custom House, Mundra
6. The Deputy Commissioner (Group-I), Custom House Mundra.
7. Guard file.



P.O (EDI)
[Signature]