



प्रधानआयुक्तकाकार्यालय, सीमाशुल्क, अहमदाबाद

"सीमाशुल्कभवन", पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा, अहमदाबाद - 380009.

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PREAMBLE

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A	फाइलसंख्या / File No.	:	VIII/10-34/ICD-KHOD/O&A/2016
B	कारणवताओनोटिस संख्या -तारीख / Show Cause Notice No. and Date	:	VIII/10-34/ICD-KHOD/O&A/2016 dated 11.06.2020
C	मूलआदेशसंख्या / Order-In-Original No.	:	21/JC/AKM/O&A/2020-22
D	आदेशतिथि / Date of Order-In-Original	:	28.05.2021
E	जारीकरनेकीतारीख / Date of Issue	:	31.05.2021
F	द्वारापारित / Passed By	:	AMIT KUMAR MISHRA, Joint Commissioner, Customs, Ahmedabad.
G	आयातककानामऔरपता / Name and Address of Importer / Noticee	:	(1) M/s.MidasPolychem LLP 401,Span Trade Centre Opp. KochrabAshram,Paldi Ahmedabad-380007 (2) M/s Central Warehousing Corporation Opp. UnnatiVidyalaya, Near Mahalaxmi Cross Road. Paldi, Ahmedabad-380007
(1)	यहप्रतिव्यक्तिकेउपयोगकेलिएनिः शुल्कप्रदानकियाजाताहैजिन्हेंयहजारीकियाजाताहै।		
(2)	कोईभीव्यक्तिइसआदेशसेस्वयंकोअसंतुष्टपाताहैतोवहइसआदेशकेविरुद्धअपीलइसआदेशकीप्राप्तिकीतारीखके दिनोंकेभीतरआयुक्तकाकार्यालय,सीमाशुल्क (अपील), 7 वींमंजिल, मृदुलटाँवर, टाइम्सऑफइंडिया, आश्रमरोड, नवरंगपुरा, अहमदाबाद - 380009 मेंकरसकताहै।		
(3)	अपीलकेसाथकेवलपाँचरुपये (5.00 रुपये) केन्यायालयशुल्कटिकटलगाहोनाचाहिए, औरइसकेसाथहोनाचाहिए :		
(i)	अपीलकीएकप्रतिऔर		
(ii)	इसप्रतियाइसआदेशकीकोईप्रतिकेसाथकेवलपाँचरुपये (5.00 रुपये) केन्यायालयशुल्कटिकटलगाहोनाचाहिए।		
(4)	इसआदेशकेविरुद्धअपीलकरनेकेइच्छुकव्यक्तिको 7.5% (अधिकतम 10 करोड़रुपये) शुल्कजमाकरनाहोगा, जहांशुल्कयाञ्छूटीऔरजुर्मानाविवादमेंहैं, याजुर्माना, जहांइसतरहकीदंडविवादमेंहैंऔरअपीलकेसाथइसतरहकेभुगतानकाप्रमाणपेशकरनेमेंअसफलरहनेपर,सीमाशुल्कअधिनियम, 1962 केधारा 129 केप्रावधानोंकाअनुपालननकरनेकेलिएअपीलकोखारिजकरदियाजाएगा।		

BRIEF FACTS OF THE CASE

M/s. Midas Polychem LLP Ahmedabad - 380007 (hereinafter referred to as "the importer") imported "Low Density Polyethylene (LDPE) off grade" classifiable under Chapter sub-heading 39011090 of the First Schedule to the Customs Tariff Act, 1975. The importer had filed Four (4) Bills of Entry through their CHA, the above Bills of Entry were assessed provisionally and representative samples were drawn and sent to CRCL, Vadodara for test result as to whether the imported goods viz. LDPE imported were the same or otherwise and whether the LDPE was of Off Grade or otherwise.

2. The CRCL, Vadodara vide their test results reports had stated that the goods were "Low Density Polyethylene (LDPE) Prime Grade". The test results received from CRCL Vadodara proved that the subject imported goods are not "LDPE off Grade" but are in fact of "LDPE Prime Grade". The rate of LDPE Prime Grade is higher than that of LDPE Off grade according to PLATTS' rates.

3. The test report results were communicated to the importer and sought clarification, the importer replied that they did not agree with the outcome of test reports and requested for re-testing from other agency. With the approval of the Additional Commissioner of Customs, Ahmedabad the remnant samples sent for testing to Chemical Examiner, CRCL, New Delhi. The CRCL, New Delhi returned the sample untested based on that test of off grade required virgin material and in absence, it is not possible to test the sample.

4. As the articles of plastics are evasion prone by way of undervaluation of imported goods therefore, to facilitate and smoothen the customs clearance process, details guideline was issued vide standing order 7493/99 - dated 03.12.1999 by the Chief Commissioner of Customs, JNCH, Nhava Sheva for valuation and assessment of imports of Plastic materials on International PLATTS rates. As per above Standing Order No. 7493/99 - dated 03.12.1999 read with Rule 8 and 10(2) of the Customs Valuation Rules, 2007, for the purpose of valuation, Platts price is considered as FOB value, and freight and insurance as per the said standing orders, are added to the FOB.

5. On verification of declared values of the imported goods with and contemporaneous import prices of plastics as reflected in ICES/NIDB data, it appeared that the values declared by the importer were on lower side since they declared the value for LDPE Off Grade whereas the test results stated as LDPE Prime Grade. Hence the value declared by the importer is undervalued and cannot be accepted, liable for rejection and needs to be re-assessed, as per the provisions of Section 17(4) of the Customs Act, 1962 read with the provisions of