सीमा शुल्क आयुक्त का कार्यालय,
नवीन सीमा शुल्क भवन, नया कांडला ।

OFFICE OF THE COMMISSIONER OF CUSTOMS,
NEW CUSTOM HOUSE, NEW KANDLA-370 210 (GUJARAT)
Phone No: 02836-271468/469, Fax No. : 02836-271467.

A	फ़ाइल संख्या/ File No.	S/10-16/ADJ-JC/PCL/2015-16
B	आदेश में मूल सं./ Order-in-Original No.	KDL/ADC/PMR/15/2017-18
C	पारित कर्ता/ Passed by	SH. PADALA MOHAN RAO, ADDITIONAL COMMISSIONER
D	आदेश की दिनाँक/Date of order	10/11/2017
E	जारी करने की दिनाँक/Date of issue	10 /11/2017
F	एस॰सी॰एन॰ सं॰एवं दिनाँक/ SCN No. & Date	DRI/MZU/B/INT-137/2014 Dated 08.05.2015 (De-novo proceedings in view of Order-In-Appeal No. KDL-CUSTM-000-APP-039 to 040-16-17 dated 22.02.2017
G	नोटीसी/ पार्टी Noticee/Party	M/s. P.C. L. Oil & Solvents Ltd., 703, 7th Floor, DLF Tower-B, District-Centre, Jasola, New Delhi-110025

1. यह अपील आदेश संबन्धित को नि शुल्क प्रदान:किया जाता है।
This Order - in - Original is granted to the concerned free of charge.

2.कोई भी व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क नियमावली के नियम ३ के साथ पठित सीमा शुल्क अधिनयम १९६२ के धारा 128 A(1) के अंतर्गत प्रपत्र सीए में चार प्रतियों में निचे बताये गए पते पर अपील कर सकता है ।

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

"सीमा शुल्क आयुक्त (अपील), कांडला
वीं मंजिल 7, मृदुल टावर, टाइम्स ऑफ इंडिया के पीछे, आश्रम रोड़
अहमदाबाद 380 009"
"THE COMMISSIONER OF CUSTOMS (APPEALS), KANDLA
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 2/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 2/- 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 सं॰-6 में निर्धारित 2/- 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. 2/- (Rupees Two only) as prescribed under Schedule - I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि/ 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.

.6अपील प्रस्तुत करते समय, सीमा शुल्क नियम (अपील),और सीमा शुल्क अधिनियम 1982, 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, न्यायाधिकरण के समक्ष मांग शुल्क का 10%भुगतान करना होगा।

An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute

The present case is being taken up by me for adjudication in pursuance to the Hon'ble Commissioner of Customs (Appeals), Ahmedabad Order-In-Appeal No. KDL-CUSTM-000-APP-039 to 040-16-17 dated 22.02.2017 passed against Order-In-Original No. KDL/ADC/MA/02/2016-17 dated 27.04.2016 issued by the Additional Commissioner, Custom House, Kandla. The Commissioner of Customs (Appeals) has remanded the case matter to the adjudicating authority to reconsider the issue afresh and to decide the matter after following principles of natural justice and adhering to the legal provisions.

BRIEF FACTS OF THE CASE :-

Intelligence received and developed by Mumbai Zonal Unit of Directorate of Revenue intelligence (for short -'DRI') indicated that Ms. PCL Oil & Solvents Ltd., New Delhi (for short 'PCL'), having registered office at M-105, Connaught Circus, New Delhi -110001 and corporate office at 703, 7" Floor, DLF Tower-B, District Centre, Jasola, NewDelhi-110025, holding lEC No. 0594018048, require lesser quantity of inputs/materials for fulfillment of Export obligations than imported duty free under Advance Authorisations; were utilizing the excess duty free inputs for manufacture of goods cleared to DTA, thus evading Customs duty on such quantity of duty free imported inputs/materials.

2. Pursuant to the said intelligence, preliminary enquiry revealed that M/s. PCL, a Public Limited Company incorporated on 24.04.1992 were manufacturing Plasticizers such as Di-Octyl Phthalate (DOP), Di-Butyl Phthalate (DBP), Di-lsononyl Phthalate (DINP); that they were having manufacturing facility at 56. Dunethe, Kunta Rd. Bhensolre, Daman, UT; that their annual turnover was about Rs. 300 crores; that about 25% of their production was cleared to 100% EOUs as deemed export, against which they were importing materials/inputs duty free under Advance Authorisation Scheme and that there were no physical exports.

3. Statement of Shri D. S. Rawat, General Manager, M/s PCL was recorded on 26.09.2014 under section 108 of the Customs Act. 1962 wherein he stated, inter-alia, that:

i. he joined M/s PCL in 1985 as Accountant and was promoted to the post of General Manager in 2000;

ii. he was in-charge of taxation and commercial matters;

iii. M/s. PCL manufactured plasticisers viz. Di Butyl Phthalte, Di OctylPhthlate, Di IsoPhthlate, etc;

iv. their Annual turnover was around Rs. 300 crores.

v. their manufacturing unit was located in Daman;
vi about 25% of their production was cleared to 100% EOUs as deemed exports and the rest cleared in the Domestic Tariff Area (DTA);

vii. their major inputs were 2-Ethyl Hexanol, Iso-Butanol/Normal Butanol, Iso-Nonyl Alcohol;

viii. these inputs were imported duty free under Advance Authorisation Scheme as well as procured indigenously on payment of duty;

ix. the advance authorizations were obtained by them after clearing final goods to 100% EOUs as deemed exports;

x. they did not undertake physical exports and supplied their finished goods under deemed export to various EOUs or Advance Authorisation holders;

xi. they submitted ANF-4F and Appendix-23 to DGFT authorities wherein the quantity of raw material was mentioned;

xii. they were not maintaining separate storage for duty free imported, duty paid imported and indigenousiy procured raw materials;

xiii. there was variation in the quantity of input deciared as consumed and actually consumed to manufacture finished goods cleared to EOUs

4. Admitting evasion of customs duty on the raw materials imported duty free in excess of that actually required for manufacture of finished goods cleared to 100% EOUs, M/s PCL vide letter dated 16.10.2014 made a voluntary payment of Rs. 50 lakhs stating therein :-

"Please find enclosed the following D/Ds amounting to Rs.50 lacs (detailed as under) being paid by us voluntarily as initial payment towards the duty liability on the under-utilized quantity of duty free inputs imported under the advance authorization scheme.

1) Demand Draft No. 004791 dated 15.10.2014 for Rs.25,00,000/-(Twenty Five Lacs) in favour of Commissioner of Customs (Kandla Port);
2) Demand Draft No. 004790 dated 15.10. 2014 for Rs.25,00,000/-(Twenty Five Lacs) in favour of Commissioner of Customs (JNCH-Mumbai port)

(stress supplied)

4.1 They made a further voluntary payment of Rs. 64,74,782/-towards duty and interest vide Demand Drafts Nos. 004891, 004893 & 004894 all dated 20.11.2014.

4.2. Further, M/s PCL submitted a letter dated 17.03.2015 to DRl stating there in as follows:

"The quantity of raw material imported duty free was as per the SION norms.

However, the actual raw materials consumed for production of the finished goods was lower than the SION norms in respect of three inputs viz. 2-EH, PNA and NBA.

.....

We have voluntarily paid the total duty liability of Rs.71,54,473/-in respect of the licenses issued from 16.04.2009 to 17.01.2013 along with interest of Rs.34,20,498/-. The outstanding interest of Rs.8,99,811/-will be deposited by us before 31.03.2015.

.....

If any duty or interest liability arises over and above the duty and interest already paid, is requested that the payments made may be adjusted year wise on licenses issued from 16.04.2009 onwards. "

4.3 They made a further voluntary payment of Rs. 8,99,811/-towards duty and interest vide Demand Drafts Nos. 005128 & 005129 both dated 24.03.2015.

4.4 The payments made by them were deposited with Nhava Sheva and Kandla Customs as under :-

TABLE-01

Sr.No.	TR 6 Challan No. & Date	Amount(Rs.)
Deposited with Nhava Sheva Customs		
1	431 dtd.31.10.2014	25,00,000/-
2	1045 dtd.28.11.2014	9,79,179/-
3	306 dtd.10.04.2015	3,18,552/-
Sub-total		**37,97,731/-**
Deposited with Kandla Customs		
1	RD-72 dtd.05.11.2014	25,00,000/-
2	RD-82 dtd.04.12.2014	45,95,792/-
3	RD-07 dtd.10.04.2015	5,81,259/-
Sub-total		**76,77,051/-**
Grand Total		**1,14,74,782/-**

5. Scrutiny of the documents and the information submitted by M/s. PCL during the course of investigations revealed, inter-alia, that:-

i. On the basis of applications made to the DGFT authorities, in ANF 4F form, they were issued Advance Authorisations for import of materials/inputs duty free viz. 2-Ethyl Hexanol, Phthalic Anhydride, Normal Butyl Alcohol and Isonoyl Alcohol, as per Standard input Output Norms (SIONs) in terms of Para 4 of the Hand Book of Procedures Vol. I (for short 'HBP v.1')

ii. The Advance Authorisations, inter-alia, specified:-

a. Items to be imported;

b. Quantity of each item to be imported;

c. Aggregate CIF value of imports; and

d. FOB value to be realized.

iii. The Authorisations were subject to, inter-alia, the following conditions:-

a. The exempted goods imported against the Authorisation shall be utilized only in accordance with the provisions of paragraph 4.1.5 of the relevant Foreign Trade Policy (FTP) and Customs Notifications as amended from time to time.

b. The Authorisation holder shall abide by the instructions contained in paragraph 4.30 of the Hand Book of Procedures Vol.I, regarding maintenance of true and proper account of the consumption and utilization of goods imported duty free, in the specified proforma.

iv. They have executed Bonds with undertaking in terms of Para 2.20 of HBP v.1 before Customs Authorities, with the following conditions, amongst others :-

a. They shall observe all the terms and conditions of Customs Notification in respect of imports made from time to time;

b. They shall observe all the terms and conditions specified in the Authorisation/license.

v. They have Submitted Appendix-23 with the DGFT authorities for redemption of the authorizations and have obtained Export Obligation Discharge Certificate (EODC) with reference to these authorizations.

6. Admittedly, M/s. PCL imported excess quantity of inputs/materials duty free which was not utilized by them for manufacture of their finished goods cleared to 100% EOUs as deemed export and paid the duty alongwith interest on such excess quantity of inputs imported duty free. This Show Cause Notice covers duty free imports of M/s. PCL under Advance Authorisations issued to them from 16.04.2009 to 17.01.2013. Advance Authorisations obtained after 17.01.2013 are yet to be fully utilized.

7. Relevant provisions of the FTP read with HBP v.1 and v.2

Since imports under Advance Authorisations issued from 16.04.2009 to 17.01.2013 are covered in this Show Cause Notice, provisions of the FTPs and the HBPs v.1 & v.2 for the period 2004-2009 and 2009-14 are applicable.

7.1. As per Para 4.1.3.1 of the FTP, an Advance Authorisation is issued to allow duty free import of inputs.

7.2. As per Para 4.1.3.3 of the FTP, Advance Authorisations are issued for inputs and export items given under SIONs. These can also be issued on the basis of ad-hoc norms or self declared norms as per para 4.7 of HBP v.1.

7.3. As per Para 4.1.3.4 (b) of FTP, Advance Authorisations shall be issued for:-

(i) Physical exports (including exports to SEZ); and/or
(ii) Intermediate supplies; and/or
(iii) Such supply of goods that are allowed in Chapter 8 of the FTP;
(iv) Supply of 'stores' on board of foreign going vessel/aircraft subject to condition that there is specific SION in respect of item(s) supplied.

7.4. As per Para 4.1.7 (a) of FTP, Advance Authorisation shall be issued in accordance with Policy and procedure in force on the Authorisation issue date.

7.5. As per Para 4.26 (c) of the HBP v.1, ordinarily redemption of Bank Guarantee/Letter of Undertaking shall not preclude Customs authorities from conducting random checks and from taking action against Authorisation holder for any mis-representation, mis-declaration and default detected subsequently.

7.6. As per Para 4.30 of the HBP v.1, every Advance Authorisation holder shall maintain true and proper account of consumption and utilization of duty free imported/domestically procured goods against each authorization as prescribed in Appendix-23.

7.7. As per Para 4.28 (f) of the HBP v.1, Regional Authority in the Office of DGFT, shall compare relevant portion of Appendix-23 duly verified and certified by Chartered Accountant/Cost Accountant with that of norms allowed in the authorizations and actual quantity imported against the authorizations in the beginning of the licensing year for all such authorizations redeemed in the preceding licensing year. In this verification process, in case it is found that authorization holder has consumed lesser quantity of inputs than imported, authorization holder shall be liable to pay Customs duty on unutilized value of imported material alongwith interest thereon.

7.8. As per Para 4.29 (c) of HBP v.1, payment of duty, interest and any dues for regularization shall be without prejudice to any other action that may be taken by Customs authorities, at any stage, under the Customs Act, 1962.

7.9. As per General Notes (1) for all Export Product Groups mentioned in Input-Output Norms (Hand Book of Procedures Volume 2), the norms have been published with a view to facilitate the determination of the proportion of various inputs which

can be used or are required in the manufacture of different resultant products. It is further mentioned that in many cases the resultant products and the inputs required had been described in generic terms and that the applicants shall, therefore, ensure that the goods sought for import and actually imported are those, which are used/required in the export product.

8. Relevant provisions of Notification No. 93/2004-Cus dated 10 09 2004 and 96/2009-Cus dated 11.09 2009 as amended under which the goods were imported duty free by M/s PCL.

8.1. The notifications exempt materials imported into India against Advance authorisation issued in terms of para 4.1.3 of the FTP from the whole of duty of Customs leviable thereon.

8.2. Explanations to both the notifications define 'materials' to mean, inter-alia, 'raw materials, components, intermediates, consumables, catalysts and parts, which are required for manufacture of resultant product.'

9. The relevant provisions of the FTP, HBP and the Customs Notifications, as mentioned in paras 7 and 8 above, reveal that only those inputs which are used to manufacture the resultant export product are allowed to be imported duty free. In other words, the materials/inputs imported duty free but which were in excess of actual requirement and were thereby not used in the manufacture of resultant export product under the subject advance authorizations, were not exempted from payment of duty.

10. Therefore, it appeared that M/s. PCL have violated the provisions of F.T.P. H.B.P., and relevant customs notifications in as much as against the final goods cleared to 100% EOUs as 'Deemed Export", they filed applications for obtaining Advance Authorisations, mentioning therein not the actual quantity of inputs used for manufacture such final goods, but higher quantity as allowed in SION.

11. In order to ascertain the excess quantity of inputs imported duty free under Advance Authorisations which were not utilized in the manufacture of goods cleared to 100% EOU, all relevant records pertaining to inputs imported duty free under advance authorization and its use in the manufacture of finished goods were scrutinized. Such scrutiny revealed inter-alia, that: -

(a) in the ANF-4F i.e. Applications filed for obtaining advance authorizations and the corresponding Appendix-23 filed for obtaining EODC against the Advance Authorisations, M/s. PCL had mis-declared to the DGFT authorities the actual quantity of inputs consumed by them in the manufacture of final goods cleared to 100% EOUs as deemed export. They had mentioned and applied for Advance Authorisations to import duty free that quantity of inputs as mentioned in the SION and not the actual quantity used by them, as was legally required to be done.

(b) on the basis of such mis-declared quantity. M/s. PCL were issued Advance Authorisations to import duty free the entire SION specified quantity which was more than the quantity actually used by them in deemed exports. However, while applying for redemption, they filed Appendix-23 stating therein that whole quantity of inputs imported duty free quantity had been used to manufacture such finished goods cleared to 100% EOUs.

(Photocopies of one set of documents pertaining to one such Advance Authorisation No. 0510311528 dated 16.12.2011, viz. ANF-4F form, Advance Authorisation issued on the basis of the said ANF-4F and the Appendix-23 submitted for redemption of the said Advance Authorisation are attached to the Show Cause Notice for ease of reference)

(c) SlONs for the three finished goods i.e. Di Octyl Phthalete, Di Butyl Phthalete and Di NonylPhthalete, cleared by M/s. PCL to 100% EOUs are at Sr. Nos. A-1303, A-1291 and A-1302 of Handbook of Procedures (Volume-II). Against each of these products are given the various inputs used for manufacture of these products the quantity of various inputs allowed to be imported duty free for manufacturing one Kg of the said finished products. The same are reproduced in the Table herein below:-

TABLE-02

Sr. No.	Import item allowed	For one Kg of Di Octyl Phthalete (DOP)	For one Kg of Di Butyl Phthalete (DBP)	For one Kg of Di Nony Phthalet (DINP)
(1)	(2)	(3)	(4)	(5)
		gms	gms	gms
1	2-Ethyl Hexnol	700	-	-
2	Normal Butyl Alcohal	-	560	-
3	Isonoyl Alcohal	-	-	726
4	Phthalic Anhydride	400	560	372
	Total	1100	1120	1098

(d) these are general input output norms for the given products. It specifies the maximum permissible quantity of an input that can be used to produce specified quantity of output, based on which authorizations can be issued. If however, an importer manufactures the product with lesser quantity of inputs, that quantity would determine his input-output ratio and this actual quantity would be the authorised quantity for duty free imports.

12. M/s. PCL were asked to submit ER-5 returns for the past five years. In these returns filed annually, they were supposed to declare quantity of principal inputs

required for use in the manufacture of unit quantity of finished goods manufactured by them. M/s. PCL submitted vide their letter dated 25-09-2014, inter-alia, annual ER-5 returns filed by them for the Financial Years 2009-10 to 2013-14. Perusal of the returns revealed that they had not mentioned details of inputs used in the manufacture of an individual finished product per unit, as was required, but had mentioned the total quantity of inputs consumed in their factory as a whole in a particular year. Therefore, as the actual quantity of inputs used to manufacture a particular final product per unit could not be ascertained from the ER-5 returns, M/s. PCL were asked to furnish details of actual quantity of individual inputs imported duty free and consumed in manufacture of a particular finished goods per unit cleared to 100% EOU.

13. M/s. PCL, vide their letters dated 08-10-2014, 14-10-2014 & 21-11-2014 submitted data regarding actual consumption of raw material as well as the material imported duty free under Advance Authorisations as per SlONs. They further submitted the data duly authenticated on 14-03-2015 by a Chartered Engineer Mr. Gautam Akhauri. Perusal of the certificates submitted for the four years revealed that the quantity of inputs viz. 2-EH. NBA & PNA actually utilized by M/s. PCL for the manufacture of their respective finished product was less than the quantity allowed to be imported under SlONs. The quantity of inputs imported duty free by M/s. PCL over & above the quantity allowed under SlONs and not utilized for manufacture of finished goods is calculated on the basis of the aforesaid Chartered Engineers certificate and reflected in column-7 of Annexures A, B & C to this show cause notice. Summary of the same is as under: -

TABLE-3

(Quantity in Kgs)

Sr. No.	Name of the Input	2009-10	2010-11	2011-12	2012-13
01	2-Ethyl Hexnol(2-EH)	33402	11632	87301	18316
02	Normal Butyl Alcohal (NBA)	536	3389	694	558
03	Phthalic Anhydride (PNA)	41511	80007	23880	17974

14. Admittedly, the aforementioned excess quantity of inputs was imported duty free by M/s. PCL by mis-declaring the quantity consumed by them in the ANF-4F (applications made for advance authorizations) and Appendix-23 (applications for redemption of advance authorisations) filed with the DGFT authorities. By such mis-declarations, M/s. PCL appears to have evaded payment of appropriate customs duty on the said excess quantity of inputs at the time of their import and thereby appear to have violated the relevant provisions of the FTP, HBP and customs notifications.

Consequently, the customs duty not paid on this excess quantity mentioned in column-7 of the said three Annexures is required to be recovered and demanded from M/s. PCL in terms of Section 28 of the Customs Act, 1962 alongwith applicable interest in terms of Section 28AA (28AB prior to 08.04.2011) ibid.

15. The customs duty so payable on this excess quantity of inputs imported vide 113 Advance Authorisations, by M/s. PCL during the period from 16.04.2009 to 17.01.2013 is calculated in Annexure A B & C to the Show Cause Notice. Summary of the same is as under:-

TABLE-4

Sr.No.	Name of the Input	Duty evaded (Rs.)
1	2-Ethyl Hexnol	46,74,563/-
2	Normal Butyl Alcohal	76,586/-
3	Phthalic Anhydride	24,53,512/-
	Total	**72,04,661/-**

16. **SUMMARY OF INVESTIGATIONS:**

a) M/s. PCL have been manufacturing and clearing their finished goods viz. DOP, DINP, etc. to 100% EOUs as deemed export.

b) As per the relevant provisions of the FTP, HBP and relevant Customs Notifications (as detailed in paras 7 & 8, supra) materials/inputs required for use in the manufacture of finished goods cleared to 100% EOUs can be imported duty free under Advance Authorisation Scheme.

c) M/s. PCL used a certain quantity of inputs for manufacture of finished goods cleared to 100% EOUs and was entitled to import duty free the said quantity of inputs so used. However, they applied and imported inputs of quantity allowed in SIONs which was in excess of the quantity actually consumed by them. This is as per the data submitted by M/s. PCL themselves, as mentioned para 13 above.

d) Admittedly, this excess quantity of inputs was imported duty free by M/s. PCL on the basis of false declarations made in the Advance Authorisations Applications and the Appendi-23 filed by them with the DGFT Authorities.

e) On such excess quantity imported duty free, customs duty not paid by M/s. PCL and interest thereon has been worked in Annexures A, B & C and summarized in the Table-5 below:

Table-5

Port of Import	Input	Within five years			Beyond five years				
		Annexure No.	CIF Value of the Goods (Rs.)	Duty (Rs.)	Interest (Rs.)	Annexure No.	CIF Value of the Goods (Rs.)	Duty (Rs.)	Interest (Rs.)
Kandla	2-EH	Annexure-A (S. No. 7 to 70)	1,86,17,191	44,39,687	26,79,973	Annexure -A (S. No 1 to 6)	10,68,861	2,34,876	1,94,567
	NBA	Annexure-B (S. No. 2 to 19)	3,18,325	75,455	45,698	Annexure -B (S.No.1)	6,011	1,131	877
	Sub-total		1,89,35,516	45,15,142	27,25,670		10,74,872	2,36,007	1,95,444
Nhava Sheva	PNA	Annexure-C (S.No. 11 to 38)	83,32,863	21,88,041	11,99,686	Annexure -C (S. No. 1 to 10)	12,21,236	2,65,471	2,08,850
Grand Total			2,72,68,379	67,03,183	39,25,357		22,96,108	5,01,478	4,04,293

f) Thus the duty not paid at the time of import on said quantity of inputs/materials when was not required/used in manufacture of resultant product cleared to 100% EOUs is required to be demanded and recovered as per the provisions of Section 28 of the Customs Act, 1962 alongwith applicable interest under the provisions of Section 28AA (28AB prior to 08 04 2011) ibid. Accordingly, M/s. PCL appeared to be liable to penalty under Section 114A of the Customs Act, 1962 in relation to the impugned goods.

g) The duty and interest leviable in respect of the inputs imported duty free under the 113 Advance Authorisations from 16.04.2009 to 17.01.2013 has been paid voluntarily by M/s. PCL. Section 28 of the Customs Act, 1962, provides that where an importer has by reasons of collusion or any willful misstatement or suppression of facts, not paid any duty which has not been levied or has been short levied or erroneously refunded, or any interest payable has not been paid or part paid or erroneously refunded, then the demand could be issued upto five years from the relevant date. In this case, 21148 Kgs of 2-EH having ClF value of Rs.10,68,861/- involving duty of Rs.2,34,876/- & 110 Kgs of NBA having CIF value of Rs. 6,011/- involving duty of Rs.1,131/-imported through Kandla Port and 22,660 Kgs of PNA having ClF value of Rs.12,21,236/-involving duty of Rs.2,65,471/-imported through

Nhava Sheva Port have been imported prior to five years from the relevant date, hence duty in respect of these quantities cannot be demanded under Section 28 of the Customs Act, 1962. However, Section 28, ibid does not bar voluntary deposit of self admitted duty for any imports beyond five years, to be adjusted for duty and interest leviable against the said imports. The limitation in respect to the time only bars the department to issue demand under Section 28 of the Customs Act, 1962, it does not bar the importer to pay back the duty evaded on his own. M/s.PCL, had voluntarily made a payment of Rs.1,14,74,782/-towards duty evaded and interest thereon during the course of investigation. Thus the amount deposited voluntarily by the importer is adjustable against the duty and interest due even for the period beyond five years. This ratio has been upheld by the Special Bench of CESTAT, New Delhi in the case of India Cements Ltd., Vs. CCE, Madras [1984(18)E.L.T.449(TRB)]. Therefore, the amount of duty beyond five years alongwith interest, as detailed in Table-5 above, is proposed to be adjusted from the amount deposited voluntarily towards evaded duty and interest thereon. Thus, duty amount of Rs. 2,36,007/-with interest of Rs. 1,95,444/-, total Rs 4,31,457/-relating to imports from Kandla Port is proposed to be adjusted from deposit of Rs. 76,77,051/-made with Kandla Customs, leaving a balance of Rs. 72,45,584/-. Similarly, duty amount of Rs. 2,65,471/-with interest of Rs. 2,08,850/-, total Rs. 4,74,321/-relating to imports from Nhava Sheva is proposed to be adjusted from deposit of Rs. 37,97,731/-made with Nhava Sheva Customs, leaving a balance of Rs. 33,23,410/-.

h) It further appeared that M/s. PCL willfully suppressed actual quantity of inputs / materials required for manufacture of finished goods cleared to 100% EOUs and claimed utilization of excess quantity in their ANF-4F applications, filed for obtaining Advance Authorisations to import duty free higher quantity of inputs which was not required by them for manufacture of their finished goods, and in this manner evaded total customs duty of Rs.72,04,661/-in contravention of the provisions of FTP and Customs Notification Nos. 93/2004 dated 01.09.2004 and 96/2009 dated 11.09.2009. Consequently, such inputs, having total CIF value of Rs.2,95,64,487l-appear to be liable for confiscation under section 111(0) of the Customs Act, 1962. However, the impugned goods are not physically available for confiscation having been utilized in manufacture of finished goods. Accordingly, M/s. PCL also appear to have rendered themselves liable to penal action under Section 112(a) of the Customs Act, 1962.

17. The Advance Authorisations under which 2-Ethyl Hexanol and Normal Butyl Alcohol were imported duty free were registered at Kandla Custom House. Phthalic Anhydride was imported duty free under Advance Authorisation registered at Jawahar Custom House, Nhava Sheva. The Central Board of Excise and Customs has specified jurisdictions of various Officers of Customs vide Notification No. 78/2014-Cus (NT) dated 16.09.2014. As per Sr. No. 8 of the Table to the Notification, for Jawaharlal

Nehru Port and the Container Freight Stations under its jurisdiction, the Joint [Additional Commissioners of Customs mentioned in Col. 4 of the Table have common and concurrent jurisdiction. The impugned goods imported through Nhava Sheva Port in this case have been imported though various Container Freight Stations under the jurisdiction of Jawahar Custom House. Therefore, in view of the common and concurrent jurisdictions, this show cause notice in case of demand of duty on imported Phthalic Anhydrideis proposed to be adjudicated by the Joint/Additional Commissioner of Customs (Nhava Sheva- I), Mumbai Zone-II.

18. In view of the above, M/s PCL Oil & Solvents Ltd., New Delhi (for short -'PCL'), having registered office at M-105, Connaught Circus, New Delhi 110001 and corporate office at 703, 7th Floor, DLF Tower-B, District Centre, Jasola, New Delhi 110025, was issued a Show Cause Notice bearing F.No. DRI/MZU/B/lnt-137/2014 dated 08.05.2015 calling upon to show cause:

A. to the Joint / Additional Commissioner of Customs, Kandla Customs House, Kandla having his office at Customs House, Near Balaji Temple, Kandla-370210 as to why:-

i. The Customs Duty amounting to Rs.45,15,142/- (Rs. Forty Five Lakh Fifteen Thousand One Hundred and Forty Two only), as detailed at Sr. Nos. 7 to 70 of Annexure 'A' and Sr. Nos. 2 to 19 of Annexure 'B' to this notice should not be demanded and recovered from them under the provisions of Section 28 of the Customs Act, 1962 along with interest amounting to Rs. 27,25,670/-(Twenty Seven Lakh Twenty Five Thousand Six Hundred and Seventy only) in terms of Section 28AA (28AB prior to 08.04.2011), ibid;

ii. The impugned goods with CIF value of Rs. 1,89,35,516/-(Rs.One Crore Eighty Nine Lakh Thirty Five Thousand Five Hundred and Sixteen only)as detailed at Sr. Nos. 7 to 70 of Annexure 'A' and Sr. Nos. 2 to 19 of Annexure '8' to this notice, should not be held liable for confiscation under section 111(0) of the Customs Act, 1962. However, the goods are not physically available for confiscation having been used for manufacture of Plasticizers.

iii. Penalty under Section 112(a) or 114A of the Customs Act, 1962 should not be imposed on them;

iv. In respect of the goods imported beyond the period of five years from the relevant data, the amount of duty of Rs. 2,36,007/-with interest of Rs. 1,95,444/-, total Rs. 4,31,457/-should not be appropriated from voluntary deposit of Rs. 76,77,051/-leaving a balance of Rs. 72,45,584/- and the goods with CIF value of Rs. 10,74,872/-should not be held liable for confiscation under section 111(o) of the Customs Act, 1962 (goods are not physncally available for confiscation) and penalty should not be imposed on them under section 112(a), ibid;

v. The balance amount of voluntary deposit of Rs. 72,45,584/-should not be

appropriated against the demand of duty & interest and penalty, if any, imposed in these proceedings.

B. to the Joint/Additional Commissioner of Customs, Jawaharlal Nehru Customs House, (Nhava Sheva- I), Mumbai Zone-II as to why:-

i. The Customs Duty amounting to Rs.21,88,041/-(Rs. Twenty One Lakhs Eighty Eight Thousands and Forty One Only), as detailed at Sr. Nos. 11 to 38 of Annexure 'C' to this notice, should not be demanded and recovered from them under the provisions of Section 28 of the Customs Act, 1962 along with interest of Rs. 11,99,686/(Rs. Eleven Lakh Ninety Nine Thousand Six Hundred and Eighty Six only) in terms of Section 28AA(28AB prior to 08.04.2011). ibid;

ii. The impugned goods, as detailed at Sr. Nos. 11 to 38 of Annexure 'C' to this notice, with total ClF value of Rs.83,32,862/-should not be held liable for confiscation under section 111(o) of the Customs Act, 1962. However, the goods are not available for confiscation having been used for manufacture of Plasticizers.

iii. Penalty under Section 112(a) of the Customs Act, 1962 should not be imposed on them

iv. in respect of the goods imported beyond the period of five years from the relevant date, the amount of duty of Rs. 2,65,471/-with interest of Rs. 2,08,850/-, total Rs. 4,74,321/-should not be appropriated from voluntary deposit of Rs. 37,97,731/-leaving a balance of Rs. 33,23,410/-and the goods with ClF value of Rs. 12,21,236/-should not be held liable for confiscation under section 111(o) of the Customs Act, 1962 (goods are not physically available for confiscation) and penalty should not be imposed on them under section 112(a), ibid.

v. The balance amount of voluntary deposit of Rs. 33,23,410/-should not be appropriated against the demand of duty & interest and penalty, if any, imposed in these proceedings.

19. The notice was made answerable to the Joint/Additional Commissioner of Customs, Kandla and Joint/Additional Commissioner of Customs Jawaharlal Nehru Customs House, (Nhava Sheva-I), Mumbai Zone-II. In continuation to that, CBEC vide Notification No. 26/2016-Customs (N.T.) dated 16.02.2016 had appointed Joint/Additional Commissioner of Customs, Kandla to act as the common adjudicating authority for the purpose of adjudicating the matters relating to Show cause notice pertaining to M/s. PCL Oil & Solvents Ltd., New Delhi and others (Serial No. 8) issued vide Show cause Notice No. DRl/MZU/B/lnt-137/2014 dated 08.05.2015 by the Additional Director General, Directorate of Revenue Intelligence, Mumbai.

20. The personal hearing was granted to the noticee, M/s. PCL Oil & Solvents Ltd., New Delhi on 14.03.2016 which was attended by their Advocate Shri Manish Jain. They

submitted their written reply on 14.03.2016 and reiterated the same during personal hearing. In the written submission they submitted that;

21. The noticee is a company incorporated and registered under the Companies Act, 1956 having its corporate office at 703, 7'" Floor, DLF Tower-B, District Centre. Jasola, New Delhi 110025 holding IEC Number 0594018048. The noticee is engaged in manufacture of plasticizers in India. 75% of the manufactured product of the noticee was sold domestically whereas the remaining 25% were cleared to 100% Export Oriented Units (hereinafter referred to as "EOUs") as deemed exports.

22. In respect of clearances made to EOUs between 16.04.2009 to 17.01.2013 (hereinafter referred to as the "relevant period"), the noticee procured duty free raw materials and inputs under 113 Advance Authorizations (hereinafter referred to as the "subject Advance Authorizations") granted to it under the Advance Authorization Scheme envisaged under Chapter 4 of the Foreign Trade Policy, 2004-09 (hereinafter referred to as the "FTP, 2004-09") and Chapter 4 of the Foreign Trade Policy, 2009-14 (hereinafter referred to as the "FTP, 2009-14") as the case may be. FTP 2004-09 and FTP 2009-14 shall hereinafter collectively be referred to as "FTP").Copies of few subject Advance Authorisations are enclosed as Annexure 2.

23. Under the subject Advance Authorizations, the noticee imported duty free inputs including 2-Ethyl Hexanol, Phthalic Anhydride, Normal Butyl Alcohl and lsonoyl Alcohol as per the Standard Input Output Norms (hereinafter referred to the "SION") in terms of Paragraph 4 of the Handbook of Procedures, 2004-09 and / or 2009-14 (hereinafter referred to as the "HBP") as the case may be. At the time of import of the said inputs, the noticee claimed exemption from payment of the whole of customs duty in terms of Notification No. 93/2004-Cus dated 10.09.2004 (hereinafter referred to as the "Notification No. 93l2004-Cus") and Notification No. 96/2009-Cus dated 11.09.2009 (hereinafter referred to as the "Notification No.96l2009-Cus"), as the case may be.

24. Resultant to the efficient process of production, the noticee could fulfill its export obligation (hereinafter referred to as the "E0") requirement by utilizing lesser inputs than those imported duty free under the subject Advance Authorizations. In respect of the left over inputs, the noticee utilized the same in manufacture of final products and cleared them in the domestic tariff area (hereinafter referred to as the "DTA").Such left over inputs were never cleared/removed 'as such' in the UTA by the noticee.

25. Investigations were initiated against the noticee by Directorate of Revenue Intelligence, Mumbai Zonal Unit(herein after referred to as "DRI") in respect of import and clearances undertaken by the noticee under the Subject advance Authorizations. The DRI entertained a view that clearance of manufactured final

products in the DTA using the left over duty free imported inputs was in violation of the provisions of Notification No. 93/2004-Cus, Notification No, 96/2009-Cus, the FTP and the HBP.

26. The DRI was of the opinion that benefit of duty free import of inputs was available only where such duty free inputs are utilized in manufacture of final products supplied to EOUs and therefore the noticee had wrongly availed the benefit of the exemption notifications.

27. On completion of the investigation, the noticee was issued the SCN by the ADG, DRI proposing denial of benefit of Notification No. 93/2004-Cus and Notification No. 96/2009-Cus and demand of differential duty along with interest. The SCN alleges that the Noticee has suppressed facts in its application for redemption of the subject advance authorizations filed before the Director General of Foreign Trade (hereinafter referred to as "DGFT") for availing benefit of the Subject Advance Authorizations and therefore the SCN has invoked extended period of limitation.

28. At the outset, the noticee denies all allegations made in the SCN and humbly submits that the proposals made in the SCN are not sustainable in law and the SCN is totally incorrect, unjust and illegal and has been Issued without considering the correct factual and legal position.

29. Further, the noticee submitted that the proceedings initiated vide the SCN are liable to be dropped on the following grounds and relied upon certain case laws;

A. THE ADG, DRI LACKS JURISDICTION TO ISSUE THE SCN UNDER SECTION 28 OF THE CUSTOMS ACT.

B. THE NOTICEE IS IN COMPLIANCE WITH THE PROVISIONS OF THE FTP AND HBP

C. THE NOTICEE IS ENTITLED TO BENEFIT UNDER NOTIFICATION NO. 93/2004-CUS AND NOTTFICATION NO. 96/2009-CUS.

D. THE SCN IS INVALID IN THE ABSENCE OF AN APPEAL AGAINST THE 'OUT OF CHARGE' ORDER/BILL OF ENTRY

E. EXTENDED PERIOD OF LIMITATION IS NOT INVOCABLE IN THE PRESENT CASE.

F. INPUTS IMPORTED PRIOR TO FIVE YEARS FROM DATE OF SHOW CAUSE NOTICE ARE BEYOND THE LIMITATION PERIOD AND CANNOT BE MADE SUBJECT TO DISPUTE.

G. THE IMPORTED GOODS ARE NOT LIABLE FOR CONFISCATION UNDER SECTION 111(o) OF THE CUSTOMS ACT

H. PENALTY IS NOT IMPOSABLE UPON THE NOTICEE UNDER SECTION 112(A) AND 114A OF THE CUSTOMS ACT

I. PENALTY IS NOT IMPOSABLE FOR DEMAND OF CVD AND SAD

J. DEMAND OF INTEREST IS NOT SUSTAINABLE WHEN DUTY IS NOT PAYABLE

30. After following due process of law, adjudicating authority i.e. the Additional Commissioner, Custom House, Kandla vide O-I-O No. KDL/ADC/MA/02/2016-17 dated 27.04.2016 passed the order as under:-

i. Ordered confiscation of goods with ClF value of Rs. 1,89,35,516-/(Rs. One Crore Eighty Nine Lakh Thirty Five Thousand Five Hundred Sixteen only) under Section 111(o) of the Customs Act, 1962 imported duty free under Advance Authorisations at Kandla Port. However, since the goods were physically not available for confiscation, refrained from imposing any redemption fine in lieu of confiscation.

ii. Confirmed the demand of Customs Duty amounting to Rs.45,15,142/-(Rs. Forty Five Lakhs Fifteen Thousand One Hundred Forty Two only), under Section 28 of the Customs Act, 1962 along with interest amounting to Rs. 27,25,670/-(Twenty Seven Lakhs Twenty Five Thousand Six Hundred and Seventy only) in terms of Section 28AA (28AB prior to 08.04.2011), ibid for the goods imported duty free under Advance Authorizations at Kandla Custom House.

iii. Refrained from passing any order for confiscation of the goods, imported beyond the period of five years from the relevant date, with ClF value of Rs. 10,74,872/-(RupeesTen Lakhs Seventy Four Thousand Eight Hundred Seventy Two Only) imported duty free under Advance Authorizations at Kandla Custom House.

iv. Ordered for adjustment of Rs.2,36,007/-against the demand of Customs Duty amounting to Rs.2,36,007/-(Rs. Two Lakhs Thirty Six Thousand Seven only), along with interest amounting to Rs. 1,95,444/-(One Lakh Ninety Five Thousand Four Hundred and Forty Four only) for the goods imported duty free under Advance Authorizations at Kandla Custom House as mentioned at Sr.No.3 above, being the voluntary deposition by the noticee.

v. Imposed penalty of Rs.10,00,000/-(Rupees Ten Lakhs only) under Section 112(a) of the Customs Act, 1962 for goods imported duty free under Advance Authorizations at Kandla Custom House.

vi. Ordered appropriation of Rs. 76,77,051/-(Rupees Seventy Six Lakhs Seventy Seven Thousand Fifty One Only) voluntary deposited by M/s. PCL, under three TR 6 Challans dated 05.11.2014, 04.12.2014 and 10.04.2015 with the Kandla Customs, towards above mentioned duty, interest and penalty.

vii. Ordered for confiscation of goods with ClF value of Rs. 83,32,863/-(Rs. Eighty Three Lakhs Thirty Two Thousand Eight Hundred Sixty Three only) under Section 111(0) of the Customs Act, 1962 imported duty free under Advance Authorizations at Jawaharlal Nehru Custom House, Nhava Sheva. However, since the goods were

physically not available for confiscation, refrained from imposing any redemption fine in lieu of confiscation.

viii. Confirmed the demand of Customs Duty amounting to Rs.21,88,041/-(Rs. Twenty One Lakhs Eighty Eight Thousand Forty One only), under Section 28 of the Customs Act, 1962 along with interest amounting to Rs. 11,99,686/-(Rs.Eleven Lakhs Ninety Nine Thousand Six Hundred and Eighty Six only) in terms of Section 28AA (28AB prior to 08.04.2011), ibid for the goods imported duty free under Advance Authorisations at Jawaharlal Nehru Custom House, Nhava Sheva.

ix. Refrained from passing any order for confiscation of the goods, imported beyond the period of five years from the relevant date, with CIF value of Rs. 12,21,236/- (Rupees Twelve Lakhs Twenty One Thousand Two Hundred Thirty Six Only)imported duty free under Advance Authorizations at Jawaharlal Nehru Custom House, Nhava Sheva.

x. Ordered for adjustment of Rs.2,65,471/-against the demand of Customs Duty amounting to Rs.2,65,471/-(Rs. Two Lakhs Sixty Five Thousand Four Hundred Seventy One only), along with interest amounting to Rs. 2,08,850/-(Two Lakhs Eight Thousand Eight Hundred Fifty only) for the goods imported duty free under Advance Authorisations at Jawaharlal Nehru Custom House, Nhava Sheva as mentioned at Sr.No. ix above, being the voluntary deposition by the noticee.

xi. Imposed penalty of Rs. 5,00,000/-(Rupees Five Lakhs only) under Section 112(a) of the Customs Act, 1962 for goods imported duty free under Advance Authorizations at Jawaharlal Nehru Custom House, Nhava Sheva.

xii. Ordered appropriation of Rs. 37,97,731/-(Rupees Thirty Seven Lakhs Ninety Seven Thousand Seven Hundred Thirty One Only) voluntary deposited by M/s. PCL, under three TR 6 Challans dated 31.10.2014, 28.11.2014 and 10.04.2015 with the Jawaharlal Nehru Custom House, Nhava Sheva, towards above mentioned duty, interest and penalty.

31. Being aggrieved with the above-stated Order-In-Original dated 27.04.2016, M/s PCL filed an appeal before the Commissioner of Customs (Appeals), Ahmedabad in terms of Section 128 A(1)(a) of the Customs Act, 1962 submitting the grounds of appeal as under-

"a. The impugned order is liable to be set aside as it is non speaking order and is passed in violation of natural justice.

b. ADG, DRI does not have the power to issue SCN under Section 28 of Customs Act, 1962. They have referred the provisions of Section 28 in detail.

c. It is well settled principle of statutory interpretation that statement of objects and reasons appended to a Bill can not be used for purpose of controlling the plain meaning of language employed by legislature in drafting a statute.

d. Sub Section (II) inserted in Section 28 is applicable only in respect of short levy or non levy or erroneous refund arising on or after April 8,2011.

e. There has been no assignment of function of assessment/reassessment to DRI officers. The SCN issued by ADG, DRI in the present case is void ab initio and deserves to be set aside having been issued without jurisdiction.

f. The appellant is in compliance with the provisions of the FTP and HBP.

g. It is submitted that the SCN and the impugned order seeks to read the provision of the HBP in isolation with the FTP.

h. The appellants are entitled to benefit under Notification No. 93/2004-Cus and 96/2009-cus and have fulfilled all its conditions.

i. The word 'materials' used in the Notifications has been interpreted wrongly. The SCN and impugned order are invalid in the absence of an appeal against the " Out of Charge"/Bill of Entry.

j. Inputs in respect of goods imported prior to five years from date of Show Cause Notice are beyond the limitation period and can not be made subject of dispute.

k. No penalty imposable in cases involving interpretation of principle of law. Demand of interest is not sustainable when duty is not payable.

l. Penalty is not imposable for demand of CVD and SAD. Demand of interest is not sustainable when duty is not payable.

m. They have referred following judgments in their support.

i. Commissioner of Customs Vs Sayed Ali & Anr 2011(265) ELT(SC)

ii.Dolphin Drugs Pvt. Ltd 2000(115) ELT 552(Tri)

iii. BRG Iron Vs UOI,2014(309)ELT 393(Delhi)

iv.Inter Continental 2008(226) ELT 16(SC)

v. ITC Ltd 2003(153) ELT 366(Tri)

vi.Pratiksha Processors 1996(88)ELT 12(SC)

32. Being aggrieved with the above-stated O-I-O dated 27.04.2016, the department also filed an appeal before the Commissioner of Customs (Appeals), Ahmedabad in terms of Section 129 D(4) of the Customs Act, 1962 submitting the grounds of appeal interalia as under-

"a. The adjudicating authority in Para 31(3) and 31(9) of the impugned order refrained from passing any order for confiscation of the goods, imported beyond the period of five years from relevant date. Importer has availed the benefits against advance authorizations issued under para 4.1.3 of the Foreign Trade Policy under the provisions of Notification No. 93/2004-Cus dated 10.09.2004 and 96/2009-Cus dated 11.09.2009, as amended. The advance authorizations issued under para 4.1.3 of FTP have post import condition of submitting actual usage of inputs so imported in the form Appendix 23 to the DGFT authorities for EODC certificate. Since the importer has imported the inputs on the basis of advance licences which were issued by DGFT on the basis of mis-declared quantities in the Appendix-23. Therefore they have not followed post import conditions of the said Notification read with relevant provisions of FTP and therefore the goods, imported beyond the period of five years from the relevant date are also liable for confiscation under Section 111(o) of the Customs Act,1962 as there is no time limit prescribed in the law for confiscation of the goods.

b. Case law in respect of Bombay Hospital Trust reported in 2005(188) ELT 374(Tri-LB) has been referred in support.

c. In Para 31(1) and 31(7) of the impugned order the wordings should have been " I hold the goods liable for confiscation...." Instead of " I order confiscation of goods...". This is due to the fact that the since order confiscating would mean shifting of title of the impugned goods which are not physically available to the department. The said wordings can be corrected during the outcome of the appeal against the OIO.

d. Revenue has claimed relief in terms of order for confiscation of goods imported beyond the five year and partial modification of the para 31(1) and 31(7) of the impugned order. Revenue has further claimed relief in terms of modification of Para 31(1) & 31(7) of the impugned order."

33. The appeal of the noticee and the department was decided by the Commissioner (Appeals) vide OIA No. KDL-CUSTM-000-APP-039 to 040-16-17 dated 22.02.2017.

The Commissioner (Appeals) vide aforesaid O-I-A dated 22.02.2017 have remanded back the matter to the original Adjudicating Authority. The order of the Commissioner (Appeals) is reproduced herewith:-

" I remit the matter to the lower authority, who shall examine the available facts, provisions of law, documents and evidences, submission by the Appellant as well as revenue and then pass speaking order after following principles of natural justice and adhering to the legal provisions. While passing this order, no opinion/views have been expressed on the merits of the dispute or on the submissions and case laws cited by the appellants in this regard, which shall be independently considered by the lower authority."

DEFENCE & PERSONAL HEARING

34. In pursuance to the above said Order-in-Appeal, the matter is taken up for adjudication. M/s PCL Oil & Solvent Ltd., New Delhi was given opportunity to attend personal hearing on 12.10.2017. Shri Manish Jain, Advocate appeared for hearing on 12.10.2017, on behalf of them and reiterated their written reply submitted earlier on 14.03.2016 and stated that they have nothing to add further.

DISCUSSION AND FINDINGS :-

35. I have carefully gone through the entire records of the case, including the Show Cause Notice dated 08.05.2015, the written defence reply of the Noticee and the submissions made during personal hearing, material evidences available on record and directions given by the Hon'ble Commissioner(Appeals) .

36. M/s PCL in their defence reply have contended that Additional Director General (ADG), Directorate of Revenue Intelligence (DRI), Mumbai lacks jurisdiction to issue Show Cause Notice (SCN) under Section 28 of the Customs Act, 1962. In support of their contention, they have relied upon the case law dated 18.02.2011 in the case of Commissioner of Customs Vs Sayed Ali reported at 2011(265) E.L.T.17 (S.C.) . In this regard, I find that the contention of M/s PCL that the ADG, DRI does not have power to issue a SCN under Section 28 of the Customs Act,1962 is legally not correct as the Central Board of Excise & Customs vide Notification No.17/2002-Cus(N.T) dated 07.3.2002 have appointed various officers of the Directorate of Revenue Intelligence (DRI) having all India jurisdiction. Further the Board vide most significant Notification No.44/2011-Customs (N.T.) dated 06.07.2011 as amended, have assigned the functions of the proper officer to the various officers including those under Directorate of Revenue Intelligence, such as Additional Director General, Additional Director or Joint Director, Deputy Director or Assistant Director for the purposes of Section 17 and Section 28 of the Customs Act, 1962. In view of the above cited Notification dated 06.07.2011, I find that the reliance placed by M/s PCL on the case law in the case of Commissioner of Customs Vs Sayed Ali reported at 2011(265)E.L.T.17 (S.C.) is therefore not applicable to the present case. It is clearly ascertained that on the date of issuance of show cause notice, the officers of the Directorate of Revenue Intelligence were having the proper jurisdiction on the matter. I further find support from the order of CESTAT, South Zonal Bench, Bangalore in case of MRPL Vs CC Mangalore reported at 2014(313) E.LT. 353(Tri. Bang.). I find that the Tribunal in the aforesaid case had dealt with this issue, in detail, in its final order Nos.536-537/2012 dated 8.8.2012 in Appeal Nos. C/525 and 496/2007, and decided the issue in favour of the Department. Therefore, the argument of the Noticee on this count is without any merit. I also find that the other case laws relied upon by M/s PCL regarding non-applicability of Section 28 for the

issuance of Show Cause Notice by the Officers of DRI is legally not sustainable and not relevant in the instant case.

37. M/s PCL have contended that they have complied with the provisions of the FTP and HBP. In this context, I find that, as per Para 4.1.7 (a) of FTP, Advance Authorization shall be issued in accordance with Policy and procedure in force on the Authorization issue date. Further, as per Para 4.30 of the HBP v.1, every Advance Authorization holder shall maintain a true and proper account of consumption and utilization of duty free imported/domestically procured goods against each authorization as prescribed in Appendix-23. The noticee have violated the provisions of FTP, HBP, and relevant Customs notifications in as much as against the final goods Cleared to 100% EOUs as 'Deemed Export', they had filed applications for obtaining Advance Authorizations, mentioning therein not the actual quantity of inputs used for manufacture of such final goods, but for higher quantity than required. In the ANF-4F i.e. Applications filed for obtaining advance authorizations and the corresponding Appendix-23 filed for obtaining EODC against the Advance Authorizations, the noticee M/s PCL had mis-declared to the DGFT authorities the actual quantity of inputs consumed by them in the manufacture of final goods cleared to 100% EOUs as deemed export. They had mentioned and applied for Advance authorizations to import duty free that quantity of inputs as mentioned in the SION and not the actual quantity used by them, as was legally required to be done. On the basis of such mis-declared quantity, the noticee was issued Advance Authorizations to import higher quantity of duty free material / inputs which was more than the quantity actually used by them in deemed exports. However, while applying for redemption, they filed Appendix-23 (applications for redemption of advance authorizations) stating therein that whole quantity of inputs imported duty free had been used to manufacture such finished goods cleared to 100% EOUs. I, therefore, find that by such mis-declaration, M/s. PCL have evaded payment of appropriate customs duty on the said excess quantity of imported inputs and thereby have violated the relevant provisions of FTP, HBP and Customs Notifications.

38. M/s PCL have further contended in their defence that they are entitled to benefit under Notification No. 93/2004-Cus and Notification No. 96/2009-Cus. In reference to their contention, I have gone through the provisions of Notification No.93/2004-Cus. dated 10.09.2004 & Notification No. 96/2009-Cus. dated 11.09.2009 and find that relevant provisions of the FTP & HBP and the Notification Nos.93/2004-Cus. & 96/2009-Cus., reveal that only those inputs which are required for/ used in the manufacture of exportable resultant product are allowed to be imported duty free. In other words, the materials/inputs imported duty free but which were in excess of the actual requirement (either imported in excess of requirement or remained surplus after use in export production) were not exempted from payment of duty and were required to suffer customs duties. Duty free materials are not required to be used for

manufacture of goods for DTA without payment of duty thereon. Paragraph 4.28 (f) of the HBP clearly says that customs duty will be leviable on unutilized value of imported material, wherein it is amply evident that here unutilisation is referring to unutilisation of such duty free imported material in exported goods. Plethora of case laws given by the noticee are not applicable in the matter as they are mainly concerned with fulfillment of export obligation. I find that M/s. PCL had submitted a Chartered Engineer certificates for the four years and it has revealed that the quantity of inputs viz. 2-EH, NBA & PNA actually utilized by M/s. PCL for the manufacture of their respective finished product was less than the quantity allowed to be imported under SlONs. They have taken plea of efficient production, which is not disputed ; only dispute is that they can not claim duty free material/ inputs more than required in the goods to be exported. They are stretching the intention of the legislature far more than the written and expressed intention and without any supportive legislation. It is a well settled law that exemption notifications have to be construed strictly.

They have further pleaded that DGFT, being the issuing authority, has not taken any action against them, and therefore Customs authorities should not take action, is utter negation of law. I find that, they have mis-declared before Customs too and evaded payment of customs duty and therefore Customs authorities are law bound to take appropriate action and recover short paid duty.

39. I find that they have contended in their defence submission that the SCN is invalid in the absence of an appeal against the 'Out of Charge' Order/Bill of Entry. They have submitted that the inputs/materials imported vide the Bills of Entry against the subject advance authorizations were cleared for home consumption on the strength of 'Out of Charge' orders duly issued by the proper officer under the authority of the provisions of Section 17 and Section 47 of the Custom Act. They have submitted that the aforesaid orders(Out of Charge) may only be set aside by a competent appellate authority by way of an appeal. Their argument that as relevant bill of entries were not challenged therefore SCN is invalid, is quite improper, as the Show Cause Notice (SCN) has alleged mis-declaration by M/s PCL, which was not apparent at the time of initial assessment.

40. They have further pleaded that extended period of limitation is not invocable in the present case. In this context, I find that the excess quantity of inputs was imported duty free by M/s. PCL by misdeclaring the quantity consumed by them in the ANF-4F (applications made for advance authorizations) and Appendix-23 (applications for redemption of advance authorizations) filed with the DGFT authorities. I find that they have deliberately imported duty free higher quantity of inputs which was not required by them for manufacture of their finished goods and suppressed the facts as this matter came to light during investigation only. Further, Section 28 of the Customs Act, 1962, provides that where an importer has by reasons of collusion or any willful

misstatement or suppression of facts, not paid any duty which has not been levied or has been short levied or erroneously refunded, or any interest payable has not been paid or part paid or erroneously refunded, then the demand could be issued upto five years from the relevant date. Therefore, present case is a fit case to invoke Section 28(4) [erstwhile proviso to Section 28(1)] of the Customs Act, 1962 for the recovery of the duties of Customs for the extended period of limitation.

41. They have further pleaded that inputs imported prior to five years from date of Show Cause Notice are beyond the limitation period and can not be made subject to dispute. In reference to their contention, I find that M/s PCL have availed the benefits against advance authorizations issued under para 4.1.3 of the Foreign Trade Policy under the provisions of Notification No. 93/2004-Cus. dated 10.09.2004 and 96/2009-Cus. dated 11.09.2009, as amended. The advance authorizations issued under para 4.1.3 of Foreign Trade Policy (FTP) have post import condition of submitting actual usage of inputs so imported in the form Appendix 23 to the DGFT authorities for EODC certificate. Since M/s PCL have imported the inputs on the basis of advance licences which were issued by DGFT on the basis of mis-declared quantities in the Appendix-23, therefore they have not followed post import conditions of the said Notification read with relevant provisions of FTP. In view of above, I, therefore, hold that the goods, imported beyond the period of five years from the relevant date are also liable for confiscation under Section 111(o) of the Customs Act, 1962 as there is no time limit prescribed in the law for confiscation of the goods. In support of my above view, reliance is placed on case law in case of Bombay Hospital Trust Vs Commissioner of Customs, Sahar, Mumbai reported at 2005(188) ELT 374(Tri-LB). In matter of the said case in the CESTAT, West Zonal Bench, Mumbai, the Large Bench has held that, when a post importation condition in an exemption notification is not fulfilled, the Department has the power to recover the escaped duty in terms of Section 12 of the Customs Act, 1962 and such demand notices will not be subject to any limitation of time. Therefore, the decision of the adjudicating authority for not passing any order for confiscation of the goods, imported beyond the period of five years from the relevant date since such confiscation suffers limitation of time does not hold good as there is no time limit specifically prescribed in the law for confiscation of goods beyond the five years also the aforesaid judgement explicitly mentions that such demands or any other action does not suffer limitation of time.

42. M/s PCL have further pleaded that the imported goods are not liable for confiscation under Section 111(o) and penalty is not imposable upon them under Section 112(a) and Section 114A of the Customs Act, 1962. In this regard, firstly I refer to Section 111(o) of the Customs Act, 1962.

Section 111(o) of the Customs Act, 1962:-

" In terms of Section 111(o) of the Customs Act,1962, any goods exempted, subject to any condition, from duty or any prohibition in respect of import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer are liable to confiscation."

In this regard, I find that M/s PCL has willfully and fraudently suppressed actual quantity of inputs / materials required for manufacture of finished goods cleared to 100% EOUs and claimed utilization of excess quantity in their ANF-4F applications, filed for obtaining Advance Authorisations to import duty free higher quantity of inputs which was not required by them for manufacture of their finished goods, with sole intention to evade total customs duty of Rs.72,04,661/-. Moreover, among other facts and circumstances, one fact that can not be lost sight of is that the notice were fully aware of the provisions of relevant Foreign Trade Policy(FTP) and conditions laid down by subject Customs Notification Nos. 93/2004-Cus dated 01.09.2004 and 96/2009-Cus dated 11.09.2009 . However, I find that they have failed to comply the provisions of relevant Foreign Trade Policy (FTP) and conditions laid down by said Customs Notifications. Thus I hold that such inputs, having total CIF value of Rs.2,95,64,487/-are liable for confiscation under Section111(0) of the Customs Act,1962.

42.1 However, I find that there is a difference between **"confiscation" and "liable for confiscation".** It is settled law that that the goods which are "liable for confiscation" can be ordered for to be confiscated, and fine in lieu of confiscation can be imposed. Mis-declaration of the quantity of the imported duty free inputs/materials which were not required by M/s PCL for manufacturing their finished goods is one of the modality to derive illegal benefit by evasion of customs duty. In cases where quantity of the imported duty free goods is not correctly declared for some purpose, then it would not only amount to violation of the conditions for import/export of the goods but it would certainly amount to illegal/unauthorized imports and against the statuate.

42.2 In the instant case, I find that M/s. PCL have contravened the provisions of Foreign Trade Policy, Customs Notification Nos. 93/2004-Cus. dated 01.09.2004 and 96/2009-Cus. dated 11.09.2009, in as much as they have intentionally mis-declared the actual quantity of inputs consumed by them in the manufacture of final goods cleared to 100% EOUs as deemed export. Since the goods are **"not available for confiscation"** but they are **"liable for confiscation" under** Section 111(o) of the Customs Act, 1962, therefore, I hold that M/s. PCL is liable for redemption fine under Section 125 of the Customs Act,1962 in lieu of confiscation.

42.3 Further regarding proposal in SCN for imposition of penalty under Section 112(a) or 114A of the Customs Act, 1962 on M/s PCL Oil & Solvents Ltd., firstly, I refer

to and discuss the provision of Section 112(a) and Section 114A of the Customs Act, 1962. They are reproduced as under-

Section 112(a) of the Customs Act, 1962- Penalty for improper importation of goods, etc. -

" In terms of Section 112(a) of the Customs Act,1962-any person, 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, shall be liable to penalty."

I find that for imposition of penalty under Section 112(a), it is necessary to bring on records the reason that there is omission of the Act and such omission renders the goods liable for confiscation or abets the doing or omission of such act or any provision of the Act or Rule are sufficient cause to impose the penalty on person.

In view of the foregoing discussion, as I have already held that M/s PCL Oil & Solvents Ltd. have rendered the imported goods liable for confiscation under Section 111(o) of the Customs Act, 1962, therefore, for their act of commission or omission, I hold that penalty under Section 112(a) of the Customs Act, 1962 is attracted on them.

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 wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under sub-section (8) of section 28 shall also be liable to pay a penalty equal to the duty or interest so determined."

As discussed (supra) in detail, M/s PCL has willfully suppressed actual quantity of inputs / materials which was not required/used in manufacture of resultant product cleared to 100% EOUs and the duty not paid at the time of import on said quantity of inputs/materials is required to be demanded and recovered as per the provisions of Section 28 of the Customs Act, 1962 along with applicable interest under the provisions of Section 28AA(28AB prior to 08.04.2011) ibid. Consequently for the acts of omissions and commissions on the part of M/s PCL, I find that M/s. PCL have rendered themselves liable for penalty under Section 114A of the Customs Act, 1962. However, I find that the Show Cause Notice has proposed to impose penalty under Section 112(a) or 114 A of the Customs Act, 1962. Since, I have already held to impose penalty on M/s PCL under Section 112(a) of the Customs Act, 1962, consequently, I refrain from imposing any penalty on them under Section 114 A of the Customs Act, 1962.

43. M/s PCL in their defence reply have contended that Customs duty such as CVD and SAD are not payable hence demand of interest is not sustainable. In this regard, I find that the excess quantity of inputs was imported duty free by M/s. PCL by mis-declaring the quantity consumed by them in the ANF-4F (applications made for advance authorizations) and Appendix-23 (applications for redemption of advance authorizations) filed with the DGFT authorities. It is observed that by such mis-declarations, M/s. PCL have evaded payment of appropriate customs duty on the said excess quantity of inputs at the time of their import and thereby have violated the relevant provisions of the FTP, HBP and customs notifications. It is further observed that, M/s PCL during investigation has admitted the facts that the quantity of raw material imported duty free was as per the SION norms and the actual raw material consumed for production of the finished goods cleared to EOU was lower than the SION norms and they have voluntarily paid the duty liability along with interest. In view of above facts already discussed and available on records, the contention of M/s PCL that Customs duty such as CVD and SAD are not payable and hence demand of interest is not sustainable and penalty is not imposable is factually incorrect and mis-leading. Thus I hold that M/s. PCL have rendered themselves liable to pay the customs duty not paid at the time of import on this excess quantity of inputs/materials which was not required/used in the manufacture of the resultant product cleared to 100% EOU in terms of Section 28 of the Customs Act, 1962. Apart from the Customs duty so liable for payment, I hold that M/s PCL is also liable to pay applicable interest in terms of Section 28AA (28AB prior to08.04.2011) of the Customs Act, 1962.

44. I find that in the instant case, 21148 Kgs of 2-EH having CIF value of Rs.10,68,861/-involving duty of Rs.2,34,876/- & 110 Kgs of NBA having CIF value of Rs. 6,011/-involving duty of Rs.1,131/-imported through Kandla Port and 22,660 Kgs of PNA having CIF value of Rs.12,21,236/-involving duty of Rs.2,65,471/-imported through Nhava Sheva Port have been imported prior to five years from the relevant date, hence duty in respect of these quantities cannot be demanded under Section 28 of the Customs Act, 1962. However, Section 28, ibid does not bar voluntary deposit of self admitted duty for any imports beyond five years, to be adjusted for duty and interest leviable against the said imports. The limitation in respect to the time only bars the department to issue demand under Section 28 of the Customs Act, 1962, but it does not bar the importer to pay back the duty evaded on his own. I find that M/s.PCL, had voluntarily made a payment of Rs.1,14,74,782/-towards duty evaded and interest thereon during the course of investigation. Thus the amount deposited voluntarily by the importer is adjustable against the duty and interest due even for the period beyond five years. This ratio has been upheld by the Special Bench of CESTAT, New Delhi in the case of India Cements Ltd., Vs. CCE, Madras [1984(18)E.L.T.449 (TRB)]. Therefore, the amount of duty beyond five years alongwith interest, as detailed in Table-5 above, is proposed to be adjusted from the amount

deposited voluntarily towards evaded duty and interest thereon, and I am inclined to adjust the same.

45. I find that M/s PCL in their written defence submission have placed reliance on various case law/judgement on the various issues raised in the SCN. In this regard, I am of the view that the conclusions arrived may be true in those cases, but the same can not be extended to other case(s) without looking to the hard realities and specific facts of each case. Those decisions/judgements were delivered in different context and under different facts and circumstances, which can not be made applicable in the facts and circumstances of this case. Further, these would have been relevant had there been any doubt for taking a decision regarding the declaration and classification of the impugned goods imported and covered by the Show Cause Notice. As such, there would not have even a need for referring to those decision/judgements. Therefore, I find that applying the ratio of one case to that of the other, the decisions of the Supreme Court are always required to be borne in mind. The Hon'ble Supreme Court in the case of CCE, Calcutta Vs Alnoori Tobacco Products [2004(170)ELT 135(SC) has stressed the need to discuss, how the facts of decision relied upon fit factual situation of a given case and to exercise caution while applying the ratio of one case to another. This has been reiterated by the Hon'ble Supreme Court in its judgement in the case of Escorts Ltd. Vs CCE, Delhi [2004(173) ELT 113(SC)] wherein it has been observed that one additional or different fact may make difference between conclusion in two cases, and so, disposal of cases by blindly placing reliance on a decision is not proper. Again in the case of CC(Port), Chennai Vs Toyota Kirloskar[2007(2013)ELT4(SC)], it has been observed by the Hon'ble Supreme Court that, the ratio of a decision has to culled from facts of given case, further, the decision is an authority for what it decides and not what can be logically deduced there from.

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

:ORDER:

46.1 PART-I: FOR KANDLA CUSTOM HOUSE

(i) I confirm the demand of Customs Duty amounting to **Rs.45,15,142/-** (Rupees Forty Five Lakh Fifteen Thousand One Hundred Forty Two only), under Section 28 of the Customs Act, 1962 along with interest amounting to **Rs. 27,25,670/-** (Rupees Twenty Seven Lakh Twenty Five Thousand Six Hundred Seventy only) in terms of Section 28AA (28AB prior to 08.04.2011) of the Customs Act,1962 for the goods imported duty free under Advance Authorizations at Kandla Custom House.

(ii) I hold the impugned goods with ClF value of **Rs.1,89,35,516/-** (Rupees One Crore Eighty Nine Lakh Thirty Five Thousand Five Hundred Sixteen only) liable for

confiscation under Section 111(o) of the Customs Act, 1962 imported duty free under Advance Authorisations at Kandla Custom House. However, since the impugned goods are not physically available for confiscation, I impose redemption fine of **Rs.28,00,000/- (Rupees Twenty eight lakhs only)** under Section 125 of the Customs Act,1962, in lieu of confiscation of the goods.

(iii) I impose penalty of **Rs.12,00,000/-(RupeesTwelve lakhs only)** under Section 112(a) of the Customs Act, 1962 for goods imported duty free under Advance Authorizations at Kandla Custom House.

(iv) I hold the goods with ClF value of **Rs.10,74,872/-**(RupeesTen Lakh Seventy Four Thousand Eight Hundred Seventy Two Only), imported beyond the period of five years from the relevant date, **liable for confiscation under Section 111(o) of the Customs Act, 1962**, imported duty free under Advance Authorizations at Kandla Custom House. Further, I order for adjustment of **Rs.2,36,007/-** against the demand of Customs Duty amounting to Rs.2,36,007/-(Rupees Two Lakh Thirty Six Thousand Seven only), along with interest amounting to Rs. 1,95,444/-(Rupees One Lakh Ninety Five Thousand Four Hundred Forty Four only), for the goods imported duty free under Advance Authorizations at Kandla Custom House, being the voluntary deposit by M/s PCL Oil & Solvents Ltd.

(v) I order appropriation of **Rs.76,77,051/-**(Rupees Seventy Six Lakh Seventy Seven Thousand Fifty One Only) voluntary deposited by M/s. PCL Oil & Solvents Limited, under three TR- 6 Challans dated 05.11.2014, 04.12.2014 and 10.04.2015 with the Kandla Custom House, towards above mentioned duty, interest and penalty.

46.2 PART-II: FOR JAWAHAR LAL NEHRU CUSTOM HOUSE, NHAVA SHEVA:

(i) I confirm the demand of Customs Duty amounting to **Rs.21,88,041/-**(Rupees Twenty One Lakh Eighty Eight Thousand Forty One only), under Section 28 of the Customs Act, 1962 along with interest amounting to Rs. 11,99,686/-(Rupees Eleven Lakhs Ninety Nine Thousand Six Hundred Eighty Six only) in terms of Section 28AA (28AB prior to 08.04.2011), of the Customs Act,1962 for the goods imported duty free under Advance Authorisations at Jawaharlal Nehru Custom House, Nhava Sheva.

(ii) I hold the impugned goods with ClF value of **Rs.83,32,863/-**(Rupees Eighty Three Lakh Thirty Two Thousand Eight Hundred Sixty Three only) liable for confiscation under Section 111(o) of the Customs Act, 1962, imported duty free under Advance Authorizations at Jawaharlal Nehru Custom House, Nhava Sheva. However, since the impugned goods are not physically available for confiscation, I impose redemption fine of **Rs.14,00,000/-(Rupees Fourteen lakhs only)** under Section 125 of the Customs Act,1962, in lieu of confiscation of the goods.

(iii) I impose penalty of **Rs.6,00,000/-(Rupees Six lakhs only)** under Section 112(a) of the Customs Act, 1962 for goods imported duty free under Advance Authorizations at Jawaharlal Nehru Custom House, Nhava Sheva.

(iv) I hold the goods with ClF value of **Rs.12,21,236/-** (Rupees Twelve Lakh Twenty One Thousand Two Hundred Thirty Six Only), imported beyond the period of five years from the relevant date, **liable for confiscation under Section 111(o) of the Customs Act, 1962**, imported duty free under Advance Authorizations at Jawaharlal Nehru Custom House, Nhava Sheva. Further, I order for adjustment of Rs.2,65,471/-against the demand of Customs Duty amounting to Rs.2,65,471/-(Rupees Two Lakh Sixty Five Thousand Four Hundred Seventy One only), along with interest amounting to Rs. 2,08,850/-(Rupees Two Lakh Eight Thousand Eight Hundred Fifty only) for the goods imported duty free under Advance Authorisations at Jawaharlal Nehru Custom House, Nhava Sheva, being the voluntary deposit by M/s PCL Oil & Solvents Ltd.

(v) I order appropriation of **Rs.37,97,731/-**(Rupees Thirty Seven Lakh Ninety Seven Thousand Seven Hundred Thirty One Only) voluntary deposited by M/s. PCL, Oil & Solvents Limited under three TR-6 Challans dated 31.10.2014, 28.11.2014 and 10.04.2015 with the Jawaharlal Nehru Custom House, Nhava Sheva, towards above mentioned duty, interest and penalty.

10/11/17

(Padala Mohan Rao)
Additional Commissioner
Custom House, Kandla

F.No. S/10-16/ADJ-JC/PCL/2015-16 Dated 10.11.2017

BY REGISTERED POST /A.D.

To,
M/s PCL Oil & Solvents Ltd.,
703, 7th Floor, DLF Tower-B,
District Centre, Jasola,
New Delhi -110025

Copy to:-

1. The Additional Director, DRI, Mumbai Zonal Unit,13, Sir Vithaldas Thakersey Marg, Opp. Patkar Hall, New Marine Lines, Mumbai-400020
2. The Additional Commissioner of Customs, Jawaharlal Nehru Customs House,(Nhava Sheva-I), Mumbai Zone-II, Jawaharlal Nehru Custom House, Nhava Sheva, Tal.Uran, Dist. Raigad, Maharashtra-400707.
3. The Assistant Commissioner (RRA), Custom House, Kandla.
4. The Assistant Commissioner(Recovery), Custom House Kandla
5. Guard File