

	<p>सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण</p> <p><b>Customs Authority for Advance Rulings</b></p> <p>नवीन सीमाशुल्क भवन, बेलाई इस्टेट, मुंबई - ४०० ००१</p> <p><b>New Custom House, Ballard Estate, Mumbai - 400 001</b></p> <p><b>E-MAIL: cus-advrulings.mum@gov.in</b></p>	
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F.No. CAAR/CUS/APPL/172/2024-25 -O/o Commr-CAAR-Mumbai दिनांक/Date: 13.03.2026  
DIN-20260377OS0000115616

Ruling No. & date	CAAR/Mum/ARC/159/2025-26 dated 13.03.2026
Issued by	Shri Prabhat K. Rameshwaram, Customs Authority for Advance Rulings, Mumbai
Name and address of the applicant	M/s FMC India Private Limited. TCG Financial Centre, 2nd Floor, C-53, G Block, Bandra Kurla Complex, Mumbai, Maharashtra-400098
Concerned Commissionerate	The Pr. Commissioner of Customs, Nhava Sheva-I, Jawaharlal Nehru Customs House, Nhava Sheva, Tal: Uran, Dist- Raigad, Maharashtra -400707

**ध्यान दीजिए/ N.B.:**

सीमा शुल्क अधिनियम, 1962 की धारा 281 की उप-धारा (2) के तहत किए गए इस आदेश की एक प्रति संबंधित को निःशुल्क प्रदान की जाती है।

A copy of this order made under sub-section (2) of Section 28-I of the Customs Act, 1962 is granted to the concerned free of charge.

इस अग्रिम विनिर्णय आदेश के खिलाफ कोई भी अपील ऐसे निर्णय या आदेश के संचार की तारीख से 60 दिनों के भीतर संबंधित क्षेत्राधिकार उच्च न्यायालय के समक्ष की जाएगी।

Any appeal against this Advance Ruling order shall lie before the jurisdictional **High Court of concerned jurisdiction**, within 60 days from the date of the communication of such ruling or order.

धारा 28-1 के तहत प्राधिकरण द्वारा सुनाया गया अग्रिम विनिर्णय पाँच साल तक या कानून या तथ्यों में बदलाव होने तक, जिसके आधार पर अग्रिम विनिर्णय सुनाया गया है, वैध रहेगा, जो भी पहले हो।

The advance ruling pronounced by the Authority under Section 28 -I shall remain valid for five years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.

जहाँ प्राधिकरण को पता चलता है कि आवेदक द्वारा अग्रिम विनिर्णय धोखाधड़ी या तथ्यों की गलत बयानी द्वारा प्राप्त किया गया था, उसे शुरू से ही अमान्य घोषित कर दिया जाएगा।

Where the Authority finds that the advance ruling was obtained by the applicant by fraud or misrepresentation of facts, the same shall be declared void *ab initio*.



**अग्रिम विनिर्णय / Advance Ruling**

FMC India Private Limited (IEC No. AAACF4579N) (hereinafter referred to as 'the Applicant') filed an application (CAAR-1) for advance ruling in the Office of Secretary, Customs Authority for Advance Ruling (CAAR) Mumbai. The said application was received in the secretariat of the CAAR, Mumbai on 29.09.2025 along with its enclosures in terms of Section 28H(1) of the Customs Act, 1962(hereinafter referred to as the 'Act also'). The Applicant is seeking clarification on whether the chemicals "Cyantraniliprole" and "Clothianidin" (hereinafter referred to as the 'subject goods' or 'subject chemicals') would be appropriately classified under CTH 29333923 and 29341010 respectively, under Chapter 29 considering the amendments to the Customs Tariff Act,1975 vide Finance Act, 2025.

2. FMC India Private Limited is a company incorporated in India and is a subsidiary of FMC Agricultural Products International GmbH, Switzerland, which is ultimately held by FMC Corporation, USA. The Applicant is engaged in the business of manufacturing agrochemicals and formulations. For this, the Applicant imports certain chemicals from various entities in the FMC Group for use as raw materials in the manufacturing activity.

2.1 The Applicant has been classifying imports of certain of these chemicals namely "Cyantraniliprole" and "Clothianidin" under Chapter 38 of the Customs Tariff. However, after the amendments to the Customs Tariff in 2025, it appears that these chemicals would be more appropriately classified under some of the new entries inserted in Chapter 29 of the Customs Tariff by finance Act,2025.

2.3 The applicant has submitted that the said chemicals will be imported in 200/226-liter MS drums. The subject chemicals are **Technical Grade Chemical** i.e. active ingredients used in the manufacture of insecticides.

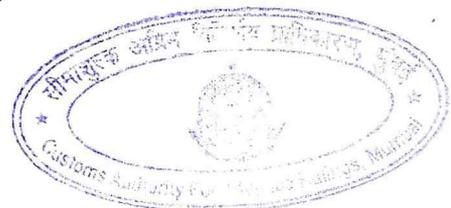
2.4 After importation the subject chemicals are diluted with suitable solvents, such as water or hydrocarbons and mixed with other ingredients to formulate the desired insecticide.

2.5 The applicant also submitted technical literature, Certificate of analyses (hereinafter referred to as 'COA'), Material safety data sheet (hereinafter referred to as 'MSDS') and registration certificate of the subject goods issued by Central insecticide board (hereinafter referred to as 'CIB certificate').

2.6 The Applicant wants to obtain an advance ruling on the question listed in Form CAAR-1 and has therefore proceeded to file this application before the Hon'ble CAAR, Mumbai for kind consideration.

2.7 As per the applicant the subject goods Cyantraniliprole and Clothianidin are classifiable under 29333923 and 29341010 respectively.

2.8 As per the Technical writeup submitted by applicant:



2.8.1 **Cyantraniliprole DPX-HGW86 is An insecticide** for the control of chewing and sucking pests. It has a moderate aqueous solubility and is non-volatile. It is not expected to be persistent in soil or water systems. It has a low mammalian toxicity and a low potential to bioaccumulate. No significant health issues have been identified. It is highly toxic to honeybees, moderately toxic to earthworms and most aquatic species.

Also, as per the submission by the applicant as well as MSDS the Cyantraniliprole is of technical grade having Cyantraniliprole content 96.7%, chemical formula  $C_{19}H_{14}BrClN_6O_2$  and CAS no. 736994-63-1.

2.8.2 **Clothianidin (Ref: CGA 322704) Clothianidin is an insecticide** for the control of sucking and chewing pests. It is moderately soluble and volatile but has a high potential for leaching to groundwater. It is very persistent in soil and water. Risk of bioaccumulation is low and its acute toxicity to mammals is considered moderate. It is, however, a neurotoxicant. It is toxic to some aquatic organisms but not greatly so to fish. It is highly toxic to honeybees but low risk to earthworms.

2.8.3 **Cyantraniliprole (Ref: DPX-HGW86)-** The commercial production of cyantraniliprole involves a multi-step synthesis starting with pyrazole and pyridine derivatives, followed by bromination, nitrile introduction, and carboxamide formation to yield the final active molecule.

2.8.4 **Clothianidin (Ref: CGA 322704)-** The commercial production of clothianidin involves a multi-step chemical synthesis process designed for efficiency and scalability. It begins with a condensation reaction between 2-chloro-5-chloromethylthiazole and 1,5-dimethyl-2-nitroimino-hexahydro-1,3,5-triazine in an aqueous solution of tetra alkyl ammonium hydroxide, with potassium carbonate as a base. This reaction yields an intermediate compound, which is then subjected to hydrolysis in an alkylamine solution. The resulting product is purified through filtration, desolvation, extraction, and concentration steps to obtain clothianidin in its final form.

### 3. Applicant's interpretation of Law:

3.1 The issue in the present case is regarding the classification of chemicals – "Cyantraniliprole" and "Clothianidin" and whether the appropriate entries for classification should be Entry 2933 39 23 (CTH 2933) and Entry 2934 10 10 (CTH 2934), respectively, or under CTH 3808 of the Customs Tariff, considering the amendments to the Customs Tariffs in 2025.

3.2 Prior to adverting to the specifics of these chemicals, it is relevant to set out the framework and principles governing the classification of goods.

#### International and legal framework for classification of goods

It is submitted that India, being a member of the World Customs Organization (WCO), has adopted the Harmonized System of Nomenclature for systematic classification of goods and has, on this basis, framed the schedules to the Customs Tariff Act, 1975 ("Customs Tariff



Act”). Goods imported into India are to be classified under the appropriate Tariff Headings, and Schedule I of the Customs Tariff Act provides the customs duty rates applicable (“**Import Tariff**”). The WCO has also issued the HSN Explanatory Notes which elaborate the scope of each Tariff Heading and has held in several judgements of various High Courts and the Supreme Court, the Explanatory Notes are to be referred to and applied as an ancillary tool to understand and determine appropriate classification of goods for the purposes of the Customs Tariff Act.

### 3.3 General Rules of Interpretation

The General Rules of Interpretation (“**GRI**”) of Schedule I to the Customs Tariff Act govern product classification. It is submitted that in the present case, Rule 1 and possibly Rule 3(a) and Rule 6 of the GRI are relevant, which are reproduced as under:

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

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

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

Rule 6 - For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub-headings and any related sub-heading Notes and, mutatis mutandis, to the above rules, on the understanding that only sub-headings at the same level are comparable. For the purposes of this rule the relative Section and Chapter Notes also apply, unless the context otherwise requires. [*Emphasis supplied*]

The additional notes to GRI provide that –

“heading”, in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number. “

“sub-heading”, in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digits of which correspond to that number.

“Tariff item” means a description of goods in the list of tariff provisions accompanying eight-digit number and the rate of customs duty;



3.4 On a plain reading of Rule 1, it is clear that for classification purposes, goods must first be classified as falling under a specific heading at the four-digit level of the relevant chapter, on the basis of the terms of the headings, and the relevant section or chapter notes. Only thereafter can they be further classified under a corresponding sub-heading or tariff item. The corollary of this manner of classification is that where goods do not fall within the scope of a particular heading, they cannot be classified under any of its sub-headings, regardless of how seemingly appropriate the sub-heading may appear.

3.5 Similarly, on a plain reading of Rule 3 (if applicable), it is clear that in cases where goods are prima facie classifiable under two or more headings, the heading that offers the more specific description must be preferred over one that is more general in nature. Also, each heading being considered must be read in its entirety and not in fragments. Practically, in an application of Rule 3, it is necessary to identify and analyze the competing headings and then determine the correct classification on the basis of which out of these provides a more specific description of the product.

### 3.6 Relevant entries for consideration for “Cyantraniliprole” and “Clothianidin”

3.6.1 In the present case, vis-à-vis “Cyantraniliprole” and “Clothianidin”, it is submitted that the following headings are relevant:

#### **For Cyantraniliprole:**

- i) Heading 2933 – Heterocyclic compounds with nitrogen hetero-atom(s) only and
- ii) Heading 3808 – Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur treated bands wicks and candles, and fly papers [*Emphasis supplied*])

#### **For Clothianidin:**

- i) Heading 2934 - Nucleic acids and their salts; whether or not chemically defined; other heterocyclic compounds and
- ii) Heading 3808 – Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur treated bands wicks and candles, and fly papers [*Emphasis supplied*])

3.6.2 In this connection, reference is made to Section VI of the Custom Tariff, and specifically Chapter 29 and Chapter 38 thereunder, for the headings identified above. Relevant **Section**



Notes to Section VI, Chapter Notes to Chapters 29 and 38 as well as the relevant tariff entries are:

**SECTION VI**  
**PRODUCTS OF THE CHEMICAL OR ALLIED INDUSTRIES**

Notes:

2. Subject to Note 1 above, goods classifiable in heading 3004, 3005, 3006, 3212, 3303, 3304, 3305, 3306, 3307, 3506, 3707 or 3808 by reason of being put up in measured doses or for retail sale are to be classified in those headings and in no other heading of this Schedule. [Emphasis supplied]

**Relevant tariff entries of Chapter 29:**

<i>Chapter/Heading/Sub-Heading/Tariff Item</i>	<i>Description of goods</i>	
(1)	(2)	
29		<i>All organic chemicals other than gibberellic acid</i>
2933		<i>Heterocyclic compounds with nitrogen hetero-atom(s) only - Compounds containing an unfused pyrazole ring (whether or not hydrogenated) in the structure:</i>
2933 39	--	<i>Other:</i>
	---	<i>Derivatives of pyridine:</i>
2933 39 23	----	<i>Goods specified in Supplementary Note 14 to this Chapter</i>
2934		<i>Nucleic acids and their salts; whether or not chemically defined; other heterocyclic compounds</i>
2934 10	-	<i>Compounds containing an unfused thiazole ring (whether or not hydrogenated) in the structure:</i>
2934 10 10	---	<i><b>Clothianidin</b>, oxathiapiprolin, thifluzamide, thiomethoxam</i>

**CHAPTER 29**

**Organic chemicals**

Notes:

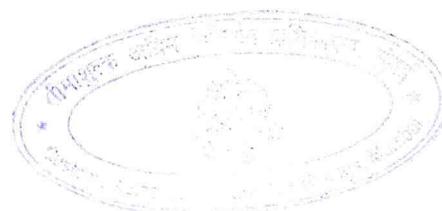
1. Except where the context otherwise requires, the headings of this Chapter apply only to:

(a) separate chemically defined organic compounds, whether or not containing impurities;

Supplementary Notes:

14. Tariff item 2933 39 23 covers one of the following goods of sub-heading 2933 39: Afidopyropen, boscalid, chlorpyrifos, chlorpyrifos methyl, clodinafop-propargyl, cyantraniliprole, flonicamid, floryprauxifen-benzyl, fluazifop-P-butyl, fluopicolide, fluopyram, forchlorfenuron, haloxyfop-P-methyl, picoxystrobin, pyridalyl, pyriofenone, pyriproxyfen, sulfoxaflo. [Emphasis supplied]

**Relevant tariff entries of Chapter 29:**



CHAPTER 38  
*Miscellaneous chemical products*

Notes:

1. This Chapter does not cover:

- (a) separate chemically defined elements or compounds **with the exception** of the following:  
(2) insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, **put up as described in heading 3808.**

Supplementary Notes:

2. Tariff item 38089142 covers one of the following goods of sub-heading 3808 91:

(a) with content by mass greater than 90% : Chlorentaniliprole (ISO); Buprofezin (ISO); Flubendiamide (ISO); Emamectin Benzoate (ISO); Abamectin; Bendiocarb; Benfuracarb; Benzpyrimoxam; Broflanilide; Chlorfenoppyr; Chlorfluazuron; Chromafenozide; **Clothianidin**; **Cyantraniliprole**; Cyclaniliprole; Cyenopyrafen; Cyflumetofen; Diafenthiuron; Dinotefuron; Etoxazole; Fenazaquin; Fenobucarb (BPMC); Fenpyroximate; Flonicamid; Flufenoxuron; Flufenzine; Flupyradifurone; Fluxametamide; Hexythiazox; Isocycloseram; Lufenuron; Metaflumizone; Metaldehyde; Methoxyfenazide; Metofluthrin; Milbemectin; Permethrin; Prallethrin; Propergite; Propoxur; Pymetrozin; Pyrethrin (pyrethrum); Pyridaben; Pyridalyl; Pyrifluquinazon; Renofluthrin; S-bioallethrin; Spinetoram; Spinosad; Spirotetramat; Sulfoxaflor; Teflubenzuron; Tolfenpyrad; Transfluthrin; Triflumezopyrim.

(b) with content by mass greater than 60%: Propetamphos; Tetraniliprole; Thiocyclam hydrogen oxalate. [Emphasis supplied]

**Relevant tariff entries of Chapter 38:**

Chapter/Heading/Sub-Heading/Tariff Item	Description of goods
(1)	(2)
3808	<i>Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur treated bands wicks and candles, and fly papers)</i> - Goods specified in Sub-heading Note 1 to this Chapter:
3808 91	-- <i>Insecticides:</i>
3808 91 42	---- <i>Goods specified in Supplementary Note 2 to this Chapter</i>



3.6.3 The relevant portion of explanatory General Notes to the HSN for Chapters 29 and 38 is as below:

#### **Chapter 29 GENERAL**

*As a general rule, this Chapter is restricted to separate chemically defined compounds, subject to the provisions of Note 1 to the Chapter.*

##### **(A) Chemically defined compounds**

###### **(Chapter Note 1)**

*A separate chemically defined compound is a substance which consists of one molecular species (e.g., covalent or ionic) whose composition is defined by a constant ratio of elements and can be represented by a definitive structural diagram. In a crystal lattice, the molecular species corresponds to the repeating unit cell.*

##### **(D) Exclusion from Chapter 29 of certain separate chemically defined organic compounds (Chapter Note 2)**

*(2) Certain other separate chemically defined organic products, which would otherwise have been classified in Chapter 29, may be excluded when put up in certain forms, or if they have been subjected to certain treatments which leave their chemical composition unchanged.*

*Examples are:*

*(h) **Disinfectants, insecticides, etc., put up as described in heading 38.08.***

#### **Chapter 38 GENERAL**

*This Chapter covers a large number of chemical and related products.*

***It does not cover separate chemically defined elements or compounds (usually classified in Chapter 28 or 29), with the exception of the following:***

*(2) Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up as described in heading 38.08.*

*These products are classified here in the following cases only:*

*When they are **put up in packings** (such as metal containers or paperboard cartons) for retail sale as disinfectants, insecticides, etc., or in such forms (e.g., in balls, strings of balls, tablets or plates) that there can be no doubt that they will normally be **sold by retail**.*

*When they have the character of **preparations, whatever the presentation** (e.g., as liquids, washes or powders).*

*When they are put up in the form of **articles** such as...*

*This heading excludes:*

*Products for disinfecting, insecticidal etc., uses, not answering the descriptions above. These products are classified according to their nature under the appropriate headings, for example*

*(iv) Naphthalene, DDT (ISO) (clofenotane INN), (1,1,1-trichloro-2,2-bis-(p-chlorophenyl) ethane) and other separate chemically defined compounds (including aqueous solutions) (Chapter 28 or 29).*

#### **Analysis by Applicant:**

3.7 Both sets of alternate classifications referred above arise out of amendments made by the Finance Act, 2025, with effect from 01.05.2025. Given that these are parallel amendments



and referred to the chemicals in question by name, clearly classification has to be based on which is the more appropriate entry applicable to the goods in question.

3.8 As stated above, the options for classification of Cyantraniliprole are *Heading 2933 – Heterocyclic compounds with nitrogen hetero-atom(s) only* and *Heading 3808 – Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur treated bands wicks and candles, and fly papers.*

3.9 Applying Rule 1 discussed earlier, the classification must be based on the terms of the headings, and the relevant section or chapter notes, and only thereafter can they be further classified under a corresponding sub-heading or tariff item. For this, as also discussed earlier, each heading must be read in its entirety. In the present case, for Cyantraniliprole, the comparison is between a heading (Heading 2933) that describes the chemical in organic chemistry terms and a heading (Heading 3808) which is predicated on the goods being put up in forms or packings for retail sale. Given that Cyantraniliprole imported by FMC is in pure form, unmixed, and not put up in forms for retail sale or in any prepared form possessing the character of a preparation or article, it is submitted that it is more appropriately classifiable under the relevant headings of Chapter 29.

3.10. In this connection, reference is made to the Explanatory Notes to Rule 1 of the Rules for Interpretation of the HSN which provides as follows:

*“(III) The second part of this Rule provides that classification shall be determined (a) according to the terms of the headings and any relative Section or Chapter Notes, and (b) where appropriate, provided the headings or Notes do not otherwise require, according to the provisions of Rules 2, 3, 4, and 5.*

*(IV) Provision (III) (a) is self-evident, and many goods are classified in the Nomenclature without recourse to any further consideration of the Interpretative Rules (e.g., live horses (heading 01.01), pharmaceutical goods specified in Note 4 to Chapter 30 (heading 30.06)).”*

3.10 It is further submitted that once the product is covered under a heading of Chapter 29, it must be assigned to the sub-headings within that Heading itself, and not to any other sub-heading.

3.11 Assuming without admitting that Cyantraniliprole is prima facie classifiable under two or more headings, Rule 3 of the GRI will have to be applied. However, before proceeding with such further analysis, it is reiterated that on an examination of the headings as required by Rule 1 of GRI, it is clear that Cyantraniliprole falls for classification under Heading 2933.

3.12 As per Rule 3, it is clear that in cases where goods are prima facie classifiable under two or more headings, the heading that offers the more specific description must be preferred over one that is more general in nature. In this connection, reference is made to the Explanatory Notes to Rule 3 of the Rules for Interpretation of the HSN which provides as follows:

*“RULE 3(a)*



(III) The first method of classification is provided in Rule 3(a), under which the heading which provides the most specific description of the goods is to be preferred to a heading which provides a more general description.

(IV) It is not practicable to lay down hard and fast rules by which to determine whether one heading more specifically describes the goods than another, but in general it may be said that:

(a) A description by name is more specific than a description by class (e.g., shavers and hair clippers, with self-contained electric motor, are classified in heading 85.10 and not in heading 84.67 as tools for working in the hand with self-contained electric motor or in heading 85.09 as electro-mechanical domestic appliances with self-contained electric motor).

(b) If the goods answer to a description which more clearly identifies them, that description is more specific than one where identification is less complete. Examples of the latter category of goods are :

(1) Tufted textile carpets, identifiable for use in motor cars, which are to be classified not as accessories of motor cars in heading 87.08 but in heading 57.03, where they are more specifically described as carpets.

(2) Unframed safety glass consisting of toughened or laminated glass, identifiable for use in aircraft but not advanced beyond having been shaped, is to be classified not in heading 88.07 as parts of goods of heading 88.01, 88.02 or 88.06 but in heading 70.07, where it is more specifically described as safety glass.”

3.14 It is submitted by an application of both the tests set out above, Cyantraniliprole will fall for classification under the Heading 2933. From an organic chemistry standpoint, Cyantraniliprole is fundamentally a heterocyclic compound with nitrogen hetero-atom(s) only and directly answers to this description – therefore on the touchstone of “description by name” being more specific than “description by class”, it must be classified under Heading 2933. Similarly, even on the test of which description more clearly identifies Cyantraniliprole, it falls for classification as ‘heterocyclic compound with nitrogen hetero-atom(s) only’ rather than ‘Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles’.

3.15 Furthermore, it is to be noted that Rule 6 makes it clear that the classification of goods in sub-headings only applies after a first level of classification under an appropriate heading has been determined. In the present case, where by an application of Rule 1, and Rule 3 (if considered applicable), Cyantraniliprole, being a chemically defined heterocyclic compound, squarely falls under Heading 29, the reference to ‘Cyantraniliprole, with content by mass greater than 90%’ under Heading 38 cannot alter this position. Cyantraniliprole appropriately falls for classification under Heading 29 and the fact that there is reference to Cyantraniliprole under 2933 39 23 under a different description has to be considered in the light of the above restriction. In this connection, reference is made to the Explanatory Notes to Rule 6 of the Rules for Interpretation of the HSN which provides as follows:



*“(III) The scope of a two-dash subheading shall not extend beyond that of the one-dash subheading to which the two-dash subheading belongs; and the scope of a one-dash subheading shall not extend beyond that of the heading to which the one-dash subheading belongs.”*

3.16 It is therefore submitted that, applying the General Rules of Interpretation and considering both the chemical identity and the scope of the competing tariff entries, Cyantraniliprole is most appropriately and conclusively classifiable under Heading 2933 as a ‘heterocyclic compound with nitrogen hetero-atom(s) only’.

3.17 Further, Section VI Note 2 makes it clear that goods are classifiable in Heading 3808 only when they are ‘put up in measured doses or for retail sale.’ The scope of Heading 3808 is therefore restricted to such goods and does not extend to all chemically defined substances. On the other hand, Chapter 29 Note 1 clarifies that the Chapter applies to ‘separate chemically defined organic compounds,’ whether or not containing impurities. Clomazone, by its very nature, squarely falls within this definition as a separate chemically defined organic compound.

3.18 By contrast, Chapter 38 Note 1(a) expressly excludes separate chemically defined compounds, except for insecticides, herbicides, fungicides, and similar products that are ‘put up as described in Heading 3808.’ The HSN Explanatory Notes further reinforce this distinction by stating that Chapter 29 is intended to cover separate chemically defined compounds, however, when such compounds are put up in packings for retail sale or when they have the character of preparations, for instance, liquids, washes or powders, they are excluded from Chapter 29 and shifted to Heading 3808. Products not answering this description, such as Cyantraniliprole remain properly classifiable in Chapter 29.

3.19 Accordingly, a combined reading of the Section Notes, Chapter Notes, and Explanatory Notes makes the position clear that Cyantraniliprole, being a separate chemically defined organic compound imported in bulk form and not put up in measured doses or for retail sale, is appropriately and conclusively classifiable only under Chapter 29, and not under Chapter 38.

3.20 A similar analysis may be undertaken for Clothianidin for which the competing headings are: *Heading 2934 - Nucleic acids and their salts; whether or not chemically defined; other heterocyclic compounds* and *Heading 3808 – Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur treated bands wicks and candles, and fly papers.*

3.21 The submissions made above in paras shall be applicable mutatis mutandis to Clothianidin as well.

*In connection with para A17, it is submitted that from an organic chemistry standpoint, Clothianidin is fundamentally a heterocyclic compound and directly answers to this description – therefore on the touchstone of “description by name” being more specific than “description by class”, it must be classified under Heading 2934. Similarly, even on the test of which description more clearly identifies Clothianidin, it falls for classification as ‘other heterocyclic compounds’ rather than ‘Insecticides, rodenticides, fungicides, herbicides, anti-sprouting*



*products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles.*

4. **Port of Import and reply from jurisdictional Commissionerate:**

The applicant in their CAAR-1 indicated that they intend to import the subject goods from jurisdictional Commissionerate of the Commissioner of Customs, Nhava Sheva-I, Jawaharlal Nehru Customs House, Nhava Sheva, Tal: Uran, Dist- Raigad, Maharashtra - 400707. The application was forwarded to the jurisdictional of Commissionerate of the Commissioner of Customs, Nhava Sheva-I, Jawaharlal Nehru Customs House, Nhava Sheva for their comments on 16.10.2025, 03.11.2025, 27.11.2025 and 22.12.2025.

However, no response was received from the concerned Jurisdictional Commissionerate.

5. **Details of Hearing**

Shri Udayan Chokshi and Mrs Ankita Vashistha authorized representatives of the applicant appeared for PH in the matter. They reiterated the submission made in the application. They also filed an additional submission to strengthen their claim of classification of the following subject goods.

a) Cyantraniliprole b) Clothianidin

They contended that the above subject goods in terms of GRI-1, GRI-3 Specific heading and entry read with supplementary note merit classification under CTH-2933 and 2934 respectively. They in support of their claim relied upon GRI-1 and GRI-3, Specific heading, supplementary note to the chapter 29 & 38. In addition, they also rely upon GRI-6. They further contended that classification under CTH 3808 not applicable. They also sought one-week time to file additional submission which is permitted.

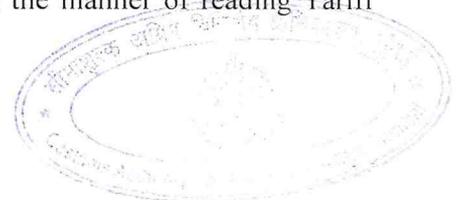
**Additional Submission:**

6. The applicant vide its additional submission dated 07.01.2026 submitted as follows: **the words ‘put up’ in the phrase “*put up in forms or packings for retail sale or as preparations....*” in Tariff Heading 3808 apply to each of the three cases**

Meaning of ‘put up’

The term ‘put up’ is not defined in the Customs Tariff Act, 1975. However, in the context of classification, ‘put up’ means presented, and denotes the manner of presentation at the time of import or export.

6.1 Recently, the Hon’ble CESTAT, New Delhi, in the case of **Midas Fertchem Impex Pvt. Ltd. vs. Principal Commissioner of Customs** [Customs Appeal No. 52239 of 2021 decided on 13.01.2023] has observed the following regarding the manner of reading Tariff



Heading 3808 – At Para 21 of its order, it recorded as follows (emphasis is as per the text of the order).

*"21. As may be seen, this heading covers products which are put up in forms or packings for retail sale OR as preparations OR articles."*

The Tribunal has clearly taken the view that the words 'put up' apply to each of:

- i) Forms or packings intended for retail sale
- ii) Preparations
- iii) Articles

6.2 Implications for the present classification: Kind attention is invited to the fact that Chapter Note 1(a)(2) to Chapter 38 uses the same expression 'put up' and specifically provides that this Chapter does not cover separate chemically defined elements or compounds except:

*"Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up as described in Heading 3808"*

What follows from the joint reading of Chapter Note 1(a)(2) to Chapter 38 and the wording of Tariff Heading 3808 is that only when the goods (i.e., separate chemically defined elements or compounds) are put up as described in Heading 3808 can they fall for classification under Chapter 38.

This means that a pure chemical compound, as in the present case, would fall under Chapter 29 (organic chemicals).

6.3 The subject goods, which are technical grade, should be classified under Chapter 29, being 'separate chemically defined compounds' – any impurities that reduce the purity below 100% will not affect this description/classification.

The goods imported by the applicant are pure **chemicals of technical grade**, barring any impurities. In other words, no ingredients have been added to the imported goods – the unintended presence of impurities that reduces the purity below 100% does not render the goods as preparations.

6.7 There is a specific precedent on this point in a US case [(HQ) H064895] where it was specifically held that as per Chapter Note 1(a)(2) to Chapter 29, separate chemically defined compounds of Chapter 29 may contain impurities, and in this context, it was analysed that "...The term "impurities" applies exclusively to substances whose presence in the single chemical compound results solely and directly from the manufacturing process (including purification). These substances may result from any of the factors involved in the process and are principally the following: (a) Unconverted starting materials; (b) Impurities present in the starting materials; (c) Reagents used in the manufacturing process (including purification); (d) By-products..."



The US CBP noted that the constituent goods other than the active chemical were manufacturing impurities and water, rather than ingredients purposely added, and therefore concluded that the correct classification would be under Chapter 29.

## 6.7 Role and proportion of other ingredients

6.7.1 A key factor in determining whether a product is a formulation under Chapter 38 or a technical-grade chemical under Chapter 29 is the role and proportion of other constituents. If ingredients other than the active are deliberately added as formulation aids (carriers, stabilizers, dispersants), the goods become a ‘preparation’ (falling for classification under Chapter 38), but if the balance ingredients are merely impurities, the product would still be a technical-grade chemical (falling for classification under Chapter 29).

In *Midas Fertchem* (supra), the CESTAT noted at Para 36 of its order that as the imported product contained only 0.1% brassinolide with 99.9% being “inert material” including emulsifiers, preservatives, and demineralized water, and therefore held that the imported goods clearly were a “preparation” In the words of the Bench: *"Its strength is only 0.1% and the rest is not made up of impurities but other inert material. It has been stated... that it should be mixed in the proportion of 1 gram in 10 litres water and sprayed which makes it clearly a preparation of Brassinolide."*

This is in direct contrast to the present case, where there is no added inert material, and the only ingredient present in the imported goods is impurities, as stated above.

## 6.8 Post-import manufacturing activity:

6.8.1 In relation to the point that the imported goods are not ‘preparations’, a question was raised about their post-import use. It is clarified that the subject chemicals are technical-grade chemicals, i.e., active ingredients used for the manufacture of insecticides. The minimum purity of the subject chemicals is Cyantraniliprole – 93% and Clothiandin – 98% respectively.

6.8.2 The remaining ingredients are impurities (which are unintended and are formed in the process of manufacturing). The imported goods are not mixtures or formulations of any kind.

6.8.3 After import, they are used in the formulation of various insecticide products. For this purpose, the chemicals are diluted with suitable solvents, such as water or hydrocarbons, and mixed with other ingredients to formulate the desired insecticide.

## 6.9 There is international precedent that the technical grade is classified under Chapter 29

6.9.1 Reliance is placed upon the US ruling, i.e., (HQ) H064895, where the issue pertains to the classification of Ethephon 73.81% Technical and Ethephon 65%. The question for determination was whether Ethephon 73.81% Technical and Ethephon 65% fall within Heading



2931 or Heading 3808. It was determined that the said products would be classified under Chapter 29 and not under Chapter 38, and held as under –

*"[...] In the present case, ethephron is a separately defined chemical compound with the chemical name of 2-chloroethylphosphonic acid, consisting of carbon, hydrogen, chlorine, oxygen, and phosphorus in a constant ratio and with a definite structural formula. The inert ingredients are not intentionally added but rather are unintended results of the manufacturing process. These impurities were not deliberately left in to render the product particularly suitable for specific use. The separately defined chemical compounds, as defined in general EN, are then dissolved in water. Therefore, the merchandise meets the terms of Chapter 29, note 1(a) and (d) and the general EN thereto. Additionally, the chemical structure of the ethephron includes a phosphorous atom directly linked to a carbon atom. Therefore, the substance meets the terms of heading 2931, HTSUS.[...]"*

6.9.2 Further, reliance is placed on (NY) N243474 dated 09.08.2013, wherein the product, V-10135 Technical Fungicide, contains 96.6 per cent of Fenpyrazamine, as the active ingredient, with the remaining ingredients as impurities under Chapter 29. Furthermore, reliance is placed on (NY) N313341 dated 05.08.2020.

#### 6.10 The Subject Chemicals Are Not "preparations" in the Chapter Heading 38.08

6.10.1 The Explanatory Notes to the HSN to CTH 38.08 specify that the goods named therein are classified under this Heading only in the following cases: (1) when they are put up in packings for retail sale; or (2) when they have a character of preparations, whatever the presentation (e.g., liquids, washes or powders); or (3) when they are put up in the form of articles.

6.10.2 It is pertinent to note that vis-à-vis aforesaid (2), the Explanatory Note itself clarifies that "preparations" consist of suspensions or dispersions of the active product (i.e., Subject Chemicals) in water or in other liquids or of a mixture of active products. The relevant Para is extracted as under for reference.

*"...These preparations consist of suspensions or dispersions of the active product in water or in other liquids (e.g. a dispersion of DDT (ISO) (clofenotane (INN), (1,1,1, -trichloro-2,2-bis (p-chlorophenyl)ethane)in water), or of mixtures. Solutions of active products in solvents other than water are also included here (e.g. solutions of pyrethrum extract (other than standardized pyrethrum extract), or copper naphthenate in a mineral oil)..."*

In the present case, where the Subject Chemicals are imported in their pure/raw form and not as suspensions, dispersions or mixtures, they would not answer to the description of "preparations" as aforesaid.

#### 6.11 Legislative Intent and the Doctrine Against Redundancy



6.11.1 It is pointed out that the introduction of new entries in Chapter 29 reflects clear legislative intent to classify certain chemicals under more specific entries, which is why the Customs Tariff was amended in 2025.

6.11.2 TRU Circular - This has been specifically articulated in the TRU Circular [DOF No. 334/3/2025-TRU dated 01.02.2025], which states in Para 2 that important legislative changes relating to HSN Changes have been made in the Finance Bill 2025. Thereunder, the Notes for Chapter 29 and Chapter 38 refer to the creation and amendment of certain Tariff items in the following terms.

*Chapter 29*

- 1) ...
- 2) *W.e.f. 01.05.2025, in chapter 29, 18 New Supplementary Notes and tariff items are being created, substituted or modified [Clause 98(b) of the Finance Bill 2025 read with Third Schedule refers]...*

*Chapter 38*

- 1)...
- 4) *W.e.f 1<sup>st</sup> May 2025, in headings 3808, 3813, 3814, Supplementary Notes 1, 2, 5, 7 and 8 are being amended, 6 new Supplementary Notes are being inserted, and some tariff items are being inserted/substituted [Clause 98(b) of the Finance Bill, 2025 read with Third Schedule refers]*

.The aforesaid clause 98(b) of the Finance Bill, 2025 is extracted as under for reference –

*“Customs tariff*

*Clause 98 seeks to amend the First Schedule to the Customs Tariff Act—*

- (a)...
- (b) *in the manner specified in the Third Schedule with view to harmonise certain entries with the Harmonised System of Nomenclature to create new tariff lines in respect of certain entries and to revise the rates in respect of certain tariff items, with effect from the 1st May, 2025...*”

6.11.3 Correlation of Customs Tariff between 2024-2025

Reference is also made to the document named “*Correlation of Customs Tariff between 2024-2025*”- which presents the correlation between the tariffs at the 8-digit level, documenting the manner in which the commodities covered by the Tariff of 2024 have been accommodated in the Tariff of 2025. The Guidance Note to the Correlation Table explains that the correlation code consists of a two-alphabet nomenclature to represent the extent of changes between the versions being compared. From this, it can be clearly noticed which entries are new in the 2025 tariff and did not exist earlier.

The entries relevant to the present case are extracted and tabulated below



S.No.	Name of the Chemical	Tariff 2024	Tariff 2025	Correlation Code
1.	Cyantranilprole	2933 3929	<b>2933 3923</b>	<b>NF</b>
			2933 3929	DF
2.	Clothianidin	2934 1000	<b>2934 1010</b>	<b>NF</b>
			2934 1090	NF

It is evident from the perusal of these entries that the Subject Chemicals have been specifically identified and a separate CTI has been created for their classification. This fully supports the proposition above about the legislative intent.

A copy of the document named 'Correlation of Customs Tariff between 2024-2025' is annexed hereto and marked as **Annexure B.**

#### 6.11.4 Amendment to ITC (HS) 2022 made in 2025

Vide Notification No. 44/2025-26 dated 15.10.2025 ("**Relevant Notification**"), the Central Government has amended ITC(HS) 2022, Schedule-I (Import Policy) in alignment with the Finance Act, 2025, dated 29.03.2025.

A copy of the Relevant Notification is annexed hereto and marked as **Annexure C.**

It modifies the ITC(HS) Codes and the corresponding policy requirements—whether added, amended, removed, split or merged—under ITC(HS) 2022, Schedule-I (Import Policy), in accordance with the Finance Act, 2025. [See: ***Annexure I to the Relevant Notification***]

It further amends the Section Notes, Chapter-wise Main Notes, Supplementary Notes, Chapter Headings, sub-headings, categories, and descriptions of ITC(HS) codes in alignment with the Finance Act, 2025. [See: ***Annexure II to the Relevant Notification***]

Vide the Relevant Notification, a new policy Condition No. 07 is introduced in Chapter 29 and 38 under ITC (HS), 2022, Schedule-I (Import Policy) which is extracted as under –

*"The import of the pesticides will be subject to a Certificate of Registration issued by Central Insecticides Board & Registration Committee (CIB&RC) under the Ministry of Agriculture & Farmers Welfare, and also non-prohibition for import under Insecticides Act, 1968."*

In the present case, the aforesaid policy condition applies to both competing entries in each case. Therefore, as such, there is nothing ITC (HS) to suggest that the CTI under Chapter 29 would not be applicable.

#### 6.12 Judicial precedent



6.12.1 It is well-settled law that every legislative amendment must be given meaningful effect [Refer: *Quebec Railway, Light, Heat and Power Company Limited v. Vandry & Ors.* [AIR 1920 PC 181]; *Commissioner, Customs Central Excise and Service Tax v. M/S Shapoorji Pallonji (2023) 15 S.C.R. 421*; *Utkal Contractors & Joinery (P) Ltd. vs State of Orissa (1987) 3 SCC 279*]. Per this, the 2025 amendments introducing new entries in Chapter 29 would be rendered entirely redundant and otiose if classification were to be continued under Chapter 38, which would contradict the legislative objective.

**6.12.2 The decision in UOI vs. Pesticides Mfg. & Formulators Association of India is distinguishable on facts and not a binding precedent :** The judgement of the Hon'ble Supreme Court in UOI vs. Pesticides Mfg. & Formulators Association of India [2002 (146) ELT 19 (SC)] can be distinguished on fundamental facts:

- (i) That case pertained to the Central Excise Tariff, and specifically to the validity of a Circular seeking to clarify that the technical grade pesticides (similar to the Subject Chemicals) were classifiable under Chapter 28 and Chapter 29 of the Central Excise Tariff, in the context of certain Chapter Notes inserted in 1996 and 1997 in Chapter 38, which are not in the Customs Tariff.
- (ii) A specific finding of fact has been made therein that "The Chapter headings, the Notes and the Tariff Headings within Chapter 28 and 29 have not been changed or amended in their application to separate chemically defined compounds by the 1996 or 1997 amendments for the period in question", whereas in the present case specific amendments have been made to the Chapter 29.
- (iii) The judgment concludes that "It was therefore not the intention of the 1996 amendment to exclude concentrates of insecticides etc. in bulk from Chapter 38 but to extend the incidence of excise duty to formulations from and retail packages of the concentrates", which is not relevant to the present discussion.

Similarly, the judgement of the Hon'ble CESTAT in *E.I. Dupont vs. CC, Ahmedabad [2019 (370) ELT 517 (Tri.- Amd.)]* does not serve as precedent because it has directly applied the aforesaid judgement of the Supreme Court, which as stated above is wholly distinguishable on facts, and because that decision pertains to a period prior to the 2025 amendments made to the Customs Tariff, as elaborately discussed above.

Considering the above submissions, the Applicant submits that the Subject Chemicals, i.e., Cyantraniliprole and Clothianidin, should be classified under Chapter 29 as explained in the foregoing paragraphs.

**Further Additional Submission:**

7. The applicant vide its further additional submission dated 04.03.2026 submitted as below:



7.1 Whether the phrase “for retail sale” in Section Note 2 to Section VI would apply to the imported goods because the finished goods manufactured using these imported goods may be sold in retail, whereby Chapter 38 would become applicable

7.1.1 A point was raised regarding the meaning to be accorded to the phrase “for retail sale” occurring in Section Note 2 to Section VI of the Customs Tariff read in the light of the judgements of the Supreme Court in *BPL Display Devices Ltd. v. Commissioner of Central Excise, Ghaziabad [2004 (10) TMI 92]* in which it has been held that ‘for use’ can mean ‘intended for use’, as follows:

*“We are of the view that no material distinction can be drawn between the loss on account of leakage and loss on account of damage. The words ‘for use’ used in similar exemption Notifications have also been construed by this Court earlier in the State of Haryana v. Dalmia Dadri Cement Ltd., 1987 (Suppl) SCC 679 to mean ‘intended for use’. According to this decision the object of grant of exemption was only to debar those importer/manufacturers from the benefit of the Notifications who had diverted the products imported for other purposes and had no intention to use the same for manufacture of the specified items at any stage.”*

7.1.2 The possible extension thereof of “for retail sale” to mean “intended for retail sale” could have the implication that Chapter 38 would become applicable in the present case in view of the following wording Section Note 2 to Section VI of the Customs Tariff, which reads as follows:

*“2. Subject to Note 1 above, goods classifiable in heading 3004, 3005, 3006, 3212, 3303, 3304, 3305, 3306, 3307, 3506, 3707 or 3808 by reason of being put up in measured doses or for retail sale are to be classified in those headings and in no other heading of this Schedule.”*

7.1.3 There is similar reference to usage in *Steel Authority of India Ltd. v. Collector of Central Excise [1996 (7) TMI 147]*.

i) It is submitted that the Hon’ble Supreme Court has applied a purposive interpretation in the cited case, and held therein that the words “for use” would mean “intended for use” – but that this was in the context of the interpretation of an exemption notification, and the question was whether accidental damage to the goods preventing their intended use would or would not impact eligibility for the exemption.

ii) It is submitted that the above proposition is not applicable in the present case for two reasons, as follows:

A. It is a settled proposition that imported goods are to be classified on the basis of their presentation at the time of importation, and

B. Considering the Section Note as a whole it is clear that it only applies to goods that are put up for retail sale.

These reasons are elaborate below, with reference to case law and the WCO Explanatory Notes.



## 7.2 Classification is on the basis of presentation at the time of importation

7.2.1 It is well settled by a plethora of judicial pronouncements that imported goods are to be classified on the basis of their presentation at the time of importation and not on the basis of their end use. Reliance is placed on the judgement of the Supreme Court in ***Dunlop India Ltd. & Madras Rubber Factory Ltd. v. Union of India [1983 (13) E.L.T. 1566 (S.C.)]*** where, while setting aside the orders of the authorities, the Court held that when there is no reference to the use of the article in the Tariff, the end use as a basis for classification is irrelevant. The pertinent portion of the judgement is extracted below for ready reference:

*“42. ....The basis of the reason with regard to the end-use of the article is absolutely irrelevant in the context of the entry where there is no reference to the use or adaptation of the article ”*

7.2.2 This principle has been recently reaffirmed by the Hon'ble Supreme Court in ***Commissioner of Customs (Import) v. Welkin Foods [(2026) 38 Centax 104 (S.C.)]***, wherein the Court considered the question of the consideration of end use as a factor for determining classification, and discussed whether end use can be taken into account when dealing with classification disputes of imported goods and if so, what principles govern such consideration. The Court concluded, relying upon the judgment in *Dunlop India Ltd. (supra)*, that classification must align with the taxable event, i.e., importation. Certain relevant paragraphs are reproduced below for your ready reference:

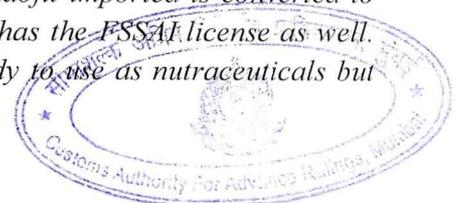
*“73. While the judgment of this Court in Dunlop India (supra) was delivered in the pre-HSN era, it laid down two principles governing classification under the customs law which remain relevant even in the HSN era. They are: (i) evaluation and classification of goods based on their condition at the time of import, generally referred to as the 'as imported' principle; and (ii) consideration of 'use' only when reference to use or adaptation is provided in the tariff heading...*

...

*85. .... according to Section 12 of the Act, 1962, it is evident that the goods are taxable at the point of import. Therefore, as recognised by this Court in Dunlop India (supra), what is crucial is the condition of the goods at the time of import, which is the taxable event under the Act, 1962. By excluding consideration of actual use and subjective intentions regarding use, it is ensured that classification aligns with the taxable event. Actual use can be considered only in those rare instances where there is overwhelming statutory evidence to that effect.”*

7.2.3 Further reliance is placed on ***Sundyota Numandis Probiocetual Private Limited v. Principal Commissioner Customs, New Delhi [2026 (2) TMI 50 - CESTAT New Delhi]***, wherein, referring to *Welkin Foods (Supra)* it was held that the use of the imported goods cannot become the principle for its classification. The relevant extract is extracted below for your ready reference:

*“12. In the instant case, it is an admitted fact that the Tendofit imported is converted to capsules for use as nutraceutical, for which the appellants has the FSSAI license as well. However, what was imported is not the final product, ready to use as nutraceuticals but*



*merely its raw material. Hence, the use of the imported goods cannot become the principle for its classification. In view of the above discussions, we hold that Tendofit is rightly classified under CTH 3913 by the appellant.”*

7.2.4 Further reliance in this regard is placed on *Commr. of Cus., Chennai v. Thamilzh Ponni Exports Enterprises [2009 (243) E.L.T. 269 (Tri. – Chennai)* wherein it was held in the context of imported goods that the classification of the goods would be based on their condition as presented at the time of import.

7.3 Lastly, it is submitted that in the advance ruling *In Re: Royal Canin India Pvt. Ltd. [2024 (390) E.L.T. 530 (A.A.R. – Cus. – Mum.)]*, issued by this very Authority, it has been categorically held that classification of a product must be determined based on the form in which it is imported and not on the basis of its end use, thereby reinforcing the principle that the condition and presentation of goods at the time of importation are determinative for classification purposes. The relevant extract of the Ruling is extracted below for ready reference:

*“6. ...The classification of the product should be determined based on the form in which it is imported and not based on the end use of the product., the bulk packages imported by the Company cannot be considered as being 'put up for retail sale'...”*

In light of the above settled legal position, it is clear that the determination of whether goods are “put up for retail sale” must necessarily be made with reference to the form, packaging and presentation of the goods at the time of importation, and not on the basis of their intended or eventual end use.

#### 7.4 The cited Section Note only applies to goods that are put up for retail sale:

7.4.1 As extracted above, Section Note 2 to Section VI of the Customs Tariff reads as follows:

*“2. Subject to Note 1 above, goods classifiable in heading 3004, 3005, 3006, 3212, 3303, 3304, 3305, 3306, 3307, 3506, 3707 or 3808 by reason of being put up in measured doses or for retail sale are to be classified in those headings and in no other heading of this Schedule.”*

30.4.1 On a plain reading, the aforesaid Section Note (a) applies only to the specific tariff headings expressly enumerated therein. (b) that too, its applicability is triggered only where the goods are otherwise classifiable under any of those headings *by reason of being put up in measured doses or for retail sale*; (c) provides that if the aforesaid conditions are both satisfied, classification will be under those headings and not under any competing heading. The Note does not create an independent basis of classification; rather, it regulates classification only after the goods are found to answer the description of one of the listed headings and satisfy the condition relating to their manner of packing. Only where these twin conditions are met does the Section Note mandate that the goods shall be classified under the relevant specified heading and not under any competing heading.

7.4.2 In the present case, the foundational requirement itself is not satisfied. The goods are not “put up for retail sale” at the time of import. They are imported in bulk, in technical grade form, and are not packaged or presented as retail products. Therefore, clearly, their classification is



not under any of those headings, all of which require that the goods are put up in measured doses or for retail sale – and only thereafter can the test of *by reason of* become relevant/applicable. Therefore, the Section Note is not applicable.

7.4.3 This is further clarified with illustrations in the WCO Explanatory Notes to this Section Note, which read as follows:

*“Section Note 2 provides that goods (other than those described in heading 28.43 to 28.46 or 28.52) which are covered by heading 30.04, 30.05, 30.06, 32.12, 33.03, 33.04, 33.05, 33.06, 33.07, 35.06, 37.07 or 38.08 by reason of being put up in measured doses or for retail sale, are to be classified in those headings notwithstanding that they could also fall in some other heading of the Nomenclature. For example, sulphur put up for retail sale for therapeutic purposes is classified in heading 30.04 and not in heading 25.03 or 28.02, and dextrin put up for retail sale as a glue is classified in heading 35.06 and not in heading 35.05.”*

It is clear from the text of the Section Note and the clarification provided in the Explanatory Note as extracted above that the said Note comes into play only when goods are “put up in measured doses or for retail sale.”

7.4.4 The illustrations of *dextrin* and *sulphur* set out in the Explanatory Notes make the intent abundantly clear and remove any ambiguity. Dextrin, as a product, is ordinarily classifiable under Heading 35.05, which covers “*Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches*”. However, the Explanatory Note clarifies that when the very same goods (dextrin) is specifically put up for retail sale as a glue, it becomes classifiable under Heading 35.06 which covers “*Prepared glues and other prepared adhesives, not elsewhere specified or included; products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg*”. The shift in classification occurs because dextrin, by reason of being put up for retail sale as a glue, answers the description of Heading 35.06 – and it then has to rest there. In other words, it is only when the manner of presentation (i.e., retail packing as an adhesive) brings the product within the scope of one of the enumerated headings that Section Note 2 operates to prefer that heading over another competing heading (such as 35.05).

7.4.5 The example of sulphur further reinforces this principle. Sulphur, in its general form, is classifiable under Chapter 25 or Chapter 28, depending upon its nature. However, the Explanatory Note states that sulphur put up for retail sale for therapeutic purposes is to be classified under Heading 30.04 and not under Heading 25.03 or 28.02. Here again, the determinative factor is not the inherent chemical identity of sulphur, but the fact that it is put up for retail sale for therapeutic use, thereby satisfying the description of Heading 30.04. It is only because the product, by virtue of such retail presentation, becomes classifiable under one of the specified headings that Section Note 2 mandates its classification thereunder.

7.4.6 Thus, both illustrations unequivocally demonstrate that the Note comes into operation only where the goods, by reason of being put up in measured doses or for retail sale, squarely fall within one of the enumerated headings. If that foundational condition is not met, the Note has no application whatsoever.



7.4.7 This conclusion is unequivocally confirmed by even a cursory reference to the headings mentioned in the aforesaid Section Note. All the 12 headings stated therein include the specific aspect of how the goods are put up, i.e. in measured doses, or for retail sale. While the description of the goods varies across these 12 headings, what is common to all of them is the aspect of how they are put up and that they are put up in measured doses, or for retail sale.

Customs Tariff Heading		Related Chapter Notes (where applicable)
3004	Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale	-
3005	Wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes	-
3006	Pharmaceutical goods specified in note 4 to this chapter	-
3212	Pigments (including metallic powders and flakes) dispersed in non-aqueous media, in liquid or paste form, of a kind used in the manufacture of paints (including enamels); stamping foils; dyes and other colouring matter put up in forms or packings for retail sale	-
3303	Perfumes and toilet waters	Chapter 33 Notes:
3304	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or suntan preparations; manicure or pedicure preparations	3. Headings 3303 to 3307 apply, inter alia, to products, whether or not mixed (other than aqueous distillates and aqueous solutions of essential oils), suitable for use as goods of these headings and put up in
3305	Preparations for use on the hair	
3306	Preparations for oral or dental hygiene, including denture fixative pastes and powders; yarn used to clean between the teeth (dental floss), in individual retail packages	



3307	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties	packings of a kind sold by retail for such use.
3506	Prepared glues and other prepared adhesives, not elsewhere specified or included; products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg	-
3707	Chemical preparations for photographic uses (other than varnishes, glues, adhesives and similar preparations); unmixed products for photographic uses, put up in measured portions or put up for retail sale in a form ready for use	-
3808	Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur-treated bands wicks and candles, and fly papers)	-

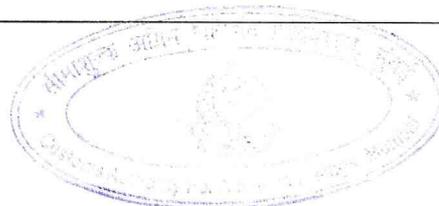
7.4.8 As seen from the above listing, which correlates to the wording of the Section Note 2 to Section VI, in all cases the goods are put up in measured doses or for retail sale. On the contrary, in the present case, where the goods are explicitly not for retail sale (and therefore fall out of Chapter 38), the Section Note will have no application or relevance.

7.4.9 Accordingly, in the present case, the goods are clearly (a) technical grade, (b) imported in bulk packing, and (c) not packed or presented in a manner suitable for retail sale. As already submitted, they are also neither “preparations” nor “articles” within the meaning of the relevant headings, they cannot fall for classification under Chapter 38 – inherently, and on consideration of the aforesaid Section Note.

## 7.5 WCO Classification Opinions

7.5.1 It is also relevant to consider certain WCO Classification Opinions in respect of the relevant Headings under Chapters 29 and 38, which are in consideration here. These opinions are reproduced in the table below, with our comments/submissions thereon, in relation to the applicability thereof to the present discussion:

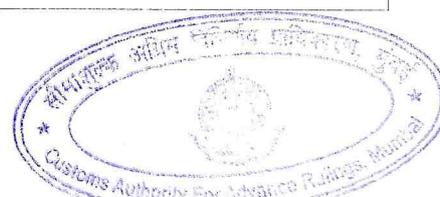
Tariff Item	Classification Opinion according to the WCO Trade Tools website	Comments/Submissions
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292419/1	<p><b>Dimethylol urea in aqueous solution</b>, whether or not containing formaldehyde resulting from dissociation of the product, used as a textile dressing: Without added perfume.</p> <p><i>See also Opinion 3809.91/1. Adoption :1964</i></p>	<p>Not relevant to present discussion as no similarity to products under consideration.</p>
292429/1	<p><b>Diflubenzuron</b>(N-[[4-chlorophenyl)amino]carbonyl]-2, 6-difluorobenzamide), a cyclic ureide generally used in the manufacture of insecticides.</p> <p><i>Adoption : 1995</i></p>	<p>Relevant precedent as Diflubenzuron is also a specifically named chemically defined organic compound, whether or not containing impurities, and used in the manufacture of insecticides like carbosulfan.</p> <p>Directly supports classification of subject goods under Chapter 19.</p>
293499/1	<p><b>Pradefovir</b> (INN) ((2R,4S)-2-{{2-(6-amino-9H-purin-9-yl)ethoxy)methyl}-4-(3-chlorophenyl)-1,3,2λ5-dioxaphos-phinan-2-one), being a cyclic ester of a dihydric alcohol with phosphonic acid, which contains a fused pyrimidine ring (purine) in its structure.</p> <p><b>Application of GIRs 1 (Note 7 to Chapter 29) and 6.</b></p> <p><i>Adoption : 2007</i></p>	<p>Not relevant to present discussion as no similarity to products under consideration.</p>
380891/1	<p><b>Antiparasite</b> lotion containing 1.8 % depallethrin (active ingredient), 7.2 % piperonyl butoxide (synergist for the active ingredient), isododecane and propellant gas HFA134a. The product is packaged for retail sale in a 125 ml bottle of plastics, which itself is packaged in a paperboard box. Both the bottle and box indicate that the product is recommended for treating lice and nits on the scalp (head lice) and that it should be applied once only onto the scalp on dry hair in a ventilated place.</p> <p>After the product is used, the head should be washed with a gentle shampoo that makes removal of the dead nits easier.</p>	<p>Relevant precedent as the good is put up in a packing for retail sale.</p> <p>Impliedly supports classification of subject goods under Chapter 19, as only a good put up in a packing for retail sale is to be classified under Chapter 38.</p>



	<p><b>Application of GIRs 1 and 6.</b> <i>Adoption : 2012</i></p>	
380891/2	<p><b>Collar for dogs</b>, of plastics, impregnated with an insecticide and an acaricide, to protect dogs against fleas and ticks. The collar measures approximately 48 cm in length, 1.4 cm in width and 0.2 cm in thickness. The collar is pointed at one end and has a moulded slide buckle at the other end to attach the collar around the neck of a dog. The product is packed in a bag of plastics and put up in a box of paperboard for retail sale.</p> <p><b>Application of GIRs 1 and 6.</b> <i>Adoption : 2013</i></p>	<p>Relevant precedent as the good is an article.</p> <p>Impliedly supports classification of subject goods under Chapter 19, as only an article is to be classified under Chapter 38.</p>
380859/1	<p><b>Intermediate preparation</b> containing as its sole active ingredient approximately 75% by weight of carbofuran (2,3-dihydro- 2,2-dimethyl-7-benzofuranyl methyl carbamate) and possessing insecticidal properties, used to manufacture insecticides which may have subsidiary use as nematocides.</p> <p><b>Application of GIRs 1 and 6 (Subheading Note 1 to Chapter 38).</b> <i>Adoption : 1986</i></p>	<p>Relevant precedent as the good is a preparation.</p> <p>Impliedly supports classification of subject goods under Chapter 19, as only a preparation is to be classified under Chapter 38.</p>
380861/1	<p><b>Antiparasite</b> lotion containing 1.0 % permethrin (active ingredient), 0.5 % malathion (active ingredient), 4.0 % piperonyl butoxide (synergist for the active ingredient), isododecane and propellant gas HFA134a. The product is packaged for retail sale in a 125-ml bottle of plastics, which itself is packaged in a paperboard box. Both the bottle and box indicate that the product is recommended for treating lice and nits on the scalp (head lice) and that it should be applied once only onto the scalp on dry hair in a</p>	<p>Relevant precedent as the good is put up in a packing for retail sale.</p> <p>Impliedly supports classification of subject goods under Chapter 19, as only a good put up in a packing for retail sale is to be classified under Chapter 38.</p>



	<p>ventilated place.</p> <p>After the product is used, the head should be washed with a gentle shampoo that makes removal of the dead nits easier.</p> <p><b>Application of GIRs 1 and 6</b> (Subheading Note 2 to Chapter 38). <i>Adoption : 2012</i></p>	
380892/1	<p><b>Preparations</b> put up for retail sale in 300- ml aerosol containers, containing anti- fungal agents (1.2 % by weight), perfume, kerosene, ethyl alcohol and isobutane (propellant) and, in some preparations, diethyl phthalate. Used in hospitals, surgical theatres, offices, schools, sick- rooms, etc., to safeguard against the propagation of fungi.</p> <p><i>Adoption : 1999</i></p>	<p>Relevant precedent as the good is put up in a packing for retail sale.</p> <p>Impliedly supports classification of subject goods under Chapter 19, as only a good put up in a packing for retail sale is to be classified under Chapter 38.</p>
380894/1	<p><b>Preparations</b> consisting of a mixture of formic acid and propionic acid, with or without the addition of ammonium formate, diluted in water, used in the manufacture of animal feeds for their antimicrobial properties to control undesirable microorganisms such as bacteria (e.g., salmonella), yeasts or moulds.</p> <p><b>Application of GIR 1.</b></p> <p><i>Adoption : 1999</i></p>	<p>Relevant precedent as the good is a preparation.</p> <p>Impliedly supports classification of subject goods under Chapter 19, as only a preparation is to be classified under Chapter 38.</p>
380894/2	<p><b>Broad spectrum antimicrobial agent based on derivatives of isothiazolinone, in aqueous solution.</b> In contact with microorganisms, e.g., fungi, bacteria and algae, it causes an immediate inhibition of growth resulting in cell death.</p>	<p>Relevant precedent as the good is preparation.</p> <p>Impliedly supports classification of subject goods under Chapter 19, as only a preparation is to be classified under Chapter 38</p>



7.5.2. Classification Opinions, the chemicals have been classified under Chapter 19, and Chapter 38 pertains either to preparations or articles put up for retail sale. The goods imported by the Company do not fall within either of these categories. Accordingly, these Opinions support the interpretation that the present imports do not fall for classification under Chapter 38.

Considering the above submissions, the Applicant submitted that the subject chemicals are squarely classifiable under Chapter 29 (Tariff Headings 2933 or 2934) of the Act.

### **DISCUSSION AND FINDINGS**

8. At the outset, I find that the issue raised in the question in Form CAAR-1 is squarely covered under Section 28H(2) of the Customs Act, 1962, being a matter relating to the classification of the subject goods, namely Technical Grade chemicals: (a) "Cyantraniliprole" and (b) "Clothianidin" under the provisions of this Act.

9. I have considered all the materials placed before me in respect of the subject goods. I have gone through the submissions made by the applicant in CAAR application as well as the submission made by the applicant during the personal hearing. No reply has been received from the jurisdictional Commissioner. I have also considered the details of the subject goods given in the documents viz. technical write up, Certificate of analyses (COA), Material safety data sheet (MSDS) and registration certificate of the subject goods issued by Central insecticide board, as submitted by the applicant. Therefore, I proceed to render advance rulings on the basis of available information and records. The issue at hand is to decide the classification of the Technical Grade chemicals i.e a) "Cyantraniliprole" and b) "Clothianidin". As per the applicant subject goods will be used by them in manufacturing of insecticides.

10. I have gone through the case presentation, written submissions and submissions made by the applicant during the personal hearing, reliance placed on the case laws. The present case needs to be deliberated upon in light of legal framework governed by the Customs Tariff Act, 1975, specifically Chapter 29 & 38, its corresponding Chapter notes, supplementary notes and relevant HSN explanatory notes.

11. I observe that there are two possible classifications of the chemicals i.e "Cyantraniliprole" and "Clothianidin". One is under Chapter 29 as separate chemically defined organic compounds and other is under Chapter 3808 as insecticides. The details of the both the possible classifications viz Chapter/CTH and CTI are mentioned in table below:

Subject goods Description	Classification as Chemical	In terms of	Classification as an insecticide	In terms of
Cyantraniliprole- Technical Grade	CTH 2933 CTI 29333923	Supplementary Note 14	CTH 3808 CTI 38089142	Supplementary Note 2
Clothianidin- Technical Grade	CTH 2934 CTI 29341010	Specific tariff item	CTH 38078 CTI 38089142	Supplementary Note 2



I observe as per the applicant submission and interpretation of law as mentioned above in this ruling, the subject goods i.e “Cyantraniliprole” and “Clothianidin” are claimed to be classifiable under Chapter 29 under CTH 2933 and 2934 being separate chemically defined organic compounds of the respective category/class and heading, whether or not containing impurities.

12. I now proceed to examine whether the subject goods **Cyantraniliprole – Technical Grade** and **Clothianidin – Technical Grade** are more appropriately classifiable under **Chapter 29**, which covers separate chemically defined organic compounds, or under **Chapter 38**, which covers insecticides.

13. From the technical literature submitted by the applicant, the following is observed:

13.1 **Cyantraniliprole DPX-HGW86 is An insecticide** for the control of chewing and sucking pests. It has a moderate aqueous solubility and is non-volatile. It is not expected to be persistent in soil or water systems. It has a low mammalian toxicity and a low potential to bioaccumulate. No significant health issues have been identified. It is highly toxic to honeybees, moderately toxic to earthworms and most aquatic species.

As per the submissions and the MSDS, Cyantraniliprole is **technical grade** with a content of **96.7%**, having chemical formula  $C_{19}H_{14}BrClN_6O_2$  and CAS No. **736994-63-1**.

13.2 **Clothianidin (Ref: CGA 322704) Clothianidin is an insecticide** for the control of sucking and chewing pests. It is moderately soluble and volatile but has a high potential for leaching to groundwater. It is very persistent in soil and water. Risk of bioaccumulation is low and its acute toxicity to mammals is considered moderate. It is, however, a neurotoxicant. It is toxic to some aquatic organisms but not greatly so to fish. It is highly toxic to honeybees but low risk to earthworms.

As per the submissions and the MSDS, Clothianidin is **technical grade** with **minimum purity of 98% w/w**, having chemical formula  $C_6H_8ClN_5O_2S$  and CAS No. **210880-92-5**.

14. I observe that the applicant has obtained **CIB registration certificates** for the subject goods, namely Cyantraniliprole Technical and Clothianidin Technical. As per the said certificates, the goods are registered as **insecticides in technical/formulated form** as mentioned below.

a) **Insecticide Cyantraniliprole Technical Composition:**

The Technical/formulated material should have the **composition\*** as indicated below:-

(a) Cyantraniliprole a.i	:	93.0% w/w min.
(b) Associated impurities	:	7.0% w/w max.
<b>Total</b>	:	<b>100.00 w/w</b>

b) **Insecticide Clothianidin Technical composition:**



The technical/formulated material should have the chemical composition as indicated below:-

Chemical Composition

Clothianidin a.i.	Clothianidin a.i.	:	98.00 min.% w/w
(Z)-N-(1-((2-chlorothiazol-5-yl)methyl)-3,5-dimethyl-1,3,5-triazinan-2-ylidene)nitramide	(Z)-N-(1-((2-chlorothiazol-5-yl)methyl)-3,5-dimethyl-1,3,5-triazinan-2-ylidene)nitramide	:	0.50 max.% w/w
1,3-bis((2-chlorothiazol-5-yl)methyl)-2-nitroguanidine	1,3-bis((2-chlorothiazol-5-yl)methyl)-2-nitroguanidine	:	0.50 max.% w/w
Methanol	Methanol	:	0.50 max.% w/w
Water	Water	:	0.50 max.% w/w
	Total	:	100.00% w/w

Further, the detailed chemical compositions and associated impurities are mentioned in the annexures to the respective CIB certificates.

14.1 From the details of the subject goods i.e Cyantraniliprole- and Clothianidin as mentioned above and detailed in in CIB certificates, technical write up, MSDS and COA following facts emerges:

- The subject goods are are insecticides
- the subject goods are technical/formulated material.
- The subject goods are and are of technical grade chemicals.
- The subject goods have insecticidal properties and are known and sold in the trade as insecticides.

15. As discussed above, the subject goods have two possible classifications:  
(i) under **Chapter 29 (CTH 2933 and 2934)**; and

(ii) under **Chapter 38 (CTH 3808)**. The relevant headings and tariff entries of both the chemicals Cyantraniliprole and Clothianidin under Chapter 29 CTH 2933 and CTH 2934 are produced as below:

15.1 Chapters 29 and 38 fall under **Section VI – Products of the Chemical or Allied Industries** of the Customs Tariff Act, 1975. In this regard relevant Section Note, Tariff entries under Chapter 29 and Chapter Note of Chapter 29 are produced below:  
below:

**SECTION VI**

**PRODUCTS OF THE CHEMICAL OR ALLIED INDUSTRIES**

Notes:

2. Subject to Note 1 above, goods classifiable in heading 3004, 3005, 3006, 3212, 3303, 3304, 3305, 3306, 3307, 3506, 3707 or 3808 by reason of being put up in measured doses or for retail sale are to be classified in those headings and in no other heading of this Schedule.



**Relevant tariff entries of Chapter 29:**

<i>Chapter/Heading/Sub-Heading/Tariff Item</i>	<i>Description of goods</i>	
(1)	(2)	
29		<b>All organic chemicals other than gibberellic acid</b>
2933		<b>Heterocyclic compounds with nitrogen hetero-atom(s) only</b> - Compounds containing an unfused pyrazole ring (whether or not hydrogenated) in the structure:
2933 39	--	Other:
	---	Derivatives of pyridine:
2933 39 23	----	Goods specified in Supplementary Note 14 to this Chapter
2934		<b>Nucleic acids and their salts; whether or not chemically defined; other heterocyclic compounds</b>
2934 10	-	Compounds containing an unfused thiazole ring (whether or not hydrogenated) in the structure:
2934 10 10	---	<b>Clothianidin</b> , oxathiapiprolin, thifluzamide, thiomethoxam

**CHAPTER 29****Organic chemicals**

Notes:

1. Except where the context otherwise requires, the headings of this Chapter apply only to:

(a) separate chemically defined organic compounds, whether or not containing impurities.

Supplementary Notes:

14. Tariff item 2933 39 23 covers one of the following goods of sub-heading 2933 39: Afidopyropen, boscalid, chlorpyrifos, chlorpyrifos methyl, clodinafop-propargyl, **cyantraniliprole**, flonicamid, florypyrauxifen-benzyl, fluazifop-P-butyl, fluopicolide, fluopyram, forchlorfenuron, haloxyfop-P-methyl, picoxystrobin, pyridalyl, pyriofenone, pyriproxifen, sulfoxaflor. [Emphasis supplied]

15.2 The relevant headings and tariff entries as well as the chapter note of both the chemicals Cyantraniliprole and Clóthianidin which are insecticides under Chapter 38 CTH 3808 is produced as below:

<b>Chapter/Heading/Sub-Heading/Tariff Item</b>	<b>Description of goods</b>	
(1)	(2)	
<b>3808</b>		<b>Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar</b>



		products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur treated bands wicks and candles, and fly papers) - Goods specified in Sub-heading Note 1 to this Chapter:
3808 91	--	<b>Insecticides:</b>
3808 91 42	----	<b>Goods specified in Supplementary Note 2 to this Chapter</b>

15.3 Relevant Chapter Note of chapter 38 for classification of the subject goods under Chapter 38 and CTH 3808 as insecticide are produced below:

*CHAPTER 38*  
**Miscellaneous chemical products**

Notes:

1. This Chapter does not cover:

(a) separate chemically defined elements or compounds **with the exception** of the following:

(2) insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up as described in heading 3808.

Supplementary Notes:

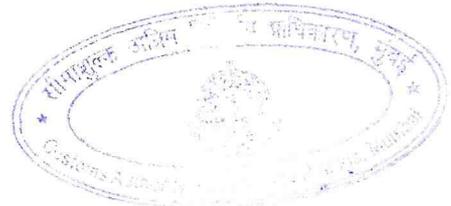
2. Tariff item 38089142 covers one of the following goods of sub-heading 3808 91:

(a) with content by mass greater than 90% : Chlorentaniliprole (ISO); Buprofezin (ISO); Flubendiamide (ISO); Emamectin Benzoate (ISO); Abamectin; Bendiocarb; Benfuracarb; Benzpyrimoxam; Broflanilide; Chlorfenopyr; Chlorfluazuron; Chromafenozide; **Clothianidin;** **Cyantraniliprole;** Cyclaniliprole; Cyenopyrafen; Cyflumetofen; Diafenthiuron; Dinotefuron; Etoxazole; Fenazaquin; Fenobucarb (BPMC); Fenpyroximate; Flonicamid; Flufenoxuron; Flufenzine; Flupyradifurone; Fluxametamide; Hexythiazox; Isocycloseram; Lufenuron; Metaflumizone; Metaldehyde; Methoxyfenazide; Metofluthrin; Milbemectin; Permethrin; Prallethrin; Propergite; Propoxur; Pymetrozin; Pyrethrin (pyrethrum); Pyridaben; Pyridalyl; Pyrifluquinazon; Renofluthrin; S-bioallethrin; Spinetoram; Spinosad; Spirotetramat; Sulfoxaflor; Teflubenzuron; Tolfenpyrad; Transfluthrin; Triflumezopyrim.

15.4 The relevant portion of HSN **General explanatory Notes to Chapters 29 and 38** is as below:

**Chapter 29**  
**GENERAL**

As a general rule, this Chapter is restricted to separate chemically defined compounds, subject to the provisions of Note 1 to the Chapter.



**(A) Chemically defined compounds**  
**(Chapter Note 1)**

*A separate chemically defined compound is a substance which consists of one molecular species (e.g., covalent or ionic) whose composition is defined by a constant ratio of elements and can be represented by a definitive structural diagram. In a crystal lattice, the molecular species corresponds to the repeating unit cell.*

**(D) Exclusion from Chapter 29 of certain separate chemically defined organic compounds**  
**(Chapter Note 2)**

*(2) Certain other separate chemically defined organic products, which would otherwise have been classified in Chapter 29, may be excluded when put up in certain forms, or if they have been subjected to certain treatments which leave their chemical composition unchanged. Examples are:*

*(h) Disinfectants, insecticides, etc., put up as described in heading 38.08.*

**Chapter 38**  
**GENERAL**

*This Chapter covers a large number of chemical and related products.*

*It does not cover separate chemically defined elements or compounds (usually classified in Chapter 28 or 29), with the exception of the following:*

*(2) Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up as described in heading 38.08.*

*These products are classified here in the following cases only:*

*When they are put up in packings (such as metal containers or paperboard cartons) for retail sale as disinfectants, insecticides, etc., or in such forms (e.g., in balls, strings of balls, tablets or plates) that there can be no doubt that they will normally be sold by retail.*

*When they have the character of preparations, whatever the presentation (e.g., as liquids, washes or powders).*

*When they are put up in the form of articles such as...*

*This heading excludes:*

*Products for disinfecting, insecticidal etc., uses, not answering the descriptions above. These products are classified according to their nature under the appropriate headings, for example*

*(iv) Naphthalene, DDT (ISO) (clofenotane INN), (1,1,1-trichloro-2,2-bis-(p-chlorophenyl) ethane) and other separate chemically defined compounds (including aqueous solutions) (Chapter 28 or 29).*

16. I observe that there is no doubt that Cyantraniliprole – Technical Grade and Clothianidin – Technical Grade are separately defined chemical compounds. Separately defined compounds normally



fall under Chapter 29. The subject chemicals are therefore covered under CTH 2933 and CTH 2934, respectively, being chemicals of the relevant class/category. Further, Cyantraniliprole is specifically covered under CTI 29333923 by virtue of Supplementary Note 14, and Clothianidin has a specific entry under CTI 29341010.

16.1 However, from the above-reproduced **Exclusion Note 1(a)(2) to Chapter 38**, the **General HSN Explanatory Note to Chapter 29 (Note (D)(2)(h))**, as well as the **General HSN Explanatory Note (2) to Chapter 38**, it is evident that insecticides, when put up in the manner described under heading 38.08, stand excluded from **Chapter 29** and are classifiable under **Chapter 38, CTH 3808**, even if they are separately defined chemical compounds.

16.2 I observe that, as per the description of CTH 3808, insecticides are classifiable under CTH 3808 when they are put up in forms or packings for retail sale, or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and fly papers). From the description of CTH 3808 as well as the General Explanatory Note (2) to Chapter 38 referred to above, it is clear that the subject chemicals are classifiable under **Chapter 38 under CTH 3808**, and are excluded from **Chapter 29, only when any of the following criteria is satisfied:**

- i) When they are put up in packings (such as metal containers or paperboard cartons) for retail sale as disinfectants, insecticides, etc., or in such forms (e.g., balls, strings of balls, tablets or plates) that there can be no doubt that they will normally be sold by retail.
- ii) When they possess the character of preparations, irrespective of the manner of presentation (e.g., as liquids, washes or powders).
- iii) When they are put up in the form of articles, such as ...

17. In the present case, the applicant has submitted that the goods will be imported in 200/226-litre MS drums. Hence, they are not put up for retail sale and are not in the form of articles. Accordingly, it must be examined whether the goods have the character of preparations. The relevant HSN explanatory note clarifies that preparations include suspensions, dispersions, solutions, or intermediate preparations possessing insecticidal properties. The same is produced below:

**When they have the character of preparations, whatever the presentation (e.g., as liquids, washes or powders).** *These preparations consist of suspensions or dispersions of the active product in water or in other liquids (e.g., a dispersion of DDT (ISO) (clofenotane (INN), (1, 1, 1-trichloro-2,2-bis(p-chlorophenyl)ethane) in water), or of other mixtures. Solutions of active products in solvents other than water are also included here (e.g., solutions of pyrethrum extract (other than standardised pyrethrum extract), or copper naphthenate in a mineral oil).*

**Intermediate preparations, requiring further compounding to produce the ready-for-use insecticides, fungicides, disinfectants, etc., are also classified here, provided they already possess insecticidal, fungicidal, etc., properties.**

*Insecticidal, disinfecting, etc., preparations may have a basis of copper compounds (copper acetate, sulphate, acetoarsenite, etc.), of sulphur or sulphur compounds (calcium sulphide, carbon*



*disulphide, etc.), of mineral creosote or anthracene oils, of DDT (ISO) (clofenotane (INN), (1, 1, 1-trichloro-2,2-bis(p-chlorophenyl)ethane), lindane (ISO, INN), parathion, of phenol or cresol derivatives, of arsenical products (calcium arsenate, lead arsenate, etc.), of materials of vegetable origin (nicotine, tobacco essences and powders, rotenone, pyrethrum, red squill, rape oil), of plant-growth regulators, natural or synthetic (e.g., 2,4-D), of cultures of micro-organisms, etc. Poisoned bait composed of edible products (wheat grains, bran, molasses, etc.) mixed with poison is another example of the preparations included in this heading.*

17.1 The **HSN Explanatory Notes to Chapter 38** clarify that not only preparations but also **intermediate preparations**, which require further compounding to produce ready-for-use insecticides, fungicides, disinfectants, etc., are classifiable under **CTH 3808**, provided that such products already possess insecticidal, fungicidal or similar properties.

As discussed in **para 14.1 above**, the subject goods are insecticides, technical/formulated material and chemicals of technical grade, and the same are known and traded in the market as insecticides. Therefore, the subject goods, being technical/formulated material, **undisputedly possess the character of preparations** covered under CTH 3808 as we shall see in para 18 either.

The applicant has submitted that the subject goods will undergo further manufacturing or processing for the production of formulated insecticides. However, even if the goods are intended for further processing or formulation, they would still fall within the scope of CTH 3808, as intermediate preparations possessing insecticidal properties, in terms of the above-referred HSN Explanatory Notes. Thus, heading 3808 covers not only finished preparations but also intermediate preparations which already possess insecticidal properties and require further compounding before being marketed as ready-to-use products.

In this context, it is necessary to examine in detail whether the subject goods, which are **technical grade (TG) insecticides in concentrated form**, possess the character of **preparations or intermediate preparations** within the meaning of **CTH 3808**.

18. The commercial production details of the subject chemicals as mentioned in the technical literature (submitted by applicant) the goods are as mentioned below:

18.1 **Cyantraniliprole (Ref: DPX-HGW86)**- The commercial production of cyantraniliprole involves a multi-step synthesis starting with pyrazole and pyridine derivatives, followed by bromination, nitrile introduction, and carboxamide formation to yield the final active molecule.

18.2 **Clothianidin (Ref: CGA 322704)**- The commercial production of clothianidin involves a multi-step chemical synthesis process designed for efficiency and scalability. It begins with a condensation reaction between 2-chloro-5-chloromethylthiazole and 1,5-dimethyl-2-nitroimino-hexahydro-1,3,5-triazine in an aqueous solution of tetra alkyl ammonium hydroxide, with potassium carbonate as a base. This reaction yields an intermediate compound, which is then subjected to hydrolysis in an alkylamine solution. The resulting product is purified through filtration, desolvation, extraction, and concentration steps to obtain clothianidin in its final form.

18.3 Also, step production process details as submitted by applicant are as follows:



**18.3.1 Step-by-step manufacturing processes of Cyantraniliprole:** Cyantraniliprole is an anthranilic diamide, and the manufacturing process involves building a pyrazole carboxamide framework and joining it to a substituted benzamide core.

Step-by-step stages:

1. Prepare substituted pyrazole building block – synthesize a 3-functionalized pyrazole intermediate (e.g., bromo-pyrazole carboxylic acid derivatives).
2. Prepare substituted benzamide intermediate – build a 2-amino-5-cyano-N,3-dimethylbenzamide core starting from a nitro-benzoic acid through chlorination, amidation, reduction, and cyanation steps.
3. Amide coupling – combine the pyrazole acid with the benzamide core using an activating agent (e.g., acid chloride or sulfonyl chloride) to form the key diamide linkage.
4. Purification/crystallization – isolate and purify technical cyantraniliprole via solvent washes and controlled crystallization.

**18.3.2 Step-by-step manufacturing processes of Clothianidin:** Clothianidin synthesis focuses on constructing the nitroimino-hexahydro-1,3,5-triazine scaffold attached to a chlorothiazole.

Step-by-step stages:

1. Condensation of cyclized precursors – react 2-chloro-5-chloromethylthiazole with a suitable nitroimino triazine derivative under phase-transfer catalysis to form a key intermediate.
2. Work-up & extraction – separate organic and aqueous phases, filter, cool, and crystallize to isolate the heterocyclic intermediate.
3. Hydrolysis – hydrolyze the intermediate under controlled conditions to release the final clothianidin active compound.
4. Purification – filter, wash and dry to obtain the technical clothianidin.

19. From the above produced commercial production process details of the subject goods it is evident that the subject goods are produced through multi-step chemical synthesis processes involving various reactions and purification stages. These processes result in the final technical grade active insecticidal substance. Accordingly, it is evident that the subject goods are preparation as the subject goods are formulated chemical compounds that produced from multi-step synthesis process. The said process involves mixing of chemical compounds resulting in chemical reaction as mentioned in the commercial production details of the subject goods in the technical literature.

20. From above it can be safely concluded that the subject goods are in the nature of **preparations or intermediate preparations possessing insecticidal properties**. Further, the applicant has claimed that the same will be used in manufacturing of insecticides. In that case also the subject goods are intermediate preparation that are also covered under CTH 3808 as per the HSN explanatory Note to CTH 3808.

20.1 I find that the said matter whether the technical grade insecticides that are preparation or otherwise and fall under the purview of the CTH 3808 has already been decided by Hon'ble Supreme



Court of India in its judgement dated 23.10.2002 pronounced in the matter of **Union of India v/s Pesticides Manufacturing & Formulators Association of India [2002 (146) ELT 19(SC)]**. The same is squarely applicable in the instant case as the matter being identical (Classification of technical grade insecticide in concentrated bulk forms). The relevant paras of the said supreme court decision is produced below:

13. *As far as Tariff Heading 38.08 was concerned, after the phrase insecticides, rodenticides etc. the phrase "put up in forms or packings for retail sale or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and fly-papers)", was added by the amendment.*

14. *In other words, the tariff heading covers:*

(1) *insecticides, pesticides etc. put up in forms or packing for retail sale;*

(2) *insecticides, pesticides etc. as preparations;*

(3) *insecticides, pesticides etc. as articles (for example sulphur-treated bands, wicks and candles, and fly-papers).*

15. *What is manufactured by the respondent's members is technical grade pesticides (TGP) and insecticides. No doubt, they are separate chemically defined compounds as contended by the appellants. But the word "compound" itself denotes a mixture of components. The word "preparation" denotes not only the action or process of preparing the components to produce the compound, but also that which is prepared, in this case insecticides, pesticides etc.*

16. *We see no ambiguity in the heading. Even if there were, the doubt must be resolved with reference to the chapter note which clearly covered insecticides, pesticides etc. before further formulation by way of additives or treatment. This would include the respondent's product.*

17. *There is also substance in the submission of learned counsel for the respondent that classification of TGP, insecticides etc. in bulk form under Tariff Heading 38.08 would be in keeping with the Rules for the Interpretation of the Schedule to the 1985 Act.*

18. *The Rules insofar as they are relevant provide:*

"2. (b) *Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. ...*

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

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

(b)\*\*\*



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

19. Paraphrased and simply put, the quoted extracts of the Rules direct that the goods would include its formulations and that the more specific heading should be preferred and if there are two such specific headings to which a product can be referred, the one occurring subsequently would prevail.

20. Chapter 28 and Chapter 29 are, as already noted, general provisions relating inter alia to separate chemical compounds. Chapter 38 is the specific chapter dealing with particular chemical compounds viz. insecticides, pesticides etc. In keeping with the Rules quoted, TGP manufactured by the respondent are classifiable under the particular subsequent provision and not under the residuary headings occurring earlier.

\*\*\*\*\*

25. The final position as it now stands is that **Chapter Notes 1(a)(2) and 2 of Chapter 38** read:

“1. This Chapter does not cover:

(a) Separate chemically defined elements or compounds with the exception of the following:

(1)\*\*\*

(2) Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up as described in Heading 38.08

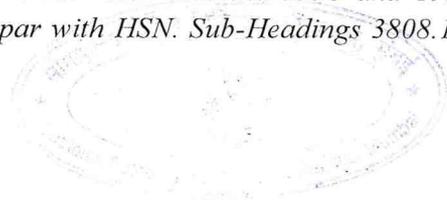
2. In relation to products of Heading 38.08, addition of chemicals and other ingredients like inert carriers or solvents, surface active dispersing and stabilising agents, emulsifiers, wetting and dispersing agents, deodorant, masking agent, attractants and feeding stimulants to pesticidal chemicals in concentrated form, labelling or relabelling of containers intended for consumers and repacking from bulk pack to retail packs or the adoption or any other treatment to render the product marketable to the consumer shall amount to ‘manufacture’.”

26. Tariff Heading 38.08 now reads as:

“38.08 Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and fly-papers)”

27. What is notable is that the 1997 amendment did not change Chapter Note 2 which has been construed by us earlier as including TGP etc. All it did was to extend the exception to the general classification under Chapters 28 and 29 to treated and retailable forms of the already excepted chemical compounds. It brought about a parity of language between the tariff heading as amended in 1996 and Chapter Note 1(a)(2) and we have already seen that the tariff heading as amended in 1996 continues to cover insecticides, pesticides etc.

28. The Harmonized System of Nomenclature (HSN) provides for an identical classification of insecticides etc. in Heading 38.08 Indeed, it is the appellants' case that the 1996 and 1997 amendments to Chapter 38 were effected to bring it on a par with HSN. Sub-Headings 3808.10,



3808.20, 3808.30, 3808.40 and 3808.90 respectively of HSN refer to "insecticides", "fungicides", "herbicides", "disinfectants" and "others". The explanatory note clarifies that the classification covered products (1) when they are put up in packings or in such forms that there can be no doubt that they will normally be sold by retail, and (2) when they have the character of preparations. It also says:

***"Intermediate preparations, requiring further compounding to produce the ready-for-use insecticides, fungicides, disinfectants etc. are also classified here, provided they already possess insecticidal, fungicidal etc. properties."***

*Hence preparations with insecticidal, fungicidal properties are classifiable under Heading 38.08*

20.2 As per submission of applicant subject goods are Technical Grade insecticides. The subject goods are similar/identical to the goods whose classification was decided in the above-mentioned Supreme Court judgement. There is no doubt that subject goods are chemically defined compounds. However, as discussed in earlier the subject chemicals are clearly preparation/formulation produced from multi-step chemical synthesis process. **Thereby, applying the ratio of the above-mentioned Supreme Court judgement the subject goods being compounds itself denotes a preparation of components and fall well within the definition of preparation.** Additionally, as per the commercial production process details of the subject goods, it is evident that the goods are produced through multi-step chemical synthesis involving various reactions and purification stages. These processes ultimately result in the final technical grade active insecticidal substance. Therefore, it can safely and conclusively be held that the subject goods constitute **preparations**, as they are formulated chemical compounds produced through a multi-step synthesis process. Accordingly, it can safely be concluded that the subject goods, i.e., (a) "Cyantraniliprole Technical" and (b) "Clothianidin Technical", are preparations squarely covered under **CTH 3808**.

21. From the discussion made in the forgoing paras it is clear subject chemicals are Separately defined compounds. However, the same are excluded from the purview of Chapter 29 as subject chemicals are insecticides and the same have the character of preparations. Thereby, in terms of Chapter Note 1(a)(2) of Chapter 38, and General HSN explanatory note to Note 29 i.e. General explanatory Note (D)(2)(h), and General HSN explanatory Note 2 to Chapter 38 it is evident that insecticides, when **put up as described in heading 38.08 are excluded from Chapter 29** and are classifiable chapter 38, CTH 3808 even if the same are separately defined chemical compounds. Therefore, the subject goods being insecticidal preparation are squarely covered under CTH3808.

22. In addition, the classification of the subject goods under chapter 29 CTH 2933 and 2934 which cover separately defined chemical compounds of respective class is generic in nature. As discussed supra subject goods are insecticides that are preparation/formulation and the same have specific use than a general use i.e as insecticides or preparation/formulation used in manufacturing of insecticides for which they are intended to import by the applicant. The subject goods being insecticides and having specific use are more specifically covered under Customs tariff heading 3808. Therefore, the classification of the subject goods under CTH 3808 is also re-affirmed by applicability of rule 3(a)



according to which **heading which provides the most specific description** shall be preferred to headings providing a more general description.

**23. Budgetary Changes**

**23.1 Legislative Intent and Budgetary Changes Introduced by the Finance Act, 2025**

23.1.1 The applicant has contended that the introduction of specific tariff entries for Cyantraniliprole and Clothianidin under Chapter 29 through the Finance Act, 2025 indicates a legislative intent to classify the said chemicals exclusively under Chapter 29 and that their continued classification under Chapter 38 would render the amendment redundant. The applicant has further stated that the present application has been filed consequent to the changes made in the Customs Tariff Act, 1975 through the Finance Bill, 2025.

23.1.2 However, the above contention of the applicant is not sustainable. It is observed that the Finance Act, 2025 simultaneously introduced specific tariff items and supplementary notes in both Chapter 29 and Chapter 38 of the First Schedule to the Customs Tariff Act, 1975 with specific intent and purpose with effect from 01.05.2025.

23.1.3 In this regard, the relevant portion of the Memorandum Explaining the Provisions in the Finance Bill, 2025 relating to amendments in the Customs Tariff Act, 1975 reads as under:

**II. AMENDMENTS TO THE CUSTOMS TARIFF ACT, 1975**

S. No.	Amendment to section	Clause of the Finance Bill, 2025
1.	The first schedule to the Customs Tariff Act, 1975 is proposed to be amended to, - ..... h) create new tariff items for identification of certain dual-use chemical for non-pesticidal use in chapter 28. i) create new tariff items and supplementary notes for identification of <b>certain dual-use chemical for non-pesticidal use</b> and certain goods covered by International Conventions in <b>chapter 29</b> j) <u>create new tariff items and supplementary notes for identification of certain <b>technical-grade pesticides</b> and certain goods covered by International Conventions in <b>chapter 38</b></u> .....	

23.1.4 From the above explanation contained in the Memorandum, it is evident that the budgetary changes introduced under Chapter 29 were intended for identification of **certain dual-use chemicals**



for **non-pesticidal use** and certain goods covered by international conventions. Whereas, amendments introduced under Chapter 38 were specifically meant for identification of **certain technical-grade pesticides** and certain goods covered by international conventions. Both the changes supplement each other and are complimentary in nature.

23.1.5 It is also pertinent to mention that the applicant itself had been classifying the subject goods under **Chapter 38, Heading 3808**, prior to the amendments introduced through the Finance Act, 2025. The applicant has stated that the present application has been filed only consequent to the changes introduced in the Customs Tariff Act, 1975 through the Finance Bill, 2025. However, in view of the legislative intent reflected in the Memorandum explaining the provisions of the Finance Bill, the basis cited by the applicant for seeking reclassification is not tenable.

### 23.2 Significance of Supplementary Note 2 to Chapter 38 and Percentage Criterion

23.2.1 It is further observed that the Finance Act, 2025 inserted **Supplementary Note 2 under Chapter 38**, which specifically provides for identification of certain technical-grade pesticides including **Cyantraniliprole and Clothianidin** under Tariff Item 3808 91 42.

23.2.2 The said Supplementary Note prescribes a specific **percentage-based criterion**, namely **“with content by mass greater than 90%”**, for classification of these chemicals under the said tariff item.

23.2.3 The prescription of such a specific composition threshold clearly indicates that the tariff entry under Chapter 38 is intended to cover **technical-grade insecticidal substances having high purity of the active ingredient**, which are commonly traded as technical-grade pesticides for further formulation or direct insecticidal use.

23.2.4 In the present case, the subject goods, namely **Cyantraniliprole – Technical Grade** and **Clothianidin – Technical Grade**, satisfy the prescribed criterion of **content by mass greater than 90%**, as provided under Supplementary Note 2 to Chapter 38. The goods are preparation, intended for insecticidal use and possess insecticidal properties.

23.2.5 Therefore, both by virtue of the **nature and use of the goods** as well as the **percentage-based criterion prescribed in the tariff**, the subject chemicals squarely fall within the scope of **Tariff Item 3808 91 42**.

### 23.3 Conclusion on Legislative Intent

As discussed supra, having regard to the scheme of the tariff, the Memorandum explaining the provisions of the Finance Bill, 2025, the distinction drawn between dual-use chemicals under Chapter 29 and technical-grade pesticides under Chapter 38, as well as the specific percentage criterion prescribed under Supplementary Note 2 to Chapter 38, it is observed that the subject goods are intended for use in the manufacture of insecticides and possess insecticidal properties. Further, the subject goods satisfy the percentage criterion prescribed under Supplementary Note 2 to Chapter 38. Accordingly, it



is evident that the legislative amendments are supportive and intended to cover technical-grade insecticidal chemicals such as Cyantraniliprole and Clothianidin in this instant case, to endorse under Chapter 38.

24. Further, the import policy applicable to goods falling under Chapter 38, in respect of the subject goods, is reproduced below:

Sl.No.	Notes	Notification No.	Notification Date
4.	under Section [9] of the Insecticides Act, 1968 <b>all chemicals intended to be used as insecticides</b> , rodenticides, fungicides, herbicides etc. [referred to as insecticides under the Act] <b>require mandatory registration for import</b> . In cases, where the insecticide is imported for non-insecticidal purpose, an import permit is necessary from the Registration Committee under the Department of Agriculture and Cooperation. The Registration Committee while granting registration or a permit for import of an insecticide spells out the conditions for import which inter alia, may include reference to the source of import. <b>No insecticide can be imported from a source other than that specified on the certificate of registration or the permit, as the case may be.</b> In addition, the Registration Committee may issue regulatory guidelines from time to time with respect to safety, efficacy, quality etc. which warrant full compliance from importers.		

From the above import policy applicable to the subject goods, it is evident that the import of **Cyantraniliprole – Technical Grade** and **Clothianidin – Technical Grade** requires mandatory registration under the *Insecticides Act, 1968*. Further, such insecticides can be imported only from the source specified in the certificate of registration or the import permit issued by the Registration Committee. Additionally, the Registration Committee may prescribe regulatory guidelines from time to time relating to safety, efficacy, and quality, which must be strictly complied with by the importers. It is to underline that the import policy approves that insecticides can also have “non-insecticidal purpose” as far as its application is concerned and that the budgetary changes made vide Finance Bill 2025 is brought it to align with import policy in as much as, dual use chemicals for non-pesticidal uses are to be classified under Chapter 29 (organic chemicals) only. These provisions bring greater clarity and consistency to the determination of the classification of these chemical compounds.

25. In view of the foregoing discussion, the subject chemicals are found to possess insecticidal properties and qualify as technical-grade pesticides. Consequently, they are classifiable under **Heading 3808**, which covers insecticides. The appropriate sub-heading is **CTSH 3808 91 – Insecticides**, and further, in terms of **Supplementary Note 2 to Chapter 38**, the subject goods are specifically covered under **Tariff Item 3808 91 42**.

25.1 Accordingly, the goods namely Cyantraniliprole – Technical Grade and Clothianidin – Technical Grade are appropriately classifiable under CTH 3808, under CTSH 3808 91 – Insecticides,



and **more specifically under Tariff Item 3808 91 42** of the First Schedule to the Customs Tariff Act, 1975.

26. The case laws relied upon by the applicant are not applicable to the case.

26.1 In the matter of *Midas Fertchem Impex Pvt. Ltd.*, the Tribunal held that the products in question were classifiable under **CTH 3808** as preparations. Thus, rather than supporting the applicant's contention, the said decision in fact supports classification under Heading 3808 in the present case.

26.2 In its additional submissions, the applicant has also placed reliance on various judicial pronouncements and certain WCO Classification Opinions. The reliance is primarily on decisions interpreting expressions such as "**for use**", "**for retail sale**", "**intended use**", and principles governing classification based on **presentation or end use**. Whereas, the subject goods in the instant matter is preparation/intermediate preparation.

### 26.3 **Analysis of the Applicant's Attempt to Distinguish the Supreme Court Judgment**

26.3.1 The applicant has contended that the judgment of the Hon'ble Supreme Court in **Union of India v. Pesticides Manufacturers & Formulators Association of India** is distinguishable and not binding for the present matter. The grounds put forth include that the case pertained to the **Central Excise Tariff**, that the dispute arose in the context of amendments made during **1996-97**, and that the amendments considered therein differ from those introduced by the **Finance Act, 2025**.

26.3.2 I have carefully examined the above contention. The arguments advanced by the applicant are not persuasive for the reasons discussed below.

#### (i) **Relevance of the Judgment despite arising under the Central Excise Tariff**

26.3.3 The applicant has argued that the aforesaid judgment pertains to the **Central Excise Tariff** and therefore cannot govern classification under the **Customs Tariff**.

26.3.4 This contention cannot be accepted. It is a well-settled principle that the **Central Excise Tariff and the Customs Tariff are both structured on the Harmonised System of Nomenclature (HSN)** and share identical Section Notes, Chapter Notes, and interpretative principles.

26.3.5 Consequently, judicial pronouncements interpreting tariff entries under one statute are consistently relied upon for interpreting corresponding entries under the other statute.

26.3.6 The Hon'ble Supreme Court itself has, in numerous decisions, recognised that interpretation of tariff entries must remain **consistent across the two statutes** where the language of the headings and notes is identical or substantially similar.

26.4 In the present case, the question before this Authority is about the classification of **technical grade insecticidal compounds**, which is precisely the subject matter covered in the judgment passed by Hon'ble Supreme Court in the matter of *Union of India vs Pesticides Manufacturers & Formulators Association of India*. The interpretative principle applied by the Supreme Court—namely that



**technical grade insecticides retain the essential character of insecticides even when not formulated for retail sale**—remains directly relevant to the present dispute.

26.5 Hon'ble Supreme Court held in that case the technical grade pesticides as preparation/intermediate preparation

(ii) **Effect of Amendments in Chapter 29**

27. The applicant has further submitted that the Hon'ble Supreme Court in the above judgment noted that no amendments had been made to **Chapter 28 or 29** affecting separate chemically defined compounds, whereas in the present case the **Finance Act, 2025** has introduced new entries in Chapter 29 for **Cyantraniliprole** and **Clothianidin**.

27.1 The **Finance Act, 2025** simultaneously introduced specific tariff entries for the same chemicals under **Chapter 38** by virtue of **Supplementary Note 2 to Chapter 38**. The reason to change/add the supplementary entries in both the Chapter 29 and 38 is well articulated in the Finance Bill, 2025.

27.2 Therefore, the amendments introduced in 2025 do not negate the principle recognised in the Supreme Court judgment. On the contrary, they reinforce the distinction between:

- chemicals identified by their **chemical structure in Chapter 29**, and
- **insecticidal products or preparations** falling within the scope of **Heading 3808**.

27.3 In other words, the Hon'ble Supreme Court recognised that the functional identity and commercial character of the goods as insecticides is the determining factor, and not merely their chemical composition.

27.4 Further, as discussed in the preceding paragraphs dealing with the budgetary amendments introduced through the Finance Act, 2025, the Memorandum explaining the provisions of the Finance Bill clarifies that Chapter 29 entries were created for identification of certain dual-use chemicals in cases of non-pesticidal use, whereas Chapter 38 specifically provides for identification of technical-grade pesticides. The simultaneous introduction of Supplementary Note 2 to Chapter 38 prescribing a purity criterion for such technical-grade pesticides further reinforces the legislative intent to continue classification of insecticidal active ingredients under Heading 3808 where they are intended for pesticidal use.

27.5 Therefore, the fundamental principle recognised by the Hon'ble Supreme Court—namely that technical grade insecticides fall within the scope of Heading 3808 on account of their functional identity—remains unaffected. Thus, the attempt made by the applicant to distinguish the judgment in **Union of India v. Pesticides Manufacturers & Formulators Association of India** is not tenable.

28. Additionally, in matters of classification of goods under taxation statutes, all the judicial forums, including the Apex Court, have stressed upon the importance of the identity of the goods in common parlance and there is a plethora of case law which hold that for classification of goods under



statutes for taxation of commercial supplies thereof, the primary test is their identity in the market, or in other words, in common parlance. Some such judgments are as follows:

- (i) Deena Jee Sansthan v. CCE, Meerut [2019 (365) E.L.T. 353 (S.C.)]
- (ii) CCE, New Delhi v. Connaught Plaza Restaurant (P) Ltd. [2012 (286) E.L.T. 321 (S.C.)]
- (iii) CCE, Nagpur v. Shree Baidyanath Ayurved Bhawan Ltd. [2009 (237) E.L.T. 225 (S.C.)]
- (iv) M/s. Pharm Aromatic Chemicals reported in 1997(95)E.L.T.203 (Bom.)
- (v) Dunlop India Ltd. & Madras Rubber Factory Ltd reported in 1983 (13) E.L.T. 1566 (S.C.) .
- (vi) M/s. Kantilal Nanchand and Co. reported in 2000-(123)E.L.T.311 (Bom.)
- (vii) M/s. Bella Premier Happy Hygiene Care Pvt. Ltd. reported in 2018 (17)G.S.T.L 603 (Kar.).

From, all the relevant documents submitted by the applicant technical write up, MSDS, COA and CIB certificate it is clear that the subject goods are known, sold marked in the trade as insecticides only. Therefore, by applying the ration of the above-mentioned judgement also the goods are more specifically classifiable as insecticides under CTH 3808.

## 29. To sum up:

- i) The subject chemicals, namely Cyantraniliprole and Clothianidin, are Technical Grade Chemicals.
- ii) As per the technical write-up (Cyantraniliprole DPX-HGW86 and Clothianidin Ref: CGA 322704), both substances are specifically described and recognized as insecticides.
- iii) The subject goods possess insecticidal properties and are known, marketed and traded in the commercial market as insecticides.
- iv) The CIB registration certificate also identifies the subject goods as technical/formulated insecticidal material.
- v) Further, the amendments introduced through the Finance Act, 2025 simultaneously created specific tariff items and supplementary notes in both Chapter 29 and Chapter 38. As clarified in the Memorandum explaining the provisions of the Finance Bill, the amendments in Chapter 29 relate to identification of certain dual-use chemicals for non-pesticidal purposes, whereas the amendments in Chapter 38 specifically relate to identification of certain technical-grade pesticides. **This clearly indicates the legislative intent to classify technical-grade insecticidal substances under Chapter 38.**
- vi) Additionally, as per the commercial production process details of the subject goods, it is evident that the goods are produced through multi-step chemical synthesis involving various reactions and purification stages. These processes ultimately result in the final technical grade active insecticidal substance. Therefore, it can safely and conclusively be held that the subject goods constitute preparations, as they are formulated chemical compounds produced through a multi-step synthesis process. Hon'ble Supreme Court in the matter of Union of India v. Pesticides Manufacturers & Formulators Association of India has discussed the issue comprehensively and ratio is clearly applicable to this case.



vii) In view of the manufacturing process and technical literature on record, the goods are clearly preparations within the meaning of the tariff.

viii) Being insecticidal preparations, they are appropriately covered under Heading 3808.

ix) Further, Supplementary Note 2 to Chapter 38 specifically identifies certain technical-grade pesticides including Cyantraniliprole and Clothianidin under Tariff Item 3808 91 42 where the content by mass exceeds 90%. The subject goods satisfy the prescribed purity criterion and therefore squarely fall within the scope of the said tariff entry.

x) Further, the import policy applicable to goods falling under Chapter 38 requires mandatory registration under Section 9 of the Insecticides Act, 1968 for chemicals intended to be used as insecticides. The subject goods, being technical-grade insecticides, are required to be registered with the Central Insecticides Board and Registration Committee prior to import, which further reinforces their regulatory and commercial identity as insecticides.

xi) Further, in terms of Note 1(a)(2) of Chapter 38, the General HSN Explanatory Note to Note 29 (Note (D)(2)(h)) of Chapter 29, as well as the General HSN Explanatory Note (2) of Chapter 38, insecticides put up as described in Heading 38.08 are excluded from Chapter 29 and are classifiable under Chapter 38.

xii) Applying Rule 3(a) of the General Rules for Interpretation, the heading providing the most specific description—namely Heading 3808 for insecticides—prevails over any more general chemical heading under Chapter 29.

xiii) Without prejudice, even if it is assumed that the goods are prima facie classifiable under more than one heading, Rule 3(b) of the General Rules for Interpretation would apply, inasmuch as the essential character of the subject goods is derived from their insecticidal properties. The dominant function, commercial identity, and intended use of the goods are as insecticides, and therefore classification under Heading 3808 is warranted.

30. On the basis of facts and circumstances of the case, foregoing discussions and observation, I reach to conclusion that:

i) Subject goods i.e. “Cyantraniliprole- Technical Grade and Clothianidin-Technical Grade” are classifiable under CTH 3808, CTSH 380891- insecticides, more specifically under CTI 3808 91 42 of the first schedule to the Customs Tariff Act, 1975.

I rule accordingly.



*Y. S. Rameshwaram*  
13/3/26

**(Prabhat K. Rameshwaram)**  
Customs Authority for Advance Rulings,  
Mumbai

F. No. CAAR/CUS/APPL/172/2025-29-O/o Commr-CAAR-Mumbai Dated:13.03.2026

This copy is certified to be a true copy of the ruling and is sent to:

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(Vivek Dwivedi)

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