



GOVERNMENT OF PAKISTAN  
MODEL CUSTOMS COLLECTORATE OF APPRAISEMENT(EAST)  
CUSTOM HOUSE, KARACHI

C.No.503/KAPE/DC-III/2016

Dated: 3.10.2016

PUBLIC NOTICE No. 06 /2016(A)

SUBJECT: CLASSIFICATION RULING OF SILICONE DEFOAMER /  
ANTIFOAMING AGENT SIXIN X-1050 KT, X-1050 FT AND XD 50.

FACTS:

MCC Appraisement (West) vide letter No. SI/MISC/26/2015-III dated 20.08.2016 forwarded a reference to the Classification Committee for determination of correct classification of three silicone defoamers "SIXIN X-1050 KT, X-1050 FT and XD 50" imported by M/s Dewan Mushtaq Trade Ltd Karachi from China vide Goods Declaration (GD) bearing No. KAPW-HC-112889 dated 23-1-2015. The importer declared under PCT Heading 3910.0000 (Silicones in primary forms), whereas; the Collectorate assessed the goods provisionally under PCT Heading 3824.9099 (i.e. ----Other).

2. The matter was taken up by the Classification Committee and meetings were conducted on 23.08.2016 and 25.08.2016. The representatives of importer, Model Customs Collectorate Appraisement (West), Technical expert from Custom House Laboratory, Karachi and members of the Committee attended the meetings.

3. The importer's viewpoint is that the goods "SIXIN X-1050 KT, X-1050 FT and XD 50" are classifiable under HS Code 3910.0000 i.e. Silicones in primary forms on the following grounds:

(a) In terms of Note 6 to Chapter 39, definition of polymers in primary form applies to liquids and pastes including dispersions (emulsions and suspensions) and solutions.

(b) The term "Liquid and pastes" has been described at para (1) page VII-39-11. It describes that the products of 39 may contain other materials intended to give the finished products special physical properties or other desirable physical characteristics but when as a result of the addition of certain substances, the resultant product answers to the description in a more specific heading elsewhere in the Nomenclature, they are excluded from chapter 39. Therefore, by the addition of silica and other minor ingredients, the goods do not answer to the description of any more specific heading. It may be mentioned that 38.24 is a residuary heading which cannot be termed as a more specific heading.

(c) HEJ Laboratory has determined the name of the polymer "Polydimethylsiloxane". The information procured from the internet reveals that "Polydimethylsiloxane" falls in the category of Silicone oil. At para 1 page VII-3910-1 of the Explanatory Notes to HS, it is indicated that silicone oils are used as foam inhibitor. This also supports classification under heading 3910.0000.

(d) "Polydimethylsiloxane" has been assigned CAS RN 63148-62-9 for which corresponding Customs No. is 3910.0000.

(e) Chinese Supplier exported the goods to Pakistan under heading 3910.0000.00.

4. The contention of MCC Appraisement (West) is that silicones of HS Code 39.10 are *non chemically defined products* containing in the molecule more than one silicon- oxygen silicon linkage, and containing organic groups connected to the silicon atoms by direct silicon carbon bounds. As per explanatory notes the goods cover in primary form only as solution, dispersion, liquid, paste, solid, powder, granule, emulsion and may contain other materials (i.e. permissible additives) such as plasticizer, stabilizer, coloring matter and fillers (e.g. wood flour, cellulose, textile fibers, mineral substances). The Custom House Lab after consulting the test report from M/s HEJ has confirmed that under reference product mainly composed of modified poly siloxane, silica, hydroxyl compound and other minor ingredient and synergist attracting PCT Heading 3824.9099. In the light of M/s HEJ Lab report and the opinion of Custom House Lab, the Collectorate is of the viewpoint that the impugned goods are not in primary form but a mixture of certain items. Hence, it is excluded from the definition of silicone in primary form falling under HS Code 39.10 and is correctly classifiable under PCT Heading 3824.9099.

#### **ISSUE:**

5. Whether the imported items "SIXIN X-1050 KT, X-1050 FT and XD 50" are appropriately classifiable under PCT Heading 3910.0000 as claimed by the importer or under PCT Heading 3824.9099 as proposed by MCC Appraisement (West) or under any other relevant Heading of the First Schedule to the Customs Act, 1969 (Pakistan Customs Tariff)?

#### **PRODUCT ANALYSIS:**

6. The literature of the products provided by the importer indicates that the goods are composed of modified polysiloxane, hydroxyl compounds, silica and synergist. Their main features include "good versatility; excellent breaking and inhibiting foam performance; stability to a wide range of temperature conditions and they are harmless to



the bacteria during the fermentation process. Their applications are in fermentation, sugar industry, food processing and breaking foam (anti-foam) in other aqueous system". The typical properties as mentioned in the literature of these items are as under:

INDEX	PROPERTY			TESTING METHOD
	SIXIN XD-50	SIXIN X-1050KT	SIXIN X-1050FT	GB/T 26527-2011 Silicone defoaming agent
Appearance	White or light yellow emulsion			
Ion of emulsion	Nonionic			
Solid content	(50±2) %	≥ 45.0%	≥ 50.0%	
Viscosity (mPa*s, 25 °C)	1000 ~ 5000		1000 ~ 5000	
Appropriate thinner		10 ~ 30 °C - thickening water		

7. The samples of these items were also sent to the HEJ Laboratories by Collectorate. The Analysis Reports of these items are as under:

TESTS	RESULTS		
	SIXIN XD-50	SIXIN X-1050KT	SIXIN X-1050FT
State	Paste		
Color	White		
Major constituent	Polydimethylsiloxane (PDMS) (48.43 %)	Polydimethylsiloxane (PDMS) (45.42 %)	Polydimethylsiloxane (PDMS) (49.97 %)
Minor constituents	Silica (7.12 %)	Silica (6.99 %)	Silica (6.29 %)
Nature	Emulsion		
Viscosity @ 25 °C Spindle R4, 100 RPM	1350 cp	1290 cp	1080 cp
pH	9.583	9.521	9.591

**Remarks:**

In the light of test carried out, the given sample "Silicon Defoamer" has been chemically found to be as Polydimethylsiloxane (PDMS) along with Silica and other minor ingredients in the form of emulsion which is used as defoaming or antifoaming agent in various industries.

**LAW AND ANALYSIS:**

8. The arguments put forth by participants along with the literature of "SIXIN X-1050 KT, X-1050 FT and XD 50", test reports of HEJ Laboratories, Karachi and relevant Explanatory/Section/Chapter notes of Pakistan Customs Tariff were examined by the Committee. The Committee observed that the declared PCT Heading 3910.000 covers Silicones in primary forms, whereas; as per literature and Lab reports, the imported goods are 'preparations' which are used as defoamers / anti-foaming agent in a number of industries. It is observed that these items are used in textile, paper, leather or like industries are

classified under HS code 38.09, because they are covered under the term 'preparations of a kind used in these industries'. The argument that the impugned defoamers having use in sugar or food processing industries or other than the industries mentioned in the heading of 38.09 are to be classified under HS 3910.0000 only because of the fact the type of industries where these defoamers are used is not mentioned in the heading of any HS code as a more specific heading in terms of para (1) page VII-39-11 of the E.N , does not carry weight, as HS 38.09 is also a residual heading and not a specific heading which is clear from the heading of HS 38.09 as, '.....and preparations of a kind used....., not elsewhere specified or included'. Therefore, defoamers being 'preparations', irrespective of the industry where they are used cannot be classified under HS 3910.0000.

9. For appropriate classification of the impugned goods, the Committee analyzed HS Code 38.09 which covers preparations of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included. The Explanatory Notes of HS 38.09 mentions that this heading covers a wide range of products and preparations of a kind generally used during processing or finishing of yarns, fabrics, paper, paperboard, leather or similar materials, not specified or included elsewhere in the Nomenclature. They may be identified as falling in this heading because of their composition and presentation which give them a specific use in the industries cited in the heading and like industries, e.g., the textile floor carpeting industry, the vulcanized fiber manufacturing industry and the fur-industry. The Committee observed that there is no specified heading for defoamers / anti-foaming agents under HS Code 38.09 as mentioned at para 8 above but because of the fact that they are 'preparations' used in the above mentioned industries and are not elsewhere specified or included, therefore, they are classified under HS Code 38.09. However, for the impugned products "SIXIN X-1050 KT, X-1050 FT and XD 50" to be classified under HS Code 38.09, the facts must show that the use of these Defoamers is in the textile, paper, leather, or like industries. Instead, the literature shows that the defoamers under consideration are suitable for use in sugar industry, food processing and like industries.

10. For the appropriate classification of the impugned goods, the Committee considered HS Code 38.24 which covers preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included. (The chemical or other preparations include mixtures of which emulsions and dispersions are special forms). As per information available on internet, the chemical or allied industries include petroleum, glass, paint, ink, sealant, adhesive and food processing industries etc. and further food processing industries include cannery, fish processing, slaughter house and sugar industry etc. The Committee observed that HS code 38.24, in its main heading clearly states that it includes, 'chemical products and preparations of the



chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included'. Defoamers 'SIXIN X-1050 KT, X-1050 FT and XD 50' have properly been identified as 'preparations' (on the basis of literature and HEJ test report) which are used in sugar industry, food processing industries etc and therefore, fulfill all the requirements to be covered under HS heading 38.24

**HOLDING:**

11. In view of above, the Committee in consultation with the relevant Chapter and Heading Notes and the related ENs, is of the opinion that impugned product namely "SIXIN X-1050 KT, X-1050 FT and XD 50", through application of GRI 1 and 6, is classifiable under PCT Heading 3824.9099, keeping in view that these products are 'preparations' of the chemicals or allied industries.

12. This Ruling is issued in terms of Chapter - II (Classification) of the CGO 12 / 2002 dated 15<sup>th</sup> June, 2002 and any appeal against this Ruling shall only lie with the Federal Board of Revenue under Rule 2 of Pakistan Rules to the General Rules for Interpretation.

13. The above ruling is based upon the documents / literature provided by the applicant and shall be treated as annulled if it is found at any subsequent stage that the same was obtained by providing incorrect, false, misleading or incomplete information by the applicant.

(Muhammad Haris Ansari)  
Additional Collector-II  
Chairman Classification Committee

**Distribution:**

1. PS to Member (Customs), Federal Board of Revenue, Islamabad.
2. Chief Collector of Customs (Appraisalment-South), Custom House, Karachi.
3. Chief Collector of Customs (Enforcement-South), Custom House Karachi.
4. Chief Collector of Customs (Central/North) Custom House, Lahore / Islamabad.
5. Director General, Intelligence & Investigation-FBR, Mauve Area-1, G-10/4, Islamabad.
6. The Advisor, Customs, Federal Tax Ombudsman Secretariat, Regional office, 4<sup>th</sup> Floor, Shaheen Complex, M.R. Kayani Road, Karachi, with reference Complaint No. FTO-KHI/CUST/0000634-635/2016.
7. Chief (Tariff), Customs Wing, Federal Board of Revenue, Islamabad.
8. Collector, MCC Appraisalment (West) / (Preventive), Custom House, Karachi.
9. Collector of Customs MCC, Port Mohammad Bin Qasim, Karachi.
10. M/s. Dewan Mushtaq Trade Limited, 7<sup>th</sup> Floor, Block-A, Finance & Trade Centre, Shahrah-e-Faisal, Karachi.
11. M/s Dewan Sugar Mills limited, Second Floor, Block -A, Finance & Trade Centre, Shahrah-e-Faisal, Karachi.
12. M/s Masood Aziz & Associates, First Floor, State Life Building No.3, Dr. Ziauddin Ahmed Road, Karachi.
13. Karachi Chamber of Commerce & Industry, Karachi.
14. Karachi Customs Agents Association, Custom House, Karachi.
15. Notice Board.
16. Master File.