	सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण **Customs Authority for Advance Rulings** **नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई - ४०० ००१** **New Custom House, Ballard Estate, Mumbai - 400 001** **E-MAIL: cus-advrulings.mum@gov.in**	आज़ादी का अमृत महोत्सव

F.No. CAAR/CUS/APPL/96/2025 - O/o Commr-CAAR-Mumbai दिनांक/Date :08.01.2026

Ruling No. & date	CAAR/Mum/ARC/137 /2025-26 dated: 08.01.2026
Issued by	Prabhat K. Rameshwaram, Customs Authority for Advance Rulings, Mumbai
Name and address of the applicant	M/s. Shakambari Consultancy Sanjay Building No.5, Office No.113/A, Akshay Mittal Industrial Premises Co-op Society Building 5, Andheri Kurla Road, Andheri East, Mumbai-400059 Email- kainyaarun@gmail.com
Concerned Commissionerate	The Pr. Commissioner of Customs, NS-I, JNCH, Nhava Sheva, Tal: Uran Distt: Raigad Maharashtra-400707. Email: commr-ns1@gov.in

ध्यान दीजिए/ N.B.:

1. सीमा शुल्क अधिनियम, 1962 की धारा 28I 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 28I of the Customs Act, 1962 is granted to the concerned free of charge.

2. बोर्ड द्वारा प्राधिकृत कोई भी अधिकारी, अधिसूचना द्वारा या आवेदक प्राधिकरण द्वारा पारित किसी भी निर्णय या आदेश के खिलाफ ऐसे निर्णय वा आदेश के संचार की तारीख से 60 दिनों के भीतर क्षेत्राधिकार उच्च न्यायालय में अपील दायर कर सकता है।
   Any officer authorised by the Board, by notification or the applicant may file an appeal before the Jurisdictional High Court of **concerned jurisdiction** against any ruling or order passed by the Authority, within 60 days from the date of the communication of such ruling or order.

3. प्रधान आयुक्त या आयुक्त धारा 28KA की उप-धारा (1) के संदर्भ में अग्रिम निर्णय के खिलाफ अपील दायर करने के लिए अधिकृत होंगे।
   The Principal Commissioner or Commissioner shall be authorised to file appeal against the advance ruling in terms of sub-section (1) of section 28KA.

4. धारा 28-I के तहत प्राधिकरण द्वारा सुनाया गया अग्रिम विनिर्णय तीन 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 three 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.

5. जहां 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*.

सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण, मुंबई
Customs Authority For Advance Rulings, Mumbai

अग्रिम विनिर्णय / Advance Ruling

1. M/s. Shakambari Consultancy (IEC No. 0409011991) (hereinafter referred as "The Applicant") filed an application for advance ruling in the Office of Secretary, Customs Authority for Advance Ruling, Mumbai. The said application was received in the secretariat of the CAAR, Mumbai on 13.05.2025, along with its enclosures in terms of Section 28H (I) of the Customs Act, 1962 (hereinafter referred to as the 'Act'). The applicant is seeking advance ruling regarding classification of the product called "Co2 Sustain 2501', which is a dispersion of Polysorbate 65 in water-a non-ionic surface-active agent.

2. Submission by the Applicant:

2.1 The Applicant is a proprietorship firm and holds Import-Export Code No. 0409011991 and GST Registration. They Applicant proposes to import, at Nhava Sheva Port, the product having the brand name "CO 2 Sustain" manufactured by Sustain Co2 Ltd., U.K. The applicant submitted that the said product, "CO2 Sustain" is Dispersion of Polysorbate 65 in Water and is used as a Non-Ionic Surfactant in Carbonated Beverages to prevent excessive foam.

2.2 The applicant submitted a Certificate dated 14-5-2024 of the foreign manufacturer in respect of the said product along with independent analysis report of the said product referred to in the said Certificate. As per the said Certificate of the foreign manufacturer, CO2 Sustain is a dispersion of Polysorbate 65 in water, which when heated for 1 hour at 20 degrees Centigrade at a concentration of 0.5%, forms a stable off white translucent liquid. Based on an independent Analysis report, the said certificate further states that the said product reduces the surface tension of water by 4.5 x 102 N/m or less. It was further stated in the certificate that it is used in carbonated beverages as a non-ionic surfactant to prevent excessive foam and thus acts as a processing aid in the filling of drinks containing carbon dioxide. It is approved and safe for use in food but would not be consumed itself as a foodstuff.

3. Applicants Interpretation of Law/Facts:

3.1 The applicant submitted that the goods, "CO2 Sustain" which are a Dispersion of Polysorbate 65, are "Organic Surface-Active Agent" as defined in Note 3 of Chapter 34 and are therefore classifiable as Organic Surface-Active Agent under Customs Tariff heading 34.02, which specifically covers Organic Surface-Active Agent other than Soap. Further, since the said Organic Surface-Active Agent is Non-ionic, it will fall under Sub-Heading 3402 42 00.

3.2 The applicant submitted that the said Note 3 of Chapter 34 provides that for the purposes of Heding 34.02, organic surface-active agents are products which when mixed with water at a concentration of 0.5% at 20 degrees Centigrade and left to stand for one hour at the same temperature:

a) Give a transparent or translucent liquid or stable emulsion without separation of insoluble matter and

b) Reduce the surface tension of water to 4.5 x 10-2 N/m (45 Dyne/cm) or less.

3.3 The applicant submitted that accordingly, a product which, when mixed with water at a concentration of 0.5% at 20 degrees centigrade and left to stand at that temperature for one hour, satisfies the said two criteria mentioned in clauses (a) and (b) of the said Note 3, is an "Organic Surface-Active agent", which specifically falls under CTH 34.02.

3.4 The applicant further submitted that as is evident from the foreign manufacturer's Certificate, "CO2 Sustain" (Dispersion of Polysorbate 65 in Water), when mixed with water at a concentration of 0.5% and left for one hour at 20 degrees Centigrade give a translucent liquid and further the said

product reduces the surface tension of water to 4.36 x 10-2 N/m, which is less than 4.5 x 10-2 N/m. The said product therefore, satisfies the requirements of Note 3 of Chapter 34 and is classifiable as Organic Surface-Active Agent under Heading 34.02. Further, as per the foreign manufacturer's Certificate, the said product is Non-ionic surfactant. It will therefore be covered under Sub-heading 3402 42 00, which is for Non-ionic Surface-active agent.

3.5 The applicant further placed its reliance on the following US Customs Rulings, which hold that Polysorbates are classifiable under Heding 34.02:

- NY I87541 Dec 06 2002
- NY N130897 Nov 30, 2010.

4. Port of Import and reply from Jurisdictional Commissionerate

4.1 The applicant in their CAAR-1 indicated that they intend to import the subject goods i.e Co2 Sustain 2501 (dispersion of Polysorbate 65) at the jurisdiction of office of the Pr. Commissioner of Customs, NS-I, JNCH, Nhava Sheva, Tal: Uran Distt: Raigad, Maharashtra-400707. In terms of Provisions of the Section 28-I(1) of the Customs Act, 1962 read with the Sub-Regulation No. (7) of the Regulation No. 8 of the Customs Authority for Advance Rulings Regulations, 2021, the application was forwarded to the office of the Principal Commissioner of Customs, NS-I, JNCH, Nhava Sheva, Tal: Uran Distt: Raigad, Maharashtra-400707 on 23.05.2025 as indicated by the applicant at Sr. No. 13 of their CAAR-1 Forms calling upon them to furnish the relevant records with comments, if any, in respect of the said application. Further reminders were also sent on 17.06.2025, 08.08.2025 and 15.09.2025 to the concerned jurisdictional Commissionerate. However, no reply has been received till date.

5. Records of Personal Hearing

5.1 A personal hearing was held on 09.07.2025 at 04:00 PM in the office of the CAAR, Mumbai. Shri J. C. Patel, Advocate (AR) and Shri Arun Kainya, Proprietor in M/s. Shakambari Consultancy appeared for the personal hearing on behalf of the applicant in Physical Mode. They specifically asked for physical form of hearing so as to explain their case better, which was permitted. They reiterated the contentions filed with the application that the subject import goods "Dispersion of Polysorbate 65 in water" is a non-ionic surfactant and merit classification under CTH 3402, more specifically under 34024200. They submitted that the subject goods are to be used as a processing aid in carbonated beverages. They relied upon the provisions of Chapter Note 3 of Chapter 34. They also relied upon the import export data in support of their contention. Alternatively, they also contended that the said goods may also be classified under CTH 3907 and submitted a case ruling issue from UK Ruling Reference 600012464 and WCO INN DCI List (2022 Version) which provides the classification of the subject goods under CTH 390729. It was specifically asked to provide the details of the technical data sheet and chemical composition of the product for which they sought 10 days' time which was permitted.

Noone appeared for the hearing from the departments side.

6. Additional Submissions

6.1 The applicant vide its email dated 16.07.2025 submitted the following:

a) Technical Data sheet of the manufacturer, as per which, CO2 Sustain is composed of:

- Aqua (i.e. Water) > 95%
- Polyoxyethylene(20) Sorbitan tristearate (Polysorbate65) <5%

b) Safety Data Sheet of the product, as per which, the relevant identified use of the product is "**Processing Aid, Stabliser, Emulsifier and Antifoam**".

6.2 The applicant further submitted following literature to show that **Non-ionic Surfactants** are used for **controlling foam:**

a) Article from "Journal of Surfactants and Detergents/Volume 6, Issue 4 bearing title "**Mechanism of antifoam behaviour** of solutions of **nonionic surfactants** above the cloud point" appearing on website: https://aocs.onlinelibrary.wiley.com/doi/abs/10.1007/s11743-003-0280-3#:~:text=Aqueous%20solutions%20of%20nonionic%20surfactants,formation%20through%20the%20bridging%20mechanism. As per this article Non-ionic surfactants suppress foam formation and to act as antifoam.

b) Article bearing title "**Low Foam Surfactant**" appearing on website: https://www.venus-goa.com/low-foam-surfactants.php#:~:text=Low%20foam%20surfactants%20%7C%20low%20foaming,Description . As per this article, **Non-ionic surfactants** are used for **foam control**.

c) Technical data sheet of Dowfax 81N13 appearing on website https://www.specialchem.com/adhesives/product/dow-dowfax-81n13-nonionic-surfactant . As per this website, the said product is a **Non Ionic Surfactant** which belongs to family of **Defoamers/ Anti-foaming agents**.

d) Data Sheet of Dowfax DF-144 appearing on website https://www.dow.com/en-us/pdp.dowfax-df-144-nonionic-surfactant.108538z.html#overview as per which the said product is an **Non-Ionic Surfactant** which is **Defoaming/ Anti-foaming agent**.

e) Article on "**Antifoaming agent**" on website https://www.sciencedirect.com/topics/medicine-and-dentistry/antifoaming-agent#:~:text=HealthG.A.%20Blekas-,Antifoaming%20Agents,G.A.%20Blekas as per which an **antifoaming agent** is an additive which **reduces the surface tension** of a solution or emulsion, **thus inhibiting or modifying the formation of a foam**. It further states that these agents have **surface active properties** and are in soluble in the foaming medium.

f) Article "Foaming and Antifoaming agents" appearing on website: https://ebooks.inflibnet.ac.in/ftp03/chapter/foaming-and-anti-foaming-agents/ in which in Para 13.3.2 it is stated that Polysorbate 65 is a **surfactant** which is used to **reduce foam formation**.

6.3 The applicant submitted that it is evident from the above literature that **Non-ionic Surfactants** have **anti-foaming** properties and are used as emulsifiers and for foam control. Since the goods CO2 sustain are aqueous dispersion of Polysorbate 65, the same are non-ionic surfactant and therefore rightly classifiable under CTSH 3402 42 00 as Non-Ionic Organic Surface-Active agent.

6.4 The applicant further submitted that the numbers 20, 60, 65, 80 in Polysorbate 20, Polysorbate 60, Polysorbate 65 and Polysorbate 80 stand for the type of the fatty acid associated with the molecule i.e. 20 stands for Lauric Acid (Monoluarate), 60 stands for Stearic Acid, 65 stands for Monostearate, 80 stands for Oleic acid (Monooleate).

6.5 The applicant vide its email dated 10.12.2025 submitted a test report on "Surface Tension Analysis and Stability Testing of CO2 Sustain". The test report contained following conclusions:

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- The surface tension of two surfactant solutions and water was measured using droplet shape analysis.
- The measured value for water (ca. 70 mN / m) closely matched those in literature.
- At 0.5% concentration, the measured surface tension of CO2 Sustain was 43.6 ± 1.0 mN / m.
- At 0.75% concentration, the measured surface tension of CO2 Sustain was 44.0 ± 0.8 mN/ m.
- The fact that there was no decrease in surface tension when the surfactant concentration was increased from 0.5% to 0.75% indicates that the critical micellar concentration was equal to or lower than 0.5%.
- When a sample of CO2 Sustain was mixed with water at a concentration of 0.5% at 20°C, and held at 20°C for 1 hour, no visible changes occurred in the sample. It remained a translucent liquid without separation or sedimentation.

7. Discussions and Findings

7.1 I have considered all the materials placed before me in respect of the classification of subject goods. I have gone through the submissions made by the applicant during the personal hearing and additional submissions made by the applicant. Therefore, I proceed to pronounce a ruling on the basis of information available on record as well as existing legal framework.

7.2 At the outset, I find that the issue raised at the Sr. No. 08 in the CAAR-1 form is squarely covered under Section 28H(2) of the Customs Act, 1962 being a matter related to the Classification of goods under the Customs Tariff Act, 1975. I further find that the applicant is a holder of an Importer Exporter Code (IEC) and thereby, is a valid applicant under Section 28E (c) of the Customs Act, 1962 for filing application under Section 28H of the Customs Act, 1962.

7.3 The applicant has sought advance ruling in respect of the classification of the product "CO2 Sustain 2501" which is a dispersion of Polysorbate 65 in water. The applicant submitted that the product i.e. "CO2 Sustain 2501" is a dispersion of Polysorbate 65 in water where concentration of Polysorbate 65 is less than 5% in the dispersion. Further, as per applicant's submission, it would be used as a Non-Ionic Surfactant in Carbonated Beverages to prevent excessive foam and thus, acts as a processing aid in the filling of drinks containing Carbon Dioxide. Further, it was submitted that it is approved and safe for use in food but would not be consumed itself as a foodstuff. It was further submitted that Non-ionic Surfactants have anti-foaming properties and are used as emulsifiers and for foam control.

7.4 Further, the manufacturers' website (https://www.co2sustain.com/wp-content/uploads/2022/10/Sustain-Sustainability-Brochure.pdf) describes the product as an ultra-fine dispersion of polysorbate 65 in water, which is a pasteurised non-ionic surfactant. Further, it is mentioned that the CO2 Sustain is added directly to concentrated syrup. This requires minimal stirring and no heating is required. The optimum dosage is just 0.1g/litre, with only minor variations. CO2 Sustain increases carbonation and reduces fobbing during the two occasions when CO_2 saturation levels within the liquid are at their most vulnerable: the filling of containers during production, and opening/pouring by the consumer. CO2 Sustain encapsulates each bubble of CO_2 as it forms. The effect of this encapsulation is to reduce the size of and strengthen the bubbles and to ensure that they then remain small. Smaller bubbles are more soluble (thus the overall effect is to enhance the solubility of CO_2 in the liquid), and they are slower to rise to the surface, reducing fobbing. Encapsulation also causes bubbles to bounce off one another, rather than merging, which reduces

foaming and retains more bubbles in the liquid. The net effect is a fizzier drink which remains fizzier for longer.

7.5 Before deciding on the issue, let me deliberate on the legal framework prescribed in Customs Tariff Act, 1975, Chapter/Section notes along with HSN explanatory notes. Classification of goods in the Harmonized System of Nomenclature (HSN) is governed by the General Rules for the interpretations. Rule 1 of the General Rules for the Interpretation of the Import Tariff to the Customs Tariff Act, 1975 stipulate that for legal purposes, the classification of the import item shall be determined according to the terms of the headings and any relative Section or Chapter Notes.

7.6 Based on the function, usage and literature provided and argument advanced by the applicant, it is observed that the product CO2 Sustain 2501 is a dispersion of Polysorbate 65 in water, which is a patented beverage processing aid marketed to preserve and extend perceived carbonation and control foaming/ fobbing during filling; it works by modifying bubble behaviour (reducing coalescence) so drinks taste fizzy for longer and experience fewer fill-line foam issues. Before delving further, it is essential to understand what is Polysorbate 65. Polysorbates are a family of non-ionic surfactants (poly-oxy-ethylene sorbitan esters) produced by ethoxylation of sorbitan esters; they function as emulsifiers, solubilizers and wetting agents in food, personal care and pharmaceutical formulations. Further, Polysorbate 65 (Polyoxyethylene (20) Sorbitan Tristearate) is recognized as a food additive / emulsifier by World Health Organization as INS 436; by European Union as E436 and US Food and Drug Administration lists it under 21 CFR 172.838.

7.7 Since the Product "CO2 Sustain 2501" is described by the manufacturer and applicant as pasteurised non-ionic surfactant, I will first examine the relevant Section Notes, Chapter Notes and Heading Text for Heading 3402. The relevant portion of CTH 3402 is reproduced below:

3402	ORGANIC SURFACE-ACTIVE AGENTS (OTHER THAN SOAP); SURFACE-ACTIVE PREPARATIONS, WASHING PREPARATIONS (INCLUDING AUXILIARY WASHING PREPARATIONS) AND CLEANING PREPARATIONS, WHETHER OR NOT CONTAINING SOAP, OTHER THAN THOSE OF HEADING 3401
	- Anionic organic Surface-active agents, whether or not put up for retail sale:
3402 31 00	-- Linear alkylbenzene sulphonic acids and their salts
3402 39 00	-- Other
	- Other organic surface-active agents, whether or not put up for retail sale:
3402 41 00	-- Cationic
3402 42 00	-- Non-ionic
3402 49 00	-- Other
3402 50 00	- Preparations put up for retail sale
3402 90	- Other:
	---Synthetic detergents:
3402 90 11	----Washing preparations (including auxiliary washing preparations) and cleaning preparations, having a basis of soap or other organic surface active agents
3402 90 12	----Cleaning or degreasing preparations not having a basis of soap or other organic surface active agents
3402 90 19	----Other
3402 90 20	--- Sulphonated or sulphated or oxidized or chlorinated castor oil; sulphonated or sulphated or oxidized or chlorinated fish oil;

	sulphonated or sulphated or oxidized or chlorinated sperm oil;
3402 90 30	sulphonated or sulphated or oxidized or chlorinated neats foot oil
	--- Penetrators
3402 90 41	---Wetting agents:
	----Washing preparations (including auxiliary washing preparations) and cleaning preparations, having a basis of soap or other organic
3402 90 42	surface active agents
	----Cleaning or degreasing preparations not kg. 10% having a basis of
3402 90 49	soap or other organic surface active agents
	----Other
3402 90 51	---Washing preparations whether or not containing soap :
	----Washing preparations (including auxiliary washing preparations) and cleaning preparations, having a basis of soap or other organic
3402 90 52	surface active agents
	----Cleaning or degreasing preparations not having a basis of soap or
3402 90 59	other organic surface active agents
	----Other
3402 90 91	---Other :
	----Washing preparations (including auxiliary kg. 10% washing preparations) and cleaning preparations, having a basis of soap or other
3402 90 92	organic surface active agents
	----Cleaning or degreasing preparations not having a basis of soap or
3402 90 99	other organic surface active agents
	----Other

7.8 From the above, it is seen that following two categories of products can be classified under Heading 3402.

i. Organic Surface-Active Agents (Other than Soap)

ii. Surface-Active Preparations, Washing Preparations and Cleaning Preparations

The product CO2 Sustain is non-ionic surfactant. Surfactant is shortened term for surface-active agent; both refer to substances that reduce surface or interfacial tension and thereby act as emulsifiers, wetting agents, dispersants, detergents, or antifoaming agents depending on their structure and use. Therefore, it appears clearly covered under first category i.e. Organic Surface-Active Agents (Other than Soap)

7.9 For deciding whether the product falls under Heading 3402 or not as a Organic Surface-Active Agent, Chapter note 3 to Chapter 34 plays a vital role as it describes the condition needed to be fulfilled before classification of any product as Organic Surface-Active Agent. The same is reproduced below for ease of reference:

> ***3. For the purposes of heading 3402, "organic surface-active agents" are products which when mixed with water at a concentration of 0.5% at 20°C and left to stand for one hour at the same temperature: (a) give a transparent or translucent liquid or stable emulsion without separation of insoluble matter; and (b) reduce the surface tension of water 4.5 X 10^{-2} N/m (45 dyne/Cm) or less.***

7.10 The Chapter Note 3 to Heading 3402 clearly lays down the condition that for any product to be classified as Organic Surface-Active Agent, it needs to fulfil these two conditions i.e. the product should give a transparent or translucent liquid or stable emulsion and reduce the surface tension of water to 4.5 X 10^{-2} N/m when mixed with water at a concentration of 0.5% at 20° C and left to stand

for one hour at the same temperature. Both the conditions need to be fulfilled by the product for its classification as an Organic Surface-Active Agent.

7.11 Further, the HSN Explanatory notes for heading 3402 describes the Organic Surface-Active Agents as chemical compounds, not chemically defined, which contain one or more hydrophilic or hydrophobic functional groups and satisfies the conditions mentioned in the Note 3 to Chapter 34. It further clarifies that an emulsion should not be considered as having a stable character if, after being left to stand for one hour at 20°C, solid particles are visible to naked eye or it has separated into visually distinguishable phases or it has separated into a transparent part and a translucent part visible to the naked eye i.e. there should not be any visual separation of the emulsion visible to naked eye. Relevant HSN Explanatory notes for Heading 3402 are reproduced below:

(I) ORGANIC SURFACE-ACTIVE AGENTS (OTHER THAN SOAP)

The organic surface-active agents of this heading are chemical compounds, not chemically defined, which contain one or more hydrophilic or hydrophobic functional groups in such a proportion that, when mixed with water at a concentration of 0.5 % at 20 °C and left to stand for one hour at the same temperature, they give a transparent or translucent liquid or stable emulsion without separation of insoluble matter (see Note 3 (a) to this Chapter). For the purposes of this heading, an emulsion should not be considered as having a stable character if, after being left to stand for one hour at 20 °C, (1) solid particles are visible to the naked eye, (2) it has separated into visually distinguishable phases or (3) it has separated into a transparent part and a translucent part, visible to the naked eye.

Organic surface-active agents are capable of adsorption at an interface; in this state they display a number of physico-chemical properties, particularly surface activity (e.g., reduction of surface tension, foaming, emulsifying, wetting), which is why they are usually known as "surfactants".

However, products which are not capable of reducing the surface tension of distilled water to 4.5 x 10^{-2} N/m (45 dyne/cm) or less at a concentration of 0.5 % at 20 °C are **not** regarded as surface-active agents and are therefore **excluded** from this heading.

7.12 From the above, I observe that for a product to be classified as an Organic Surface-Active Agent, it should produce a stable homogenised either transparent or translucent solution or emulsion when mixed with water at a concentration of 0.5% at 20°C and it should not have any visual separation visible to naked eye when allowed to stand for one hour at 20°C. Also, at the same time, it should reduce the surface tension of distilled water to 4.5 X 10^{-2} N/m or less.

7.13 I have gone through the copy of the Test Report submitted by the applicant regarding the Surface Tension Analysis and Stability Testing. In the report, it was concluded that at 0.5% concentration, the measured surface tension of CO2 Sustain was 43.6± 1.0 mN/m and when a sample of CO2 Sustain was mixed with water at a concentration of 0.5% at 20°C, and held at 20°C for 1 hour, it remained a translucent liquid without separation or sedimentation. Report submitted are as under:

Table 1 – Mean average surface tension calculated from all measured values, and error is standard deviation (n = 3000 except for water n = 600).

Sample	Mean surface tension (mN / m)	Mean surface tension (N / m)
Water	70.3 ± 1.1	7.03 x 10^{-2} ± 0.11 x 10^{-2}
0.5%	43.6 ± 1.0	4.36 x 10^{-2} ± 0.10 x 10^{-2}
0.75%	44.0 ± 0.8	4.40 x 10^{-2} ± 0.08 x 10^{-2}

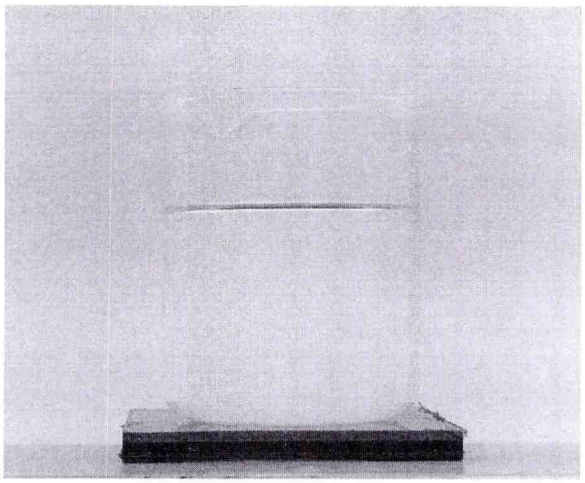

Figure 4 – The final image of the 0.5% CO2 Sustain solution, taken 1 hour after mixing (mixed and held at 20°C).

4 Conclusions

- The surface tension of two surfactant solutions and water was measured using droplet shape analysis.
- The measured value for water (ca. 70 mN / m) closely matched those in literature.

- At 0.5% concentration, the measured surface tension of CO2 Sustain was 43.6 ± 1.0 mN / m.
- At 0.75% concentration, the measured surface tension of CO2 Sustain was 44.0 ± 0.8 mN / m.
- The fact that there was no decrease in surface tension when the surfactant concentration was increased from 0.5% to 0.75% indicates that the critical micellar concentration was equal to or lower than 0.5%.
- When a sample of CO2 Sustain was mixed with water at a concentration of 0.5% at 20°C, and held at 20°C for 1 hour, no visible changes occurred in the sample. It remained a translucent liquid without separation or sedimentation.

7.14 From the test report submitted by the applicant, I observe that the product CO2 Sustain 2501 satisfies the conditions laid down in the Note 3 to Chapter 34. Accordingly, the product under consideration would merit classification under CTI 34024200 as a non-ionic organic surface-active agent. It is pertinent to mention that classification of any product is governed by General Rules of Interpretations. Rule 1 of GRI gives foremost importance to the Heading Text, Section Notes and Chapter Notes. Since there is a specific heading for Organic Surface-Active Agents under CTH 3402, therefore, the product i.e. CO2 Sustain 2501 which is described as pasteurized non-ionic surfactant, merits classification under CTH 3402 and specifically under Heading 34024200 as it is a non-ionic Organic Surface-Active Agent.

7.15 Further, there is another probable heading i.e. CTH 3824 "Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included". However, on going through the heading text, I observe that this heading is residuary in nature and applies only when goods are not elsewhere specified or included. Heading 3824, being a residual heading applicable only to goods not elsewhere specified or included, is clearly excluded in view of the specific coverage under Heading 3402, in line with settled legal principles as the courts have consistently ruled that where goods are **squarely covered by a specific tariff description**, resort to a general or residuary entry is unwarranted.

7.16 Further, the applicant itself also suggested heading 3907 for the classification of the product. Heading 3907 of Chapter 39 is restricted to polymers of Section VII presented in primary forms, such as polyethers, polyesters, polycarbonates or epoxide resins, which are traded and used as plastics or plastic raw materials. The HSN Explanatory Notes to Chapter 39 expressly exclude products whose essential character is that of organic surface-active agents, emulsifiers or preparations of Chapter 34. Polysorbate 65 is a non-ionic organic surface-active agent (polyoxyethylene sorbitan ester) commercially and functionally recognised as a surfactant and not as a polymeric plastic material. Further, the subject goods are an aqueous dispersion containing a minor proportion of Polysorbate 65 and are used as an antifoaming/processing aid in beverages, and are therefore neither polymers in primary form nor classifiable under Chapter 39. Accordingly, classification under Heading 3907 stands negated in view of the specific coverage and exclusions under the HSN Explanatory Notes.

7.17 However, I find it pertinent to mention that since the products have not yet been imported into the country, the ruling in this case has to rely upon the information submitted by the applicant, product description and relevant information available in the public domain. From the information available, the product appears to be appropriately classifiable under CTI 3402 4200. However, it is contingent upon the testing of the products at the time of actual import of subject goods.

7.18 Moreover, considering the nature of the product as a food additives / food processing aid, compliance with the relevant FSSAI Regulations, wherever applicable, would be required.

8. In light of the above facts, discussions, observations and the test report submitted, I conclude that the product CO2 Sustain 2501 being a pasteurized non-ionic surfactant, merit classification under Heading 3402 and more specifically under CTI 3402 4200.

9. I rule accordingly.

8/1/26

सीमा शुल्क अग्रिम विनिर्णय प्राधिकरण, मुंबई
Customs Authority For Advance Rulings, Mumbai

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

F. No. CAAR/CUS/APPL/96/2025-O/o Commr-CAAR-Mumbai **Dated:08-01-2026**

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

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