

# S. MURUGAPPAN

ADVOCATE, HIGH COURT

## ASSISTED BY:

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## CONSULTANTS:

CUSTOMS, GST.

FOREIGN TRADE LAWS.

FOREIGN EXCHANGE MANAGEMENT ACT.

## OPINION

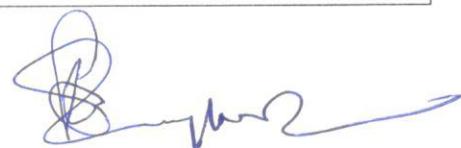
### 1. QUERIST:

**M/s. CPC Diagnostics Private Limited**  
No.49/1(41-49/1), First Floor,  
Perumal Koil South Maada Veethi,  
Villivakkam,  
Chennai – 600 049.

### 2. FACTS:

2.1 The Querist imports various materials mentioned below for Flow Cytometry.

Sl.No.	Product	Intended Use
1	TBNK Lymphocyte	Intended to be used to determine the percentage of the following human mature lymphocyte subtypes in whole blood samples from lysed erythrocytes: T lymphocytes (CD3+), helper/induced T lymphocytes (CD3+CD4+)
2	CD3 Per CP	Intended to be used to determine the percentage of the following human mature lymphocyte subtypes in whole blood samples from lysed erythrocytes: T lymphocytes (CD3+), helper/induced T lymphocytes (CD3+CD4+).
3	CD4 FITC	Intended to be used to detect the expression of CD4 in human biological specimens
4	CD7 FITC	Intended to be used to detect the expression of CD7 human peripheral blood lymphocytes
5	CD8 FITC	Intended to be used to determine the expression of CD8 antigen molecules on the surface of cells in lysed red blood cell bone marrow or peripheral blood samples
6	CD19 PE	Intended to be used to detect and measure the presence and quantity of CD19 protein on the surface of B cells, a type of white blood cell.
7	CD22 FITC	Intended to be used to detect CD22 expression on human peripheral blood lymphocytes
8	CD33 FITC	Intended to be used to detect CD33 expression on human peripheral blood granulocytes or monocytes
9	CD34 FITC	Intended to be used to detect CD34 expression on human peripheral blood mononuclear cells



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10	CD34 Per CP	Intended to be used to detect CD34 expression on human peripheral blood mononuclear cells
11	CD34 PE	Intended to be used to detect CD34 expression on human peripheral blood mononuclear cells
12	CD38 FITC	Intended to be used to detect CD38 expression on human peripheral blood mononuclear cells in patients with chronic lymphocytic leukemia.
13	CD38 APC	Intended to be used to detect CD38 expression on human peripheral blood mononuclear cells in patients with chronic lymphocytic leukemia.
14	CD44 PE	Intended to be used to detect expression of CD44 in cancer stem cell and a potential prognostic and immunological biomarker in various malignant tumors
15	CD45 Per CP	Intended to be used to detect CD45 expression on human peripheral blood granulocytes or monocytes
16	CD45 FITC	Intended to be used to detect CD45 expression on human peripheral blood granulocytes or monocytes
17	CD105 PE	Intended to be used to assess its expression on cells, particularly in the context of angiogenesis, hematological malignancies, and stem cell research
18	CD117 APC	Intended to be used as a key marker for identifying and characterizing various types of leukemias and lymphomas
19	HLA DR FITC	HLA-DR is a monoclonal antibody (mAb) labelled with FITC designed for flow cytometry (FC) use as a direct immunofluorescence reagent in the identification and enumeration of HLA-DR antigen-expressing cells.
20	HLA DR PE	HLA-DR is a monoclonal antibody (mAb) labelled with PE designed for flow cytometry (FC) use as a direct immunofluorescence reagent in the identification and enumeration of HLA-DR antigen-expressing cells.
21	IgG 1 FITC	Intended to be used as isotype control in flow cytometry
22	Lamda FITC	Lambda-FITC is a reagent intended to be used in flow cytometry to detect and quantify cells expressing the lambda light chain of immunoglobulins, specifically in human B lymphocytes
23	Lamda PE	Lambda-PE is a reagent intended to be used in flow cytometry to detect and quantify cells expressing the lambda light chain of immunoglobulins, specifically in human B lymphocytes



24	Kappa APC	Intended to be used for in vitro diagnostic use in the identification of cells expressing kappa light chains in peripheral blood in flow cytometer
25	Lysis buffer concentrate-10X	Lysing buffer is intended for lysing red blood cells following direct immunofluorescence staining of human peripheral blood cells with monoclonal antibodies prior to flow cytometric analysis
26	Antibody Dilution Buffer - 1X	Antibody diluent solution is intended to be used to dilute antibodies flow cytometric analysis

2.2 The Querist has stated that the supplier of these goods is using heading 3002 for classifying these goods.

**3. QUERY:**

3.1 In the light of the above, the Querist would like to know the appropriate classification for these goods.

**4. OPINION:**

4.1 Along with the details indicating the intended use of these goods, the Querist has made available data sheets for these goods.

4.2 From the above information provided, it is clear that the Items 1-25 are used as Diagnostic / Laboratory Reagents. Item against S. No. 26 is an Antibody Diluent Solution. In the above context, it may be seen Heading 3822 reads as follows:

*Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, whether or not put up in the form of kits, other than those of heading 3006; certified reference materials*

4.3 Based on the scope of the Heading 3822, as reproduced, it will be clear that the Items under reference will be appropriately covered by the above Heading. The last Item being a Antibody Diluent Solution is not specifically covered under any Chapter Heading and therefore its classification will be under 38259000 as "other residual products of chemical or allied industries".

4.4 Heading 3002 reportedly adopted by the Shipper does not appear to be appropriate for these goods. Heading 3002 reads as follows:



*Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera, other blood fractions and immunological products, whether or not modified or obtained by means or biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and other similar products, cell cultures, whether or not modified*

4.5 Perusal of the above Heading will show that Diagnostic / Laboratory Reagents as such will not be within the scope of these Headings. Apart from the above, Note 1(i)(j) of Chapter 30 also specifically states that, that Chapter will not cover "Diagnostic Reagents" of Heading 3822.

4.6 In view of the above, in our opinion, Items under reference should be appropriately classified under 38221990 (for Items 1-25) and 38259000 for Item 26. As of now, the current rate of duties for these goods will 10% Basic customs duty, 10% social welfare surcharge and 12% IGST. In respect of Antibody Diluent Solution (Serial No.26) IGST will be 18%.



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**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.