



सीमा शुल्क (अपील) आयुक्त का कार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हुडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाष क्रमांक Tel. No. 079-26589281

DIN- 20250971MN0000444A7E

क	फाइलसंख्या FILE NO.	S/49-282/CUS/AHD/2023-24
ख	अपील आदेश संख्या ORDER-IN-APPEAL No. (सीमा शुल्क अधिनियम, 1962 की धारा 128 के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-217-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	11.09.2025
च	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	11/ICD-Tumb/DC-VKY/Denovo/23-24 dated 18.08.2023
छ	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	11.09.2025
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Alok Industries Limited, S.No.: 374/4- 8/375/376/3-4, Village Saily, Silvassa, Dadra & Nagar Haveli- 396 230
1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।	
	This copy is granted free of cost for the private use of the person to whom it is issued.	
2.	सीमा शुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।	

	<p>Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.</p>		
	लिखित सम्बन्धित आदेश/Order relating to :		
(क)	बैगेज के रूप में आयातित कोई माल.		
(a)	any goods imported on baggage.		
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.		
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.		
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.		
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.		
3.	<p>पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :</p> <p>The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :</p>		
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.		
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.		
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो		
(ब)	4 copies of the Order-in-Original, in addition to relevant documents, if any		
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां		
(c)	4 copies of the Application for Revision.		
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-		
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.		
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं		
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :		
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपील अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench		

	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए या उससे कम हो तो एक हजार रुपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रुपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रुपए से अधिक हो तो; दस हजार रुपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10 % अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10 % अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

ORDER-IN-APPEAL

M/s. Alok Industries Limited, S.No.: 374/4-8/375/376/3-4, Village Saily, Silvassa, Dadra & Nagar Haveli- 396 230 (here in after referred to as "the appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against Order -in- Original No.: 11/ICD-Tumb/DC-VKY/Denovo/23-24 dated 18.08.2023 (hereinafter referred to as "the impugned order") issued by the Deputy Commissioner, Customs, ICD-Tumb (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, the facts of the case, on the bases of available documents in the files, are that the appellant imported "1 Set Seuding/ Brushing Machine Type Easy Supreme Touch" vide Bill of Entry No.: 8741188 dated 08.09.2020 at ICD Tumb. The said product was classified under CH No.: 8451 8090 of Customs Tariff Act, 1985 and paid appropriate Customs Duty i.e. BCD @7.5%, IGST@18%, SWS @10%.

2.1 Against the above-assessed Bill of Entry, the importer filed an appeal before the Commissioner (Appeals), Customs, Ahmedabad, contending that, due to inadvertence, they had failed to claim the benefit of Notification No. 50/2017-Customs dated 30.06.2017 [Sr. No. 432, List 24, Sr. No. 11 & 13], which provides a concessional rate of Basic Customs Duty (BCD) at 5%. As a result, an excess BCD amount of ₹2,79,044/- was paid.

The Commissioner (Appeals) Customs, Ahmedabad vide order dt. 06.12.2022 allowed the appeals by way of remand back to the proper officer for fresh examination on the applicability of the exemption claimed by the appellant. The proper officer shall examine the available facts, documents, submissions and issue speaking order afresh following principles of natural Justice and legal provisions. While passing this order, no opinion or views have been expressed on the merits of the case or the submissions made by the appellant in this regard, which shall be independently examined by the proper officer.



2.2 In the remand proceedings, the adjudicating authority, vide Order-in-Original dated 18.08.2023, denied the benefit of the concessional rate of Basic Customs Duty (BCD) under Notification No. 50/2017-Customs dated 30.06.2017, and held that Bill of Entry No. 8741188 had been correctly assessed, requiring no recall.



3. The appellant dissatisfied and aggrieved with the impugned order dt. 18.08.2023, have filed the present appeal and mainly contended:

- That the deputy Commissioner erred in holding that the Appellants are not eligible for the benefit of concessional rate of BCD under Notification No. 50/2017 dated 30.06.2017 and that the import duties have been correctly assessed and no recall of the Bill of Entry for reassessment is needed.
- That the deputy Commissioner erred in holding that the Seuding / Brushing Machine imported by the Appellant was subject to condition No. 9 of Notification No. 50/2017 dated 30.06.2017.
- That serial No. 432 of Notification No. 50/2017-Customs dated 30.06.2017 prescribes concessional duty for two categories of goods, namely: (i) machinery or equipment specified in List 24 and List 25, and (ii) parts for the manufacture of the goods at (i). In respect of machinery or equipment falling under Lists 24 and 25, the rate of duty is 5%, and the condition column is left blank ("-"), signifying that no condition is attached to their import. However, in the case of parts required for the manufacture of such machinery or equipment, although the applicable rate of duty is also 5%, the condition column specifies "9," thereby making such imports subject to the fulfilment of Condition No. 9 stipulated under the notification.
- That while reproducing Serial No. 432 of Notification No. 50/2017 in paragraph 4.5 of the order, the Deputy Commissioner has wrongly shown Condition No. 9 against the main heading. In fact, Condition No. 9 applies only to parts used for the manufacture of goods covered under item (1), and not to the entire Serial No. 432. Therefore, mentioning Condition No. 9 next to the main heading gives an incorrect impression that it applies to all goods listed under this entry, whereas it is restricted only to parts.

That as the Appellant has imported "1 Set Seuding/Brushing Machine Type East Supreme Touch," which is a complete machine in itself and not a part of any machine, it falls under item (1) of the description of goods at Serial No. 432 of Notification No. 50/2017 and is therefore not subject to Condition No. 9.

- That the finding of the Deputy Commissioner in paragraph 4.9 of the impugned order dated 18.08.2023, stating that "the benefit of Notification No. 50/2017-Customs, Serial No. 432, as claimed by the importer is subject to Condition No. 9, and since the importer did not follow the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules,




2017, the benefit cannot be allowed," is based on a mistaken interpretation of the Notification. In fact, no condition applies to the goods imported by the Appellant. Therefore, the Appellant was not required to follow the procedure under the said Rules, and the Deputy Commissioner's conclusion that the benefit cannot be allowed due to Condition No. 9 is incorrect and unsubstantiated.

- That the Deputy Commissioner erred in paragraph 4.10 of his order by stating that the importer had not submitted any evidence at the Personal Hearing to support their claim under Notification No. 50/2017-Customs, Serial No. 432, and had not fulfilled Condition No. 9, which he considered essential to claim the benefit. He failed to recognize that Condition No. 9 applies only to parts listed under item (2) and not to the complete machine imported under item (1). Since the Appellant's goods are complete machines, there was no requirement to make any submissions regarding Condition No. 9.
- That it is not disputed by the Department that the goods imported by the Appellant fall under Chapter 84. In paragraph 4.6 of the impugned order, the Deputy Commissioner has acknowledged that the Raising Brushing Machine imported by the Appellant is listed at Serial No. 11 of List 24 of Notification No. 50/2017, where the concessional rate of duty is 5%, and is therefore covered by the Notification. Since it is undisputed that the imported goods are covered by Notification No. 50/2017, and as explained earlier, Condition No. 9 does not apply to the goods imported by the Appellant.



4. Ms. Shilpa Balani, Advocate from M/s A.S..Dayal & Associates and Shri Anil Mahajan Authorized signatory of the appellant, appeared for personal hearing on 08.08.2025 through virtual mode. They reiterated the submission made in the appeal memorandum. During the Personal hearing they submitted additional submissions which are already covered in their previous submissions.

5. Before going into the merits of the case, I find that from the Form C.A.-1, the date of communication of the Order-In-Original dated 18.08.2023 has been shown as 01.09.2023 and the date of filing Appeal shown as 23.10.2023. I find that the present appeal has been filed within prescribed time limit of 60 days as stipulated under Section 128(1) of the Customs Act, 1962.

5.1 I have gone through the appeal memorandum filed by the appellant and submissions made during personal hearing and documents available on record. It is observed that the appellant had imported "1 Set Seuding/Brushing Machine Type Easy Supreme Touch" vide Bill of Entry No. 8741188 dated 09.09.2020 at ICD Tumb, which was classified under Customs Tariff Heading 8451 8090 and assessed to duty at BCD @7.5%, IGST @18% and SWS @10%. Aggrieved by this assessment, the importer filed an appeal before the Commissioner (Appeals), Customs, Ahmedabad, contending that due to inadvertence, they had failed to claim the benefit of Notification No. 50/2017-Customs dated 30.06.2017 [Sr. No. 432, List 24, Sr. No. 11 & 13], which prescribes a concessional rate of BCD at 5%, resulting in excess payment of Rs.2,79,044/- The Commissioner (Appeals), vide order dated 06.12.2022, allowed the appeal by remanding the matter to the proper officer for fresh examination of the exemption claim, directing that a speaking order be passed afresh in accordance with law and principles of natural justice, without expressing any opinion on the merits. In the remand proceedings, however, the adjudicating authority, vide Order-in-Original dated 18.08.2023, once again denied the benefit of concessional BCD under the said Notification and upheld the original assessment of Bill of Entry No. 8741188, holding that no recall was warranted.

5.2 It is observed that the appellant has contested that the adjudicating authority did not grant the benefit of concessional BCD under the said Notification. Therefore, the issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority not granting the benefit of concessional BCD under the said Notification No. 50/2017-Customs dated 30.06.2017 [Sr. No. 432, List 24, Sr. No. 11 & 13], which prescribes a concessional rate of BCD at 5%, in the facts and circumstances of the case, is legal and proper or otherwise.

5.3 I have carefully gone through the impugned order, the appeal memorandum, and the documents available on record. The adjudicating authority denied the benefit of Notification No. 50/2017-Customs dated 30.06.2017 on the ground that the appellant has not complied with Condition No. 9 of the said Notification, which requires adherence to the procedure prescribed under the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

On perusal of records, I find that the appellant imported goods described as "1 Set Seuding/Brushing Machine Type Easy Supreme Touch" under CTH 8451 8090, paying BCD at 7.5% along with other applicable duties. Subsequently, the appellant claimed that the goods are eligible for concessional rate of duty under

Notification No. 50/2017-Customs [Sr. No. 432, List 24, Sr. No. 11], but due to inadvertence, the benefit was not claimed at the time of assessment.

I find that the adjudicating authority, at paragraph 4.9 of the impugned order, incorrectly observed that "*the benefit of Notification No. 50/2017-Customs dated 30.06.2017, Sr. No. 432, as claimed by the importer, is subject to Condition No. 9 which stated that 'if the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017'. Since the importer had not followed the procedure set out in the said Rules, the benefit of the Notification cannot be allowed.*" This finding is erroneous, as no condition is prescribed in respect of the goods imported by the appellant. Consequently, the appellant was not required to comply with the procedure under the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Therefore, the conclusion of the adjudicating authority that the benefit of the Notification cannot be extended due to non-compliance with Condition No. 9 is incorrect and without justification.

On examination of the Notification, it is seen that Serial No. 432 covers two categories of goods under Chapter 84:

- (i) Machinery or equipment specified in List 24 and List 25 – attracting concessional BCD @ 5% without any condition; and
- (ii) Parts for manufacture of such machinery/equipment – attracting concessional BCD @ 5% subject to Condition No. 9.

It is not in dispute that the goods imported by the appellant are Raising/Brushing Machines, which are specifically listed at Serial No. 11 of List 24 to the Notification. The benefit prescribed therein is concessional BCD @ 5%, and no condition has been attached to such entry. Condition No. 9 is clearly applicable only to parts of machinery falling under category (ii) above and not to complete machines covered under category (i).

It is also observed that the goods imported by the appellant, classified under CTH 8451 8090, merit classification as machinery/equipment and not as parts used for the manufacture of such machinery/equipment. To support this, I refer to paragraph 4.6 of the impugned order, where the adjudicating authority has observed that: "Hence, the machine imported by the importer is covered at Sr. No. 11 of List 24 of the above-mentioned notification."

Accordingly, I find that the conclusion of the adjudicating authority that the benefit of Notification No. 50/2017-Customs cannot be extended due to non-compliance with Condition No. 9 is incorrect. Since the imported goods are

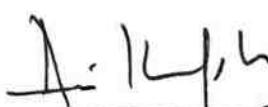
covered under List 24 Sr.No.11 as complete machinery, the appellant is eligible for concessional BCD @ 5% without any requirement of fulfilling Condition No. 9.

6. In view of the foregoing factual and legal position, I hold that the appellant is eligible for the benefit of concessional Basic Customs Duty under Notification No. 50/2017-Customs dated 30.06.2017 [Sr. No. 432, List 24, Sr. No. 11 & 13] in respect of the goods imported vide Bill of Entry No. 8741188 dated 08.09.2020. Accordingly, Appeal No. 282/23-24 dated 23.10.2023 is allowed. The impugned Order-in-Original dated 18.08.2023 is set aside and the appellant shall be entitled to consequential relief, in accordance with law.



F.No.: S/49-282/CUS/AHD/2023-24

3377


 (AMIT GUPTA)
 Commissioner (Appeals)
 Customs, Ahmedabad

Dt.: 11.09.2025

By Speed Post & Mail.

M/s. Alok Industries Limited,
 S.No.: 374/4-8/375/376/3-4,
 Village Saily, Silvassa,
 Dadra & Nagar Haveli- 396 230


 सत्यापित/ATTESTED
 प्रशासक/SUPERINTENDENT
 राजना गुप्ता (अपील), अहमदाबाद.
 CUSTOMS (APPEALS), AHMEDABAD.

Copy to :-

- The Chief Commissioner of Customs, Ahmedabad zone, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Customs House, Ahmedabad.
3. The Dy/Assistant Commissioner of Customs, ICD, Tumb.
4. Guard File.