



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंज़िल **4th Floor**, हडको भवन **HUDCO Bhawan**, ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad - 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20260371MN000000CB5C

क	फ़ाइल संख्या FILE NO.	S/49-309/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-886-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	06.03.2026
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Shipping Bill No. 4769483 dated 11.10.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	06.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Olam Agri India Pvt. Ltd. D.No.16-23-65/A, Flat No. 101 & 102, Revenue Block No.1, Kakinada, Andhra Pradesh-533003



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.	सीमाशुल्क 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.
	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.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(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.	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 :
	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 :
(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
(b)	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 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के 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 :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, 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 रूपए या उससे कम हो तो एक हज़ार रूपए.
(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 रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रूपए
(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 रूपए से अधिक हो तो; दस हज़ार रूपए.
(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

Appeal has been filed by M/s. Olam Agri India Pvt. Ltd., D.No.16-23-65/A, Flat No. 101 & 102, Revenue Block No.1, Kakinada, Andhra Pradesh-533003., (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the assessment of Shipping Bill No. 4769483 dated 11.10.2024 filed at Customs, Mundra Port.

2. Facts of the case, in brief, are that the appellant had filed shipping bill no. 4769483 dated 11.10.2024 for export of parboiled rice. The appellant was issued letter dated 15.03.2024 by Assistant Commissioner, Custom House, Kakinada, wherein they were asked to include the export duty amount recovered from the buyer in the assessable value calculated under section 14 of Customs Act for the purpose of calculation of export duty on export of shipping bills filed for the export of White Rice vide RITC Code 10063090 from 8-9-2022 to 15-03-2024 and also parboiled rice vide RITC Code 10063010 from 25-08-2023 to 15-03-2024. Further, as per CBIC Circular no.18/2008 dt.10-11-2008 vide para 5 wherein it is clarified that "for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation."

2.1 In view of the aforesaid Section 14 (1) of the Customs Act 1962 and Board's Circular No 18/2008 dt.10-11-2008, transaction value is the total price actually paid by the foreign buyer. Accordingly, the appellant was informed to pay the Export Duty along with applicable interest on the amounts received over and above the FOB value declared in the shipping bills.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the assessment of the Shipping Bill No. 4769483 dated 11.10.2024, the Appellant has filed the present appeal on the following grounds:-

3.1 The appellant challenges the recovery of differential export duty on parboiled rice, arguing that duty collected from overseas clients should not be included in the transaction value for tax assessment. While the Appellant's contracts stipulate that the purchaser covers the export duty, the Customs Department contends this amount constitutes part of the Free on Board (FOB) value. Consequently, the Appellant has paid the assessed differential duty under protest and seeks a refund, maintaining that the department's position lacks legal validity.

3.2 The core legal argument rests on Section 14 of the Customs Act, 1962, and the Customs Valuation Rules, 2007, which state that export duty must be computed based on the "transaction value"—defined as the price actually paid or payable for the goods. The Appellant asserts that "price paid or payable" should only encompass amounts that directly benefit the seller. Since the recovered export duty is simply collected from the buyer and deposited with the Government, it does not benefit the Appellant and should therefore remain outside the scope of the transaction value.

3.3 The Appellant further notes that the current legal landscape regarding "cum-duty" pricing is unsettled and currently under judicial review. While The Board's Circular No.18/2008-Cus dtd. 10.11.2008 and a subsequent 2024 General Sensitization Circular dtd. 15.01.2024 (CUS/SIIB/INT/50/2023-SIIB-O/O PR COMMMR-CUS-PORT-KOLKATA) suggest that recovered duty components should form part of the transaction value, these interpretations have been challenged. The Appellant highlights that the matter is presently pending before the Hon'ble Supreme Court in cases such as Sesa Goa Ltd. v. CC and 2012 (277) E.L.T. 105 (Tri. - Mumbai) and M/s Sociedade De Fomento Industrial Pvt. Ltd. v. Commissioner of Customs, [2020 (371) E.L.T. A245 (S.C.)] arguing that any recovery by the department is premature and legally unsound until a final verdict is issued.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 18.12.2025 following the principles of natural justice wherein Shri Ankur Jain, Advocate, appeared for the hearing in virtual mode and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records and the defense put forth by the Appellant in their appeal.

5.1 The valuation of goods for the purpose of assessment of duty is governed by Section 14 of the Customs Act, 1962. Post the amendment in 2007, Section 14(1) provides:

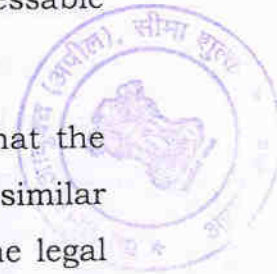
"For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation... where the buyer and seller of the goods are not related and price is the sole consideration for the sale..."

5.2 Furthermore, Rule 3(1) of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 (CVR 2007) states:

"Subject to rule 8, the value of export goods shall be the transaction value."

It is evident from a plain reading of these provisions that the "transaction value"—the price actually paid or payable—is the primary basis for valuation. Unlike the valuation provisions in Central Excise (Section 4) or Service Tax (Section 67), Section 14 of the Customs Act does not contain any provision for the deduction of duty from the transaction value to arrive at the assessable value.

5.3 The Appellant's core argument rests on the assumption that the "price paid or payable" should be treated as inclusive of duty (cum-duty), similar to how prices are often treated in domestic indirect taxes. However, the legal architecture of Customs valuation is fundamentally different. In the case of imports, the duty is calculated on the transaction value. In the case of exports, the duty is also calculated on the transaction value at the "time and place of exportation." The "time and place of exportation" for an FOB contract is the point where the goods are loaded onto the vessel. The price agreed upon for delivery at that point is the FOB price.



5.4 The Appellant's contract specifically states that the buyer will reimburse the export duty. This implies that the total consideration flowing from the buyer to the seller includes the base price of the goods and the export duty amount. According to Section 14, the "transaction value" is the total price actually paid or payable. If the buyer is paying the duty amount to the seller, that amount is part of the "price payable" for the goods to be exported. To exclude this amount from the assessable value, there must be a specific legal provision allowing for such an abatement. No such provision exists in Section 14 or the CVR 2007.

5.5 The Appellant has contested the validity of Board Circular No. 18/2008-Cus dated 10.11.2008. Paragraph 5 of the said circular states:

"For the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation."

The Circular further provides an example: if the transaction is at Rs. 100 FOB and the duty is 15%, the duty will be Rs. 15. The Appellant argues that this circular contradicts the principle of "cum-duty" assessment which was the practice prior to 2009. However, the Circular itself explains the rationale: the law was amended in 2007 to move from "deemed value" to "transaction value." The "practice" of cum-duty assessment was a holdover from the old regime and was not supported by the clear language of the new Section 14.

5.6 The Hon'ble Supreme Court in **Commissioner of Central Excise, Bolpur v. Ratan Melting & Wire Industries [2008 (231) E.L.T. 22 (S.C.)]** held that circulars issued by the Board are binding on the departmental officers. As an appellate authority within the department, I am bound by the Board's clear instructions unless they are struck down by a High Court or the Supreme Court. In this case, the Circular merely reiterates the statutory position of Section 14.

5.7 The Appellant has relied heavily on the fact that an appeal against the CESTAT Mumbai decision in *Sesa Goa Ltd. v. Commissioner of Customs* is pending before the Supreme Court. However, it is a settled principle of law that the mere pendency of an appeal before a higher court does not stay the operation of a judgment or rob it of its precedential value unless a specific stay has been granted. In **Sesa Goa Ltd. v. COMMISSIONER OF CUS., C. EX. & SERVICE**

TAX, GOA [2012 (277) ELT 105 (Tri. - Mumbai)], the CESTAT Mumbai Bench dealt with identical facts. The Tribunal held:

"7.-----In our view, the above provision of law is plain and clear and the same does not allow abatement of duty element from the FOB price in determining the transaction value for the purpose of assessment to export duty."

5.8 The Tribunal further reasoned that in export contracts, the liability for duties in the country of origin and the country of destination are often handled separately. If the buyer agrees to pay the duty, it becomes part of the price paid for the delivery of goods at the place of exportation.

5.9 Similar view has been taken in **Sesa Goa Limited Vs Commissioner of Customs, Vijayawada Commissionerate [2020-VIL-140-CESTAT-HYD-CU], M/s Essel Mining and Industries Ltd. Vs Commissioner of Customs, Visakhapatnam - Customs [2025-VIL-1709-CESTAT-HYD-CU]**. These rulings conclusively establish that the "transaction value" is the gross amount paid by the buyer to the seller for the goods at the port of export. If the contract provides that the buyer will pay the export duty, then the export duty is a part of the "price payable" and thus must be included in the assessable value.

5.10 The Appellant argues that since they pass the duty to the government, it is not a "benefit" to them. This argument is legally flawed. Under Section 14, the focus is on the payment made by the buyer, not the net profit retained by the seller. Any cost incurred by the exporter to bring the goods to the "time and place of exportation" (including taxes, handling, etc.) that is recovered from the buyer forms part of the transaction value. For instance, if an exporter pays for transport to the port and recovers it from the buyer in an FOB price, that transport cost is not a "benefit" in terms of profit, but it is undoubtedly part of the transaction value. The export duty is no different; it is a cost of exportation that the buyer has agreed to pay as part of the total consideration for the goods.

5.11 The Appellant's claim that this assessment results in a "tax on tax" is a common grievance in valuation disputes but lacks constitutional merit in this context. The tax is not being levied on the "duty" itself as a commodity; it is being levied on the value of the goods. The law defines that value as the total price paid. If that price includes an amount earmarked for duty, the tax is simply

being calculated on the total negotiated consideration. This is a standard feature of many ad valorem tax systems globally and in India.

5.12 The Appellant's reliance on "cum-duty" principles from Central Excise is misplaced. Section 4(4)(d)(ii) of the Central Excise Act specifically defined "value" to exclude the amount of duty of excise. Similarly, the Service Tax regime had specific provisions for cum-tax value. In sharp contrast, Section 14 of the Customs Act contains no such exclusionary clause for export duty. The principle of *expressio unius est exclusio alterius* (the express mention of one thing excludes all others) applies here: the legislature's decision to include such an exclusion in Excise law but omit it from Customs law must be seen as intentional. Therefore, we cannot read a "cum-duty" benefit into Section 14 where none exists.

5.13 The Appellant cited earlier Sesa Goa stay orders. As noted by the Mumbai CESTAT in the 2020 final order, these earlier interim views or stay orders were based on the practice prevailing prior to the 2007 amendment and the 2008 Circular. With the final disposal of the Sesa Goa and Essel Mining appeals by various CESTAT benches, the legal position for the post-2009 period is now firmly against the Appellant.

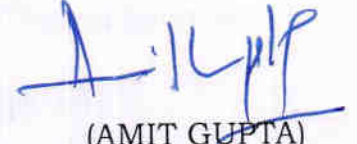
5.14 I find that the assessing officer has correctly applied the law. The Shipping Bill was assessed in accordance with the transaction value declared, which, as per the contract, included the duty reimbursement. The Appellant's attempt to artificially bifurcate the negotiated price into "price of goods" and "duty" is an attempt to reduce the assessable value without any statutory backing.

5.15 Upon a comprehensive review of the statutory framework and relevant judicial precedents, it is definitively concluded that the export duty recovered from the buyer as a reimbursement constitutes an integral part of the "price actually paid or payable" for the goods under Section 14 of the Customs Act, 1962. The legislative architecture of Customs valuation, post the 2007 amendment, purposefully omitted any exclusionary provisions for duty deductions, distinguishing it from domestic tax statutes like Central Excise. Consequently, the "cum-duty" methodology sought by the Appellant lacks statutory authorization and contradicts the clear mandate of Board Circular No.

18/2008-Cus. Furthermore, the final rulings in the Sesa Goa and Essel Mining cases reinforce that the FOB price agreed upon at the place of exportation serves as the undisputed transaction value. Accordingly, the assessment of Shipping Bill No. 4769483 based on the full FOB value is upheld as legally sustainable, and the Appellant's claim for a refund of duty paid under protest is hereby denied.

6. In view of the above discussions and findings, the appeal filed by M/s. Olam Agri India Pvt. Ltd. is rejected.

7. The appeal stands disposed of accordingly.



(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-309/CUS/MUN/2024-25

Date:06.03.2026

By Speed post /E-Mail

To,
M/s. Olam Agri India Pvt. Ltd.
D.No.16-23-65/A, Flat No. 101 & 102,
Revenue Block No.1, Kakinada,
Andhra Pradesh-533003



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House Mundra.
3. The Deputy/Assistant Commissioner of Customs, Custom House, Mundra.
4. Guard File.